City of Fayetteville, Arkansas

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

City Council Tentative Agenda

Tuesday, October 31, 2023

4:30 PM

City Hall Room 219

City Council Members

Vacant Ward 1
Council Member D'Andre Jones Ward 1
Council Member Sarah Moore Ward 2
Council Member Mike Wiederkehr Ward 2
Council Member Scott Berna Ward 3
Council Member Sarah Bunch Ward 3
Council Member Teresa Turk Ward 4
Council Member Holly Hertzberg Ward 4

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Treasurer Kara Paxton

ZOOM INFORMATION:

1. **WEBINAR ID: 852 8532 4816**
   PUBLIC REGISTRATION LINK:
   HTTPS://US06WEB.ZOOM.US/WEBINAR/REGISTER/WN_X5SOEV5EQ6ILLAJU1TVR1Q

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

MAYOR' S ANNOUNCEMENTS, PROCLAMATIONS AND RECOGNITIONS

CITY COUNCIL MEETING PRESENTATIONS, REPORTS AND DISCUSSION ITEMS

1. MONTHLY FINANCIAL REPORT - CHIEF FINANCIAL OFFICER

A. CONSENT

A.1. APPROVAL OF THE OCTOBER 17, 2023 CITY COUNCIL MEETING MINUTES (2023-568)

A.2. TYLER TECHNOLOGIES, INC. (SERVICE AGREEMENT):

A RESOLUTION TO APPROVE AN AGREEMENT WITH TYLER TECHNOLOGIES, INC., FOR A NEW BILLING AND PAYMENT SYSTEM AND PAYMENT PROCESSING MERCHANT ACCOUNT (2023-1221)

A.3. STILWELL CONSULTING (SERVICE CONTRACT):

A RESOLUTION TO APPROVE A CONTRACT WITH STILWELL CONSULTING IN THE AMOUNT OF $188,900.00 FOR THE CREATION OF AN ARTS AND CULTURE PLAN FOR THE CITY OF FAYETTEVILLE, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF $7,600.00 (2023-1179)

A.4. CRAFTON, TULL & ASSOCIATES, INC. (SERVICE CONTRACT):

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH CRAFTON, TULL & ASSOCIATES, INC., PURSUANT TO RFQ 23-01 SELECTION #6, IN AN AMOUNT NOT TO EXCEED $204,275.00 FOR DESIGN SERVICES ASSOCIATED WITH THE DRAKE STREET TRAIL CONNECTION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF $25,000.00 (2023-1204)

A.5. OMNIA PARTNERS (PRODUCTS/SERVICES CONTRACT):

A RESOLUTION TO APPROVE THE PURCHASE OF TECHNOLOGY PRODUCT SOLUTIONS AND RELATED SERVICES FROM CDWG ON AN AS-NEEDED BASIS, PURSUANT TO AN OMNIA PARTNERS COOPERATIVE CONTRACT, THROUGH APRIL 30, 2026, AND ANY FUTURE RENEWAL PERIODS (2023-1206)

A.6. LRS SOUTH, LLC (FRANCHISE AGREEMENT):

A RESOLUTION TO APPROVE AN AGREEMENT WITH LRS SOUTH, LLC FOR THE HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF FAYETTEVILLE (2023-1215)

A.7. HAMILTON ALLIANCE (SERVICE CONTRACT):

A RESOLUTION TO APPROVE AN AGREEMENT WITH HAMILTON ALLIANCE, INC. FOR THE HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIAL IN THE CITY OF FAYETTEVILLE (2023-1055)

A.8. OUTBOUND WASTE, LLC (SERVICE CONTRACT):

A RESOLUTION TO APPROVE AN AGREEMENT WITH OUTBOUND WASTE, LLC FOR THE HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLES IN THE CITY OF FAYETTEVILLE (2023-1088)

A.9. CLABBER CREEK SEWER REPAIR (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $344,960.00 TO FUND THE REPAIR OF A 48-INCH SEWER MAIN IN THE CLABBER CREEK AREA (2023-1211)

A.10. CITY OF FARMINGTON (SANITARY SEWER SERVICE CONTRACT):

A RESOLUTION TO APPROVE A CONTRACT FOR SANITARY SEWER SERVICE BETWEEN THE CITIES OF FARMINGTON AND FAYETTEVILLE IN WHICH FAYETTEVILLE WILL ACCEPT AND TREAT SEWERAGE FROM FARMINGTON IN FAYETTEVILLE'S WASTEWATER TREATMENT FACILITY THROUGH DECEMBER 31, 2032 (2023-1212)

A.11. GARNEY COMPANIES, INC. (WEST WATER TRANSMISSION MAIN):

A RESOLUTION TO AUTHORIZE A CONSTRUCTION MANAGER AT RISK CONTRACT WITH GARNEY COMPANIES, INC., PURSUANT TO RFQ 23-05, FOR THE WEST TRANSMISSION WATER MAIN PROJECT IN THE INITIAL AMOUNT OF $690,329.00, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1210)

A.12. MISTY SIMPSON WATER DAMAGE CLAIM (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $80,039.00 TO FUND THE MISTY SIMPSON WATER DAMAGE CLAIM AT

2425 EAST SHARON STREET (2023-1220)

A.13. ARKANSAS ONE-CALL SYSTEM, INC. (UTILITY LOCATING SERVICES):

A RESOLUTION TO APPROVE THE PURCHASE OF UTILITY LOCATING SERVICES FOR 2023 FROM ARKANSAS ONE-CALL SYSTEM, INC. IN AN AMOUNT NOT TO EXCEED $45,000.00 (2023-1205)

A.14. WATER & SEWER VEHICLE AND TRAILER REPAIR (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $20,000.00 TO COVER THE REPAIR AND REPLACEMENT COSTS FOR TWO UNITS USED BY THE WATER & SEWER OPERATIONS DIVISION (2023-1214)

A.15. SELECTIVE TRAFFIC ENFORCEMENT PROJECT (GRANT AWARD):

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2023 SELECTIVE TRAFFIC ENFORCEMENT PROJECT GRANT AWARD IN THE AMOUNT OF $72,700.00, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1166)

A.16. BULLETPROOF VEST PARTNERSHIP GRANT PROGRAM (GRANT AWARD):

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A MATCHING GRANT AWARD FROM THE 2023 BULLETPROOF VEST PARTNERSHIP PROGRAM IN THE AMOUNT OF $11,990.00 FOR THE REPLACEMENT OF BODY ARMOR VESTS AND OUTFITTING NEW OFFICERS, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1175)

A.17. LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT (GRANT AWARD):

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A NON-MATCHING GRANT AWARD IN THE AMOUNT OF $200,000.00 FOR THE EXPANSION OF THE POLICE DEPARTMENT'S WELLNESS AND RESILIENCY PROGRAM FUNDED THROUGH THE 2023 LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1207)

B. UNFINISHED BUSINESS

B.1. REINDL PROPERTIES, INC. (PURCHASE CONTRACT):

A RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN A REAL ESTATE PURCHASE CONTRACT WITH REINDL PROPERTIES, INC. FOR THE SALE OF APPROXIMATELY 0.5 ACRES OF CITY PROPERTY IN THE SOUTH END OF THE CIVIC PLAZA FOR THE AMOUNT OF $1,247,455.00 (2023-1171)

AT THE OCTOBER 17, 2023 CITY COUNCIL MEETING, THIS ITEM WAS TABLED TO THE NOVEMBER 7, 2023 CITY COUNCIL MEETING.

B.2. REZONING-2023-0025: (524 S. WILLOW AVE./BWB WILLOW LLC, 524):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-025 FOR APPROXIMATELY 0.22 ACRES LOCATED AT 524 SOUTH WILLOW AVENUE IN WARD 1 FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL (2023-1138)

AT THE OCTOBER 17, 2023 CITY COUNCIL MEETING, THIS ITEM WAS LEFT ON THE FIRST READING.

C. NEW BUSINESS

C.1. CROWN HOOKAH LOUNGE, INC. (PRIVATE CLUB PERMIT APPLICATION):

AN ORDINANCE TO APPROVE THE APPLICATION OF HANA CHEFKE, ON BEHALF OF CROWN HOOKAH LOUNGE, INC. FOR A PERMIT TO OPERATE AS A PRIVATE CLUB IN THE CITY OF FAYETTEVILLE AT 550 WEST DICKSON STREET, SUITE NUMBER 2 (2023-1183)

C.2. CHAPTER 33, ARTICLE III - DEPARTMENT OF PARKS AND RECREATION (AMENDMENT):

AN ORDINANCE TO AMEND ARTICLE III DEPARTMENT OF PARKS AND RECREATION IN CHAPTER 33 DEPARTMENTS, BOARDS, COMMISSIONS, AND AUTHORITIES OF THE FAYETTEVILLE CITY CODE TO UPDATE THE NAME AND REVISE THE DUTIES OF THE DEPARTMENT AND ITS ADVISORY BOARD (2023-1180)

C.3. CHAPTER 97 - PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS (AMENDMENT):

AN ORDINANCE TO AMEND CHAPTER 97, PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS OF THE CITY CODE TO ADDRESS EVOLVING RECREATION TRENDS, SAFETY CONCERNS, PROTECTION OF NATURAL AND CULTURAL RESOURCES, AND TO CLARIFY AND SIMPLIFY LANGUAGE (2023-1181)

C.4. AMENDMENTS TO §71.170 AND §71.171 (CITY CODE UPDATE):

AN ORDINANCE TO AMEND § 71.170 VEHICLE RESTRICTIONS FOR SHARED-USE PAVED TRAILS AND §71.171 RULES OF THE ROAD FOR FAYETTEVILLE TRAILS OF THE FAYETTEVILLE CITY CODE TO UPDATE THE TYPES OF VEHICLES ALLOWED ON THE CITY'S SHARED-USE PAVED TRAILS (2023-1186)

C.5. VACATION-2023-0012: (546 W. CENTER ST/CAMPBELL FAMILY TRUST,

484):

AN ORDINANCE TO APPROVE VAC 23-12 FOR PROPERTY LOCATED AT 546 WEST CENTER STREET IN WARD 2 TO VACATE A 0.04 ACRE PORTION OF UTILITY EASEMENT (2023-1217)

C.6. VACATION-2023-0005: (612 W. CENTER ST/TRINITAS VENTURES, 483):

AN ORDINANCE TO APPROVE VAC 23-05 FOR PROPERTY LOCATED AT 612 WEST CENTER STREET IN WARD 2 TO VACATE A 0.15 ACRE PORTION OF ALLEY RIGHT-OF-WAY (2023-1209)

C.7. REZONING-2023-0026: (5839 W. DOT TIPTON RD./MARTINEZ, 475):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-026 FOR APPROXIMATELY 5.27 ACRES LOCATED AT 5839 WEST DOT TIPTON ROAD IN WARD 4 FROM R-A, RESIDENTIAL-AGRICULTURAL, TO RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE (2023-1182)

C.8. REZONING-2023-0028: (150 N. SKYLINE DR, UNIT 22/MOUNT SEQUOYAH CENTER INC, 486):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-028 FOR APPROXIMATELY 0.14 ACRES LOCATED AT 150 NORTH SKYLINE DRIVE IN WARD 1 FROM P-1, INSTITUTIONAL TO NS-G, NEIGHBORHOOD SERVICES-GENERAL (2023-1208)

PROPOSED AGENDA ADDITIONS

1. RES 230-23 AND AUTHORIZE CONDEMNATION OF PROPERTY OWNED BY PARTI INVESTMENTS (AMENDMENT): (2023-1260)

D. CITY COUNCIL AGENDA SESSION PRESENTATIONS

D.1. SALES TAX REPORT - PAUL BECKER AND ENERGY REPORT - PETER NIERENGARTEN

D.2. FAYETTEVILLE HOUSING REPORT 3 OF 3 - BRITIN BOSTICK

E. CITY COUNCIL TOUR

F. ANNOUNCEMENTS

G. ADJOURNMENT

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1221

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Paul Becker, Chief Financial Officer
Keith Macedo, IT Director

FROM: Cheryl Partain, Utilities Financial Services Mgr

DATE: October 20, 2023

SUBJECT: **Tyler Technologies, Inc. - Utility Billing and Miscellaneous Billing Payment Systems, Utility Billing Interactive Voice Response (IVR) Payment System, and Payment Processing Merchant Account**

RECOMMENDATION:
Staff recommends approving the attached agreement with Tyler Technologies, Inc. authorizing the Utilities Financial Services Division to implement a new Tyler Utility Billing/Miscellaneous Billing online payment portal, IVR payments solution, create a new online credit card/E-Check payment merchant account with Tyler Technologies for the processing of customer payments and approve staff to have the authority to sign any additional payment processing documentation related to this upgrade.

BACKGROUND:
The city utilizes Tyler New World ERP eSuite to process Utility Billing and Miscellaneous Billing online payments and Paymentus for IVR (phone) payment. Paymentus was initially implemented in 2002 for both IVR and online payments. In 2019 the city implemented Tyler New World ERP eSuite to serve as the primary utility billing online payment solution to keep up with customer needs, changing technology and Payment Card Industry (PCI) requirements. With the upgrade, an agreement was also signed to utilize Automated Merchant Services (AMS), Inc. for credit card processing due to the integration with Tyler New World Utility Billing and ERP, which includes eSuites.

DISCUSSION:
The city has worked with Tyler staff over the last 2 years to review their replacement of eSuite with a new product called Utility Access. City staff have reviewed the product, provided input to Tyler on required functionality, and followed Utility Access implementations at several other cities to confirm the new product is working as described. The new Utility Access product combines online and IVR (phone) payments into a single system that improves the customer experience and provides new administrative management features to improve customer support. Tyler requires all clients to use their credit card payment processor, called Tyler Payments, to process payments with Utility Access. City Utility Billing and Information Technology staff are recommending the new Utility Access and Tyler Payments to improve the online utility payment, miscellaneous billing, and IVR payments.

BUDGET/STAFF IMPACT:

Water/Sewer and Recycling and Trash Funds operational budgets will absorb the credit card/e-check processing fees. The additional credit card fees for the upgrade have been requested in the 2024 operational fund budgets and will be requested in the future operational budget process. As part of the upgrade a one-time fee for new credit card machines for the over the counter payments of $5,447.00 and an annual software maintenance fee of $2,340.00. Both costs will also be absorbed in the operational budgets for both Funds.

ATTACHMENTS: SRF (#3), Tyler Payments and Utility Access Service Agreement (#4), Tyler Payments - Payment Card Processing Agreement (#5)

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

File #: 2023-1221

Tyler Technologies, Inc. - Utility Billing and Miscellaneous Billing Payment Systems, Utility Billing Interactive Voice Response (IVR) Payment System, and Payment Processing Merchant Account

A RESOLUTION TO APPROVE AN AGREEMENT WITH TYLER TECHNOLOGIES, INC., FOR A NEW BILLING AND PAYMENT SYSTEM AND PAYMENT PROCESSING MERCHANT ACCOUNT

WHEREAS, in 2019 the City implemented Tyler New World ERP eSuite to serve as the primary utility billing online payment solution which also required an agreement with Automated Merchant Services, Inc. for credit card processing; and

WHEREAS, staff recommends implementing the new Utility Access and Tyler Payments services, both of which are available through Tyler Technologies, to improve the online utility payment, miscellaneous billing, and phone payment experience.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign agreements with Tyler Technologies, Inc., both of which are attached to this Resolution, for the use of Utility Access and Tyler Payments for an initial cost of $7,787.00.

City of Fayetteville Staff Review Form

2023-1221

Item ID

11/7/2023

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

Cheryl Partain	10/18/2023	UTILITIES FINANCIAL SVCS (710)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approving the attached agreement with Tyler Technologies, Inc. to upgrade the existing Utility Billing/Miscellaneous Billing online payment systems, Utility Billing Interactive Voice Response (IVR) payment system to Utility Access and create a new Tyler Payments merchant account with Tyler Technologies for processing of customer payments.

Budget Impact:

5400.710.1810-5320.02/5500.750.5000-5320.02	Water & Sewer/Recycling & Trash
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	431,000.00
		Expenses (Actual+Encum)	$	339,311.77
		Available Budget	$	**91,688.23**
Does item have a direct cost?	Yes	Item Cost	$	7,787.00
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	**83,901.23**

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

Quoted By:	Summer Zwarun
Quote Expiration:	10/31/23
Quote Name:	City of Fayetteville AR _ Tyler Payments, Utility Access (NWERP) (EPL)

Sales Quotation For:
City of Fayetteville
113 W Mountain St
Fayetteville AR 72701-6083

Payments

	Use Case	List Price	Service%	Min	Basis Points	Rate	Cap	POS	Online	IVR
Payments - Client Card Cost - Interchange Plus										
Tyler One										
New World Payments	Utility Billing				0.50%	$ 0.50		X	X	X
New World Payments	Miscellaneous				0.50%	$ 0.50		X	X	
Payments - Other Fees										
Tyler One										
Client eCheck Cost		$ 1.95								
eCheck Rejects		$ 5.00								
Credit Card Chargebacks		$ 15.00								

Client Card Cost - Interchange Plus Per card transaction with Visa, MasterCard, Discover, and American Express for all transactions on top of industry-driven rates for bank fees, card brand fees, interchange fees, dues, assessments, and other processing fees.

Client eCheck Cost Per electronic check transaction.

eCheck Rejects	When an eCheck transaction comes back as declined (e.g bounced check)
Credit Card Chargebacks	If a card payer disputes a transaction at the card issuing bank (e.g. stolen card)

Tyler Fees per Transaction

Description	Unit Price	Discount	Net Unit Price
New World ERP			
Utilities			
UtilityAccess	$ 1.25	$ 1.25	$ 0.00

3rd Party Hardware, Software and Services

Description	Quantity	Unit Price	Total	Annual
Tyler One				
Third Party Hardware, Software and Services				
Payments PCI Service Fee (Per Device)	13	$ 0	$ 0	$ 2,340
Payments Lane 3000 Terminal Purchase	13	$ 419	$ 5,447	$ 0
TOTAL			**$ 5,447**	**$ 2,340**

Summary	**One Time Fees**	**Recurring Fees**
Total Tyler Software	$ 0	$ 0
Total SaaS	$ 0	$ 0
Total Tyler Services	$ 0	$ 0
Total Third-Party Hardware, Software, Services	$ 5,447	$ 2,340
Summary Total	**$ 5,447**	**$ 2,340**
Contract Total	**$ 7,787**	

Comment
Please Note: Customers have the option to register for paperless billing using the UtilityAccess portal.

Your use of Payments and any related items included on this order is subject to the terms found at: https://www.tylertech.com/terms/payment-card-processing-agreement. By signing this order or the agreement in which it is included, you agree you have read, understand, and agree to such terms. Please see attached Payments fee schedule.

Client agrees that items in this sales quotation are, upon Client's signature or approval of same, hereby added to the existing agreement ("Agreement") between the parties and subject to its terms. Additionally, payment for said items, as applicable but subject to any listed assumptions herein, shall conform to the following terms, subject to payment terms in an agreement, amendment, or similar document in which this sales quotation is included:
• License fees for Tyler and third-party software are invoiced upon the earlier of (i) delivery of the license key or (ii) when Tyler makes such software available accessible.
• Fees for hardware are invoiced upon delivery.
• Fees for year one of hardware maintenance are invoiced upon delivery of the hardware.
• Annual Maintenance and Support fees, SaaS fees, Hosting fees, and Subscription fees are first payable when Tyler makes the software accessible to the Client (for Maintenance) or on the first day of the month following the date this quotation was signed (for SaaS, Hosting, and Subscription), and any such fees are prorated to align with the applicable term under the agreement, with renewals invoiced annually thereafter in accord with the Agreement.
• Fees for services included in this sales quotation shall be invoiced as indicated below.
o Implementation and other professional services fees shall be invoiced as delivered.
o Fixed-fee Business Process Consulting services shall be invoiced 50% upon delivery of the Best Practice Recommendations, by module, and 50% upon delivery of custom desktop procedures, by module.
o Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion option, and 50% upon Client acceptance to load the converted data into
Live/Production environment, by conversion option. Where conversions are quoted as estimated, Tyler will invoice Client the actual services delivered on a time and material basis. "
o Except as otherwise provided, other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where Project Planning Services are
provided, payment shall be invoiced upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be invoiced monthly in arrears,
beginning on the first day of the month immediately following initiation of project planning.
o If Client has purchased any change management services, those services will be invoiced in accordance with the Agreement.

o Notwithstanding anything to the contrary stated above, the following payment terms shall apply to fees specifically for migrations: Tyler will invoice Client 50% of any Migration
Services Fees listed above upon Client approval of the product suite migration schedule. The remaining 50%, by line item, will be billed upon the go-live of the applicable product
suite. Tyler will invoice Client for any Project Management Fees listed above upon the go-live of the first product suite. Annual SaaS Fees will be invoiced upon availability of the hosted environment.
• Expenses associated with onsite services are invoiced as incurred.
Any SaaS or hosted solutions added to an agreement containing Client-hosted Tyler solutions are subject to Tyler's SaaS Services terms found here: https://www.tylertech.com/terms/tyler-saas-services.

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held
For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____

Payment Card Processing Agreement

Terms of Use Contents

- Acknowledgements
- Member Bank Agreement Required
- Settlement and Chargebacks
- Fees and Invoicing
- License
- Third Party Providers
- Tyler Confidential and Proprietary Information
- Representations and Warranties
- Limitation of Liability
- Indemnification
- Taxes
- Term, Suspension, and Termination
- Dispute Resolution
- Miscellaneous
- Certain Definitions
- Exhibit A

This Payment Card Processing Agreement (this "Processing Agreement") is made and entered into by and between Tyler Technologies, Inc., a Delaware corporation ("Tyler"), and Client (the "Merchant").

1. ACKNOWLEDGEMENTS

a. By executing this Processing Agreement or an accompanying Order Form, Merchant is contracting with Tyler to obtain Card processing services on Merchant's behalf.

b. Merchant acknowledges that Tyler contracts with a payment processor (a "Processor"), Members, and other third party providers to provide services under this Processing Agreement, and Merchant hereby consents to the use of such Processor, Members, and others to provide such services.

c. Tyler represents that the terms and provisions of this Processing Agreement are not inconsistent with the terms and provisions of the agreements between Tyler and such third party providers.

2. MEMBER BANK AGREEMENT REQUIRED

a. When Merchant's customers pay Merchant through Tyler, Merchant may be the recipient of a Card funded payment. The organizations that operate these Card systems (such as Visa U.S.A., Inc. and MasterCard International Incorporated; collectively, the "Associations") require that Merchant (i) enter into a direct contractual relationship with an entity that is a member of the Association and (ii) agree to comply with Association Rules as they pertain to applicable Card Transactions that Merchant submits through Tyler.

b. Merchant shall complete an application with the Member with which Tyler has contracted, and execute an agreement with such Member (the "Member Bank Agreement"). By executing a Member Bank Agreement, Merchant is fulfilling the Association Rule of entering into a direct contractual relationship with a Member, and Merchant agrees to comply with Association Rules as they pertain to Transactions Merchant submits for processing through the Tyler service.

c. Merchant acknowledges that Tyler may have agreed to be responsible for Merchant's obligations to a Member for such Transactions as set forth in the Member Bank Agreement. Member should debit the Merchant Account for chargebacks, however, in the event Member assesses any such chargeback or dispute related fees to Tyler, Tyler shall invoice the same to Merchant.

3. SETTLEMENT AND CHARGEBACKS

a. Merchants Bank Account. In order to receive funds, Merchant must maintain a bank account (the "Merchant Bank Account") at a bank that is a member of the Automated Clearing House ("ACH") system and the Federal Reserve wire system. Merchant agrees not to close the Merchant Bank Account without giving Tyler at least thirty (30) days' prior written notice and substituting another bank account. Merchant is solely liable for all fees and costs associated with Merchant Bank Account and for all overdrafts. Tyler shall not be liable for any delays in receipt of funds or errors in bank account entries caused by third parties, including but not limited to delays or errors by the Member Bank or payment processor to Merchant Bank Account.

b. Settlement. Transactions shall be settled according to the terms of the Member Bank Agreement using the account(s) which are designated by Merchant.

c. Chargebacks. Chargebacks shall be paid by Merchant in accordance with the Member Bank Agreement.

d. Retrieval Requests. Merchant is required by the Associations to store original documentation, and to timely respond to Retrieval Requests, of each Transaction for at least six months from the date of the respective Transaction, and to retain copies of all such data for at least 18 months from the date of the respective Transaction. Merchant is responsible for any Chargebacks that result from Merchant's failure to timely respond to Retrieval Requests for documentation relating to a Transaction.

4. FEES AND INVOICING

a. Order Form. Merchant agrees to pay Tyler the fees set forth in or attached to the Order Form for services provided by Tyler and to which this Agreement is hyperlinked or attached. This may include fees for Payment Service Devices or other Equipment that Merchant has elected to purchase or rent as set forth on the Order Form. Fees for purchase will be invoiced upon shipment and Fees for rental will be invoiced annually in advance. All Fees due hereunder are due within 45 days of invoice. The terms and conditions of such purchase or rental are set forth on Exhibit A attached hereto and incorporated herein.

b. Adjustments to Pricing. By giving written notice to Merchant, Tyler may change Merchant's fees, charges and discounts resulting from (i) changes in Association fees (such as interchange, assessments and other charges); (ii) changes in pricing by any third party provider of a product or service used by Merchant; or (iii) other market adjustment. Such new prices shall be applicable as of the effective date established by the Association or third party provider, or as of any later date specified in Tyler's notice to Merchant. In addition, Tyler may update pricing for rental of Equipment by giving written notice to Merchant at the end of any initial rental term or when such Equipment is upgraded to a newer model or replaced in accordance with the pricing set forth on Tyler's then-current Order Form.

c. Payment of Fees.

   i. Online Payments. For payments that are initiated online, a convenience fee or service fee may be assessed to the Cardholder for each payment transaction that is paid electronically using a credit or debit card. Such convenience fee or service fee is set forth in the Order Form and will be charged at the time of the transaction to be deposited directly into a Tyler bank account from which all fees associated with processing and settling the transactions will be paid.

   ii. Over the Counter Payments. For payments that are initiated in your offices, a service fee may be assessed to the Cardholder for each payment transaction as set forth in the Order Form, and such fees will be charged at the time of the transaction to be deposited directly into a Tyler bank account from which all fees associated with processing and settling the transactions will be paid. For all other fees, Tyler shall invoice Merchant for services and service fees on a monthly basis, unless otherwise set forth in the Order Form. Each invoice shall state the total invoiced amount and shall be accompanied by a reasonably detailed itemization of services and service fees. Following receipt of a properly submitted invoice, the Merchant shall pay amounts owing therein thirty (30) days in arrears.

   iii. Absorbed Payments. For payments that are initiated online and/or in-person, the Merchant may elect to pay for all fees related to the transaction including, without limitation, interchange fees, dues, assessments, card brand fees, and Tyler fees.

   iv. eCheck/ACH Payments. In addition, Tyler shall be authorized to charge eCheck/ACH fees and other fees specified in an Order Form to the end user. Unless otherwise set forth in the Order Form, fees will be charged at the time of the transaction to be deposited directly into a Tyler bank account.

5. LICENSE

Tyler hereby grants Merchant a non-exclusive, revocable license to use the Tyler Intellectual Property (as defined in Section 10(c) for the limited purpose of performing under this Processing Agreement. Merchant shall at all times be responsible for compliance with applicable law and Association Rules. Unless otherwise provided in a separate agreement between Tyler and Merchant, any Intellectual Property or machinery provided by Tyler, but not developed by Tyler, is being licensed or purchased by Merchant directly from the manufacturer or developer of such machinery or Intellectual Property. Merchant acknowledges that the license granted herein is limited to Merchant's use exclusively and that Merchant does not have the right to sub-license any of the Intellectual Property in either their original or modified form. Merchant agrees that it shall not reverse-engineer, disassemble or decompile the Intellectual Property. Merchant shall not give any third party, except Merchant's employees, access to the Intellectual Property without Tyler's prior written consent.

6. THIRD PARTY PROVIDERS

Tyler may, in its sole discretion, contract with alternate Members, payment processors or other third party providers to provide services under this Processing Agreement. In such event, Merchant shall reasonably cooperate with Tyler, including the execution of a new Member Bank Agreement by Merchant; provided, however, that if the terms and conditions of the new Member Bank Agreement are substantially different than Merchant's existing Member Bank Agreement, then Merchant shall have the right to terminate this Processing Agreement.

7. TYLER CONFIDENTIAL AND PROPRIETARY INFORMATION

a. Protection of Tyler Confidential and Proprietary Information. Merchant shall not disclose, disseminate, transmit, publish, distribute, make available, or otherwise convey Tyler Confidential and Proprietary Information, and Merchant shall not use, make, sell, or otherwise exploit any such Tyler Confidential and Proprietary Information for any purpose other than the performance of this Processing Agreement, without Tyler's written consent, except: (a) as may be required by law, regulation, judicial, or administrative process; or (b) as required in litigation pertaining to this Processing Agreement, provided that Tyler is given advance notice of such intended disclosure in order to permit it the opportunity to seek a protective order. Merchant shall ensure that all individuals assigned to perform services herein shall abide by the terms of this Section 7(a) and shall be responsible for breaches by such persons.

b. Judicial Proceedings. If Merchant is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to disclose any Tyler Confidential and Proprietary Information, Merchant shall provide Tyler with prompt written notice of such request or requirement so that Tyler may seek protective orders or other appropriate remedies and/or waive compliance with the provisions of this Processing Agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver by Tyler, Merchant nonetheless is legally compelled to disclose Tyler Confidential and Proprietary Information to any court or tribunal or else would stand liable for contempt or suffer other censure or penalty, Merchant may, without liability herein, disclose to such court or tribunal only that portion of Tyler Confidential and Proprietary Information which the court requires to be disclosed, provided that Merchant uses reasonable efforts to preserve the confidentiality of Tyler Confidential and Proprietary Information, including, without limitation, by cooperating with Tyler to obtain an appropriate protective order or other reliable assurance that confidential treatment shall be accorded Tyler Confidential and Proprietary Information.

8. REPRESENTATIONS AND WARRANTIES

a. No Actions, Suits, or Proceedings. There are no actions, suits, or proceedings, pending or, to the knowledge of Tyler, threatened, that shall have a material adverse effect on Tyler's ability to fulfill its obligations pursuant to or arising from this Processing Agreement.

b. Compliance with Laws. In performing this Processing Agreement, Tyler shall comply with all applicable material licenses, legal certifications, or inspections. Tyler and Merchant shall comply in all material respects with applicable federal, state, and local statutes, laws, ordinances, rules, and regulations.

c. Ownership. Tyler is a Delaware corporation that is listed for trading on the New York Stock Exchange. No director, officer, or 5% or more stockholder shall, during the course of this Processing Agreement, receive or confer improper personal benefits or gains associated with the performance of the services outlined in this Processing Agreement.

d. Certain Business Practices. Neither Tyler nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Processing Agreement by any federal department or agency. Tyler further represents and warrants that it is not listed on any local, state or federal consolidated list of debarred, suspended, and ineligible contractors and grantees. No person (other than permanent employees of Tyler) has been engaged or retained by Tyler to solicit, procure, receive, accept, arrange, or secure this Processing Agreement for any compensation, consideration, or value.

e. Equipment Manufacturer Warranties. Tyler will pass through to Merchant any applicable manufacturer warranties that apply to Equipment purchased by Merchant through this

Agreement.

f. Disclaimer of Implied Warranties. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS PROCESS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TYLER HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. LIMITATION OF LIABILITY

TYLER'S LIABILITY TO MERCHANT FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS PROCESSING AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE TOTAL FEES PAID TO TYLER UNDER THIS PROCESSING AGREEMENT (NET OF ASSOCIATION INTERCHANGE, ASSESSMENTS AND FINES) FOR THE SIX MONTHS PRIOR TO THE TIME THE LIABILITY AROSE.

WHILE BOTH PARTIES ACKNOWLEDGE THAT THIS IS AN AGREEMENT FOR SERVICES TO WHICH THE UNIFORM COMMERCIAL CODE DOES NOT APPLY, IN NO EVENT SHALL TYLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, OR LOSS OF BUSINESS OR LOSS OF DATA ARISING OUT OF THIS PROCESSING AGREEMENT, IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGE.

10. INDEMNIFICATION

a. Chargebacks. Merchant acknowledges that Tyler has agreed to be responsible for Merchant's obligations to a Member for Transactions and Association Rules as set forth in the Member Bank Agreement. Member should debit the Merchant Account for chargebacks, however, in the event Member assesses any such chargeback or dispute related fees to Tyler, Tyler shall invoice the same to Merchant.

b. Applicable Law and Interpretations: Merchant shall indemnify and hold harmless Tyler from and against any claim or action related to Merchant's violation of applicable law and/or Association Rules including without limitation any election to apply custom fee structures or customer surcharges.

c. Intellectual Property.

   i. Tyler retains all ownership and copyright interest in and to any and all intellectual property, computer programs, related documentation, technology, know how and processes developed by Tyler and provided in connection with this Processing Agreement (collectively, the "Intellectual Property"),

   ii. Notwithstanding any other provision of this Processing Agreement, if any claim is asserted, or action or proceeding brought against Merchant that alleges that all or any part of the Intellectual Property, in the form supplied, or modified by Tyler, or Merchant's use thereof, infringes or misappropriates any United States intellectual property, intangible asset, or other proprietary right, title, or interest (including, without limitation, any copyright or patent or any trade secret right, title, or interest), or violates any other contract, license, grant, or other proprietary right of any third party, Merchant, upon its awareness, shall give Tyler prompt written notice thereof. Tyler shall defend, and hold Merchant harmless against, any such claim or action with counsel of Tyler's choice and at Tyler's expense and shall indemnify Merchant against any liability, damages, and costs resulting from such claim. Without waiving any rights pursuant to sovereign immunity, Merchant shall cooperate with and may monitor Tyler in the defense of any claim, action, or proceeding and shall, if appropriate, make employees available as Tyler may reasonably request with regard to such defense. This indemnity does not apply to the extent that such a claim is attributable to modifications to the Intellectual Property made by Merchant, or any third party pursuant to Merchant's directions, or upon the unauthorized use of the Intellectual Property by Merchant.

d. If the Intellectual Property becomes the subject of a claim of infringement or misappropriation of a copyright, patent, or trade secret or the violation of any other contractual or proprietary right of any third party, Tyler shall, at its sole cost and expense, select and provide one of the following remedies, which selection shall be in Tyler's sole discretion: (a) promptly replace the

Intellectual Property with a compatible, functionally equivalent, non-infringing system; or (b) promptly modify the Intellectual Property to make it non-infringing; or (c) promptly procure the right of Merchant to use the Intellectual Property as intended.

11. TAXES

a. Tax Exempt Status. Merchant is a governmental tax-exempt entity and shall not be responsible for any taxes for any Licensed Property or services provided for herein, whether federal or state. The fees paid to Tyler pursuant to this Processing Agreement are inclusive of any applicable sales, use, personal property, or other taxes attributable to periods on or after the Effective Date of this Processing Agreement.

b. Employee Tax Obligations. Each party accepts full and exclusive liability for the payment of any and all contributions or taxes for Social Security, Workers' Compensation Insurance, Unemployment Insurance, or Retirement Benefits, Pensions, or annuities now or hereafter imposed pursuant to or arising from any state or federal laws which are measured by the wages, salaries, or other remuneration pay to persons employed by such party for work performed under this Processing Agreement.

12. TERM, SUSPENSION, AND TERMINATION

a. Term. The term of this Processing Agreement (the "Term") shall commence on the Effective Date and shall continue in effect for three years unless otherwise set forth on an Order Form; provided, however, that at the end of such initial term, and on each subsequent anniversary of the Effective Date, the term shall automatically extend for an additional year unless either party provides, at least ninety (90) days prior to the end of the then current term, written notice that it does not wish to extend the term or otherwise terminates the agreement for Cause pursuant to Section 12(b).

b. Termination for Cause. Either party may terminate this Processing Agreement for Cause, provided that such party follows the procedures set forth in this Section (b).

i. For purposes of this Section, "Cause" means either:

A. a material breach of this Processing Agreement, which has not been cured within ninety (90) days of the date such party receives written notice of such breach;

B. if Tyler services provided under this Processing Agreement fail to conform to generally accepted standards for such services in the Card processing industry and, after ninety (90) days written notice, Tyler does not rectify its failure of performance;

C. the failure by Merchant to timely pay when due any fees owed to Tyler pursuant to this Processing Agreement and any delinquent amounts remain outstanding for a period of thirty (30) days after Tyler provides written notice of its intent to terminate for failure to pay;

D. breach of Section 7; or

E. if Tyler becomes insolvent or bankrupt, or is the subject of any proceedings relating to its liquidation or insolvency or for the appointment of a receiver or similar officer for it, has a receiver of its assets or property appointed or makes an assignment for the benefit of all or substantially all of its creditors, or institutes or causes to be instituted any proceeding in bankruptcy or reorganization or rearrangement of its affairs.

ii. No party may terminate this Processing Agreement under Section 12 b(i)(A) unless it cooperates in good faith with the alleged breaching party during the cure period and complies in good faith with the dispute resolution procedures set forth in Section 13 following such period.

iii. In the event either party terminates this Processing Agreement pursuant to this Section (b), each party shall return all products, documentation, confidential information, and other information disclosed or otherwise delivered to the other party prior to such termination, all revocable licenses shall terminate.

c. Survival. The following provisions shall survive after the Term of this Processing Agreement: 3; 4(c); 7; 10; 11; 12; 13; 14; and 15.

13. DISPUTE RESOLUTION

Any dispute arising out of, or relating to, this Processing Agreement that cannot be resolved within five (5) Business Days shall be referred to the individual reasonably designated by Merchant and Tyler's representative assigned to Merchant's account ("Intermediary Dispute Level"). Any dispute that cannot be resolved in ten (10) Business Days at the Intermediary Dispute Level shall then be referred to Merchant's chief executive officer or other individual reasonably designated by Merchant and Tyler's applicable division President ("Executive Dispute Level"), at such time and location reasonably designated by the parties. Any negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of the applicable rules of evidence. For any dispute that the parties are unable to resolve through informal discussions or negotiations or pursuant to the dispute resolution and escalation procedures set forth in this Processing Agreement, the parties shall submit the matter to mediation prior to the commencement of any legal proceeding. The foregoing shall not apply to claims for equitable relief under Section 7.

14. MISCELLANEOUS

a. Assignment. Neither party may assign this Processing Agreement or any of its respective rights or obligations herein to any third party without the express written consent of the other party, which consent shall not be unreasonably withheld.

b. Cumulative Remedies. Except as specifically provided herein, no remedy made available herein is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy provided herein or available at law or in equity.

c. Notices. Except as otherwise expressly specified herein, all notices, requests or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by certified or registered mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth on the signature page hereto, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) days following deposit in the mail. Notwithstanding the foregoing, notice shall be deemed delivered when provided in connection with billing or invoicing.

d. Counterparts. This Processing Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

e. Waiver. The performance of any obligation required of a party herein may be waived only by a written waiver signed by the other party, which waiver shall be effective only with respect to the specific obligation described therein.

f. Entire Agreement. This Processing Agreement constitutes the entire understanding and contract between the parties and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, including an agreement for other Tyler software or services with which Tyler Payments is included.

g. Amendment. This Processing Agreement shall not be modified, amended, or in any way altered except by an instrument in writing signed by the properly delegated authority of each party. All amendments or modifications of this Processing Agreement shall be binding upon the parties despite any lack of consideration.

h. Severability of Provisions. In the event any provision hereof is found invalid or unenforceable pursuant to judicial decree, the remainder of this Processing Agreement shall remain valid and enforceable according to its terms.

i. Relationship of Parties. The parties intend that the relationship between the parties created pursuant to or arising from this Processing Agreement is that of an independent contractor only. Neither party shall be considered an agent, representative, or employee of the other party for any purpose.

j. Governing Law. Any dispute arising out of or relating to this Processing Agreement or the breach thereof shall be governed by the laws of the state of Merchant's domicile, without regard to or application of choice of law rules or principles.

k. Audit. Tyler shall maintain complete and accurate records of all work performed pursuant to and arising out of this Processing Agreement. Merchant may, upon the written request, audit any and

all records of Tyler relating to services provided herein. Merchant shall provide Tyler twenty-four hour notice of such audit or inspection. Tyler shall have the right to exclude from such inspection any Tyler Confidential and Proprietary Information not otherwise required to be provided to Merchant as a part of this Processing Agreement. Tyler shall make such books and records available to Merchant during normal business hours. Any such audit shall be conducted at Tyler's principal place of business during Tyler's normal business hours and at Merchant's sole expense.

l. No Third Party Beneficiaries. Nothing in this Processing Agreement is intended to benefit, create any rights in, or otherwise vest any rights upon any third party.

m. Contra Proferentem. The doctrine of contra proferentem shall not apply to this Processing Agreement. If an ambiguity exists in this Processing Agreement, or in a specific provision, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.

n. Force Majeure. No party to this Processing Agreement shall be liable for delay or failure in the performance of its contractual obligations arising from any one or more events that are beyond its reasonable control, including, without limitation, acts of God, war, terrorism, and riot. Upon such delay or failure affecting one party, that party shall notify the other party and use all reasonable efforts to cure or alleviate the cause of such delay or failure with a view to resuming performance of its contractual obligations as soon as practicable. Notwithstanding the foregoing, in every case the delay or failure to perform must be beyond the control and without the fault or negligence of the party claiming excusable delay. Any performance times pursuant to or arising from this Processing Agreement shall be considered extended for a period of time equivalent to the time lost because of any delay that is excusable herein.

o. Equitable Relief. Each party covenants, represents, and warrants that any violation of this Processing Agreement by such party with respect to its respective obligations set forth in Section 7 shall cause irreparable injury to the other party and shall entitle the other party to extraordinary and equitable relief by a court of competent jurisdiction, including, without limitation, temporary restraining orders and preliminary and permanent injunctions, without the necessity of posting bond or security.

15. CERTAIN DEFINITIONS

a. Association means a group of Card issuer banks or debit networks that facilitates the use of payment cards accepted under this Processing Agreement for processing, including, without limitation, Visa,U.S.A., Inc., MasterCard International, Inc., Discover Financial Services, LLC and other credit and debit card providers, debit network providers, gift card and other stored value and loyalty program providers. Associations also includes the Payment Card Industry Security Standards Council.

b. Association Rules means the bylaws, rules, and regulations, as they exist from time to time, of the Associations.

c. Card or Payment Card means an account, or evidence of an account, authorized and established between a Cardholder and an Association, or representatives or members of a Association that Merchant accepts from Cardholders as payment for a good or service. Payment Instruments include, but are not limited to, credit and debit cards, stored value cards, loyalty cards, electronic gift cards, authorized account or access numbers, paper certificates and credit accounts.

d. Cardholder means the person to whom a Card is issued or who is otherwise entitled to use a Card.

e. Chargeback means a reversal of a Card sale Merchant previously presented pursuant to Association Rules.

f. Member or Member Bank means an entity that is a member of the Associations.

g. Order Form means a document listing the pricing associated with this Processing Agreement.

h. Processing Agreement means this Payment Card Processing Agreement, including all exhibits attached hereto and to be attached throughout the Term of this Processing Agreement, all of which are incorporated by reference herein.

i. Retrieval Request means a request for information by a Cardholder or Card issuer relating to a claim or complaint concerning a Card sale Merchant has made.

j. Transaction means the evidence and electronic record of a sale or lease transaction representing payment by use of a Card or of a refund/credit to a Cardholder.

k. Tyler Confidential and Proprietary Information means all information in any form relating to, used in, or arising out of Tyler's operations and held by, owned, licensed, or otherwise possessed by Tyler (whether held by, owned, licensed, possessed, or otherwise existing in, on or about Tyler's premises or Merchant's offices, residence(s), or facilities and regardless of how such information came into being, as well as regardless of who created, generated or gathered the information), including, without limitation, all information contained in, embodied in (in any media whatsoever) or relating to Tyler's inventions, ideas, creations, works of authorship, business documents, licenses, correspondence, operations, manuals, performance manuals, operating data, projections, bulletins, customer lists and data, sales data, cost data, profit data, financial statements, strategic planning data, financial planning data, designs, logos, proposed trademarks or service marks, test results, product or service literature, product or service concepts, process data, specification data, know how, software, databases, database layouts, design documents, release notes, algorithms, source code, screen shots, other research and development information and data, and Intellectual Property. Notwithstanding the foregoing, Tyler Confidential and Proprietary Information does not include information that: (a) becomes public other than as a result of a disclosure by Merchant in breach hereof; (b) becomes available to Merchant on a non-confidential basis from a source other than Tyler, which is not prohibited from disclosing such information by obligation to Tyler; (c) is known by Merchant prior to its receipt from Tyler without any obligation of confidentiality with respect thereto; or (d) is developed by Merchant independently of any disclosures made by Tyler.

Exhibit A

Payment Service Devices/Equipment - Rental and Purchase

This Exhibit A is incorporated into that certain Payment Card Processing Agreement between Tyler and Merchant (the "Agreement").

1. TERMS APPLICABLE TO BOTH PURCHASE AND RENTAL OF EQUIPMENT
   a. Generally. Tyler will provide PCI-compliant Payment Service Devices as elected by Merchant and described in the Order Form and related equipment for rent or purchase during the term of this Agreement for the fees set forth in the Order Form.

   b. Shipping Timelines. Tyler shall ship newly-requested Payment Service Devices (and associated supplies, such as printers, cables, power supplies, mounting hardware or other equipment identified in an Order Form) ("Equipment") to Merchants within (a) 14 calendar days of the request or (b) 14 calendar days prior to payment service commencement/go-live, whichever is later. Tyler shall ship failure-related replacement Equipment to Merchants within two (2) Business Days of a written request.

   c. Delivery and Acceptance. Tyler will deliver the Equipment to the location designated by Merchant in the Order Form. If an address for delivery is not expressly designated in the Order Form, such Equipment will be delivered to Merchant's address otherwise set forth in the Order Form. Merchant will be deemed to have accepted each piece of Equipment on the earlier of (i) when Merchant acknowledges receipt, and (ii) seven days after shipment of each such piece of Equipment, unless Tyler is notified earlier in writing by Merchant that the Equipment has not been received or is not functional.

   d. Rights and Restrictions. Tyler shall process payments received from Merchant's Payment Service Devices provided by Tyler. Merchant acknowledges that the Payment Service Devices are embedded with proprietary encryption technology that will be injected by Tyler's designee into the Payment Services Devices. Merchant agrees that all of Merchant's over-the-counter transactions processed through a Tyler application will be required to use Payment Service Devices provided by Tyler. Merchant will maintain each Payment Service Device in its possession and will not permit any physical alteration or modification of any piece of Equipment. Each piece of Equipment will be used only in the ordinary course of Merchant's business in connection with Tyler applications. The Equipment is not being sold or rented to the Merchant for home or personal use. Merchant acknowledges that the Equipment rented or purchased through this Exhibit may not be compatible with another processor's systems. Merchant hereby grants Tyler a security interest in (i) all Equipment to secure payment of the purchase price, and (ii) all Equipment to secure payment of the monthly rental payments. Merchant authorizes Tyler to file financing statements with

respect to the Equipment in accordance with the Uniform Commercial Code, signed by Tyler directly or as Merchant's attorney-in-fact.

e. Change Notice. Tyler shall provide thirty (30) calendar days written notice for Equipment changes that affect Merchants, which includes, without limitation, when Tyler will no longer support a Payment Service Device. Tyler will only be obligated to replace Equipment when a Payment Service Device is no longer capable of functioning or Tyler ends support of the specific make and model of the Equipment.

f. PCI DSS Compliance. Each party understands and agrees to comply with PCI DSS and any amendments thereto. Merchant shall be responsible for compliance with PCI DSS version 3.2.1 and any more current versions regarding the Payment Service Devices, including, but not limited to, the maintenance, inspection, and training obligations set forth in PCI DSS Requirement 9.9.

2. TERMS APPLICABLE ONLY TO EQUIPMENT PURCHASED
Tyler will sell to Merchant the Equipment identified in the Order Form, free and clear of all liens and encumbrances, expect that any proprietary encryption technology included within the Payment Service Devices or any other Tyler Intellectual Property will be provided to you pursuant to the License set forth in Section 5 of the Agreement. Maintenance and repair of Merchant-purchased Equipment is the responsibility of Merchant, unless Merchant has purchased Tyler's maintenance services for Payment Service Devices.

3. TERMS APPLICABLE ONLY TO EQUIPMENT RENTAL
   a. Tyler will rent to Merchant the Equipment identified in the Order Form, as set forth herein. The rental period will commence when the Equipment is deemed accepted. At the end of the rental term identified in an Order Form or when the Agreement is terminated, Merchant will promptly return each piece of Equipment to Tyler at Merchant's cost, in the same condition as when received, ordinary wear and tear excepted, unless otherwise directed by Tyler. The rental period will terminate when Equipment is returned to Tyler at 840 West Long Lake Road, Detroit, Michigan 48098, Attention: Tyler Payments, or at an earlier date specified by Tyler in writing. The following information must be included within the shipping box: (i) Merchant name, complete address and phone number; (ii) name of person to contact if there are any questions; (iii) your Merchant account number; and (iv) serial number of the Equipment. Merchant will retain proof of delivery documents and the applicable serial number. For any piece of Equipment that is not returned to Tyler in accordance with this paragraph, Merchant will pay Tyler the greater of $250.00 or the fair market value of such piece of Equipment as if it were in the condition described herein.

   b. Merchant will not assign its rights or obligations under this Exhibit, or pledge, lend, create a security interest in, incur any liens or encumbrances on, or sublease the Equipment to any other person or entity without Tyler's prior written consent. Any such assignment, delegation, sublease, pledge, security interest or lien in the absence of consent shall be void.

   c. The provisions of this Exhibit will survive the termination or expiration of the Agreement and continue until all rented Equipment is returned to Tyler or paid for.

Updated 10/26/21

Agree to Terms

By providing information in the required fields below, you confirm the following:

- You are authorized to bind the Client listed.
- You have read, understand, and agree to these terms and conditions.

Client Name

Email Address

Submit

Appraisal & Tax

Civic Services

Corrections

Courts & Justice

Cybersecurity

Data & Insights

Disability & Benefits

ERP

Land & Official Records

Outdoor Recreation

Payments

Productivity Tools

Public Safety

Regulatory

School ERP

Student Transportation

Browse All Solutions

Corporate Headquarters

Media Relations
Office Locations
About Us
Careers
Client Support
Investor Community
Corporate Responsibility
Media Room
Security

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CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1179

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

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

FROM: Joanna Bell, Arts and Culture Director—Parks, Natural Resources and Cultural Affairs

DATE: October 18, 2023

SUBJECT: **Arts and Culture Planning Engagement with Stilwell Consulting**

RECOMMENDATION:
Staff recommends authorization of Mayor Jordan to enter into an agreement with Stilwell Consulting in the amount of $188,900 for the creation of an Arts and Culture Plan for the City of Fayetteville, and approval of a contingency in the amount of $7,600.

BACKGROUND:
At the June 6, 2023 City Council meeting, the staff recommended that an arts and culture plan be developed to support the city's existing commitments to fostering the arts and culture ecosystem, to address the lack of a specific strategy for the arts sector in the city's 2040 plan, and to position Fayetteville as a leader in arts and culture in the region. The city council voted 8-0 in favor of allocating funding for the project.

The Arts and Culture Plan is a strategic initiative aimed at promoting and enhancing the arts and cultural sector in our city. It will provide a comprehensive roadmap for the development and growth of the arts, foster creativity, and celebrate cultural diversity. The plan will define the municipal role in the field, guide resource allocation, identify opportunities, and strengthen the cultural landscape of our community.

DISCUSSION:
On July 23, 2023, city staff issued RFP 23-08 which sought proposals from qualified consulting firms to develop a comprehensive Arts and Culture Plan for the City of Fayetteville. Six firms submitted complete proposals. The selection committee selected to conduct interviews with three firms, and unanimously selected to engage Stilwell Consulting. The firm's experience in creative sector planning is the firm's specific area of expertise. The city can look forward to Stilwell's deep research and engagement with the community to build a comprehensive roadmap for the City of Fayetteville's Arts and Culture Division's future. This dedicated plan will provide clear direction for investing in the arts, promoting creativity, and nurturing cultural diversity in our city. It will guide resource allocation, identify new opportunities, and strengthen Fayetteville's cultural landscape.

With the approval of this plan, Stilwell will immediately begin the approximately 11 month process to create the city's first Arts and Culture Plan.

BUDGET/STAFF IMPACT:
The proposed contract with Stilwell Consulting is estimated to cost $188,900.00, which includes consulting

fees, research, public engagement, and the development of the Arts and Culture Plan. This is within the budget allocated for the project.

ATTACHMENTS: SRF (#3), RFP 23-08, CONTRACT Signed by Stilwell (#4), RFP 23-08, Appendix A - Scope of Work (#5), RFP 23-08, Appendix B - City Issued RFP (#6), RFP 23-08, Appendix C - Stilwell's Submittal (#7), Council Memorandum Arts and Culture Plan 6.6.23 (#8)

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

File #: 2023-1179

Arts and Culture Planning Engagement with Stilwell Consulting

A RESOLUTION TO APPROVE A CONTRACT WITH STILWELL CONSULTING IN THE AMOUNT OF $188,900.00 FOR THE CREATION OF AN ARTS AND CULTURE PLAN FOR THE CITY OF FAYETTEVILLE, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF $7,600.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract with Stillwell Consulting in the amount of $188,900.00 for the creation of an Arts and Culture Plan for the City of Fayetteville, and further approves a project contingency in the amount of $7,600.00.

City of Fayetteville Staff Review Form

2023-1179

Item ID

11/7/2023

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

Joanna Bell	10/9/2023	PARKS & RECREATION (520)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends authorization of Mayor Jordan to enter into an agreement with Stillwell Consulting in the amount of $188,900 for the creation of an Arts and Culture Plan for the City of Fayetteville, and approval of project contingency in the amount of $7,600.

Budget Impact:

1010-090.6600-5315.00	General
Account Number	Fund
23006.1	Arts and Culture Master Plan
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	200,000.00
		Expenses (Actual+Encum)	$	-
		Available Budget	$	200,000.00
Does item have a direct cost?	Yes	Item Cost	$	188,900.00
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	11,100.00

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

This contract executed this _____ day of _____, 2023, between the City of Fayetteville, Arkansas (City), of 113 W. Mountain, Fayetteville, AR 72701 and Stilwell Consulting (Stilwell) of 2250 Bellwether Lane, Fort Collins, CO 80521, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Purpose: The purpose of this Contract is to provide the terms and conditions necessary for the preparation of an Arts and Culture Plan for the City of Fayetteville (the "Project").

2. Contract Documents: The Contract documents which comprise the contract between the City of Fayetteville and Stilwell consist of this Contract and the following documents attached hereto, and made a part hereof:
    a. Appendix A: Scope of Work & Fees
    b. Appendix B: City Issued Solicitation for RFP 23-08, Arts and Culture Plan
    c. Appendix C: Stilwell's RFP Submittal

3. City's Responsibilities:
    a. The City shall make available to Stilwell, all relevant information or data pertinent to the Project which is required by Stilwell to perform the Services. Stilwell shall be entitled to rely upon the accuracy and completeness of all information and data furnished by the City, including information and data originating with other consultants employed by the City whether such consultants are engaged at the request of Stilwell or otherwise. Where such information or data originates either with the City or its consultants then Stilwell shall not be responsible to the City for the consequences of any error or omission contained therein.

    b. When requested by Stilwell, the City may engage specialist consultants directly to perform items of work necessary to enable Stilwell to carry out the Services. Whether arranged by the City or Stilwell, these services shall be deemed to be provided under direct contracts to the City unless expressly provided otherwise. If the City chooses not to engage specialist consultants, then the Parties will work cooperatively to modify the scope of services to reflect any reductions or additions to the services to be provided by Stilwell.

    c. The City shall give prompt consideration to all documentation related to the Project prepared by Stilwell and whenever prompt action is necessary shall inform Stilwell of City's decisions in such reasonable time so as not to delay the schedule for providing the Services.

d. The City of Fayetteville's Arts and Culture Director is the project representative with respect to the services to be performed under this Agreement. The Arts and Culture Director shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

4. Stilwell's Responsibilities:

   a. Stilwell shall furnish the necessary qualified personnel to provide the Services. Stilwell represents that it has access to the experience and capability necessary to and agrees to perform the Services with the reasonable skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the Services at the time when and the location in which the Services were performed. This undertaking does not imply or guarantee a perfect Project and in the event of failure or partial failure of the product or the Services, Stilwell will be liable only for its failure to exercise diligence, reasonable care, and professional skill. This standard of care is the sole and exclusive standard of care that will be applied to measure Stilwell's performance. There are no other representations or warranties expressed or implied made by Stilwell. In particular, but not by way of limitation, no implied warranty of merchantability or fitness for a particular purpose shall apply to the Services provided by Stilwell nor shall Stilwell warrant or guarantee economic, market or financial conditions, proforma projections, schedules for public agency approvals, or other factors beyond Stilwell's reasonable control.

5. Non-Assignment: Stilwell shall not assign its duties under the terms of this agreement without prior written consent of the City.

6. Indemnification and Hold Harmless:

   a. Stilwell agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, but not defend, against any and all claims for property damage, personal injury or death, arising from Stilwell's performance under this contract. This clause shall not, in any form or manner, be construed to waive that tort immunity set forth under Arkansas Law.

   b. Notwithstanding anything to the contrary, the total amount of all claims the City of Fayetteville may have against Stilwell under this contract or arising from the performance or non-performance of the services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees or $500,000. As the City of Fayetteville's sole and exclusive remedy under this contract any claim, demand or suit shall be directed and/or asserted only against Stilwell and not against any of Stilwell's employees, officers or directors. Neither the City of Fayetteville nor

Stilwell shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected to this contract or the performance of the services on this project. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies.

7. Price:

   a. Stilwell Consulting shall perform the services included in this proposal for a flat fee of $188,900.00.

      i. Stilwell shall strive to make decisions based on what is best for the City. As such, the Stilwell compensation is structured as a flat fee, with billing to be completed on a monthly basis until completion of project. Monthly invoice shall include a breakdown of completed tasks and/or deliverables for the previous month.

   b. Additional services requested that fall outside the scope of this project shall be provided on a mutually agreed schedule and price, utilizing the hourly fee schedule provided in Stilwell's proposal.

8. Payments:

   a. Payments shall be made after approval and acceptance of each itemized invoice, which shall not be unreasonably withheld.

   b. Unless disputed by the City, payments shall be made 30 calendar days after acceptance of invoice. Electronic delivery to the City is preferred.

9. Terms: All work as required in the Appendix A – Scope of work shall be completed by August 31, 2024.

10. Ownership of Documents:

   a. All documents provided by the City are and remain the property of the City. Stilwell may retain reproduced copies of drawings and copies of other documents.

   b. All documents and records, whether in physical or electronic format, prepared by Stilwell or its subconsultant as part of the Project shall become the property of City when Stilwell has been compensated for all services rendered; provided, however, that Stilwell shall have the unrestricted right to their use.

   c. Stilwell shall retain its rights in its standard document details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of Stilwell.

d. Stilwell will grant the City, the State of Arkansas, and the United States of America a royalty-free, non- exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, of all copyrightable material first produced or composed under this agreement by the contractor, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.

11. Independent Contractor: Stilwell is an independent contractor of the City and shall maintain complete responsibility for applicable state or federal law on unemployment insurance, withholding taxes, social security, or other industrial, labor or discrimination law for its employees. Stilwell is responsible for its agents, methods and operations.

12. Notices: Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, e-mail or fax (receipt confirmed), or overnight courier.

13. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo coping costs pursuant to the FOIA may be assessed for this compliance.

14. Termination: This Contract may be terminated by the City of Fayetteville or Stilwell for any reason with thirty (30) days written notice. If either party breaches this agreement, the non-defaulting party may terminate this Agreement after giving seven (7) days' notice to remedy the breach. On termination of this agreement, the City shall pay Stilwell for the services performed through the date of termination within thirty (30) days of acceptance of final invoice.

15. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees. No modification of this contract shall be binding unless made in writing and executed by both parties.

16. Applicable Law: This Agreement shall be governed by and construed in accord with the laws of the State of Arkansas. Venue for all legal disputes shall be Washington County, Arkansas.

17. Contract Administration: The Mayor or their Designated Representative shall be the Contract Administrator for this contract. Stilwell's Principal or their Designated Representative shall be the primary contact for all matters pertaining to this contract.

18. Professional Responsibility: Stilwell shall exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices.

19. Permits & Licenses: Stilwell shall secure and maintain any and all permits and licenses required to complete this Contract.

20. Entire Agreement: These Contract documents constitute the entire agreement between the City of Fayetteville and Stilwell and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Stilwell. In the event of a conflict between the terms of this Contract and the appendices, this Contract and the terms and conditions contained in Appendix B shall control.

21. Force Majeure: Any default in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, disease, epidemic or pandemic, or any other cause beyond the reasonable control or contemplation of either party. Nothing herein relieves the City of its obligation to pay Stilwell for services actually rendered.

22. Severability: In the event that any court of competent jurisdiction shall determine that any provision of this agreement shall be unenforceable, then that provision shall be deemed to be null and void and the remaining provisions hereof shall remain in full force and effect.

23. Debarment Certification: Stilwell hereby provides debarment/suspension certification indicating compliance with the below Federal Executive Order. Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. Stilwell hereby attests its principal is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and STILWELL CONSULTING by its authorized officer has made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By:_____

LIONELD JORDAN, MAYOR

ATTEST:

By:_____

Kara Paxton, City Clerk

Date Signed: _____

STILWELL CONSULTING

By:_____

JILL STILWELL, OWNER/PRINCIPAL

Date Signed: _____

CONTRACT FOR PROFESSIONAL SERVICES

RFP 23-08, Arts and Culture Plan

APPENDIX A

Scope of Work & Fees

1. INTRODUCTION:

   Stilwell Consulting (Stilwell or Consultant) shall provide services in preparing an Arts and Culture Plan for the City of Fayetteville.

2. SCOPE OF WORK:

   The Arts and Culture Plan submitted by Stilwell shall include:

   A. Executive Summary: an overview of the plan, its goals, and objectives, as well as the key findings.

   B. Vision Statement: This should articulate the overarching vision for arts and culture division in the community.

   C. Cultural Mapping: Deep research and analysis of Fayetteville's cultural landscape, its cultural assets and spaces (including an inventory and map), its history, changing demographics, the implications of regional growth, and the future of Fayetteville and the arts sector.

   D. Peer and Aspirational City Identification: Research on comparable cities and creative collaborations/opportunities, including reports on best practices in peer cities that could provide policy and practice examples.

   E. Needs Assessment: A detailed analysis of needs, opportunities, and community priorities. This should leverage the cultural mapping, evaluate the existing cultural resources and identify any gaps or areas that need improvement.

   F. Engagement Plan: A deep and thorough community engagement process to include people and organizations in the arts/cultural community; donors; corporate funders; community residents; communities underrepresented in previous grant funding, surveys, conversations, and planning; communities for whom English is a second language, etc. This engagement plan should leverage the work of the Municipal Arts Alliance and Creative Arkansas Community Hub and Exchange (CACHE).

   G. Communication Plan: This should provide a plan for communicating the plan and its progress to the public, stakeholders, and partners in the community. Both the process and plan should include a public information campaign to educate and excite Fayetteville residents about the impact of Arts and Culture in their community, thus beginning to cultivate greater engagement and long-term support.

   H. Strategic Plan: Articulation of a long-range vision (potentially ten years) with flexible, nearer-term plans (such as in three-year increments, or another timeframe depending on the consultant's recommendation).

      i. Implementation Plan: This should provide a detailed plan for how the strategies identified in the strategic plan will be implemented, including timelines, actionable goals, budgets, and responsible parties.

ii. Funding Plan: This should outline potential sources of funding for implementing the plan, with recommended funding models and governance structures, with recommendations for each.

iii. Public Art Policy: Deliver recommendations for a public art policy for Fayetteville that outlines the City's vision for public art and provides guidance for its creation, funding, public selection processes, management, and maintenance. Overall, the policy should reflect the City's commitment to promoting arts and culture in the community and its desire to enhance the aesthetic and cultural value of public spaces through the thoughtful integration of public art.

iv. Evaluation Plan: Outline how the success of the plan will be measured and evaluated over time, including metrics and benchmarks. Plans should measure and gauge the value, quality, reach and impact of programs, arts and cultural experiences, organizations, and individual artists that received funding from taxpayer funds.

Strategic Plan Document Writing and Formatting - The consultant will integrate the information generated in the tasks above and produce the written plan in an attractive, inviting and easy to navigate format. The plan shall include chapters on main items and an executive summary. The Arts and Culture Division will provide photos to utilize in the plan. The written Strategic Plan document shall be an attractive color document. A draft plan will be presented to Parks Natural Resources and Cultural Affairs Department, the Fayetteville Arts Council, the Parks and Recreation Advisory Board and public for comments that will then be used to create a final plan. The final plan will be presented for approval to the Fayetteville City Council. Stilwell shall participate in all public presentations leading to finalization of the plan, either in person or virtually. After the final document is presented, an electronic copy shall be given to The Arts and Culture Division in an editable format such as Microsoft Word or InDesign. The Arts and Culture Division shall be the owner of the document and all work generated in the planning process.

In accomplishing the work of the Plan, the Consultant shall work closely with staff from The Arts and Culture Division throughout the course of the project. The consultant shall communicate with The Arts and Culture Division staff to keep the project on schedule. The consultant shall submit to The Arts and Culture Division brief monthly written status reports that delineate work completed, work underway, work to be completed and major items that are needed by The Arts and Culture Division staff and by Consultant staff or others. The intent of this is to create a document that tracks progress and keeps everyone informed on progress and items that need to be accomplished.

3. PRICING:

A. Stilwell Consulting shall perform the services included in this proposal for a flat fee of $188,900.00 (details below).

i. Stilwell shall strive to make decisions based on what is best for the City. As such, the Stilwell compensation is structured as a flat fee, with billing to be completed on a monthly basis until completion of project. Monthly invoice shall include a breakdown of completed tasks and/or deliverables for the previous month.

B. Additional services requested that fall outside the scope of this project shall be provided on a mutually agreed schedule and price, utilizing the hourly fee schedule provided in Stilwell's proposal (provided below).

Fee Breakdown	Consultant Hours (combined)	Consultant Fees (combined)
Phase I: Confirm Workplan & Communications	22	$4,400
Phase II: Research and Discovery	230	$41,200
Phase III: Community and Stakeholder Engagement	382	$72,200
Phase IV: Plan Development	170	$31,600
Consulting Fees:		$149,400
Creative Sector EconDev Advisor Stipend		$5,000
Graphic Design Services (including mapping)		10,000
Community Engagement (supplies/artists fees)		5,000
Travel (not to exceed)		$19,500
Total Proposed Budget:		$188,900

Consultant Fee Schedule	Hourly Rate	Est. Hours	Fee
Jill Stilwell - Co-Lead	$200	351	$70,200
Kendall Petersen - Co-Lead and AIPP Specialist	$200	351	$70,200
Admin Support	$100	90	$9,000

4. TIMEFRAME & PROPOSED SCHEDULE:

A. Any adjustments to proposed schedule shall be coordinated through City staff:

	2023		2024							
Phase I: Confirm Work Plan & Communications	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug
Execute Contract										
Confirm Workplan										
Establish Project Advisory Group										
Initial Stakeholder List										
Communications Plan										
Phase I Deliverables: Confirmed Workplan, Signed Contract, Initial Stakeholder list, Comms Plan, Progress Report										

(*Continues on next page*)

Phase II: Research & Discovery	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug
Immersion Tour										
Kick-off Meeting with Project Advisory Group										
Staff/Leadership Interviews										
Data Research and Analysis										
Cultural Mapping (part 1)										
Public Art Collection Inventory/Assessment										
Need Assessment										
Peer City Benchmarking										
Phase II Deliverables: Arts & Culture Inventory, Public Art Assessment, Initial Cultural Map, Initial Needs Assessment Findings, Peer/Aspirational Cities Report, Month Progress Reports										

Phase III: Community & Stakeholder Engagement	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug
Expanded Stakeholder List										
One-on-One Stakeholder Interviews (up to 12)										
Develop/Activate Speakup.Fayetteville-ar.gov										
Focus Groups (up to 6)										
On-line General Survey										
Targeted Surveys										
Artful Engagements (3)										
Public Art Program charrette										
Cultural Sector Economic Development Session										
Project Advisory Group work sessions (2)										
Phase III Deliverables: Cultural Map, Needs Assessment, Expanded Stakeholder List, Project page design/launch, Community/Stakeholder Engagement Summary, Survey(s) Analysis										

Phase IV: Plan Development	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug
Theme and Framework Development										
Draft of Arts and Culture Plan										
Review, Revise, Refine Draft Plan										
Feedback Presentations										
Deliver Final Arts and Culture Plan										
Phase IV Deliverables: Themes & Plan Framework, Draft Plan, Presentation Deck, Final Arts and Culture Plan										

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

TDD (Telecommunication Device for the Deaf): 479.521.1316

RFP (REQUEST FOR PROPOSAL)

Request for Proposal: RFP 23-08, Arts and Culture Plan
DEADLINE: Wednesday, August 16, 2023 before 2:00 PM, local time
SR. PURCHASING AGENT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov
DATE OF ISSUE AND ADVERTISEMENT: 07/23/2023

Appendix B
RFP 23-08, Arts and Culture Plan
City Issued RFP

REQUEST FOR PROPOSAL
RFP 23-08, Arts and Culture Plan

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

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

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

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

City of Fayetteville, AR
Request for Proposal
RFP 23-08, Arts and Culture Plan

The City of Fayetteville, Arkansas, seeks proposals from qualified consulting firms to develop a comprehensive Arts and Culture Plan for the City of Fayetteville. Any questions concerning this solicitation process should be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent, at abeilfuss@fayetteville-ar.gov or by calling (479) 575-8220.

Solicitation documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All proposals shall be received by **Wednesday, August 16, 2023 before 2:00 PM, Local Time** utilizing the electronic bidding software or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division. All proposals are due before the time stated; no late proposals shall be accepted. Submitting electronically is strongly encouraged. The City of Fayetteville shall not be responsible for lost or misdirected proposals, or for failure of proposer's technical equipment.

All interested parties shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the project is located. Any firm providing a service shall be registered with the Arkansas Secretary of State.

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

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RFP 23-08, Arts and Culture Plan
City Issued RFP

City of Fayetteville
By: Amanda Beilfuss, Sr. Purchasing Agent
P: 479.575.8220 abeilfuss@fayetteville-ar.gov
TDD (Telecommunications Device for the Deaf): (479) 521-1316
Date of advertisement: 07/23/2023
This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.
Amount paid: $XXX.XX.

1. SUBMISSION OF A PROPOSAL SHALL INCLUDE:
   Each proposal shall contain the following at a minimum. Proposer must also address detailed requirements as specified in the Scope of Work.

   a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFP in the most cost-effective manner. The term Proposer shall be in reference to a firm or individual responding to this solicitation.

   b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFP. This description should include the names of the person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work. Also, include the reference information requested in this RFP.

   c. The complete fee and cost to the City for all services outlined in this RFP.

   d. Statement should be no more than twenty-five (25) pages; single sided, standard, readable, print on standard 8.5x11 documents. Proposers shall also submit a three (3) page (maximum) executive summary. The following items will not count toward the twenty-five page limitation: appendix, cover sheet, 3-page executive summary, resumes (resumes shall be no more than 1 page per person), and forms provided by the City for completion.

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

      i. Option 1 –Electronic Submittal (***strongly encouraged***): Proposers can go to www.fayetteville-ar.gov/bids and follow the prompts to submit a proposal within the electronic bidding platform. If a proposal is submitted electronically, a physical submission is not necessary. All Proposers must register in order to be able to submit. There is no fee for registration.

      ii. Option 2 – Physical Submittal: All Proposers shall submit one (1) original copy of their proposal as well as one (1) electronic copy on a properly labeled USB or other electronic media device. The electronic copy submitted shall be contained into one single electronic file and shall be identical to the hard copies provided. The use of Adobe PDF documents is strongly recommended. Files contained on an USB or electronic media shall not be restricted against saving or printing. Electronic copies shall not be submitted via e-mail to

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City employees by the Proposer and shall be provided to the City in a sealed manner. FedEx, UPS, USPS, or other packages should be clearly marked with the RFP number on the outside of the mailing package.

e. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. Only the names of Proposer's will be available after the deadline until a contract has been awarded by the Fayetteville City Council. All interested parties understand proposal documents will not be available until after a valid contract has been executed.

f. Proposers shall submit a proposal based on documentation published by the Fayetteville Purchasing Division.

g. Proposals must follow the format of the RFP. Proposers should structure their responses to follow the sequence of the RFP.

h. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer shall furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.

i. Proposer is advised that exceptions to any of the terms contained in this RFP or the attached service agreement must be identified in its response to the RFP. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.

j. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline. Documents shall be received before the deadline time as shown by the atomic clock located in the Purchasing Division Office or electronic clock located in the City's third-party bidding software.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

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

3. DESCRIPTION OF SUPPLIES AND SERVICES:

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

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

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

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RFP 23-08, Arts and Culture Plan
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a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.

b. The City of Fayetteville reserves the right to select the proposal it believes will serve the best interest of the City.

c. The City of Fayetteville reserves the right to accept or reject any or all proposals.

d. The City of Fayetteville reserves the right to cancel the entire request for proposal.

e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for proposal or in proposals submitted.

f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information or proposal data without changing the terms of the proposal.

g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.

h. The City reserves the right to ask for a best and final offer from one or more Proposers. The best and final offer process is not guaranteed; therefore, Proposers shall submit and respond to this RFP on the most favorable terms available.

5. EVALUATION CRITERIA:

The evaluation criterion defines the factors that will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. Proposers shall include sufficient information to allow the selection committee to thoroughly evaluate and score proposals. Each proposal submitted shall be evaluated and ranked by a selection committee. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFP. Proposers are not guaranteed to be ranked.

6. COSTS INCURRED BY PROPOSERS:

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

7. ORAL PRESENTATION:

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

8. CONFLICT OF INTEREST:

a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Limited Authority of City Employee to Provide Services to the City".

b. The Proposer shall promptly notify Amanda Beilfuss, City Sr. Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other

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circumstance which may influence or appear to influence the Proposer's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

9. WITHDRAWAL OF PROPOSAL:

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

10. LATE PROPOSAL OR MODIFICATIONS:

a. Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Proposers refer to their submission status in the online bidding portal or call the Purchasing Division at (479) 575-8220 to ensure receipt of their submittal documents prior to opening time and date listed.

b. The time set for the deadline shall be local time for Fayetteville, AR on the date listed. All proposals shall be received in the Purchasing Division BEFORE the deadline stated. The official clock to determine local time shall be the atomic clock located in the Purchasing Division, Room 306 of City Hall, 113 W. Mountain, Fayetteville, AR.

11. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

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

12. PROVISION FOR OTHER AGENCIES:

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

13. COLLUSION:

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

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14. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

a. The City of Fayetteville reserves the privilege of auditing a Contractor's records as such records relate to purchases between the City and said Contractor.

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

c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

15. CITY INDEMNIFICATION:

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

16. VARIANCE FROM STANDARD TERMS & CONDITIONS:

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

17. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

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

18. CERTIFICATE OF INSURANCE:

The successful Proposer shall provide a Certificate of Insurance of professional liability insurance in the amount of $1 million US dollars, at minimum. Such Certificate of Insurance shall list the City as an additional insured and not be required unless firm is selected.

19. PAYMENTS AND INVOICING:

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

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20. CANCELLATION:

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

b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.

c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.

d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the Contractor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

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

a. The Contractor shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFP.

b. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first.

22. NON-EXCLUSIVE CONTRACT:

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

23. LOBBYING:

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

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request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

24. ADDITIONAL REQUIREMENTS:

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

25. SERVICES AGREEMENT:

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

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

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

27. OTHER GENERAL CONDITIONS:

a. Proposers must provide the City with their proposals signed by an employee having legal authority to submit proposals on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.

b. The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.

c. This solicitation is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the City to pay for any costs incurred by Proposer in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.

d. If products, components, or services other than those described in this bid document are proposed, the Proposer must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.

e. **Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via telephone (479.575.8220) or e-mail (abeilfuss@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate**

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understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all Proposers to be on equal terms.

f. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Amanda Beilfuss, City of Fayetteville, Sr. Purchasing Agent via e-mail (abeilfuss@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.

g. At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews.

h. Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a RFP's content or to exclude any relevant or essential data.

i. Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be controlled by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.

j. The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

k. The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to the City of Fayetteville.

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1. INTRODUCTION:

The City of Fayetteville is seeking proposals from qualified consulting firms to develop a comprehensive Arts and Culture Plan that reflects the unique characteristics of our community.

The goal of this project is to create a roadmap for a vibrant and sustainable Arts and Culture sector that benefits our residents, businesses, and visitors. The plan should outline strategies to enhance access to arts and cultural experiences, promote equity and inclusivity, and support the growth and development of artists, organizations, and businesses in our community.

We are looking for a consultant or consulting team with extensive experience in cultural planning, community engagement, and data analysis. The selected firm will work closely with City staff, stakeholders, and the community to conduct research, gather input, and develop recommendations that align with Fayetteville's vision and values.

The final plan will serve as a roadmap for the City of Fayetteville's Arts and Culture Division's initiatives for the next decade. The plan must be comprehensive, forward-thinking, and adaptable to the evolving needs of the community as Fayetteville continues to grow and develop. The plan should dovetail with Fayetteville's Parks System Master Plan, adopted in February of 2023, which identified an Arts and Culture Plan as one key recommendation among many. As such, the Arts and Culture Plan should provide clear guidance for the Division's priorities and goals, while also serving as a tool for accountability and measurement of success. The plan must be easily understandable and accessible to all members of the community and should reflect the current needs and perspectives of Fayetteville's diverse population. Overall, the plan should strike a balance between a visionary approach to the future of The Arts and Culture Division in Fayetteville and a practical, actionable framework for implementation.

We invite proposals that demonstrate creativity, innovation, and a commitment to collaboration and inclusivity. The selected firm will have the opportunity to work on a high-profile project that will shape the future of our community's cultural landscape.

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2. SCOPE OF WORK:

The City of Fayetteville seeks an Arts and Culture Plan that builds a framework for a sustainable and thriving creative community, from emerging artists to established institutions. This requires incorporating feedback and insights from a diverse set of perspectives across the cultural landscape in Fayetteville. The following priorities have been defined for the work, including community and stakeholder engagement, data-driven decision making, principles of equity and inclusivity, and a strong communication plan.

Consultant proposals should outline an inclusive, citywide research process to gather ideas from Fayetteville residents and visitors, the artists and creatives and cultural organizations who serve them and who live and work in Fayetteville. Consultants should be well-versed in using a variety of effective and dynamic methods to engage people across Fayetteville neighborhoods and communities within communities, including underserved populations, artists and creatives, nonprofits, creative businesses, funders, and partners.

The Arts and Culture plan should provide the vision, priorities, policy framework, strategies, structures, timeline, feasibility, and funding requirements essential to enhancing Fayetteville's arts and cultural sector, with benchmarks and an evaluation framework to measure progress and success.

The plan should include:

a. Executive Summary: an overview of the plan, its goals, and objectives, as well as the key findings.

b. Vision Statement: This should articulate the overarching vision for arts and culture division in the community.

c. Cultural Mapping: Deep research and analysis of Fayetteville's cultural landscape, its cultural assets and spaces (including an inventory and map), its history, changing demographics, the implications of regional growth, and the future of Fayetteville and the arts sector.

d. Peer and Aspirational City Identification: Research on comparable cities and creative collaborations/opportunities, including reports on best practices in peer cities that could provide policy and practice examples.

e. Needs Assessment: A detailed analysis of needs, opportunities, and community priorities. This should leverage the cultural mapping, evaluate the existing cultural resources and identify any gaps or areas that need improvement.

f. Engagement Plan: A deep and thorough community engagement process to include people and organizations in the arts/cultural community; donors; corporate funders; community residents; communities underrepresented in previous grant funding, surveys, conversations, and planning; communities for whom English is a second language, etc. This engagement plan should leverage the work of the Municipal Arts Alliance and Creative Arkansas Community Hub and Exchange (CACHE).

g. Communication Plan: This should provide a plan for communicating the plan and its progress to the public, stakeholders, and partners in the community. Both the process and plan should include a public information campaign to educate and excite Fayetteville residents about the impact of Arts and Culture in their community, thus beginning to cultivate greater engagement and long-term support.

h. Strategic Plan: Articulation of a long-range vision (potentially ten years) with flexible, nearer-term plans (such as in three-year increments, or another timeframe depending on the consultant's recommendation).

    i. Implementation Plan: This should provide a detailed plan for how the strategies identified in the strategic plan will be implemented, including timelines, actionable goals, budgets, and responsible parties.

    ii. Funding Plan: This should outline potential sources of funding for implementing the plan, with recommended funding models and governance structures, with recommendations for each.

    iii. Public Art Policy: Deliver recommendations for a public art policy for Fayetteville that outlines the City's vision for public art and provides guidance for its creation, funding, management, and maintenance. Overall, the policy should reflect the City's commitment to promoting arts and culture in the community and its desire to enhance the aesthetic and cultural value of public spaces through the thoughtful integration of public art.

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iv. Evaluation Plan: Outline how the success of the plan will be measured and evaluated over time, including metrics and benchmarks. Plans should measure and gauge the value, quality, reach and impact of programs, arts and cultural experiences, organizations, and individual artists that received funding from taxpayer funds.

Strategic Plan Document Writing and Formatting - The consultant will integrate the information generated in the tasks above and produce the written plan in an attractive, inviting and easy to navigate format. The plan will include chapters on main items and an executive summary. The Arts and Culture Division will provide photos to utilize in the plan. The written Strategic Plan document shall be an attractive color document. A draft plan will be presented to Parks Natural Resources and Cultural Affairs Department, the Fayetteville Arts Council, the Parks and Recreation Advisory Board and public for comments that will then be used to create a final plan. After the final document is presented, an electronic copy shall be given to The Arts and Culture Division in an editable format such as Microsoft Word or InDesign. The Arts and Culture Division shall be the owner of the document and all work generated in the planning process.

In accomplishing the work of the Plan, the Consultant shall work closely with staff from The Arts and Culture Division throughout the course of the project. The consultant shall communicate with The Arts and Culture Division staff to keep the project on schedule. The consultant shall submit to The Arts and Culture Division brief monthly written status reports that delineate work completed, work underway, work to be completed and major items that are needed by The Arts and Culture Division staff and by Consultant staff or others. The intent of this is to create a document that tracks progress and keeps everyone informed on progress and items that need to be accomplished.

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3. PROPOSAL FORMAT:

a. Structure of Proposal: The Arts and Culture Division seeks proposals from individual firms or teams to consider as a prime consultant in preparing the Arts and Culture Plan. Consultants interested in submitting their proposal shall include the following information:

Part I – Qualifications and experience of the consultant or consulting team: List examples of Arts and Culture Strategic / Master Plans that the team has completed and produced in the last five years, clearly indicating the prime consultant's role in each example. If work is being presented that was done by personnel working for another firm at the time of the work, this must be clearly indicated. Include current client contact information for project examples. Clearly provide information on the team members that will be primarily responsible for facilitating the planning process listing their relevant experience and examples of studies. See the information for these under SCOPE OF SERVICES TO BE PROVIDED.

Part II – Methodology for conducting research and strategy for community engagement: Preliminary work has been done to map stakeholders and to prime the arts community for engagement, but please propose additional modalities including proposed stakeholder discussions, focus groups, and public input processes focusing on creating awareness and engagement from the citizenry at large to ensure the Plan reflects the community's needs and priorities. Please be sure to address experience with public planning including the use of social media and other technologies and methods.

Part III – Budget Proposal: Outline all costs associated with the project, including consultant fees, travel expenses, and any other applicable expenses.

Part IV – Previous Arts and Culture Plans: Please provide samples of previous plans created by the consultant or consulting team. Company promotional literature is also welcome.

Part V - References: Provide three (3) references from past clients to speak to firm's capability to do this work.

Part VI – Other relevant information: Proposer shall provide other relevant information indicating the applicant's abilities to successfully complete an Arts and Culture Plan.

Part VII – Detailed project timeline: Include specific deliverables for each phase of the project. This plan is to be completed by June 2024.

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

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

   1) 20% **Qualifications in Relation to Specific Project to be Performed:** Information reflecting qualifications of the consultant, partners, and project team. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, shall be listed with information on their organization.

   2) 25% **Experience, Competence, and Capacity for Performance:** Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project.

   3) 20% **Proposed Method of Doing Work:** A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope) indicating methods and schedules for accomplishing scope of work. Include with this the amount of work presently underway.

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4) 20% **Past Performance:** Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom the City can contact for information.

5) 15% **Cost/Fees:** Complete costs and fees as described in this RFP and for delivery of the proposal including fiscal feasibility and financial stability. All fees shall be clearly identified with RFP response and be itemized as much as possible.

6. ADDITIONAL DOCUMENTS AND INFORMATON:

a. The City of Fayetteville's Parks System Master Plan is available at: https://www.fayetteville-ar.gov/DocumentCenter/View/28916/Fayetteville-PSMP-Appendices-Final-February-2023

b. The following documents are included with this solicitation as additional information:

i. Appendix A: Current Arts and Culture Pilot Programming

ii. Appendix B: 2022 Parks Annual Report

iii. Appendix C: The Cultural Arts Corridor Information

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CONTINUES ON NEXT PAGE

1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

_____1) NO KNOWN RELATIONSHIP EXISTS

_____2) RELATIONSHIP EXISTS (Please explain): _____

_____

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

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

Corporate Name of Firm: _____

Primary Contact: _____ Title of Primary Contact: _____

Phone#1 (cell preferred): _____Phone#2: _____

E-Mail Address: _____

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3. ACKNOWLEDGEMENT OF ADDENDA

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

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

NAME OF COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

TAX ID #: _____ AR. SECRETARY OF STATE FILING #: _____

PHONE: _____ FAX: _____

E-MAIL: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____ DATE: _____

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Settled between pockets of restored wilderness and Fayetteville's beloved Downtown Arts and Entertainment District, The Ramble illuminates the evolving role of public space in our community. By embracing the journey, it serves as an urban through line and gathering space, a canvas for activating public art and programming, and a connection to natural woodlands and waterways in the heart of downtown.

The Ramble is a celebration of the journey – connecting people with people, people with nature and people with art.



Lower Ramble Opening Event – September 8, 2022

THE RAMBLE

2022 pilot programming by the numbers

- 45 activations since opening.
- Over 3,000 citizen attendees.
- 88 artist opportunities in 2022.
- Over 100 artist opportunities planned for 2023





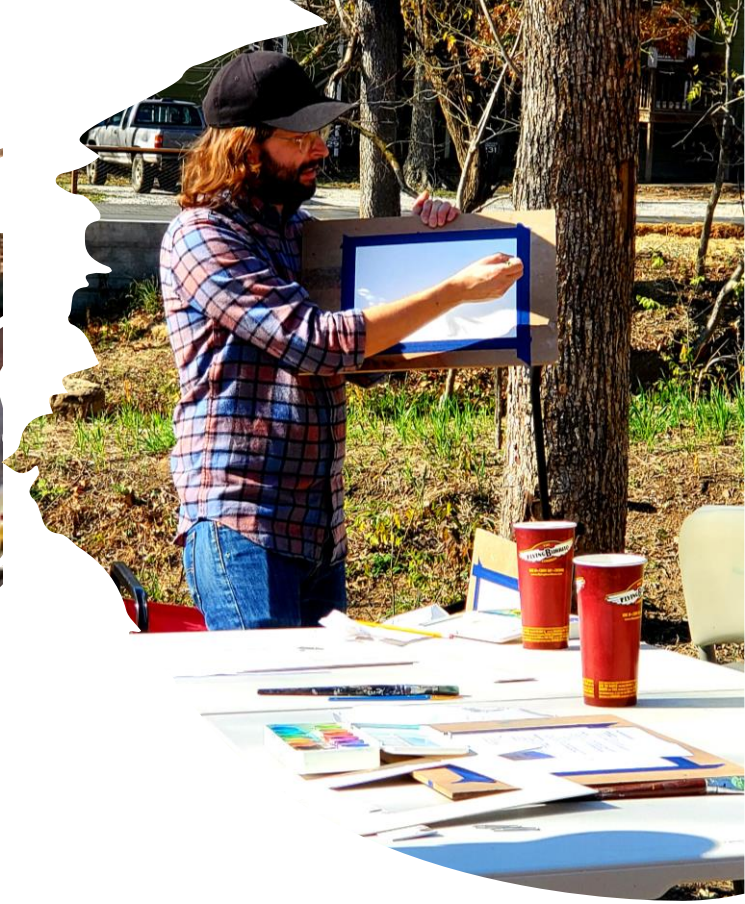
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Hosted partnered events like Trick or Treat on the Trail and the Pumpkin Pageant with organizations like Experience Fayetteville and the Rotary.









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Piloted programming with Community Organizations including the Community Creative Center, ArtVentures NWA, and Her Set, Her Sound.

THE RAMBLE

8 Temporary Commissioned Works



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Niokaska Creek

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RFP 23-08

2022 ANNUAL REPORT

PARKS, NATURAL RESOURCES & CULTURAL AFFAIRS

CITY OF FAYETTEVILLE ARKANSAS

Alison Jumper | Director of Parks, Natural Resources and Cultural Affairs

Director's Statement

Dear Fayetteville,

2022 was a year of new programming, planning, foundation building, and tremendous progress.

The opening of the Lower Ramble marked the beginning of Arts and Culture programming for the City of Fayetteville. Dozens of activations occurred in this new urban park, offering new opportunities for the public to experience and participate in visual and performing arts.

We continued plans for the Yvonne Richardson Community Center expansion, the first since the facility opened in 1996. We began developing a master plan for the newest community park on the west side of town, Underwood Park.

We also carried the new Parks and Recreation System Master Plan to the finish line. The first system-wide master plan update since 2002, once approved by City Council, will soon be the guiding document that establishes a new vision for the department to carry us into the future.

I also must highlight that amid an extraordinary year of new ideas and plans, staff continued to achieve excellence in programming and events. Thanks to our creative and dedicated team, we had an incredible year for event and program attendance. From soccer to road races, our programs and events continue to improve and grow.

The past year prepared us for the work to come, and I am thrilled to work with this incredible staff in 2023 and beyond.

Sincerely,
Alison Jumper
Director of Parks, Natural Resources,
and Cultural Affairs

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Leadership

Advisory Boards

Urban Forestry

Lacey Jennen
Chair

Samuel Adkisson
Jim Parrish
Zane Colvin
William Chesser
John Crow
Ken Eastin

Parks and Recreation

Will Dockery
Chair

Andrew Brink
Julie Chambers
Sarah Downing
Joel Freund
Yarri Davis
Hugh Kincaid
Doug Walsh
Stephen Sheely

Arts Council

Abby Hollis
Chair

Sonia Harvey
Chloe Bell
Emily Miller
Jessica DeBari
Lara Hightower
Robert Stafford

Staff

Lee Farmer
Recreation Superintendent

Lacie Ballard
Tiffany Hoover
Josh Lainfiesta
Mark Banks-May
Jeff Poole
Dean Rawlings

Alison Jumper
Director

Alan Bearden
Financial Coordinator

Sonya Morell
Operations Assistant

Ted Jack
Planning Superintendent

Zach Foster
John Scott

Joanna Sheehan Bell
Arts and Culture Director

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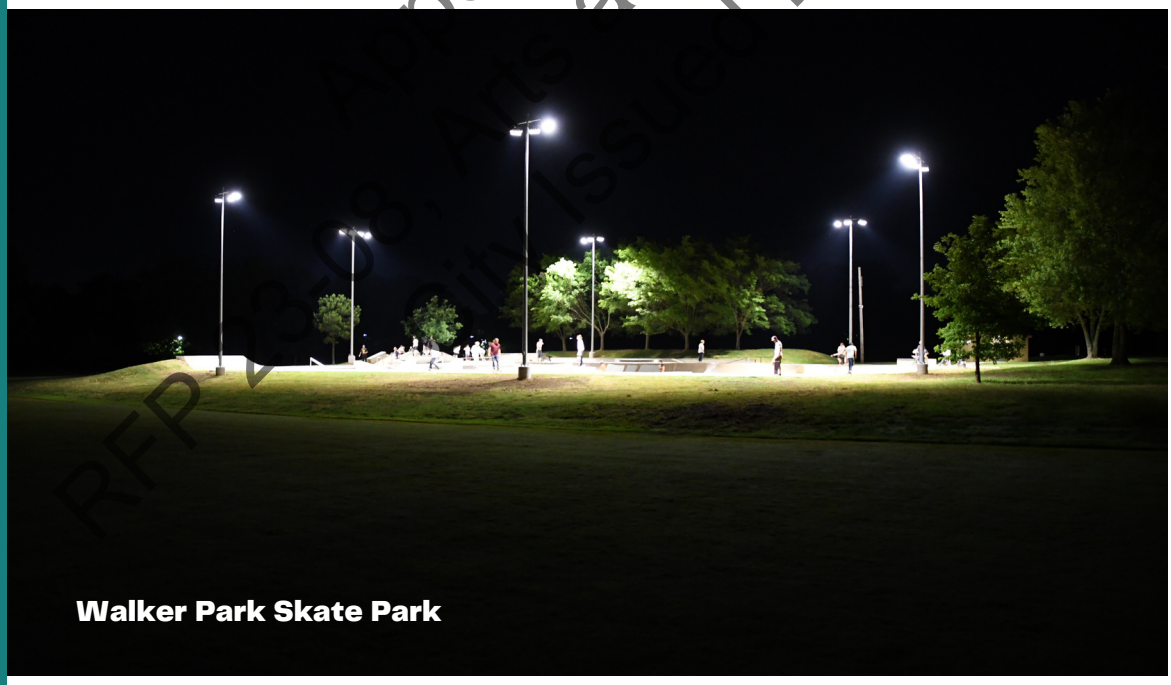
Frozen Toes 5K/15K

Parks and Recreation System Master Plan

2022 brought the department to the finish line of creating a new Parks and Recreation System Master Plan; a process that began with initial community engagement in 2018. This plan is a long-range tool that evaluates current parks, recreation facilities, and programs to determine service gaps, analyze trends, align actions with community needs and desires, and identify future improvement opportunities. It provides a framework to guide city leadership decisions for public resource allocation but allows for flexibility in changing situations.

This plan describes a future of caring for Fayetteville parks and improving recreation offerings and natural areas. An ambitious vision and five guiding principles direct the focus of this plan.

RFP 2025-0 Appendix B Parks and Culture Plan Issued for RFP



Walker Park Skate Park

"This new community-led master plan will shape our parks system for the next 10 years, ensuring it continues to serve our growing community."

– Mayor Lioneld Jordan

2,535 people provided input critical to the creation of the Parks and Recreation System Master Plan. The department reached out to the community through online and in-person surveys, focus groups, community workshops, and four project advisory committee meetings. This feedback led to the creation of five guiding principles and aspirational statements that shape the framework of this plan and our future.

5 Guiding Principles



Nature Connection

Our outdoor spaces are integrated with our everyday lives to attract people near and far for the health benefits of our natural environment.



Stewardship and Maintenance

We care for our parks and assets to ensure they meet the needs of current and future generations. Our operations and investments prioritize sustainability, fiscal responsibility, and equity.



Active and Well

Opportunities for recreation, health, and wellness are accessible for all through our parks, fitness and sports programs, and trails and benefit our physical and mental health.



Gathering and Placemaking

Our parks are designed to provide gathering spaces and amenities for our community while celebrating our unique culture, the arts and music, the people, and the beauty of the region.



Resilient Natural Systems

Our natural systems and parks help support a city environment that integrates natural and built landscapes and maximizes ecosystem benefits and nature-based recreation for the community.

Appendix B
RFP 23-08, Arts and Culture Plan
City Issued RFP

Connecting to Nature

261,682

Total park users in 2022

288,341

Total trail users in 2022



Centennial Park

This premier mountain biking destination won the Arkansas Recreation and Parks Association's Outdoor Facility of the Year award.



Lake Fayetteville Forest

We received a trail grant of $100,000 to assist with the first phase of an accessible trail loop that will include boardwalks and decks to provide lake access and stunning views.



Trail Connections

The work to connect the Fayetteville Traverse to the Markham Hill Trails broke ground, further cementing our effort to connect our parks systems through our trails.

RFP Appendix B Arts and Culture Plan Issued RFP

THE RAMBLE

At the ribbon-cutting ceremony for The Ramble, we introduced Fayetteville's first urban park and outdoor event space.



The Ramble

Appendix B - Parks and Culture Plan
RFP 23-13

Nature's connection to the Fayetteville community is a key focus of this department and, based on our Master Plan results, will continue to be top-of-mind for years to come. Real progress was made on this front with our trails, parks, and outdoor spaces over the past year. These efforts will continue with three goals in mind from our Parks and Recreation System Master Plan.

Goals for Nature Connection

1. Increase recreational opportunities in nature, lakes, and streams.
2. Raise awareness about parks, recreation offerings, environmental education, and trails.
3. Increase nature interaction opportunities in parks; focusing on more urbanized areas of Fayetteville.

Master Plan Feedback

92%

Of respondents to our surveys listed "Spend Time in Nature" as a value.

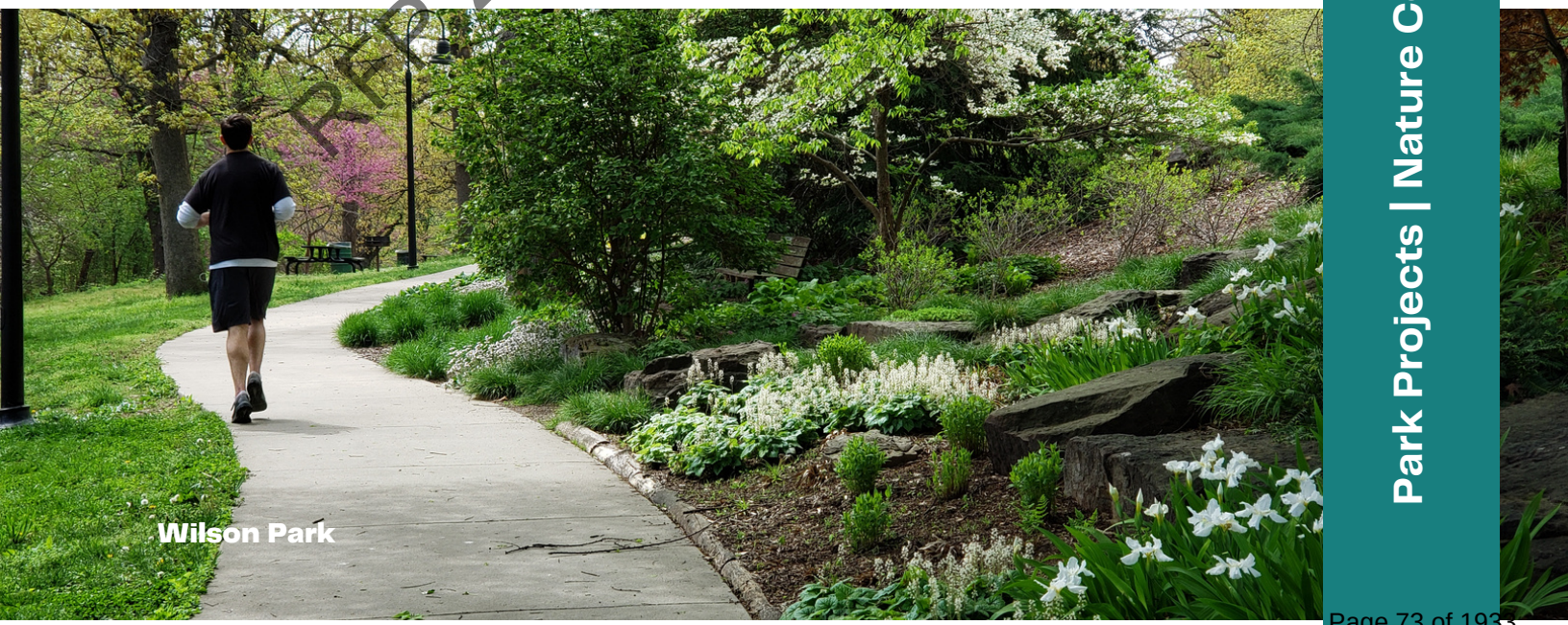
73%

Of respondents are interested in more urban camping opportunities.

50%

Of respondents stated lack of access to information as a deterrent.

Appendix B
Arts and Culture Plan
City Issued RFP
RFP 23-08



Wilson Park

Stewardship and Maintenance

Volunteering

The Fayetteville community gave back to #KeepFayettevilleBeautiful to the tune of 25,408 volunteer hours of cleanups, invasive plant removals, and habitat restorations.


Walker Park Skate Park

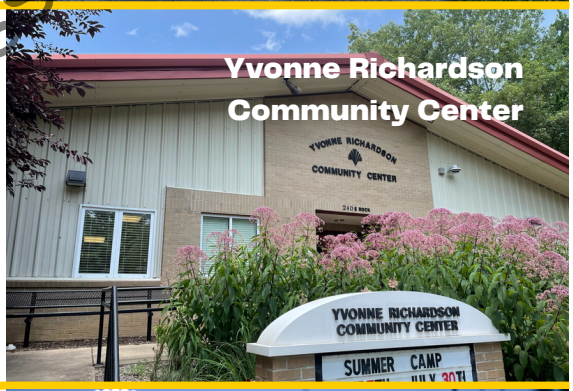
Underwood Park

The master plan process for Fayetteville's newest community park was kicked off with two public input meetings, multiple focus groups, and a public survey.


Underwood Park

Yvonne Richardson Community Center

We received a $1.4M matching grant from the Walton Family Foundation to support the expansion of the YRCC slated to begin in 2023.



Yvonne Richardson Community Center

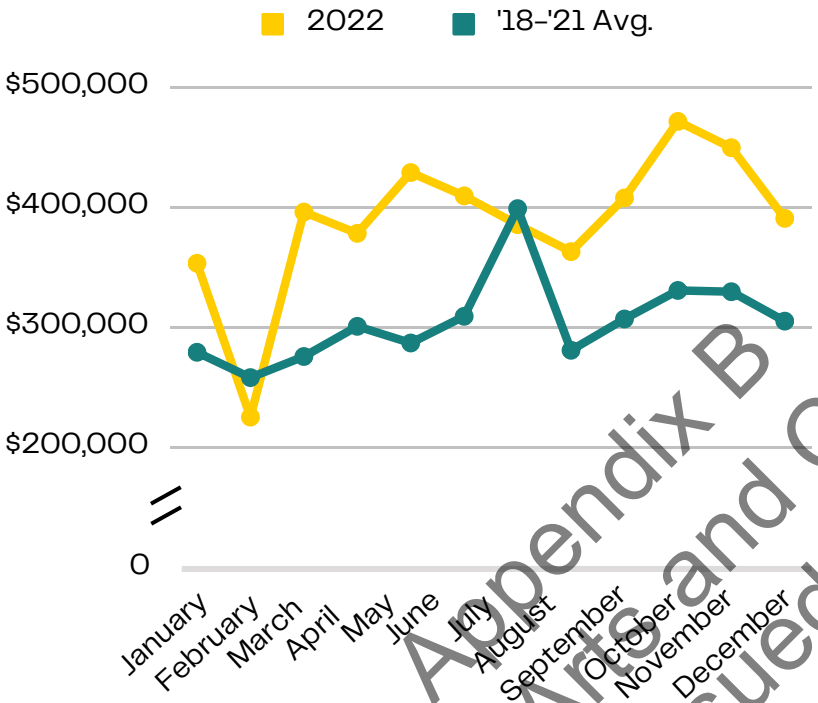
Kessler Mountain Regional Park

We wrapped construction on a new pinwheel of four youth baseball fields. The project includes a new concessions and restroom building as well as turf infields.


Kessler Baseball Fields

RFP 23-08 Arts and Culture
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Department Revenue



$4.66M

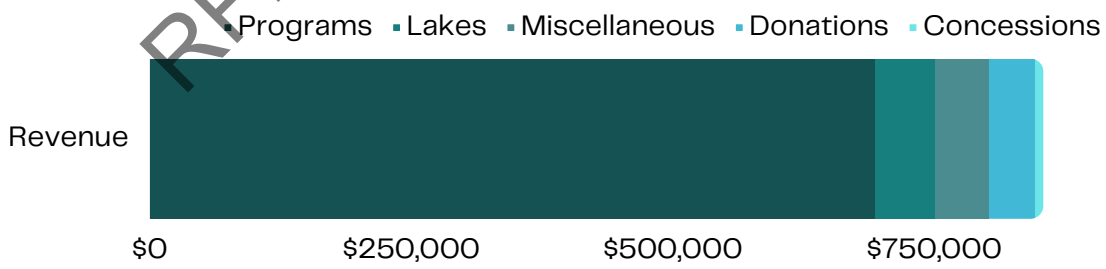
TOTAL HMR REVENUE IN 2022

30%

INCREASE OVER 2018-21 AVERAGE

Hotel, Motel, Restaurant Tax Revenue

Internal Revenue



$854K

Total 2022 Internal Department Revenue, $48K over projections.

Appendix B
Arts and Culture Plan
RFP 23-08
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Fayetteville is a giving community with a long history of caring for the natural beauty with which it is blessed. Our team, as well as our volunteer community, deliver on this front year after year. This work will continue with four goals in mind from our Parks and Recreation System Master Plan.

Goals for Stewardship and Maintenance

1. Improve the financial sustainability of park operations through increasing and diversifying funding sources and partnerships.
2. Prioritize existing park and facility improvements, horticulture services, and maintenance.
3. Expand opportunities for volunteerism, community contributions, and stewardship actions.
4. Support the use and safety of all in parks, reducing use conflicts and partnering with service providers.

Master Plan Feedback

71%

Of respondents desire a focus on improving existing parks and facilities.

50%

Of respondents feel it is essential to improve or build parks in underserved areas of the city.



Wilson Park Greenhouse

RFP 23-08, Arts and Culture Plan
Appendix B
City Issued RFP

Active and Well



Community Engagement

Over 93,00 people participated in park programs or attended events, and 139 external events took place in our parks in 2022.



Summer Camps

Be Active Summer Camps and the Yvonne Richardson Community Center Summer Fun4Kids Camp reached maximum capacity for all 17 weeks of camp.



Trick-or-Treat on the Trail

We partnered with Experience Fayetteville and The Rotary Club to offer a free community trick-or-treat and Pumpkin Pageant.



Wilson Park Pool

Wilson Park Pool achieved the highest visitor and revenue totals in over 20 years.

RFP2023-08 Appendix B Arts and Culture Plan Issued RFP

The world came to Fayetteville in 2022 for the UCI Cyclo-Cross World Championships at Centennial Park.

17,500
Attendees

219
Cyclists

21
Nations



Centennial Park

Appendix B
Arts and Culture Plan
City Issued RFP
RFP 23-08

We pride ourselves on providing people of all backgrounds, interests, ages, and abilities an outlet to recreate and enjoy the resources we revere. We know the impact our work has on Fayetteville, and we will continue to provide it under the direction of the goals set forth by our Parks and Recreation System Master Plan.

Goals for Active and Well

1. Provide inclusive program offerings to meet the needs of all.
2. Improve access within and to parks and enhance and broaden the recreational value of our trail corridors to strengthen them as linear parks.
3. Improve existing properties and anticipate the need for undeveloped parks for completion.



Lake Fayetteville



RFP 23-05 Appendix B
City Issued RFP
Arts and Culture Plan

Master Plan Feedback

84%

Of respondents believe it is important to provide places for residents to maintain and improve their health.

82%

Of respondents believe providing mobility, with trails and paths for exercise and transportation is important.

75%

Of respondents believe providing recreation opportunities to underserved residents is important.

Gathering and Placemaking

This year we launched the Arts and Culture division to tap into the creativity of local artists that is key to shaping our vibrant city.



The Ramble

Fall Fridays

- 8 weeks of free art programming
- Included concerts, performances, interactive displays, and instructional sessions.



The Entity
Artist: Nat Nicholson

Artist Opportunities

- 88 artist opportunities in first year
- Free community events
- Nearly 3,000 people attended



Artist: Ben Buonaiutoi

Rock Fish

- To be used in further stream restoration work
- Part of the effort to integrate art into park design
- Provides discovery opportunities for children

Our goal is to ensure local arts and culture have a healthy future by developing policies and strategies to support the arts and cultural sector, incentivizing opportunities for thriving artists and organizations, growing the creative industry ecosystem, and responding to community needs.

RFP 23-08 Appendix B Arts and Culture Plan Issued RFP

Three new mural installations from local artists commissioned by the Arts and Culture Division.



Archibald Yell
Artist: Austin Floyd



Lafayette Bridge
Artists: University of Arkansas Advanced Typography Design Class



Gregory Park
Artist: Jason Jones

Appendix B
Arts and Culture Plan
RFP 23-08 - City Issued RFP



Archibald Yell
Artist: Jeremy Navarette

Master Plan Feedback

75%

Of respondents would like to see more gathering places

Top 4

1. Concerts and movies in the park
2. Farmers Market
3. Ping Pong and Bocce in parks
4. Places to meet

RFP 23-08, Arts and Culture Plan
Appendix B
City Issued RFP

Establishing the new Arts and Culture Division and successfully installing a new series of programs and events is an exciting new avenue for us to engage and unite the community. We will continue to grow the scope of this division under the vision of these goals from our Parks and Recreation System Master Plan.

Goals for Gathering and Placemaking

1. Design parks and greenways to celebrate our heritage and communities surrounding landscape and culture.
2. Improve parks to address comfort and the ability to gather for activities.
3. Partner with organizations and provide infrastructure to support programming and events in the parks system, such as theater, music, races, games, food, access, and markets.
4. See opportunities to integrate art into public spaces.

Resilient Natural Systems

Over 500	Trees Planted
1,381	Trees given away through the Celebration of Trees and Invasive Plant Bounty Programs
27	Consecutive years receiving the honor of Tree City USA



6th Amazing Tree of Fayetteville
Dogwood Tree at Lake Fayetteville Park

RFP 23-0 Appendix B
Cultural and Culture Plan
Issued RFP

Our Urban Forester, John Scott, earned his International Society of Arboriculture Municipal Specialist Certification. In doing so, John became the only ISA Certified Municipal Specialist in the state of Arkansas.

Our natural environment and the care this department and community share for it make Fayetteville a beautiful place to call home. Public input indicated a desire for green infrastructure, environmental conservation, and stream bank restoration in parks. We will take the goals instituted in the Parks and Recreation System Master Plan and expand upon the already outstanding work we have accomplished.

Goals for Resilient Natural Systems

1. Conserve land and strategically direct acquisitions for conservation to meet environmental and community objectives.
2. Promote green infrastructure and regional systems in support of environmental conservation and preservation.
3. Enhance the ecological performance of existing parks and natural land properties.

RFP 2023-08 Appendix B Arts and Culture Plan Issued RFP



Kessler Mountain Regional Park

Master Plan Feedback

87%

Of respondents support protecting the natural environment and promoting environmental sustainability.

61%

Of respondents prioritize water quality at Lake Fayetteville as a focus.

56%

Of respondents expressed there are not enough designated areas for natural environment preservation and open space.

Looking Ahead

2023 promises to be another banner year for the Parks, Natural Resources, and Cultural Affairs Department. We will continue planning and shaping our future through more master plans, facility expansions, park renovations, and much more.

Here is a sample of what to expect from our department in 2023:

- Walker Park Master Plan Launch
- Urban Forestry Master Planning
- Arts and Culture Master Planning
- Yvonne Richardson Community Center Design Unveiling
- Yvonne Richardson Community Center Renovation Groundbreaking
- Gulley Park Playground Renovation and Splash Pad Addition
- Lake Fayetteville Softball Complex Renovation
- Wilson Park Hub Building and Restroom Construction
- Wilson Park Tennis Courts Renovation
- Implementation of the Parks System Master Plan

RFP 23-08, Arts and Culture Plan
Appendix B
City Issued RFP



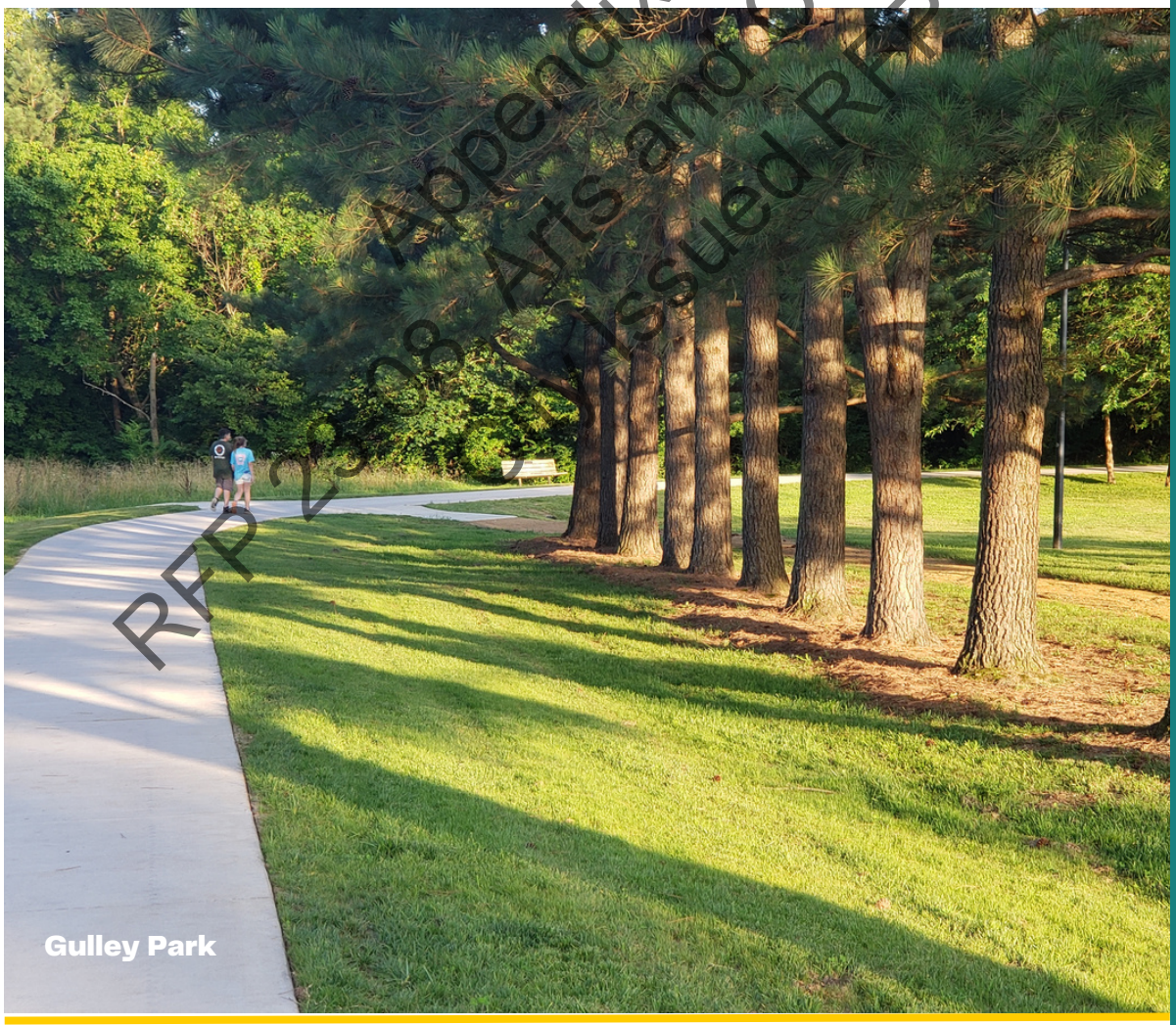
Lake Fayetteville

We already have several projects slated for the coming years from Phase II Bond Projects and previous planning.

We look forward to beginning work and completing these projects while continuing to add and set more ambitious goals. These projects currently include:

- Bryce Davis Park Master Plan and Construction
- Completion of Yvonne Richardson Center Expansion
- Combs Park and White River Master Plan
- Continued evaluation of the Park Land Dedication Ordinance

RFP 23-08 Appendix B Arts and Culture Plan Issued RFP



Gulley Park



Kessler Mountain Regional Park

Appendix B - Arts and
RFP 23-08, City Issued R Plan

1455 S Happy Hollow Road
Fayetteville, AR 72701
goplayfay.com

CITY OF
FAYETTEVILLE
ARKANSAS

WEST AVENUE CIVIC SPACE

RE-CENTERING FAYETTEVILLE'S PUBLIC LIFE AT DICKSON AND WEST

FAYETTEVILLE CULTURAL ARTS CORRIDOR





BIRDSEYE

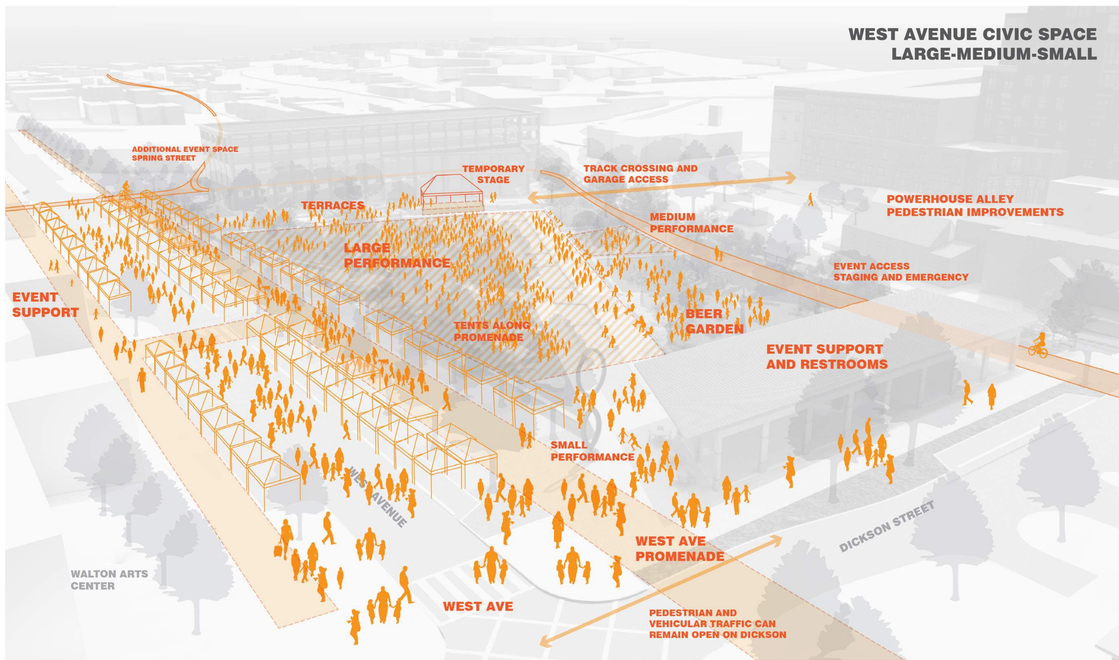
KEY

01 - LAWN
- FLEXIBLE EVENT SPACE

02 - PROMENADE
03 - ARTFUL STORMWATER
04 - INTERACTIVE WATER COURSE
05 - SHADED GARDENS
06 - OUTDOOR CAFE SEATING
07 - PERMANENT SCULPTURE
08 - BIKE TRAIL
09 - STREET PARKING
10 - OPEN SHADE PAVILION
11 - ONE STORY BUILDING
- CAFE/GALLERY/BIKES

12 - MULTI STORY BUILDING
POSSIBLE USES:
- OFFICE, MAKER SPACE
- ART GALLERIES
- CAFE/RESTAURANT
- PARKING UNDERNEATH

13 - STAGE/OVERLOOK



LARGE EVENT OR FESTIVAL

WEST AVENUE CIVIC SPACE

RE-CENTERING FAYETTEVILLE'S PUBLIC LIFE AT DICKSON AND WEST

FAYETTEVILLE CULTURAL ARTS CORRIDOR

PERSPECTIVE VIGNETTES



CANAL AND PORCH



GROVE AND TRAIL



TERRACE AND LAWN



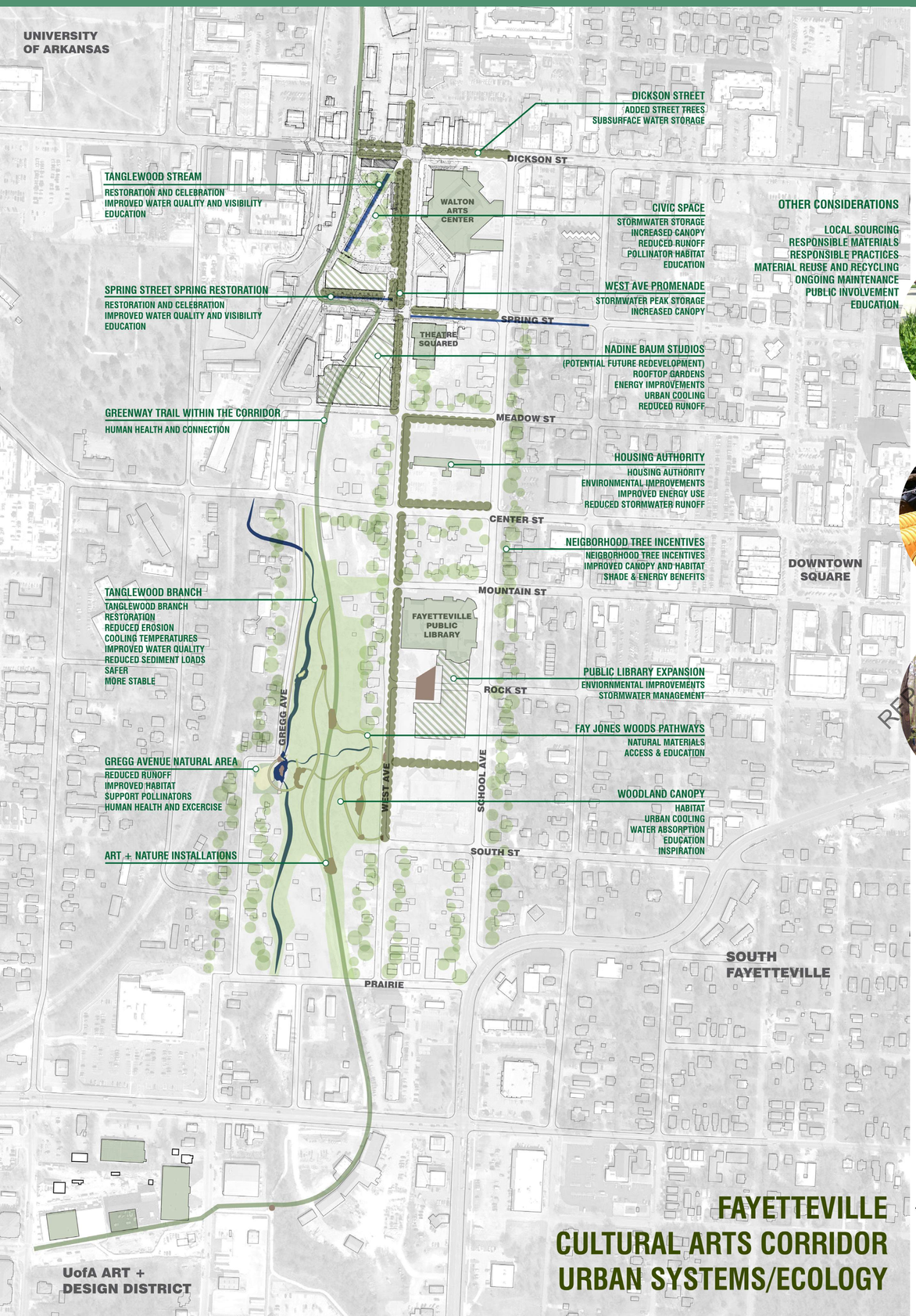
MATERIAL LANGUAGE

RFP 23-38 Appendix B Plans and Specs

STORMWATER + ECOSYSTEM HEALTH

STRATEGIES TO IMPROVE THE TANGLEWOOD BRANCH WATERSHED

FAYETTEVILLE CULTURAL ARTS CORRIDOR









RFP 23-08 Arts and Culture Plan Appendix B City Issued RFP

CANOPY STRATEGY
MAINTAIN HEALTHY NATIVE CANOPY TREES
REMOVE INVASIVE VINES FROM NATIVE TREES
REMOVE DEAD, DYING OR POOR HEALTH TREES
LEAVE STRATEGIC SNAG TREES FOR HABITAT
STRATEGICALLY PLANT NEW NATIVE CANOPY TREES



CANOPY

UNDERSTORY STRATEGY
REMOVE INVASIVE UNDERSTORY TREES AND SHRUBS
THIN VEGETATION (3'-10' HIGH) TO OPEN SIGHT LINES
STRATEGICALLY PLANT NATIVE SHRUBS FOR HABITAT



UNDERSTORY

GROUNDCOVER STRATEGY
REMOVE INVASIVE GROUNDCOVER VEGETATION
REPLACE GROUNDOVERS; BROADCAST A NATIVE SHADE MIX



GROUND LAYER





FAYETTEVILLE CULTURAL ARTS CORRIDOR URBAN SYSTEMS/ECOLOGY

FAY JONES WOODS

AN ACCESSIBLE HEALTHY WOODLAND AND CREEK WITH PATHS AND PERCHES

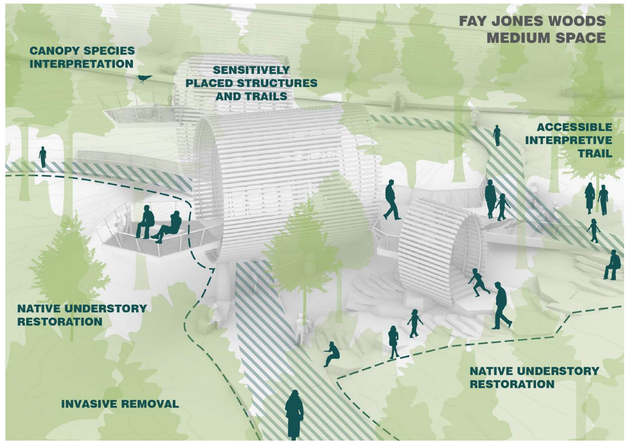
FAYETTEVILLE CULTURAL ARTS CORRIDOR





Appendix B
Arts and Culture
RFP 23-08, Issued R
City





CREEK ACCESS AT GREGG AVENUE NATURAL AREA



CANOPY WALK LOOP

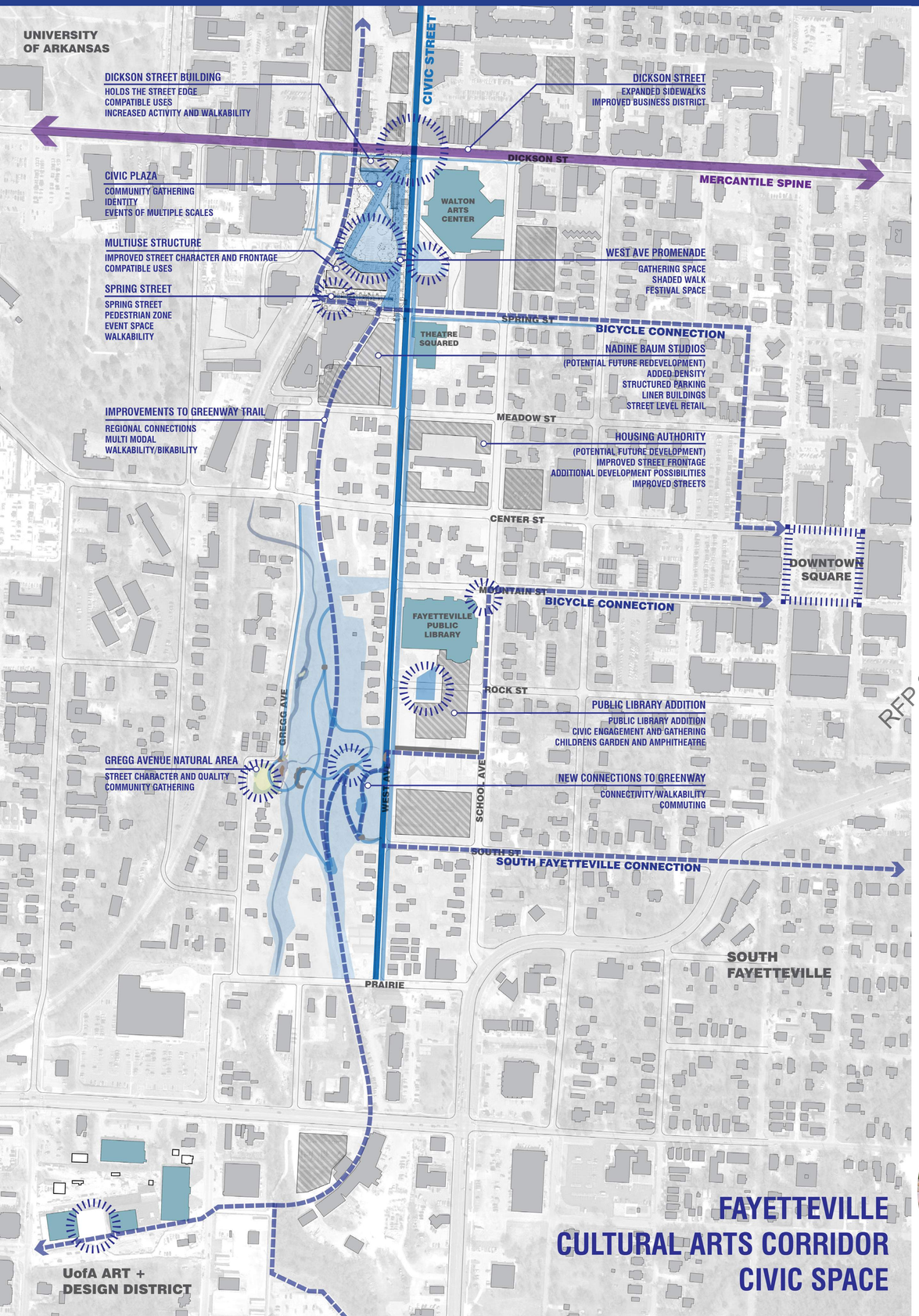


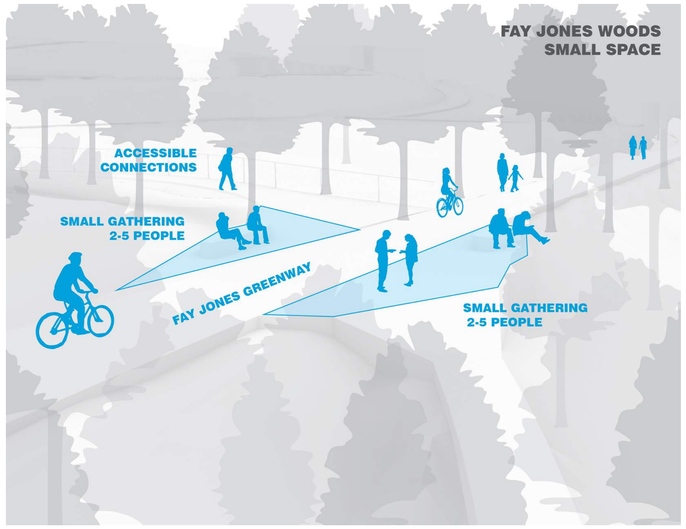
CANOPY WALK PODS

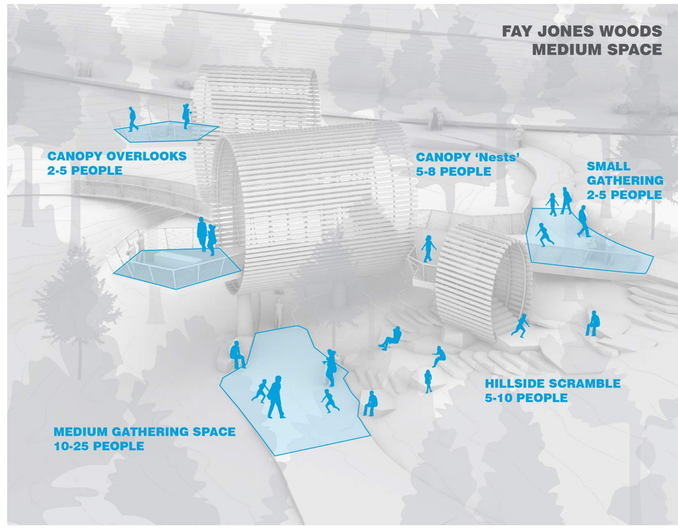
CIVIC SPACES

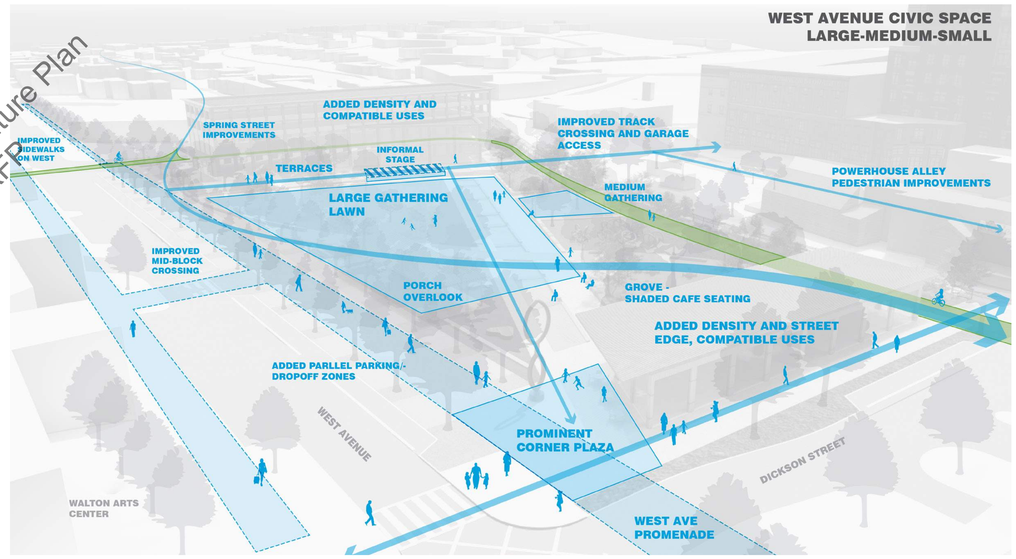
COMMUNITY SPACES AND PROGRAMMING IN THE CORRIDOR

FAYETTEVILLE CULTURAL ARTS CORRIDOR



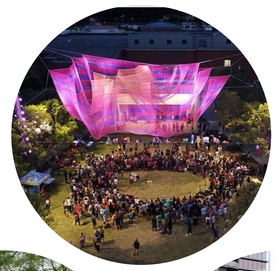






Appendix B
RFP 23-08, Arts and Culture Plan
City Issued RFP



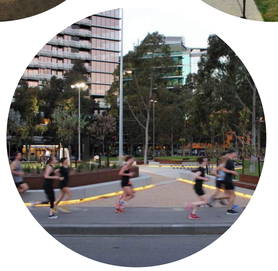












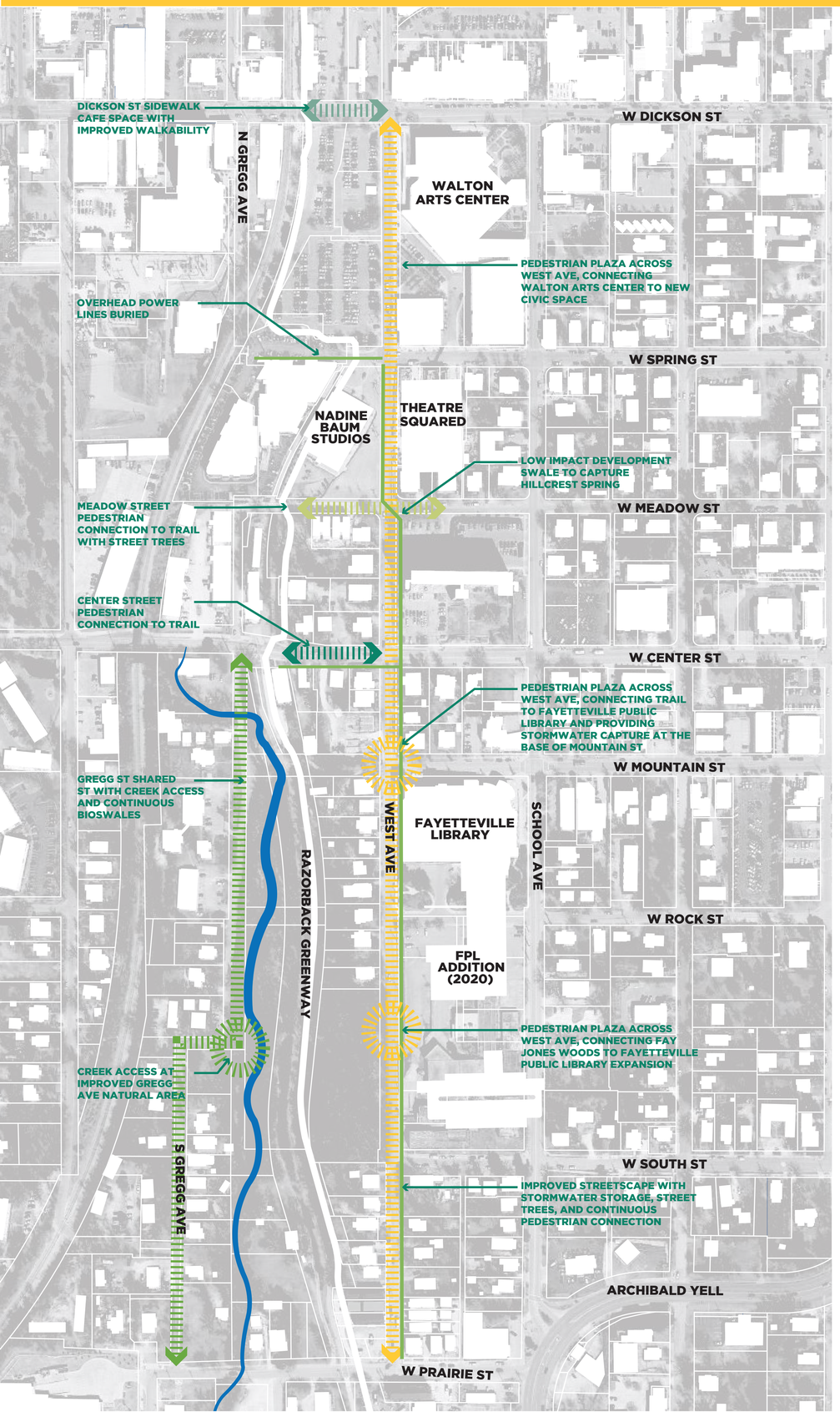


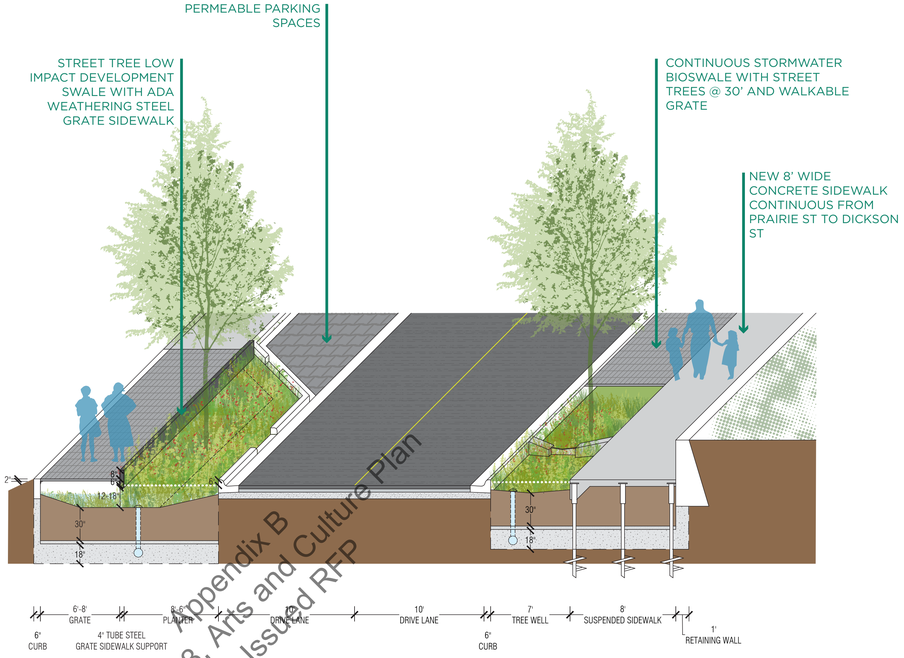


STREETSCAPES

PEDESTRIAN-FOCUSED, STORMWATER-SMART CONNECTED STREET NETWORK

FAYETTEVILLE CULTURAL ARTS CORRIDOR

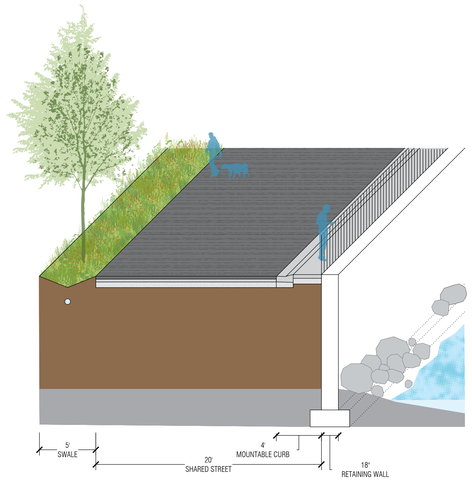




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Arts and Culture Plan
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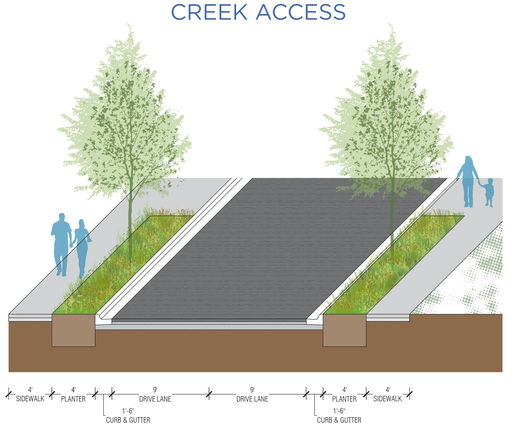
WEST AVE

PEDESTRIAN CONNECTION LINKING LIBRARY, THEATER SQUARED, WALTON ARTS CENTER



GREGG AVE

SHARED BIO-STREET WITH CREEK ACCESS



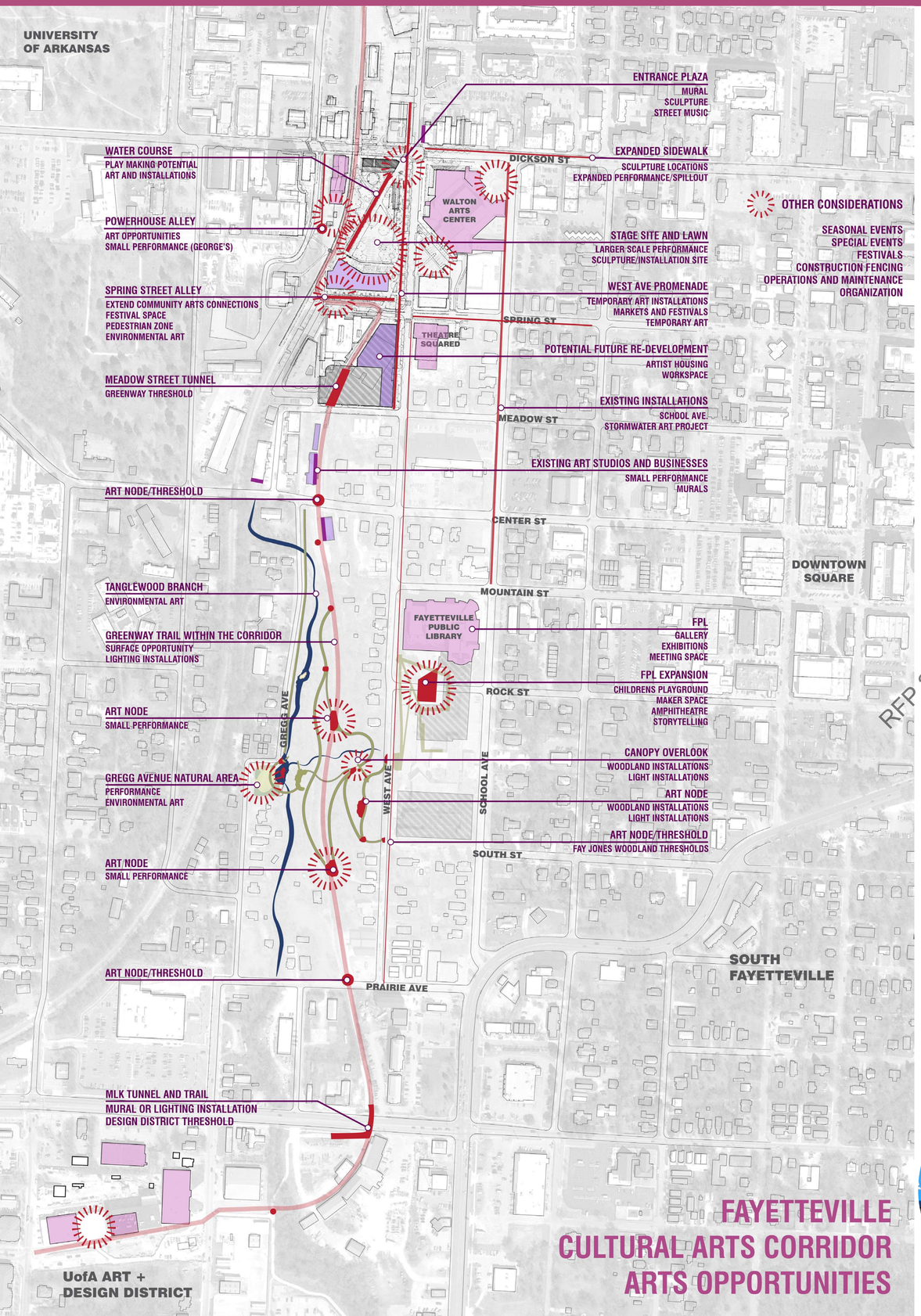
MEADOW STREET

CREATE A WALKABLE CONNECTION BETWEEN THE TRAIL AND DOWNTOWN NEIGHBORHOODS

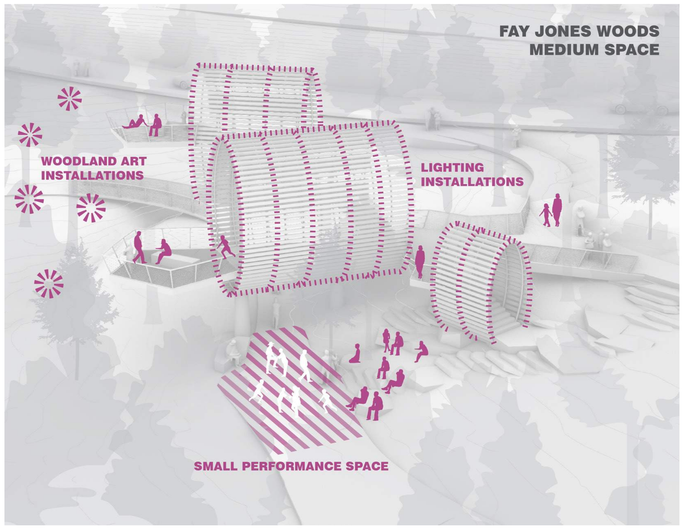


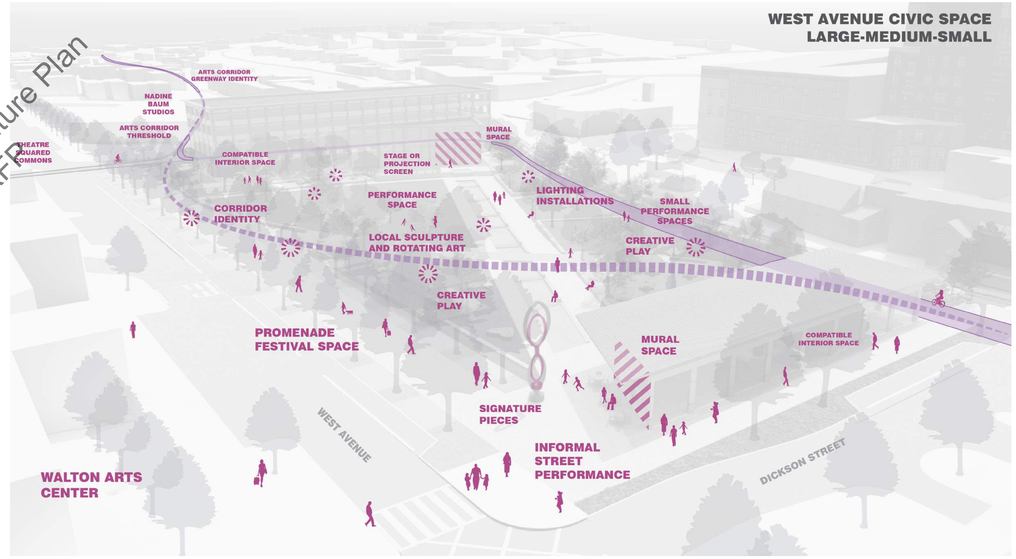
ART STRATEGY
INTEGRATION OF ART IN THE CORRIDOR

FAYETTEVILLE CULTURAL ARTS CORRIDOR

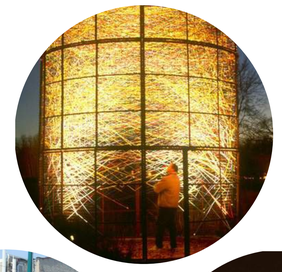




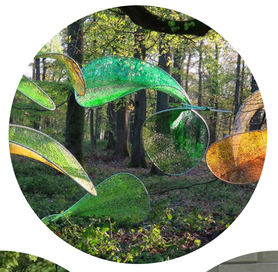




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Arts and Culture Plan
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City Issued RFP

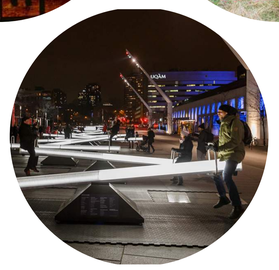
















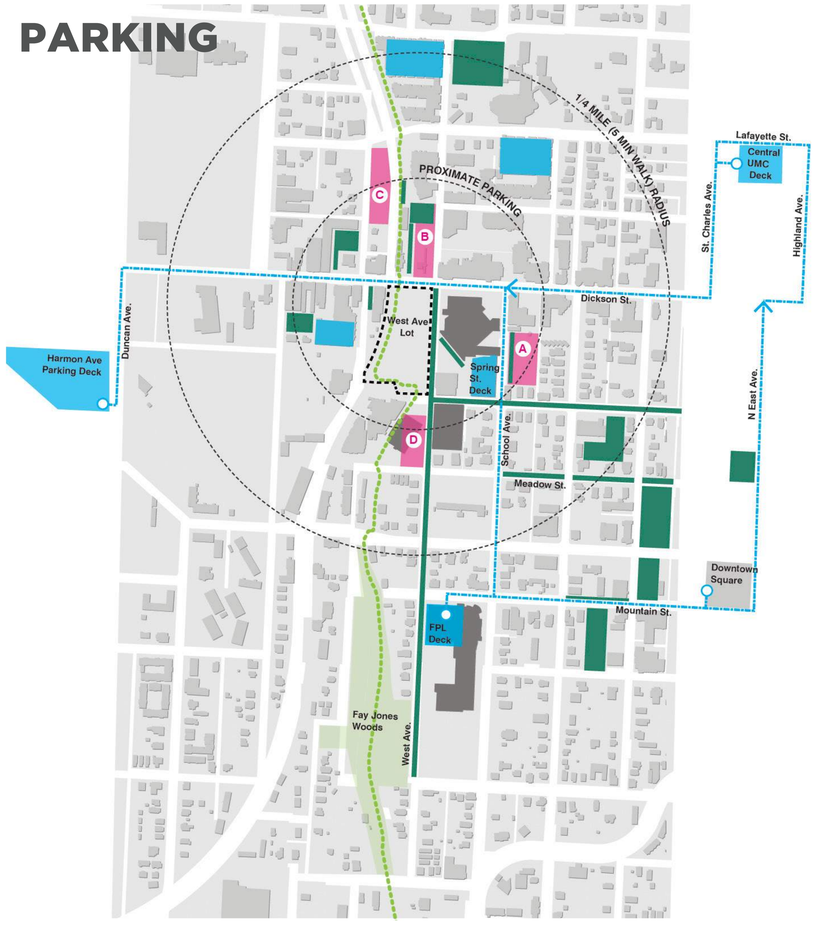


CATALYSTS

PARKING/MOBILITY SOLUTIONS, DEVELOPMENT OPPORTUNITIES, STREET NETWORK ENHANCEMENT

FAYETTEVILLE CULTURAL ARTS CORRIDOR

PARKING



new parking opportunity
potential locations
- A - School Ave
- B - West/Dickson
- C - Gregg Ave
- D - Nadine Baum

utilize existing parking
- Connect existing underutilized parking
- Improve signage and payment
- Private lot owner agreements
- Safe, walkable pedestrian experience

connect available parking
downtown parking shuttle
- 1 - Harmon Ave Deck
- 2 - FPL Deck
- 3 - Downtown Square
- 4 - Central UMC Deck

- Underutilized Parking*
- Proposed Parking Options
- Existing Parking Decks
- Institutions
- Potential Downtown Parking Shuttle Route
- Razorback Greenway
- Streetscape Improvements

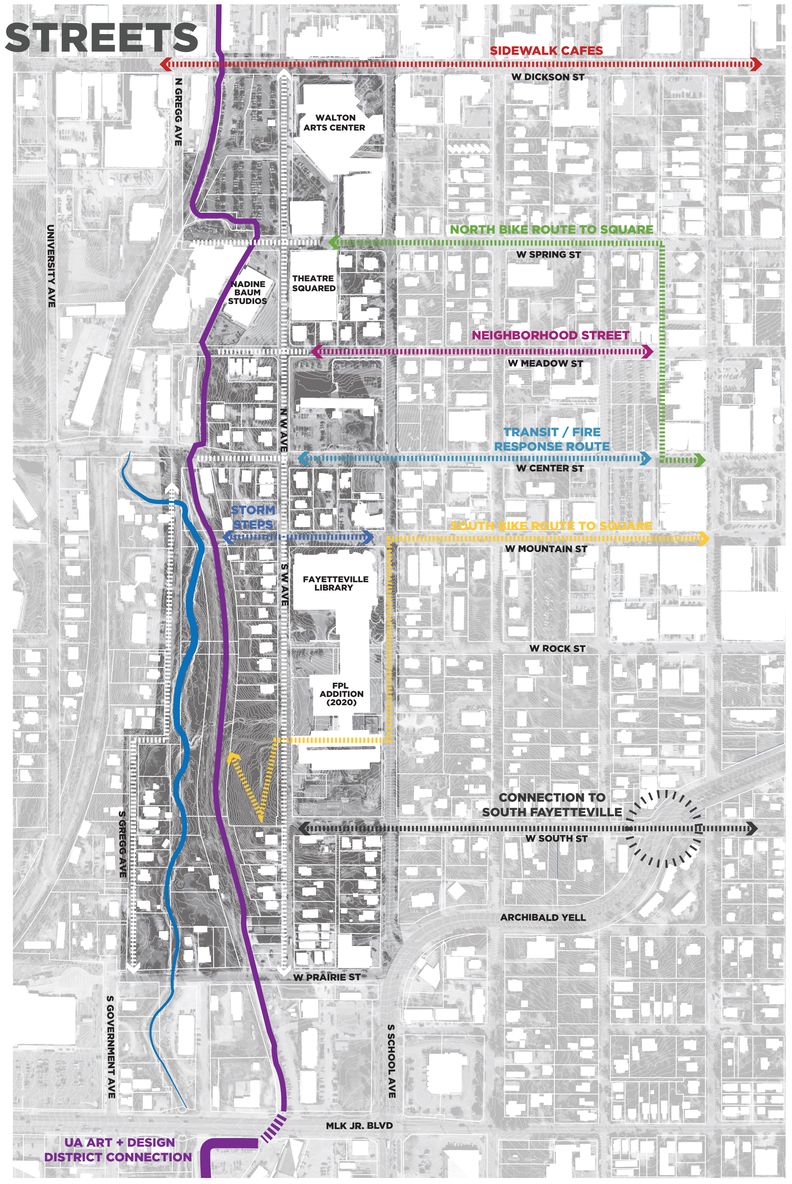
**underutilized spaces calculated based on peak parking times within the Entertainment District from the 2016 Downtown Parking Study*

DEVELOPMENT



- Public or quasi-public land w/ development opportunities
- Privately-owned parking w/ development opportunities
- Privately-owned land w/ increased density potential

STREETS













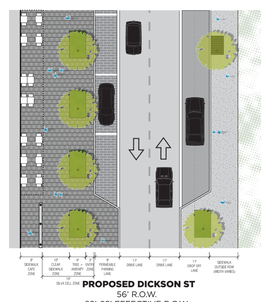


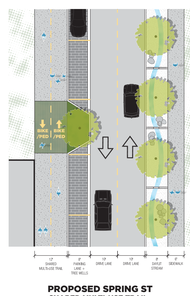


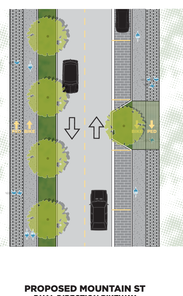


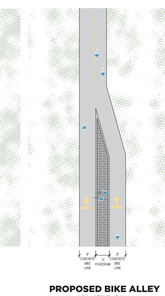












CITY OF FAYETTEVILLE PARKING STATEMENT

The City is in the process of hiring a consultant to provide a parking site analysis that will evaluate possible parking configuration, feasible number of spaces, most viable locations (based on survey responses), and other schematic site details for at least four (4) Downtown/Dickson Parking Options to replace the West Ave Parking Lot. The results of this analysis will be used to guide further development (next steps) of a Downtown/Dickson Parking Replacement Plan. Implementation of that Plan will occur prior to the start of construction of the West Ave Civic Plaza space on the existing West Ave Parking Lot.

CITY OF FAYETTEVILLE DEVELOPMENT STATEMENT

The Cultural Arts Corridor (CAC) presents an exciting opportunity to bring new amenities, activities, vitality and private investment to Downtown Fayetteville. Private development can help bring more people downtown and provide safety and security for public spaces. The West Ave Civic Space will include public/private development opportunities for buildings located within/adjacent to the Civic Plaza. Since detailed design and construction of these adjacent buildings is outside the scope of the Cultural Arts Corridor, a Request for Proposals process will ensure that these buildings will have a complimentary timeline, cohesive design, and compatible uses to the adjacent CAC. Construction of those buildings will be coordinated with the West Ave Civic Plaza Space construction.

RFP 23-08 Addendum 1
Stilwell Consulting
Supplier Response

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Event Information

Number: RFP 23-08 Addendum 1
Title: Arts and Culture Plan
Type: Request for Proposal
Issue Date: 7/23/2023
Deadline: 8/16/2023 02:00 PM (CT)
Notes: The City of Fayetteville, Arkansas, seeks proposals from qualified consulting firms to develop a comprehensive Arts and Culture Plan for the City of Fayetteville. Any questions concerning this solicitation process should be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent, at abeilfuss@fayetteville-ar.gov or by calling (479) 575-8220.

Contact Information

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

Stilwell Consulting Information

Contact:	Jill Stilwell
Address:	2250 Bellwether Lane Fort Collins, CO 80521
Phone:	(970) 218-6542
Email:	jillstilwell07@comcast.net
Web Address:	stilwellculturalconsulting.com

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

Jill Stilwell
Signature

jillstilwell07@comcast.net
Email

Submitted at 8/16/2023 12:52:12 AM (CT)

Requested Attachments

RFP 23-08, Arts and Culture Plan

RFP 23.08 Fayetteville Arts and Culture Plan Proposal - Stilwell Consulting.final.pdf

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

Response Attachments

arts_vision_2030_DIGITAL_SPREADS.pdf

Sample Plan - ArtsVision 2030

2023-1-6_Golden_PAFP_V5.pdf

Sample Plan - Golden Public Art Framework Plan

2023-1-5_PAC-Handbook_v4.pdf

Sample Plan - Golden Art in Public Places Handbook

2023-1-5_GoldenPAFP_Appendix_.pdf

Sample Plan - Public Art Collection Audit and Analysis Report

Master Plan 2022-Final from Loveland.pdf

Sample Plan - City of Loveland Cultural Services Master Plan

Team Resumes - StilwellConsulting.pdf

Consulting team reseumes

RFP 23-08, Arts and Culture Plan Attachments.pdf

Completed RFP Forms - Stilwell Consulting LLC

RFP 23-08 Appendix C Arts and Culture Plan Stilwell's Submittal

Bid Attributes

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

1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

_____X_____1) NO KNOWN RELATIONSHIP EXISTS

_____2) RELATIONSHIP EXISTS (Please explain): _____

_____

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

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

Corporate Name of Firm: _____Stilwell Consulting LLC_____

Primary Contact: ___Jill Stilwell_____ Title of Primary Contact: ___Owner/Principal_____

Phone#1 (cell preferred): ___970-218-6542_____Phone#2: _____

E-Mail Address:
_____jillstilwell07@comcast.net_____

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3. ACKNOWLEDGEMENT OF ADDENDA

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

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED
RFP 23-08, Addendum 1	Jill Stilwell	8-14-2023

4. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

NAME OF COMPANY: ___Stilwell Consulting LLC_____

PHYSICAL ADDRESS: ___2250 Bellwether Lane, Fort Collins, CO 80521_____

MAILING ADDRESS: ___2250 Bellwether Lane, Fort Collins, CO 80521_____

TAX ID #: ___521-37-7558_____ AR. SECRETARY OF STATE FILING #: _____

PHONE: ___970-218-6542_____ FAX: _____

E-MAIL:
___jillstilwell07@comcast.net_____

SIGNATURE: ____ _____

PRINTED NAME: Jill Stilwell

TITLE: Owner/Principal DATE: 8/14/2023

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RFP #23.08

August 15, 2023



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Proposal for

CITY OF FAYETTEVILLE ARTS & CULTURAL PLAN

Stilwell Consulting LLC
2250 Bellwether Lane | Fort Collins, CO 80521 | 970-218-6542
jillstilwell07@comcast.net
stilwellculturalconsulting.com

Executive Summary

We, Jill Stilwell of Stilwell Cultural Consulting and Kendall L. Peterson of ThereSquared are proud to team together for this project and respectfully submit the following proposal in response to the RFP #23-08 Arts and Culture Plan for the City of Fayetteville.

We understand that this plan – as well as the planning process – has the potential to be a high-profile and catalytic project for the City of Fayetteville and its creative community. As we will demonstrate in this proposal, this kind of creative sector planning is not only our passion but our specific area of expertise. We look forward to the opportunity to partner and engage with your community and build a roadmap for the City of Fayetteville's Arts and Culture Division's future–together.

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THE TEAM

Our team is perfectly suited to this task. Together, our team co-leads possess over 50 years of experience and a demonstrated deep understanding of arts and culture planning and visioning for any size community. We bring our specialized knowledge and complementary skills to our projects as facilitators, idea generators, listeners, problem solvers, organizers, activators, and consensus builders.

We are public art, municipal arts & culture specialists. This team has unparalleled and specialized public art and municipal arts and culture expertise and experience. Jill Stilwell and Kendall Peterson have both managed municipal art programs in Fort Collins and Denver/DEN, Colorado respectively. We have worked together on a number of public art master planning projects and arts and cultural plans for municipal organizations. Kendall has managed dozens of public art projects, developed public art policy and upstarted public art programs. Jill has hands-on, practical experience leading a municipal arts and culture department and translating that experience into consulting.

We are community engagement specialists and enthusiasts. Through our Artful Engagements, we craft unique experiences which seek to draw the community into the planning process through creativity. Our team also brings expertise in online engagement skills, specifically with the *EHQ/Bang the Table* platform, to expand our reach into the community.

Creative sector development and sustainability is key. The arts, culture and creative community are key stakeholders in an Arts and Culture Plan. We have invited creative sector development expert Jamie Giellis to join our team as an advisor. In collaboration with the community, she will help identify economic development opportunities, public/private partnerships, potential funding models and how to best support and grow creative businesses and enterprises in the city.

METHODOLOGY

We approach every project as unique. No two communities or projects are the same and a cookie cutter approach doesn't work. We will partner with you to develop a

process and a plan that meets your community's specific needs and aspirations. We believe your community knows what it needs and it's our role to act as facilitators, idea generators, conveners, listeners, problem solvers and consensus builders. We understand intentional effort must be made to include all voices and invite those who may be disinclined or who have been traditionally or systematically marginalized to participate.

APPROACH

We are eager to partner with you to craft a comprehensive Arts and Culture Plan that fulfills the goals outlined in the RFP and a process that generates inspiration and energy for implementing the plan. To do so, we propose a 4-Phase Approach as detailed in our proposal. This approach includes:

1) Confirming our workplan to make sure we have designed a process, deliverables and communication plan that meets the goals and expectations of the Arts and Culture Division.

2) Research and exploration will help us discover the unique characteristics and assets of your community. A Needs Assessment and one of our favorite planning tools, Cultural Mapping, will help to uncover changes and challenges, gaps and opportunities, strengths and aspirations.

3) Based on research, we embark on a robust and lively Community and Stakeholder Engagement process. We use traditional engagement techniques, including interviews, focus groups, charrettes, surveys, targeted surveys, and online engagement (we are experienced using EHQ/Bang the Table for online engagement.) We believe residents are more likely to think creatively when they are having fun making and thinking creatively. To enhance public participation, we will collaborate with staff and even local artists to invent "Artful Engagements" that are tailored to the Fayetteville community. These can be low-tech, hands-on activities that pop-up at existing community events or co-creation activities. Finally, we will develop and host a facilitated special session on Cultural Sector Economic Development during this phase.

4) The final phase is synthesizing all the input and research into plan themes and developing a framework for the plan. We will collaborate with the Arts and Culture Division staff and key stakeholders to refine the themes and framework into goals, strategies and action steps for the plan. We understand the plan is to include an executive summary, vision statement, strategic plan with recommendations for implementation, public art policy, funding, and evaluation framework. The Arts and Culture Plan will be a colorful, attractive, inviting and easy to navigate format with a look and feel that reflects the passion and the purpose of the Fayetteville creative community.

EXPERIENCE

As you'll find in our plan samples and work experience listed in our proposal, our team has extensive experience in cultural planning, public art planning, community

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engagement, and data analysis. As arts and culture and creative sector specialists, we will work collaboratively with staff, stakeholders and your community to develop a plan that reflects the unique characteristics of the Fayetteville community and serves as a roadmap for a vibrant and sustainable Arts and Culture sector for residents, businesses and visitors.

As one client shared about us:

"Kendall and Jill are a powerful combination. Their decades of diverse experience and complementary skills deliver a comprehensive client experience and exceptional results. The large scope and timeline of our project made us especially grateful for how they fully commit through the natural ups and downs, with resilience and warmth throughout the process."

~Angela Seals, Executive Director, Cultural Office of the Pikes Peak Region

Thank you for considering our qualifications and proposal outlined in the following pages. We look forward to the opportunity to serve as your partners in creating Fayetteville's Arts and Culture Plan.

Kind regards,

Jill Stilwell
Owner, Stilwell Cultural Consulting LLC
2250 Bellwether Lane
Fort Collins, CO 80521
970-218-6542
Jillstilwell07@comcast.net

Kendall L. Peterson
Owner, ThereSquared LLC
7816 E. 22nd Place
Denver, CO 80238
(303) 902-1600
kendall.peterson@theresquareddenver.com

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PART 1: QUALIFICATIONS & EXPERIENCE

We have assembled a team with unparalleled municipal art experience to submit our qualifications and proposal for the City of Fayetteville's Arts and Culture Plan. Jill Stilwell of Stilwell Cultural Consulting and Kendall L. Peterson of ThereSquared will co-lead the project. We are arts and culture planning experts with more than 50 years of experience and a complement of skills in cultural and strategic planning, public art master planning, placemaking consulting, project management, community engagement, and visual arts and performing arts programming that makes our team an exceptional fit for this project.

Jill and Kendall have been teaming together since 2019 and will co-lead the project. Kendall is a public art specialist with deep experience in project planning and coordination. Jill brings expertise from municipal arts and culture management and certification in public engagement. Stilwell Cultural consulting will serve as the coordinating entity and contract holder.

Joining Jill and Kendall as a Special Advisor is Jamie Giellis, founder/president of Centro, which specializes in strategic and thoughtful (re)investment in neighborhoods, with a specialty in supporting arts districts. Jamie will host a special facilitated session around creative sector economic development which will gather information and brainstorm strategies for the continued development of the Fayetteville creative sector.

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JILL GARDNER STILWELL, Co-Lead



Jill Gardner Stilwell has more than 25 years of public sector arts and culture experience. She founded Stilwell Cultural Consulting in 2015 in Fort Collins, Colorado as a woman-owned consulting firm providing planning services for the arts and culture industry. Jill assists communities and organizations in vision-oriented projects including cultural planning, strategic planning, master planning, mission development, and creative district designation. She also consults on museum accreditation, and operational and facility planning efforts for museums and theatres. She is certified in planning effective public participation through IAP2.

Prior to consulting, Jill served as the Cultural Services Director for the City of Fort Collins from

2003 - 2016. In this role, she oversaw the City's performing arts center, museum, art in public places program, botanic gardens, and creative center. She drafted Fort Collins' first Cultural Plan and nominated the City for the 2011 Governor's Arts Award (which it won). She oversaw the department's two largest capital projects: the $8.4 million renovation of the Lincoln Center for the performing and visual arts and the $27 million public/private partnership that is the Fort Collins Museum of Discovery. She also led the effort to establish the Downtown Fort Collins Creative District and has deep experience in programming the performing and visual arts and creative placemaking. Before serving as Director, she worked in museums in curatorial roles and as an executive director.

In addition to consulting, Jill shares her expertise and experience with graduate students as a Senior Instructor of Arts Management at Colorado State University. She holds a Master of Arts in Art History and Museum Studies from the University of Denver and a Bachelor of Fine Arts from Colorado State University.

Jill will co-lead the City of Fayetteville's Arts and Culture Plan project and participate in all aspects of the project. She will bring her expertise in strategic and cultural planning and community engagement as well as 20+ years of municipal arts and culture experience to the project. Jill will serve as the key contact and administrator.

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KENDALL L. PETERSON, Co-Lead & Public Art Specialist



Kendall L. Peterson is a creative project consultant with more than 24 years of arts, events and cultural program planning and project management. Her specialties include arts and culture planning, place-making consulting, public art planning and policy, percent-for-art program master planning, implementation and policy development, art site-selection, public process management, arts advocacy, and education. She also has experience in event planning, documentary film, video, and multimedia projects.

Kendall established her consulting company THERESQUARED LLC in 2017 in her hometown of Denver, Colorado to connect and build specialized teams to bring creativity, artistry, and authenticity to all projects whether it's a new plaza or park plan, bringing art to public spaces, community cultural planning or a historic documentary. ThereSquared was begun as a means of bringing Kendall's love of municipal planning, arts advocacy, placemaking and many years of creative project management experience to a broader audience in Colorado and beyond.

Prior to beginning ThereSquared, Kendall served as the Manager of the Public Art Program for the Hotel and Transit Center Program (HTC) at Denver International Airport (DEN) until 2015 and prior to her work at DEN, Kendall was the Public Art Program Manager for the City and County of Denver. She holds a Master of Arts in modern architectural and art history from New York University's Institute of Fine Art and a Bachelor of Arts degree in art history from Wellesley College.

Kendall will co-lead the City of Fayetteville's Arts and Culture Plan project and participate in all aspects of the project. She will draw on her vast experience in public art and cultural planning, cultural policy, research acumen, and creative energy to bring best practices, innovation, and excitement to the plan.

JAMIE GIELLIS, Special Advisor



Jamie Giellis, founder/president of Centro, specializes in strategic and thoughtful (re)investment in neighborhoods, with a specialty in supporting arts districts. She works closely with community stakeholders to form effective partnerships and plans that help them thrive economically, socially, and culturally.

Jamie has more than two decades of experience in this work. Notably, in 2011, she helped establish the Colorado Creative Districts certification program and oversaw the development of the RiNo Art District in Denver. She's served more than 60 communities across the U.S. as well as extensive work in Singapore and the UK.

Jamie holds a Masters of Public Administration from the University of Colorado, Denver, Colorado and a BA in Journalism/Public Relations from the University of Iowa, Iowa City, Iowa.

Jamie will serve as our creative sector economic development advisor for the project. She will bring her in-depth experience and knowledge of creative sector development and economic planning to the project. She will be engaged in research and develop and host a special session to discuss creative sector economic development and sustainability for Fayetteville.

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Experience



Arts Vision 2030, Community Cultural Plan
Client: Cultural Office of the Pikes Peak Region & Bee Vradenberg Foundation

Consultants: ThereSquared & Stilwell Consulting
Completed: October 2021

Client contacts:
Angela Seals, Executive Director, Cultural Office of the Pikes Peak Region
angela@culturaloffice.org

David Siegel, Former Executive Director of Bee Vradenburg Foundation, dsiegel@uccs.edu

Arts Vision 2030 is a 10-year cultural plan for the Pikes Peak Region commissioned by the Cultural Office of the Pikes Peak Region and the Bee Vradenburg Foundation in Colorado Springs, CO. Kendall Peterson and Jill Stilwell were the co-lead consultants with essential project support from Rachel Cain. Initially launched in February of 2020, this project took almost a year's hiatus due to the COVID19 Pandemic. Our team pivoted and delivered an almost entirely virtual process. Relaunched in March of 2021, the process used Zoom and the online *Bang the Table* platform for interviews, focus groups, surveys, mapping, and ideation and touched 4,500 people with 664 making direct contributions to the plan. Several in-person activities were held as pandemic restrictions were lifted, including a Mad-Lib pop-up booth at Poetry719 and a launch event. The unique format of the final plan as Declarations reflected the advocacy and passion of the creative community in the region. The Cultural Office Board of Directors brought Jill Stilwell back to develop the Board's five-year strategic plan.

RFP 23-08 Appendix C Arts and Culture Plan Stilwell's Submittal



Arts and Culture Master Plan
Cultural Services Department
City of Loveland, Colorado

Consultants: Stilwell Cultural Consulting
Completed: 2019/Adopted 2022

Client contact: Susan Ison, Cultural Services Director, Susan.ison@cityofloveland.org, 970.962.2411

The City of Loveland hired Stilwell Cultural Consulting to produce its first Arts and Culture Master Plan to guide the work of the Cultural Services Department for the next 10 years. The Master Plan included the Rialto Theatre (550 seats), Loveland Museum, and Art in Public Places. The plan engaged the community through one-on-one interviews, focus groups, and community events to develop themes, focus areas, strategies and actions. The project also involved creating a mission statement, proforma budgeting, and facility recommendations for the defunct Pulliam Building. One of the action items of the Arts and Culture Master Plan was to establish a state-certified Creative District in Downtown Loveland. Jill Stilwell was brought back to facilitate the process of developing the creative district which was certified in 2019. https://www.lovelandcreates.org/

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Public Art Assessment
Client: City of Golden, CO

Consultant: Kendall Peterson, ThereSquared
Completed: 2021

Public Art Framework Plan
Client: City of Golden, CO
Completed: December 2022

Consultants: ThereSquared LLC with MIG
Completed: 2023

Client Contact: Robin Flieschmann, Manager, Community and Economic Development, City of Golden rflieschmann@cityofgolden.net

In 2020, the City of Golden hired Kendall Peterson of ThereSquared, LLC to conduct a thorough audit and analysis of the entire public art collection in Golden. Based upon the audit and analysis, the City then issued a second RFP for a Public Art Master Plan (re-named a Framework Plan) and ThereSquared LLC, teamed with MIG, won this new project in late 2021. The Public Art program in Golden is relatively new, and they were seeking guidance on policies, best practices and near- and short-term goals for the program. The Framework was adopted by the City Council in early 2023.



Public Art Master Plan
Client: City of Aurora, Colorado
Expected completion: Nov 2023
Consultants: ThereSquared & Stilwell Cultural Consulting

Client Contact: Roberta Bloom, Cultural Programs Manager
City of Aurora, CO
Rbloom@aurora.gov

The City of Aurora, the second largest and most diverse city in Colorado, updates its Public Art Master Plan every five years. Having usually done the plan in-house, in 2023, the City selected the consulting team of ThereSquared and Stilwell Cultural Consulting to complete the project. The project began with a survey and analysis of the existing collection which numbers well over 200 works, and then moved into identifying locations for art and prioritizing 35 possible sites against updated criteria. The plan also includes a five-year strategic plan with goals and objectives that were developed with input from the community in the form of interviews, focus groups, and an online survey. The outreach phase dovetailed with a simultaneous Arts and Culture Master Plan which also informed the strategic plan. The consulting team also reviewed and recommended updates to the Art in Public Places policies and guidelines to meet current best practices. The plan is in the final stages of review and is anticipated to be presented to a sub-committee of the City Council in November 2023.

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Art in Public Places Strategic Plan and Policy Update Program Plan for Artist in Residence Program
Client: Town of Vail, Colorado
Consultants: ThereSquared & Stilwell Consulting
Completed: 2023

Client Contact: Molly Eppard, Art in Public Places Coordinator
Public Works, Town of Vail
Meppard@vailgov.org

The Town of Vail hired ThereSquared and Stilwell Cultural Consulting to conduct a thorough analysis of their existing Art in Public Places policy and guidelines and develop a new Strategic Plan for the program. In addition, our team developed a program plan for an Artist in Residence Program to be housed in Ford Park. The project is in its final phases and will be completed and presented to the Town Council in the first quarter of 2023.

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Projects in Progress



Aspen Public Art Master Plan & and Public Art Program Establishment
Client: City of Aspen
Consultants: ThereSquared & Stilwell Consulting
Expected completion: Spring, 2024

Client Contact:
Sarah Roy, Executive Director, Red Brick Center for the Arts sarah.roy@aspen.gov

In Spring of 2023, the City of Aspen, CO hired the team of ThereSquared & Stilwell Consulting to embark upon the development of its first-ever public art master plan. Until this point, the City of Aspen has had no official public art program, so the consulting team will be leading the City through the research and development of an entirely new program–as unique as the City of Aspen itself. While the project is just ramping up, the consulting team has already helped to plan several unique outreach events for the planning process,

including an asphalt mural collaboration between the Aspen Ideas Festival and the City of Aspen, as well as events at the Pitkin County Public Library and a fall event to come at the Aspen Art Museum. As a kickoff project for the new public art program, the consulting team will be guiding a "pilot partnership project" co-sponsored by the Aspen Art Museum and the City. The end product will be a public art plan and policies tailor-made for Aspen's world-renowned community.



Northglenn Arts Long-Range Plan
Client: Northglenn Arts and Humanities Foundation (NAHF)
Consultants: Stilwell Consulting & ThereSquared
Expected Completion: November 2023

Client Contact:
Michael Stricker, Arts & Culture & Community Manager
City of Northglenn
mstricker@northglenn.org

In 2021, as the tail end of the global Covid pandemic, the City of Northglenn opened its doors to a new Parsons Theatre, senior center and recreation center facility. The new facility replaced an aging building built in the 1970's. To accompany the new cultural amenities, the Northglenn Arts and Humanities Foundation embarked upon a long-range cultural plan for Northglenn, which will guide the activities for not only the new theatre, but also its art exhibition program, public art program and cultural events. The resulting plan will accompany a similar plan being developed for the Parks and Recreation department and help to guide Northglenn Arts toward its goal of being a beacon for the arts in the north Denver Metro region.

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PART II: METHODOLGY

ThereSuared and Stilwell Cultural Consulting approach our projects and commnity engagement with these values underpinning our methodology:

No two projects are the same.
We do not start or end our process with a preconceived idea of an outcome; the outcome is driven by and derived from input from the key stakeholders and the community.

Collaboration is key.
We are experts at working with multiple stakeholders. We believe it is essential to fully integrate not only City staff and Boards, but also leaders from the cultural community and other key sectors, and the community-at-large into our process.

Your community knows what it needs.
We act as facilitators, idea generators, conveners, listeners, problem solvers and consensus builders. Our goal as the outsider looking in is to give guidance, experienced feedback and our expertise where needed, but never take the process away from stakeholders and community members.

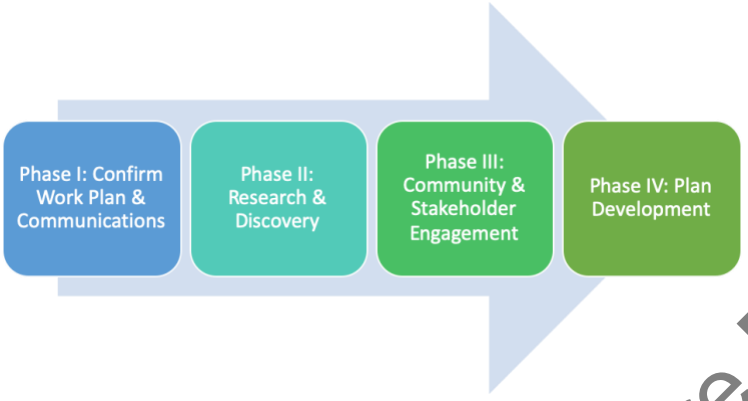
Include all voices.
We understand intentional effort must be made to reach those who may be disinclined to participate or who have been traditionally or systematically marginalized. People with diverse backgrounds and identities will be given space to speak and share their perspectives in shaping the plan. We will:

- Seek opportunities to meet people where they are
- Lower barriers to engagement
- Identify stakeholders willing to advise on pathways to engagement
- Ask how we can be of service

We will strive for "Artful Engagement."
Residents are more likely to think creatively when they are having fun making and thinking creatively. To enhance public participation, we will invent "Artful Engagements" that are tailored to the Fayetteville community. These can be low-tech, hands-on activities that pop-up at existing community events. We can also develop more interactive or co-creation activities to engage the community in art in public spaces. Whether simple or in-depth, these engagements are designed to increase community input into the planning process and foster inclusion and participation.

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FOUR-PHASE APPROACH



PHASE I

CONFIRM WORKPLAN & COMMUNICATIONS

Our Team will work closely with staff from The Arts and Culture Division throughout the course of the project. Regular communications meetings will keep the project on track and on schedule. We will also provide brief monthly project updates that track progress and keep everyone informed on progress and items that need to be accomplished.

- Confirm project-specific objectives, outcomes, deliverables and schedule.
- Create a Project Advisory Group made up of staff from the Arts and Culture Division and others as identified by the City.
- Determine our specific public engagement activities, timeline, marketing plan, and materials.
- Establish a regular meeting date/time with The Arts and Culture Division Staff/Project Advisory Group.
- Initial identification of key stakeholders (this list will be further defined in Phase III)
- Provide brief monthly written status reports to The Arts and Culture Division Staff.
- Our team will develop a Communications Plan to share progress on the plan with the public, stakeholders and partners and educate and build excitement for Fayetteville residents about the impact of Arts and Culture.
- Identify and confirm outreach needs, especially for inclusion of under-participating groups that are critical to the planning process. Begin working with the Municipal Arts Alliance and Creative Arkansas Community Hub and Exchange (CACHE) and other groups to identify key stakeholder groups who may have been underrepresented in other Fayetteville planning efforts.

Phase I Deliverables:

+ Confirmed Work Plan
+ Signed Contract
+ Initial Key Stakeholder Contact List
+ Monthly progress reports
+ Communications Plan

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PHASE II

RESEARCH AND DISCOVERY

With the help of the Fayetteville Arts and Culture Division and others, we will identify areas of research for our team and conduct in-depth analysis of existing conditions in the city. The research will include:

Immersion Tour

Our planning process begins with an in-depth tour of Fayetteville. Since we are new to the city, we would take extra time at the outset to tour your key cultural assets, placemaking locations, external partner locations, public art, and important gathering spaces will help us better understand Fayetteville's art assets, challenges, and current conditions. This Immersion tour can be done in one-to-two days, with guidance from City Staff and stakeholders. The tour could be combined with the kick-off meeting, public art assessment and key interviews, if needed.

Kick-off meeting with Project Advisory Group

Facilitate a workshop with the Project Advisory Group to understand the environment in which Fayetteville's Arts and Culture Division operates and to begin to discover the needs, opportunities, priorities, and aspirations for the Division.

Staff/Leadership Interviews

Conduct up to five one-on-one interviews with relevant City staff and/or City leaders to gain an in-depth understanding of Fayetteville's current Arts and Culture Division and how it is organized within the City.

Data Research and Analysis

- Research and analyze demographic trends in Fayetteville including key demographic, economic, social, and other trends and characteristics of the community that may impact how the Arts and Culture Division serves the community.
- Assess and review existing relevant plans and policies, as identified by the City.
- Assess current City support—financial and structural--for Fayetteville's arts and culture programs and current partnerships. Research possible funding mechanisms.
- Research existing Public Art and/or Arts and Culture policies or guidelines.
- Compile an inventory of existing cultural assets and spaces in Fayetteville, including projects, programs, or facilities being planned.
- Research the current economic impact of the creative industry in Fayetteville.

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Cultural Mapping



In addition to our Immersion tour, Cultural Mapping is one of our favorite creative tools to research and analyze Fayetteville's cultural landscape. Through research with staff and stakeholders, as well as hosting a charrette and engaging the community (in Phase III), we will develop a cultural map that identifies Fayetteville's existing cultural assets and spaces, future areas of cultural growth, its history, note areas of changing demographics, and the implications of regional growth.

Public Art Collection Assessment

As part of understanding the existing conditions and preparing for development of a public art plan, our team will assess the City's existing permanent and temporary public art collection. As needed, we will update and enhance the existing asset inventories and characterize the strengths and weaknesses of the existing collection.

Needs Assessment

Through the data gathered in Phase II (Research & Discovery) and Phase III (Community Engagement), we will develop a data-driven Needs Assessment that details and analyzes needs, opportunities, gaps/challenges and community priorities. The Needs Assessment will leverage the cultural mapping, evaluate the existing cultural resources and identify any gaps or areas that need improvement. In Phase III, the community will engage in providing input into the Needs Assessment.

Peer and Aspirational City Identification

Research and benchmark up to three comparable cities or programs that demonstrate creative collaborations/opportunities that can serve as models for Fayetteville. While no one benchmark program will be a perfect roadmap for Fayetteville's Arts and Culture Division, this report will include analysis of best practices in other cities that can provide policy, procedural and practice examples for consideration.

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Phase II Deliverables:

+ Arts and Culture Inventory
+ Public Art Inventory and Assessment
+ Initial Cultural Map (based on research, inventory and internal charrette)
+ Initial Needs Assessment (initial findings)
+ Peer and Aspirational Cities Report
+ Monthly progress report

PHASE III

COMMUNITY and STAKEHOLDER ENGAGEMENT PROCESS

The focus of this Community Engagement phase will be to gather ideas from Fayetteville residents and visitors as well as the artists, creatives and cultural organizations in Fayetteville. The process will also create awareness and engage residents in the process to ensure the Plan reflects the community's needs and priorities, while also building enthusiasm for the plan.

Below is an outline of a series of well-organized and directed activities that will ensure inclusive, citywide engagement. We are professional facilitators, and well-versed in using a variety of effective and dynamic methods to engage all communities across Fayetteville including underserved and under-participating populations, communities for whom English is a second language, artists and creatives, nonprofits, creative businesses, donors, corporate funders and partners. These methods are aimed at soliciting quality input from as many people as possible, in an open, equitable and proactive process.

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Expanded Stakeholder List

Based on the research and cultural mapping of Phase II, we can further develop our stakeholder engagement plan identified in Phase I. By doing this, we can hone our efforts and maximize our outreach into the community.

Stakeholder Interviews

Conduct up to twelve one-on-one interviews or small group sessions (virtual) with key stakeholders identified in Phase I. (i.e. City leadership, cultural leaders, elected officials, artists, business leaders, developers, art non-profit leaders, donors/grantmakers, developers, leadership from underrepresented communities, etc.)

Develop Project Page on Speakup.Fayetteville-ar.gov

Our team will create a project page on Speakup.Fayetteville-ar.gov. We will design a look and feel for the project page and draft content including an introduction to the planning process, a project timeline, details about upcoming community engagement activities, and provide regular updates on the planning process. Our team has specialized experience in using *EHQ/Bang the Table* for outreach and understands how to utilize engagement tools such as Q & A, quick polls, ideation and mapping tools as well as launching surveys. We can also create targeted outreach via polls in languages other than English, as well as mapping in target neighborhoods. We will work with The Arts and Culture Division staff/Project Advisory Group to develop a schedule of updates and messaging to keep the project page fresh.

Focus Groups

Host up to six focus groups (virtual or in-person) with stakeholder groups such as project partners, local artists, arts organizations and groups representing hard to reach populations and individuals with disabilities. We will coordinate with the City to identify and connect with people from each of these groups.

Project Advisory Group Work Sessions

In addition to the initial meeting in Phase II, we will host two work sessions/meetings with the Project Advisory Group during Phase III. The meetings can be confirmed during Phase I, but will likely include:

- Discussion of Community and Stakeholder Engagement Summary and emerging themes
- Vision and Goals workshop

Artful Engagements



To enhance public participation, particularly for under-served populations, we will develop three "Artful Engagements." These pop-up outreach activities expand opportunities for the public to engage with the planning process. These engagements can be low-tech, hands-on interactive activities that pop-up at existing community events or venues or working with local Fayetteville artists to develop a co-creation activity of making art in a public space, or a stand-alone event inviting the community to engage in a facilitated creative conversation. One of the Artful Engagements can focus on engaging the community in Cultural Mapping.



Whether simple or in-depth, these engagements are designed to increase community engagement and give direct input into the planning process and foster inclusion and participation. We will develop these Artful Engagements in consultation with Fayetteville staff based on event opportunities, communities identified for enhanced inclusion efforts, and overall budget.

General Community Survey

Our team will design and launch a community survey to learn more about the needs and desires of the broader community for arts and culture in Fayetteville. We can use the survey tool on *EHG/Bang the Table* or link to SurveyMonkey.

Targeted Surveys

We can also design targeted surveys to reach artists and creatives, non-English-speaking populations, creative business entrepreneurs, and other constituents through *EHG/Bang the Table* or link to SurveyMonkey. This allows more in-depth discovery about the needs and aspirations of the creative community and how the Arts and Culture Division can support the creative industry.

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Public Art Program Development/Charette

Public Art is a specialty area for our team. Since one of the key deliverables is a new Public Art Policy document for Fayetteville, we will hold a Public Art Charette with the Project Advisory Group and invited guests as determined by the City. The goal of this charrette is to discuss the existing collection, public art policies, selection methods, locations for new placemaking and artworks, funding mechanisms and identification of areas where the policies can be better developed and defined. Ultimately, the information for the charrette will provide information for the final Public Art Policy deliverable.

Creative Sector Economic Development: Special Session

As stated in the RFP, this project will be a" high-profile project that will shape the future of our community's cultural landscape." We have invited Jamie Giellis as a special advisor on this project to provide the City of Fayetteville with a special session to discuss creative sector economic development and sustainability. Jamie's expertise with arts, culture and creative sector development and planning runs deep. She began her company Centro in 2009 to help communities catalyze collaborations and partnerships between the public and private sector. Centro's work has helped to bolster creative and funding districts, neighborhoods and communities, and provides services to strengthen cities and neighborhoods, from research and strategy development to on-the-ground implementation. Her firm is focused on empowering people and organizations to create great, sustainable places boosting culture and creativity in the process.

The Consultant team, with Special Advisor Jamie Giellis will partner with Fayetteville's Project Advisory Group to plan this special session.

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Phase III Deliverables:

+ Cultural Map (revised)
+ Needs Assessment (revised)
+ Expanded Stakeholder list
+ Webpage design and launch
+ Community and Stakeholder Engagement Summary
    - Up to 12 one-on-one interviews
    - Up to 6 Focus Groups
    - Three Artful Engagements
    - Public Art Program Charette
+ Cultural Sector Economic Development Session Summary
+ Survey(s) analysis

PHASE IV

ANALYSIS AND SYNTHESIS OF FINDINGS & PLAN DEVELOPMENT

Theme Development

Following our robust community engagement phase, themes will begin to emerge. We will analyze and synthesize all our data and community input to develop themes and a framework for the Arts and Culture Plan. These themes and

framework will be reviewed with the Project Advisory Group and others as needed in preparation for drafting the plan.

Draft Plan

The consultant will integrate the information generated in the three phases above and produce a written plan with a ten-year horizon. The Plan will be in an attractive, inviting and easy to navigate format. The look and feel of the plan will reflect the passion and the purpose of the Fayetteville creative community, which could include engaging a local graphic designer and/or local artists in the design of the plan. The full-color document will include photos provided by the Arts and Culture Division as well as photos gathered during the planning process and local artwork as specified.

The final Arts and Culture Plan will include:

- **Executive Summary:** This short document will be a downloadable PDF to provide an overview of the plan, its goals, and objectives, as well as the key findings.
- **Vision Statement:** The creation of an aspirational Vision Statement that is very specific to Fayetteville is a key component of this Plan. It will identify the overarching vision for arts and culture division in the Community.
- **Strategic Plan:** we will divide the plan into near-term, mid-term and long-term priorities, goals and strategies, including timelines, budget recommendations and action steps. The Strategic Plan we will include:

  i. Implementation Plan: We will create a graphic or chart to outline the action steps toward implementing the strategic plan goals.

  ii. Funding Plan: As a culmination of our research, we will outline and prioritize possible funding requirements and potential sources needed to augment Fayetteville's arts and culture sector, public art program, and other key features of the plan as well as recommending governance structures.

  iii. Public Art Policy: Based on Phase III research and review of existing policies, the consulting team will deliver a recommended new public art policy document for Fayetteville. It will identify vision and goals specific to the public art program, provide guidance and policies for funding and selection of new artwork and murals, collection management, and maintenance.

  iv. Evaluation Framework: Often arts and culture departments can find it challenging to quantify the success and impact of their programs. Our consulting team are experts in designing flexible frameworks by which progress toward the strategic plan goals can be measured. This could include metrics, qualitative and quantitative data, anecdotal evidence and benchmarks by which the community can gauge the value, quality, reach and impact of programs, arts and

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cultural experiences, organizations, and individual artists that received funding from taxpayer funds.

Review, Revise and Refine the Plan Draft

Through an iterative process, our team will work with The Arts and Culture Division staff and key stakeholders to review, revise and refine the draft plan.

Presenting Draft Plan for Feedback

The Plan will then be presented to Parks, Natural Resources and Cultural Affairs Department, the Fayetteville Arts Council, the Parks and Recreation Advisory Board for comment. In addition, key goals and strategies of the plan can be posted on *EHQ/Bang the Table* for public comment. Our team will use this feedback to further refine the plan.

Final Arts and Culture Plan

Our team will use the feedback above to finalize the Arts and Culture Plan. We will deliver an electronic copy to The Arts and Culture Division in an editable format such as Microsoft Word or InDesign. We understand The Arts and Culture Division shall be the owner of the document as well as all work generated in the planning process.

Phase IV Deliverables:

+ Themes and framework for the Plan
+ Draft Plan
+ Presentation deck
+ Final Arts and Culture Plan (editable format)

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PART III: BUDGET PROPOSAL

Below is an outline of all proposed costs associated with the project, including consultant fees, travel expenses and other applicable expenses. This Budget Proposal assumes the City will provide access to marketing resources, including web platform and social media, venues and hospitality for hosting meetings and events, and access accommodations for translation, either in-person or written. If the City is unable to provide these resources, the consulting team can update the proposed budget.

Fee Breakdown	Consultant Hours (combined)	Consultant Fees (combined)
Phase I: Confirm Workplan & Communications	22	$4,400
Phase II: Research and Discovery	280	$41,200
Phase III: Community and Stakeholder Engagement	382	$72,200
Phase IV: Plan Development	170	$31,600
Consulting Fees:		$149,400
Creative Sector EconDev Advisor Stipend		$5,000
Graphic Design Services (including mapping)		10,000
Community Engagement (supplies/artists fees)		5,000
Travel (not to exceed)		$19,500
Total Proposed Budget:		$188,900

Consultant Fee Schedule	Hourly Rate	Est. Hours	Fee
Jill Stilwell - Co-Lead	$200	351	$70,200
Kendall Petersen - Co-Lead and AIPP Specialist	$200	351	$70,200
Admin Support	$100	90	$9,000

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PART IV: SAMPLES OF PREVIOUS PLANS CREATED

Please see the "Other Attachments" upload for samples of previous plans created. We have provided three plans for your review:

- ArtsVision 2030
- Loveland Arts & Culture Master Plan
- Golden Public Art Framework & Policy

PART V: REFERENCES

For Kendall Peterson & Jill Stilwell

Deana Miller, Executive Director, Lowry Foundation
admin@lowryfoundation.org, 303-344-0481

Angela Seals, Executive Director, Cultural Office of the Pikes Peak Regionangela@culturaloffice.org; angleaseals@gmail.com

Michael Stricker, Arts & Culture & Community Manager, City of Northglenn
mstricker@northglenn.org

CLIENT LIST

Following is a selection of our team's collected client list:

Arts District on Santa Fe, CO
Aurora Housing Authority, CO
Avenir Museum of Design and Merchandising, CO
Beaver Creek Resorts, CO
Biennial of the Americas
Butler Arts Center, IN
Cherry Hills Village, CO
City of Aspen, CO
City of Aurora, CO
City and County of Denver, CO
City of Colorado Springs, CO
City of Commerce City, CO
City of Fort Collins, CO
City of Golden, CO
City of Lakewood, CO
City of Lone Tree, CO
City of Loveland, CO
City of Northglenn, CO
City of Thornton, CO
City of Wheat Ridge, CO
Colorado Department of Transportation
Colorado State University
Cultural Office of the Pikes Peak Region, CO
Denver International Airport
Denver Regional Council of Governments
Denver South, CO
Foothills Arts Center, Golden, CO
Fort Collins Museum of Discovery, CO
Golden History Museum & Park, CO
Good Times Restaurants, Inc., CO
Metta Urban Design, MT
Middlesex County, NJ
National Western Center, CO
QDOBA, CA
Rampart Range Metro District, CO
Regional Transportation District, Denver, CO
River North Arts District, CO
Steamboat Art Museum, CO
Town of Parker, CO
Town of Vail, CO

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PART VI: OTHER RELEVANT INFORMATION

As owners of our own individual consulting firms, we each maintain a balanced workload to ensure we can devote the resources needed to successfully meet each client's needs, within budget and on time.

Jill Stilwell and Kendall Peterson have been teaming together regularly since 2019 when we successfully partnered on Arts Vision 2030, a 10-year cultural plan for the Pikes Peak Region, a two county region in Colorado with more than one million residents. As co-leads on half-a-dozen projects to-date, we work seamlessly together and combine our expertise and skills to the benefit of our clients..

Currently, we are prepared and able to carry out the scoped items in this RFP. Our current slate of projects that we are teamed together for includes: a Long-Term Cultural Plan for the Northglenn Arts and Humanities Foundation, Public Art Master Plan for the City of Aurora, and a new Public Art Plan for the City of Aspen. Each of us have smaller individual projects that we are consulting on, but none will affect our commitment or ability to complete the scope of work outlined in your RFP.

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PART VII: DETAILED TIMELINE

Our proposed approach to this project can be completed in approximately 11 months from the time of final contracting and meet the June 2024 completion date. The final timeline will be confirmed with the City.

TIMELINE

	2023				2024					
Phase I: Confirm Work Plan & Communications	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Execute Contract										
Confirm Workplan										
Establish Project Advisory Group										
Initial Stakeholder List										
Communications Plan										

Phase I Deliverables: Confirmed Workplan, Signed Contract, Initial Stakeholder list, Comms Plan, Progress Report

Phase II: Research & Discovery	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Immersion Tour										
Kick-off Meeting with Project Advisory Group										
Staff/Leadership Interviews										
Data Research and Analysis										
Cultural Mapping (part 1)										
Public Art Collection Inventory/Assessment										
Need Assessment										
Peer City Benchmarking										

Phase II Deliverables: Arts & Culture Inventory, Public Art Assessment, Initial Cultural Map, Initial Needs Assessment Findings, Peer/Aspirational Cities Report, Month Progress Reports

Phase III: Community & Stakeholder Engagement	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Expanded Stakeholder List										
One-on-One Stakeholder Interviews (up to 12)										
Develop/Activate Speakup.Fayetteville-ar.gov										
Focus Groups (up to 6)										
On-line General Survey										
Targeted Surveys										
Artful Engagements (3)										
Public Art Program charrette										
Creative Sector Economic Development Session										
Project Advisory Group work sessions (2)										

Phase III Deliverables: Cultural Map, Needs Assessment, Expanded Stakeholder List, Project page design/launch, Community/Stakeholder Engagement Summary, Creative Sector Economic Development Session Summary, Survey(s) Analysis

Phase IV: Plan Development	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Theme and Framework Development										
Draft of Arts and Culture Plan										
Review, Revise, Refine Draft Plan										
Feedback Presentations										
Deliver Final Arts and Culture Plan										

Phase IV Deliverables: Themes & Plan Framework, Draft Plan, Presentation Deck, Final Arts and Culture Plan

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1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

_____X_____1) NO KNOWN RELATIONSHIP EXISTS

_____2) RELATIONSHIP EXISTS (Please explain): _____

_____

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

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

Corporate Name of Firm: _____Stilwell Consulting LLC_____

Primary Contact: ___Jill Stilwell_____ Title of Primary Contact: ___Owner/Principal_____

Phone#1 (cell preferred): ___970-218-6542_____Phone#2: _____

E-Mail Address:
_____jillstilwell07@comcast.net_____

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3. ACKNOWLEDGEMENT OF ADDENDA

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

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED
RFP 23-08, Addendum 1	Jill Stilwell	8-14-2023

4. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

NAME OF COMPANY: ___Stilwell Consulting LLC_____

PHYSICAL ADDRESS: ___2250 Bellwether Lane, Fort Collins, CO 80521_____

MAILING ADDRESS: ___2250 Bellwether Lane, Fort Collins, CO 80521_____

TAX ID #: ___521-37-7558_____ AR. SECRETARY OF STATE FILING #: _____

PHONE: ___970-218-6542_____ FAX: _____

E-MAIL:
___jillstilwell07@comcast.net_____

SIGNATURE: ____ _____

PRINTED NAME: Jill Stilwell

TITLE: Owner/Principal DATE: 8/14/2023

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Jill Gardner Stilwell

Stilwell Cultural Consulting LLC



Jill Gardner Stilwell has 25+ years of public sector arts and culture experience. She founded Stilwell Cultural Consulting in 2015 in Fort Collins, Colorado as a woman-owned consulting firm providing planning services for the arts and culture industry. Jill assists communities and organizations in vision-oriented projects including cultural planning, strategic planning, mission development, museum accreditation, and operational and facility planning efforts.

Education

Master of Arts
Art History & Museum Studies
University of Denver

Bachelor of Fine Arts
Minor in Art History
Colorado State University

Select Professional Experience

Owner, Stilwell Cultural Consulting, LLC, 2015 – present
Provide consulting services to clients in the arts and culture industry.

Senior Instructor, Colorado State Unviersity, 2017 –present
Teach graduate-level Arts Management courses.

Cultural Services Director, City of Fort Collins, Colorado, 2003 – 2016
Led the Department's core programs: the Lincoln Center for the performing and visual arts, Fort Collins Museum of Discovery, Art in Public Places, Gardens on Spring Creek, Community Creative Center, and Fort Fund granting program. Managed $6+ million annual budget, booked national touring performing arts productions and negotiated $1.5 million annually in contracts.

- Oversaw department's largest capital projects and fundraising campaigns:
  $8.4 million renovated the performing arts center (2011)
  $27 million public/private Fort Collins Museum of Discovery (2012)
  $4 build out of Gardens on Spring Creek (completed in 2019)
- Spearheaded City's first Cultural Plan and Cultural Facilities Plan, 2008
- Led Downtown Fort Collins Creative District certification (2016)
- Nominated Fort Collins for Governor's Arts Award (received 2011)
- Secured one of only 51 NEA "Our Town" grants (2011) to develop Community Creative Center

Museum Director, Fort Collins Museum, Colorado, 1998 - 2003
Managed all aspects of museum operations, fundraising, capital projects and community development.

Museum Curator, Fort Collins Musuem, Colorado 1995-1998
Museum Curator, Hiwan Museum, Evergreen, Colorado 1993-1995

Personal Information

Phone
970-218-6542

Email
jillstilwell07@comcast.net

Address
2250 Bellwether Lane
Fort Collins, CO 80521

stilwellculturalconsulting.com
www.linkedin.com/in/jillstilwell

Areas of Expertise

Vision-oriented projects
Arts & culture industry
Cultural planning
Strategic planning
Master Planning
Public Art
Mission development
Museum accreditation
Operational & facility planning

Certification

Planning effective public participation (IAP2)

Memberships

American Alliance of Museums

Other Activities

Conference presenter & panelist
Grant reviewer
Food Bank of Larimer County, volunteer
Poudre Landmarks Foundation, Board president

References provided on request

stilwell cultural consulting llc

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KENDALL L. PETERSON

7817 E 22nd Place, Denver, CO 80238

PROFESSIONAL EXPERIENCE

Kendall Peterson has more than 24 years of arts, events & cultural program planning and project management including documentary, video and multi-media projects. Specialties include cultural and public art master planning, strategic planning, public art program implementation and policy development, site-selection & place-making consulting, community outreach & public process management, arts advocacy and education.

CREATIVE PROJECT CONSULTING

THERESQUARED LLC **Denver, CO**

OWNER 2017-Present

ThereSquared LLC is a consulting company that connects and builds specialized teams to bring creativity, artistry, and authenticity to all projects. Whether it's a cultural plan, a public mural project, a community outreach event or informational video, ThereSquared has you covered. ThereSquared was begun as a means of bringing Kendall's 24+ years of creative project management experience—including public art, print and branding campaigns, film, and video projects—to a broader audience in Denver, CO and beyond.

PROJECT & PROGRAM MANAGEMENT

CIG LLC **Denver, CO**

PUBLIC ART PROGRAM MANAGEMENT for DEN HOTEL AND TRANSIT CENTER 2012-2016

Contracted through CIG LLC to oversee selection process and implementation of high-profile public art projects (budgeted at over $6 million) for the Hotel and Transit Denver at Denver International Airport (DEN). Developed a new arts & culture policy document to guide selection and approval process.

CHIEF CREATIVE OFFICER 2015-2017

Led creative campaigns for Colorado Department of Transportation driver education including The Heat Is On, Click It or Ticket, Distracted Driving and Child Passenger Safety. Work on these campaigns included brainstorming, pitching to clients, scripting, production/post-production of attention-grabbing videos designed to change driver behavior. Other work as CCO included development and production of collateral, videos and events for such clients as Denver Urban Renewal Authority, Downtown Denver Partnership, Children's Hospital and Random Acts of Kindness Foundation.

DENVER ARTS & VENUES **Denver, CO**

PUBLIC ART PROGRAM MANAGER 2006-2012

Oversaw the Public Art program for the City & County of Denver in accordance with the Public Art Ordinance (D.R.M.C. 20--85 *et seq*). Managed all budgets (totaling $1-3 million per year) for the Public Art Program & the Urban Art Fund for Graffiti Prevention. Developed & authored Public Art Policy & Planning documents. Acted as the primary spokesperson and City Council liaison for the Public Art Program. Supervised a staff of three full-time employees & co-managed the Public Art Program at Denver International Airport. Personally managed between 10-15 major Public Art projects each year, including art selection process, contracting, design development, installation & promotion for each project.

FILM & VIDEO PRODUCTION

Nearly ten years of experience (1995-2004) as a producer/director/writer of high-end documentary films for clients such as National Geographic, Discovery Channel, History Channel & others. Predominantly worked for ARCWELDER FILMS in Los Angeles. Hired creative teams & oversaw development and production (local and overseas) of award-winning films that were on time, on budget & received high network ratings. Credit list available upon request.

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EDUCATION

UNIVERSITY OF COLORADO DENVER, SCHOOL OF ARCHITECTURE & PLANNING **Denver, CO**

Master of Arts – Urban and Regional Planning classes. (Suspended due to availability.)

DOWNTOWN DENVER PARTNERSHIP **Denver, CO**

Leadership Program -- 2010

NEW YORK UNIVERSITY, INSTITUTE OF FINE ARTS **New York, NY**

Master of Arts -- January 1994 Concentration in Modern Art & Architectural History.

WELLESLEY COLLEGE **Wellesley, MA**

Bachelor of Arts -- June 1990 Art History Major. Magna Cum Laude & Phi Beta Kappa. Member of Varsity Crew team & recipient of Most Valuable Player & Scholar-Athlete awards in 1990.

JAMIE GIELLIS

President, Centro Inc.

- **PROFESSIONAL EXPERIENCE**

Centro Inc. – Denver, CO
Founder and President, December 2009 to Present
Centro catalyzes collaborations and partnerships between the public and private sector to bolster districts, neighborhoods and communities, providing services to strengthen cities and neighborhoods, from research and strategy development to on-the-ground implementation. The firm is focused on empowering people and organizations to create great, sustainable places boosting culture and creativity in the process.

Representative projects include:
Establishing first-of-its-kind place management approaches, developing the country's first public/private partnership to manage Singapore River, and writing new national Business Improvement District legislation in Singapore
Guiding the feasibility and development of Business Improvement Districts (BIDs) in more than 20 locations across the US and the UK, including support to the UK Labour Party to reimagine policy tools to support High Streets
Developing the program to implement Colorado's Creative District legislation, and managing the program for six years, supporting dozens of individual districts across the state with strategic planning and organizational support
Developing the expanded organizational structure for RiNo Art District in Denver, and managing expansion of the art district's efforts to support the creative community, including the expansion of the CRUSH mural festival
Supporting reinvestment in Colorado's cultural and historical facilities, including the World's Wonder View Tower in Genoa, CO and the properties owned by the Central City Opera in Central City, CO
Supporting community-wide visioning and strategy developments in more than 60 neighborhoods, districts and cities across Colorado, the U.S. and beyond

Progressive Urban Management Associates, Inc. – Denver, CO
Associate, May 2006 to January 2010
Provided project management and lead support for the firm's national downtown management and planning practices. Specialties included strategic planning, market research, group facilitation, business improvement district formation, marketing and communication strategies and designing community-based economic development strategies.

Cedar Rapids Downtown District – Cedar Rapids, IA
Executive Director, May 2003 – May 2006
Managed all facets of a downtown business improvement district (BID) and a non-profit membership organization. Also provided oversight on tax increment financing (TIF) expenditures. Acted as liaison between the private sector and local government, guiding overall public policy to encourage mixed-use development and other projects in downtown Cedar Rapids. Directly responsible for advocacy efforts on behalf of downtown interests, managing business development initiatives, marketing and image campaigns – including a diverse array of special events – and oversight of streetscape enhancement efforts including an enhanced cleaning and maintenance program.

Marketing and Communication Strategies, Inc. – Cedar Rapids, IA
Director of Public Relations, May 2001 – May 2003
Managed public relations strategies for local and national clients for full-service public relations and marketing firm specializing in technology and communications industries. Developed strategic marketing plans and branding strategies for clients and coordinated implementation. Managed grass-roots public relations efforts and media outreach to create publicity and positive community image for companies and non-profit organizations. Key accounts included national clients Cellular One, Wells Diary and the Make-A-Wish Foundation, and local clients including the City of Cedar Rapids, Torus Technologies and multiple non-profits.

KGAN-TV, CBS News 2 – Cedar Rapids, IA
On-Air News Reporter and Producer, January 1999 – May 2001
Covered local community issues, responded to breaking news, and developed enterprising story ideas on a daily basis. Managed and produced news broadcasts, and provided live on-air reporting.

- **EDUCATION**

Masters of Public Administration, University of Colorado, Denver, Colorado
Bachelor of Arts, Journalism/Public Relations, University of Iowa, Iowa City, Iowa

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City of Golden

PUBLIC ART FRAMEWORK PLAN

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APPENDIX A
COLLECTION AUDIT AND ANALYSIS REPORT

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CITY OF GOLDEN PUBLIC ART COLLECTION AUDIT AND ANALYSIS REPORT

Presented by Kendall Peterson, ThereSquared LLC
March 22, 2021





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Introduction

From murals to monuments, fountains to stained glass, public art is an important element of cities and towns around the world. Art that is available and accessible to everyone can enrich our main streets, our parks and other areas where the public gathers. Art memorializes important historic areas and anchors main tourist destinations. Public art enhances the quality of life for all residents, increases access to art experiences for all and educates residents on an unlimited number of topics from history and nature to modern social issues.

Americans for the Arts reports that public art can be a powerful economic tool, attracting new businesses to cities, drawing and engaging a new workforce and inspiring creativity leading to innovation (Americans for the Arts, "Why Public Art Matters," 2018). Public art has the possibility of offering one-of-a-kind experiences specific to that location. Art in public places gives our communities an opportunity to discover layers of meaning, enjoy the vibrancy of enhanced spaces and witness the history and aspirations of the community. Public art is an essential component of a thriving community.

WHY PUBLIC ART MATTERS

Art in public spaces plays a distinguishing role in our country's history and culture. It reflects and reveals our society, enhances meaning in our civic spaces and adds uniqueness to our communities. Public art humanizes the built environment. It provides an intersection between past, present and future between disciplines and ideas. Public art matters because our communities gain cultural, social and economic value through public art.

("Why Public Art Matters, 2018," Americans for the Arts).

Nearly half of people with college degrees and a majority of millennials say they would strongly consider whether a community is "rich in the arts" when deciding where to locate for a job.

("Speak Out Art", 2016, Americans for the Arts).

Overview of Public Art in Golden and the Case for Planning

Public art comes into our communities in a variety of different ways. In some cities and towns, the public art was acquired primarily through generous donations of existing artwork, purchase, or loaned works. Such is the case in Golden. That the City was able to secure prominent works of art through donations is a testament to the community's commitment to cultural vitality.

In many cities, public art is commissioned and installed as part of a planned public art program (funded via public funding, non-profit foundations or public/private partnerships). A planned program, with an open and competitive commissioning process, can guide the public art collection over time according to goals and motives set out by the commissioning entity.

Purpose and Methodology of Audit and Analysis

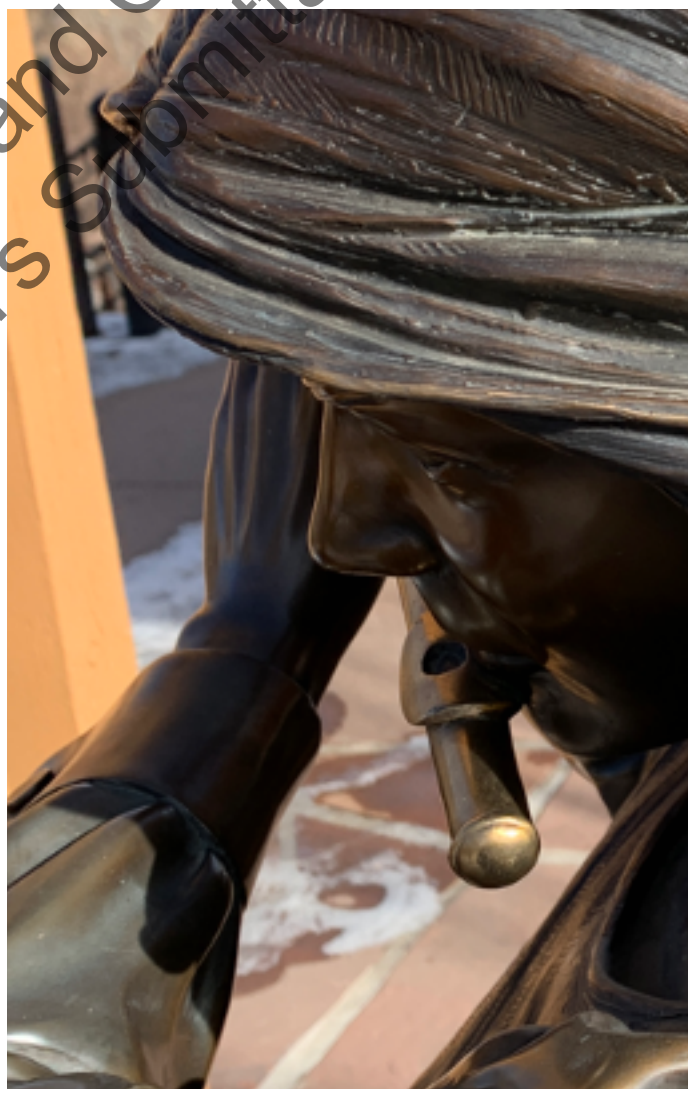
This Public Art Audit and Analysis report for the City of Golden is intended to examine the entire Golden public art collection (both donated and commissioned artwork) with an eye toward a summary analysis and audit of the entire collection and the artwork's relationship to the community and culture of Golden.

The purpose of this Audit is to assess the entire collection of thirty-seven works to ascertain the following:

- Media/Methods contained in the collection;
- Dates of artwork and manner of acquisition;
- Subject matter/genres of works;
- Artists (location, gender, race, age, etc.);
- Locations of artwork (distribution/ accessibility/gaps/areas with no artwork);
- Ownership/loans vs. permanent;
- Gaps in collection and under-representation in the collection; and
- Additional analysis as needed/requested.

The following Audit and Analysis of the collection began in December 2020 with in-person visits to gather data on each of the works of art over several weeks. Each work of art was noted for many different features, listed above. A spreadsheet of these findings is listed in Addendum A.

The purpose of this report is to audit and assess the existing collection. It will not give recommendations for the future of the collection. However, the report will conclude with some Data/Graphs and observations and questions for the Public Art Commission to grapple with during future public art planning or cultural planning.



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Golden Public Art Program Collection Background and Guiding Documents

Golden's public art collection is literally a "public museum" of art collected from1993 to the present, predominantly via donations. This collection is viewable free-of-charge for the residents of Golden and all its visitors. However, art is a nonverbal form of communication. It is entirely appropriate to then inquire, "What does the public art collection communicate about the City of Golden?" If a visitor arrives in Golden and experiences its art, including the placement, subjects and materials of the art, what can be learned about Golden as a community?

The answer to these questions must begin with an analysis of the stated guiding principles behind the collection and guiding documents that have been used to create the collection.

For many years, Golden's collection accumulated through generous donations to the City without guidance from a Public Art Master Plan or strong guiding documents. During this period of collecting, there were no overarching goals or criteria for the collection.

In 2017, Golden's Public Art Commission developed a *Public Art Handbook* which has given the public art acquisition and commissioning program more structure and guidance. In the introduction to the *Public Art Handbook* (2017) the following purposes for the program were outlined (emphasis is for the purpose of establishing themes):

- The City of Golden's Art in Public Places Program create[s] a **healthy, vibrant** atmosphere that contributes to the **quality and cultural identity** of our community. It is inspired by a variety of goals including encouraging **cultural expression** and inspiring a sense of **civic pride.**

- Artists bring a **unique perspective** to design development. They provide an **aesthetic balance** to capital improvement projects and **create memorable spaces** for residents, businesses and visitors.

- **Enhancing the character** of our community through public art directly supports **cultural tourism** and **economic development**.

In the next section of the *Public Art Handbook* (2017), six goals for the public art collection are stated. They are as follows (emphasis is for the purpose of establishing themes):

I. **Enrich** the public environment for residents and visitors through the incorporation of the visual arts;

II. Increase the **livability and artistic richness** of the Golden community;

III. Enable the City to attain **recognition on state and national levels** as a leader in the visual arts;

IV. **Increase public access to artwork** and to **promote understanding and awareness of the visual arts** in the public environment;

V. **Make the mundane interesting, fun, playful or inspiring**;

VI. **Promote diversity and pluralism** in public art and to **reflect a wide range of multicultural expression**; and

VII. Contribute to the **economic vitality, quality of life, and civic pride** of the Golden community.

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Themes Emerge

Based upon the guidance from this 2017 document, we can see some themes developing. Each of these themes served as ways to access, observe and analyze the collection further. For the City of Golden, the stated purpose of the public art collection can be simplified and assessed according to the following seven statements:

1. **Quality of Life:** Public art can enhance quality of life through creating vibrant, memorable spaces. Public art enriches public spaces and increases livability in the community.

2. **Enhancing Public Space:** Public art can make the mundane "interesting, fun, playful, inspiring."

3. **Arts Access:** The public art collection can increase access and awareness of visual arts for residents.

4. **Economic Development:** Public art can play a role in cultural tourism and help with economic development, tourism and vitality within Golden.

5. **Expression of Culture:** Public art can reveal aspects of the community's identity and character; it can increase civic pride.

6. **City Stature:** Public art can enable recognition of Golden on state and national levels.

7. **Diversity and Inclusion:** Public art can promote "diversity and pluralism ... and reflect a wide range of multicultural expression."





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Theme 1: Quality of Life

Public art can enhance the quality of life through creating vibrant, memorable spaces. Public art enriches public spaces and increases livability in the community.

Key Observations:

- Sculptures are a very visible feature of Golden's downtown and downtown-adjacent locations along Clear Creek. Artwork is everywhere you look and accessible to most. Artwork is well-sited and placed prominently on street corners, pathways and generally presented in areas frequented by tourists and downtown customers and pedestrians.

- The artwork is generally in good condition, giving visitors a sense that they are in a safe and blight-free community.

- Artwork that is prominently sited as it is in Golden gives visitors and residents a sense that this artwork is a valued and cherished part of Golden.

- People clearly enjoy interacting with the artwork: taking pictures of sculptures and murals, taking selfies, and letting children touch and interact with the artwork. Even passive interaction with the art occurs as people walk or bike past.

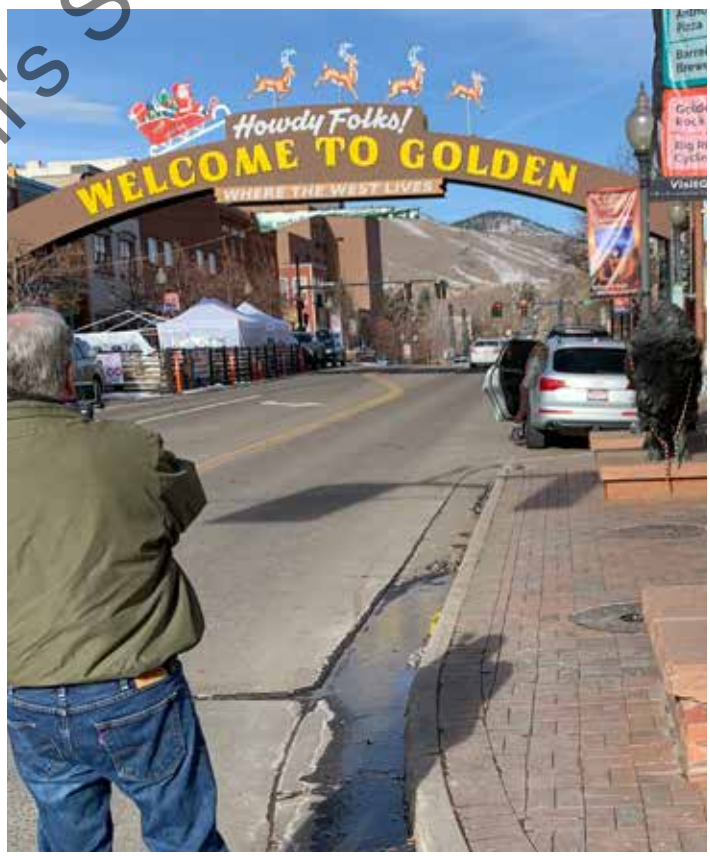
- The Creekside "art walk" is a memorable destination and attracts people for jogging, walking or as an outing with the kids. Art is integrated well in this location and heightens the enjoyment of these activities.

- It is hard to assess how people are interacting with the artwork outside the downtown area, but artwork placed in medians and in parks signals that Golden believes artwork is integral to their community.

- The themes of the artwork tend to complement Golden's "small western town" feel. The art contributes to a specific cultural sensibility, a lack of blight, visual dynamism and interactivity within the downtown area.

- Artwork is mostly located downtown (see Graphs); so, interaction with artwork in areas outside of downtown isn't possible without traveling.

- In downtown, there are many visual conflicts for the artwork (signage, utilities, advertising and seating elements). However, the general sense is that Golden is a vibrant, safe, accessible and art-filled community.



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Theme 2: Enhancing Public Space

Public art can make the mundane "interesting, fun, playful, inspiring."

Key Observations:

- The artwork that is placed along the Clear Creek park/walkways turns what is a beautiful natural area into an art exhibition. People enjoying the park can run, walk or bike through the park, taking in the artwork if they care to.

- Similarly, the visitor to the main commercial area of downtown can experience a "western history lesson" through the experience of the artwork.

- The collection in Golden can be moved, which could enable a sense of dynamism and constant change in the collection and the downtown area.

- As mentioned earlier, the art collection is a group of "selfie-stations" where people can interact and take pictures with the artwork. This increases the visibility of the collection through social media. One sculpture even encourages posing with a hand on the cowboy's derriere.

- The City has elected to place several sculptures in traffic circles, which is certainly a "mundane" place converted into a pedestal for artwork. It signals Golden's positive attitude toward art when it is placed in places like this. However, placements like this can encourage dangerous pedestrian access.



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Theme 3: Arts Access

The public art collection can increase access and awareness of visual arts for its residents.

Key Observations:

- The City of Golden has some top-notch figural bronze sculptures. Visitors to the city experience a terrific Western art collection featuring some very large sculptures by accomplished artists.

- Most of the collection is moveable, so the city has the ability to re-arrange artwork on occasion and create more of a "rotating exhibition" for visitors, especially as the art collection gets larger. This is an advantage, as many collections in other cities are permanently located.

- The collection is predominantly located in the downtown area, which has free parking and is highly visible. This makes the collection accessible and available to all who frequent the downtown, including numerous tourists. However, the scarcity of artwork outside of downtown makes it harder for residents who don't frequent downtown as often to experience artwork owned by the City.

- The public art pamphlet/guide is terrific and encourages people visit the entire collection. However, during the site visits, the pamphlet was not available outside of the Main Visitor's Center. As of the time of this audit, the pamphlet does not include artwork that is not owned by the City, which is artwork tourists and residents might be interested in knowing more about.

- There is no audio tour or walking/guided tour of the collection as of the time of this audit.

- It is evident from the site visits, that the community adores its public art collection. During the holidays, the public "dresses up" some of the sculptures with festive decor. Several of the figural sculptures were wearing Santa hats or even bows or beaded necklaces. By not removing these items, the Public Art Commission tacitly condones this activity. Similarly, the sculptures are touched, rubbed and climbed on, and there are no barriers or signage to prevent this activity. None of this is unusual, but the Public Art Commission should be aware that this could cause higher costs for maintenance and repairs to the artwork.

- Placement of the artwork in traffic circles and parks outside of downtown has increased public access to artwork outside the center of town. However, this might cause traffic slowing/crashes if people are viewing the artwork while driving. One of the works of art also had a plaque (an incorrect plaque, as well) on the inside of the traffic circle, which might encourage pedestrians to cross traffic to view the plaque. The Public Art Commission should consider the removal or moving the plaque to a safer viewing area.



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Theme 4: Economic Development

Public art can play a role in cultural tourism and help with economic development, tourism and vitality within Golden.

Key Observations:

The majority of the collection is placed in downtown or near Clear Creek. This adjacency of the collection promotes exploration and walking around these areas. The sense that there is "art on every corner" promotes the city in a positive light: Golden is a safe, intimate, thriving small city where you can take a short walk and see numerous works of art.

- The centralized location of the artwork is terrific for tourism and visitors. However, the lack of artwork in outlying areas might mean that tourism is being directed to this area only.

- The public art pamphlet is a great asset for the City. However, the Public Art Commission might consider including other murals, artwork, elements of the built environment and historic sites that people might be curious about. If the artwork is connected more to the entire downtown site, it could be a great economic development tool. Recorded tours with stops at local restaurants and stores to promote businesses close to the artwork should be considered as well..

- Based on the overall makeup of the public art collection (See Data/Graphs), the collection contributes to visitors' understanding about the history of Golden and its predominant identity as a historic western town. This is great for tourism. If there are other focuses for Golden's current economic development, it is not evident from the public art collection.

- Through planning, the Public Art Commission could consider other public art opportunities in developments outside of downtown, to contribute to the economic development and placemaking in these areas.

- Selfies and pictures of art interactions might go viral and people might seek out the City from social media posts.



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Theme 5: Expression of Culture

Public art can reveal aspects of the communities' identity and character; it can increase civic pride.

Key Observations:

- As mentioned earlier, it is evident that residents adore and enjoy their collection of public art. Overall, the collection is welcoming, hospitable and accessible. The collection is thoroughly family and kid friendly.

- Based on the collective themes in the artwork (See Data/Graphs) one can conclude that Golden is a place that cherishes and promotes its western heritage, it's natural setting and local wildlife. It is a place that encourages outdoor activity. Golden is proud of its heritage, industries and leaders; history is important here.

- Looking at the placement of the artwork, Golden has great pride in its downtown, natural settings and abundance of natural spaces near the town.

- Based on the overall makeup of the public art collection as figural bronzes (See Data/Graphs) focusing on western culture and nature, the collection contributes to visitors' understanding about this aspect of Golden and its identity as a traditional, historic western town. Alternatively, the collection does not communicate very much about who lives in Golden now or what Golden aspires to be in the future.

- Based on the historic and allegorical themes of the collection of art, one might conclude that the City has fairly conservative, traditional or even "old-fashioned" taste in artwork. Could this also lead one to believe that the population of Golden is conservative and "old-fashioned?" This is something for the Public Art Commission to consider further and research.

- Based on recent mural and sculpture commissions, it does seem that the Public Art Commission is striving to diversify its collection and art themes.

- Golden is a changing, developing city. To make sure that the public art collection reflects the current and future cultural values, the Public Art Commission might revisit this goal/theme from the Public Art Handbook through a Public Art/Cultural Plan. What are the current cultural goals that reflect the community?



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Theme 6: City Stature

Public art can enable recognition of Golden on state and national levels.

Key Observations:

- As mentioned earlier, the City owns a very good western bronze collection. If the City chooses to continue to build on this type of collection and make it something that could rival other collections around the state and nation, they should consider planning ahead for this. Golden might look to other cities who have made a name for themselves for superior collections of traditional bronze art. The nearby city of Loveland has focused on collecting major works by major international bronze and stone artists. In addition, they are known internationally for hosting the acclaimed "Sculpture in the Park" event every summer.

- Some pieces in the collection have been identified as lesser-quality or mass-produced works. These pieces will not help gain "clout" for Golden's collection. This type of acquisition is not recommended if the City wants recognition for its collection across state and national levels.







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Theme 7: Diversity and Inclusion

Public art can promote "diversity and pluralism in public art and…reflect a wide range of multicultural expression."

Key Observations:

- Until most recent sculptures and murals were commissioned, it is clear that the collection was not particularly diverse nor does it "promote diversity and pluralism". The Public Art Commission must contend with this fact in future planning for the collection if this is a goal for the collection.

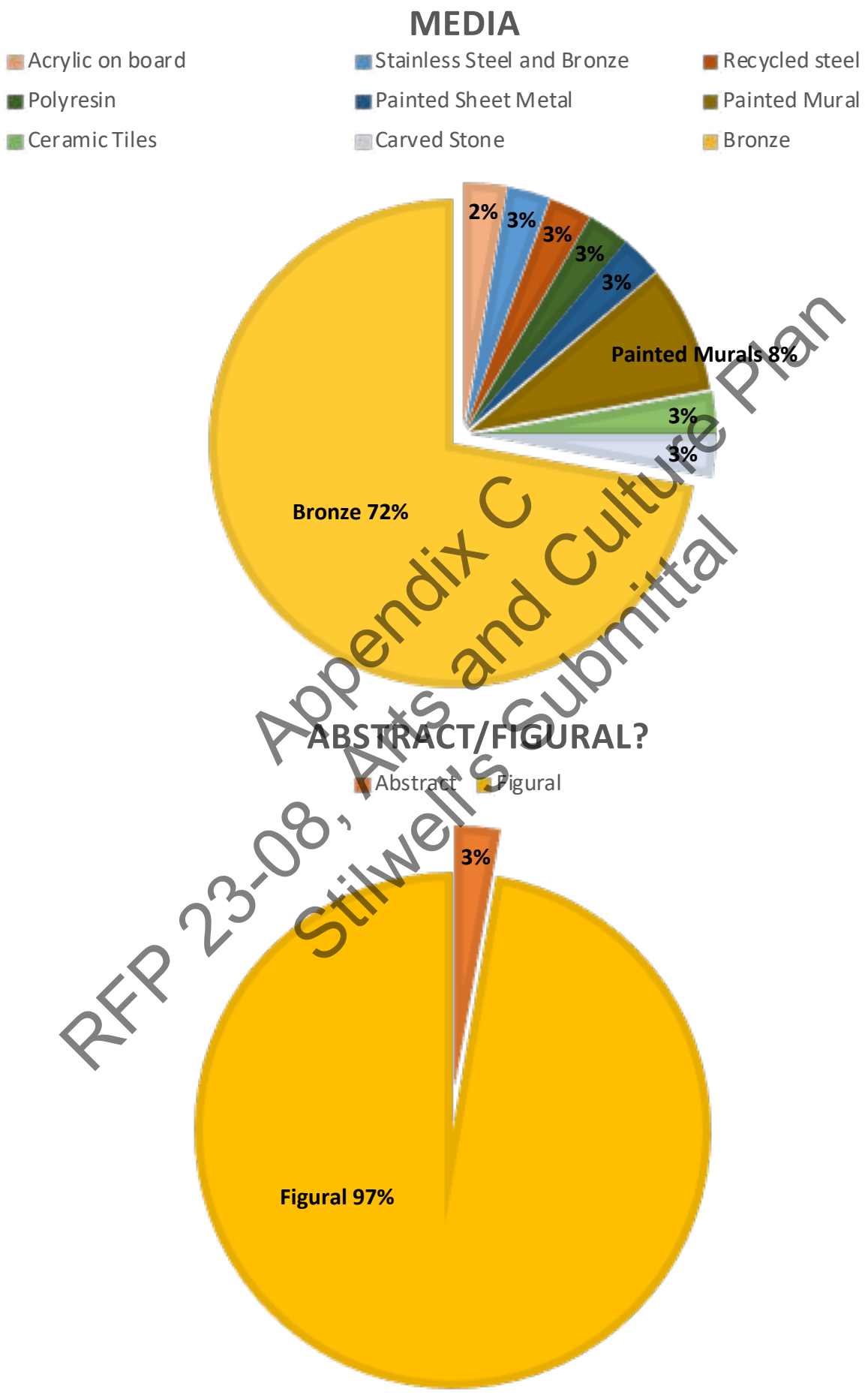
Based on the collection analysis (See Data/Graphs), Golden's public art collection is:

- Predominantly Bronze
- Predominantly Figural
- Predominantly White
- Predominantly Male
- Predominantly Western
- Sited nearly entirely Outdoors
- Located predominantly in Downtown
- Permanent (no temporary works of art were listed)

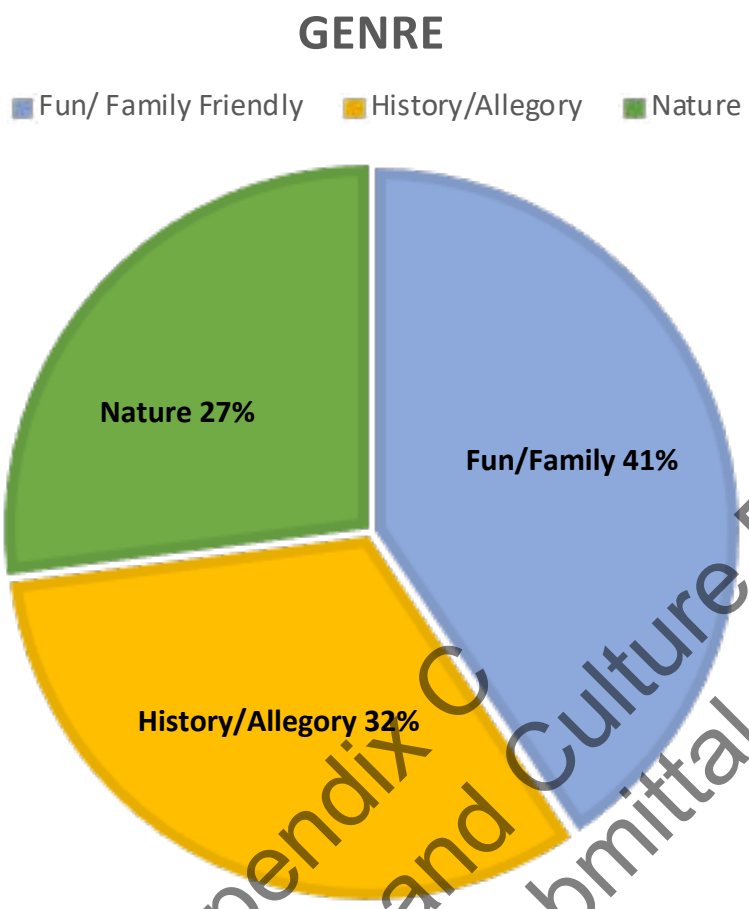
- Not only should greater diversity in medium and subject matter be considered, but which artists' voices speak through the public art program and what diverse themes are presented is equally critical to being representative of an entire community. Again, this is something for the Public Art Commission to consider in future planning efforts.

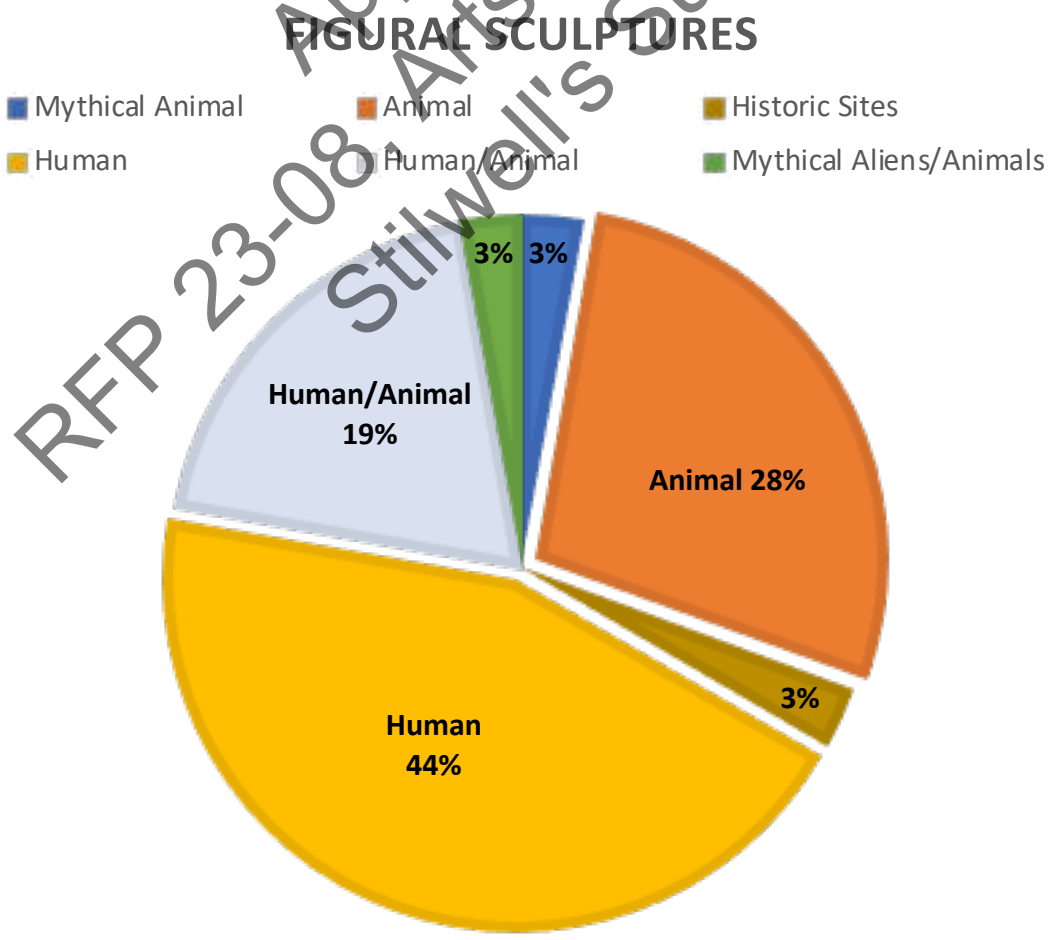


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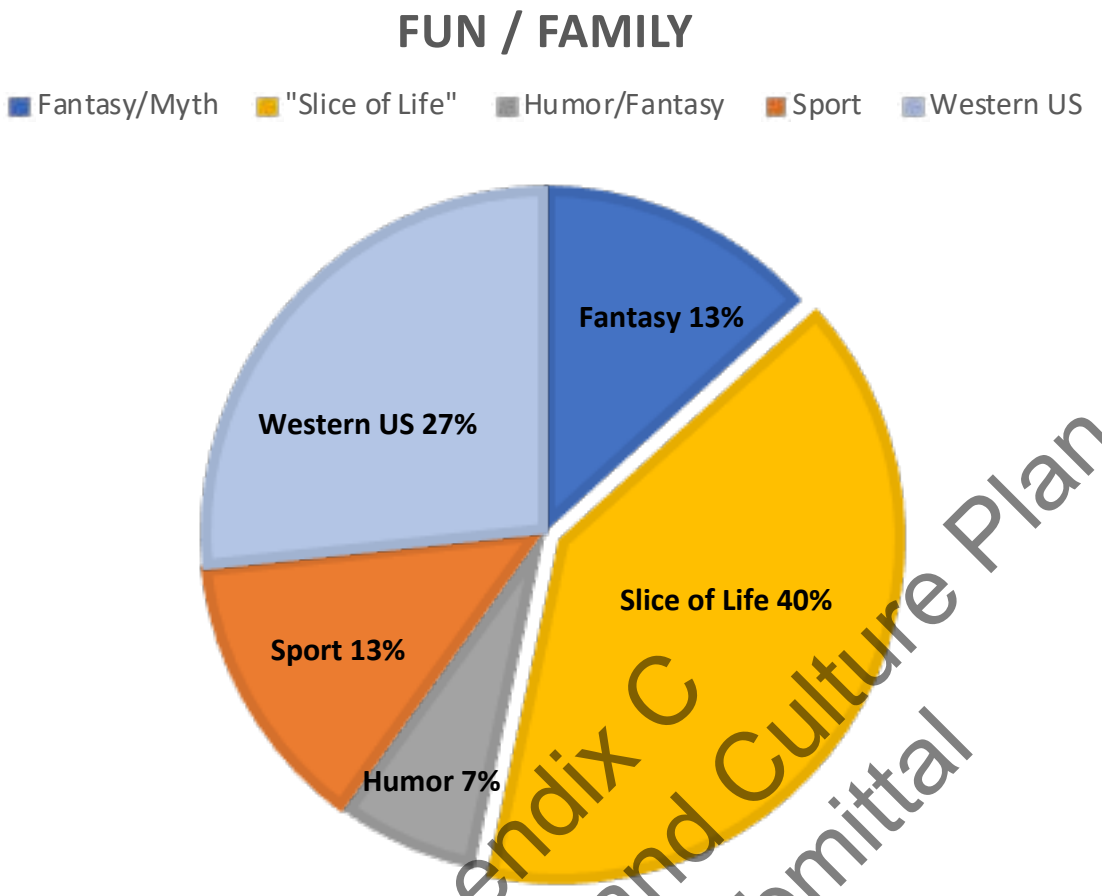


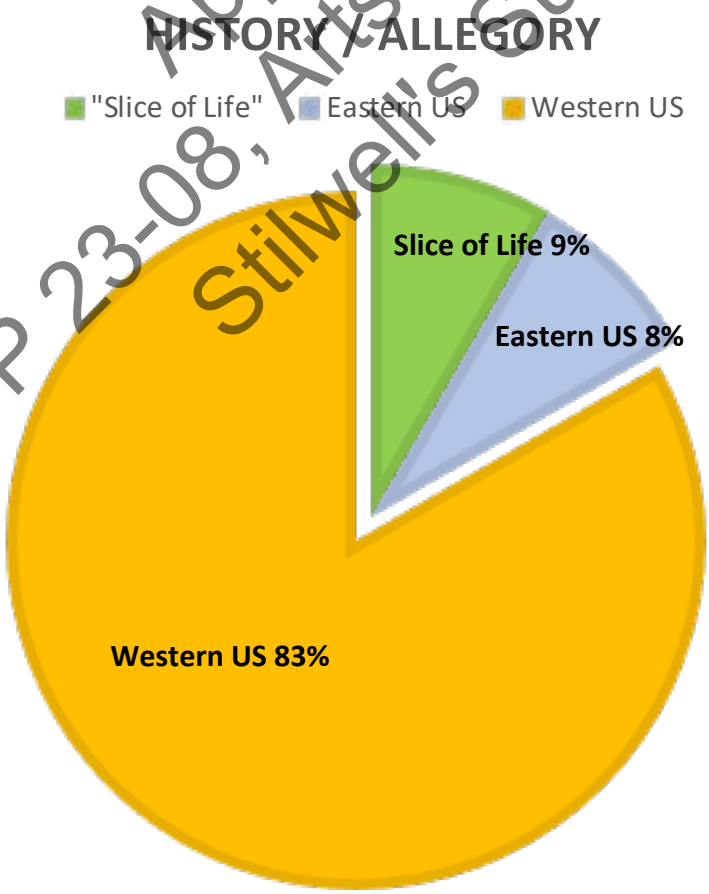
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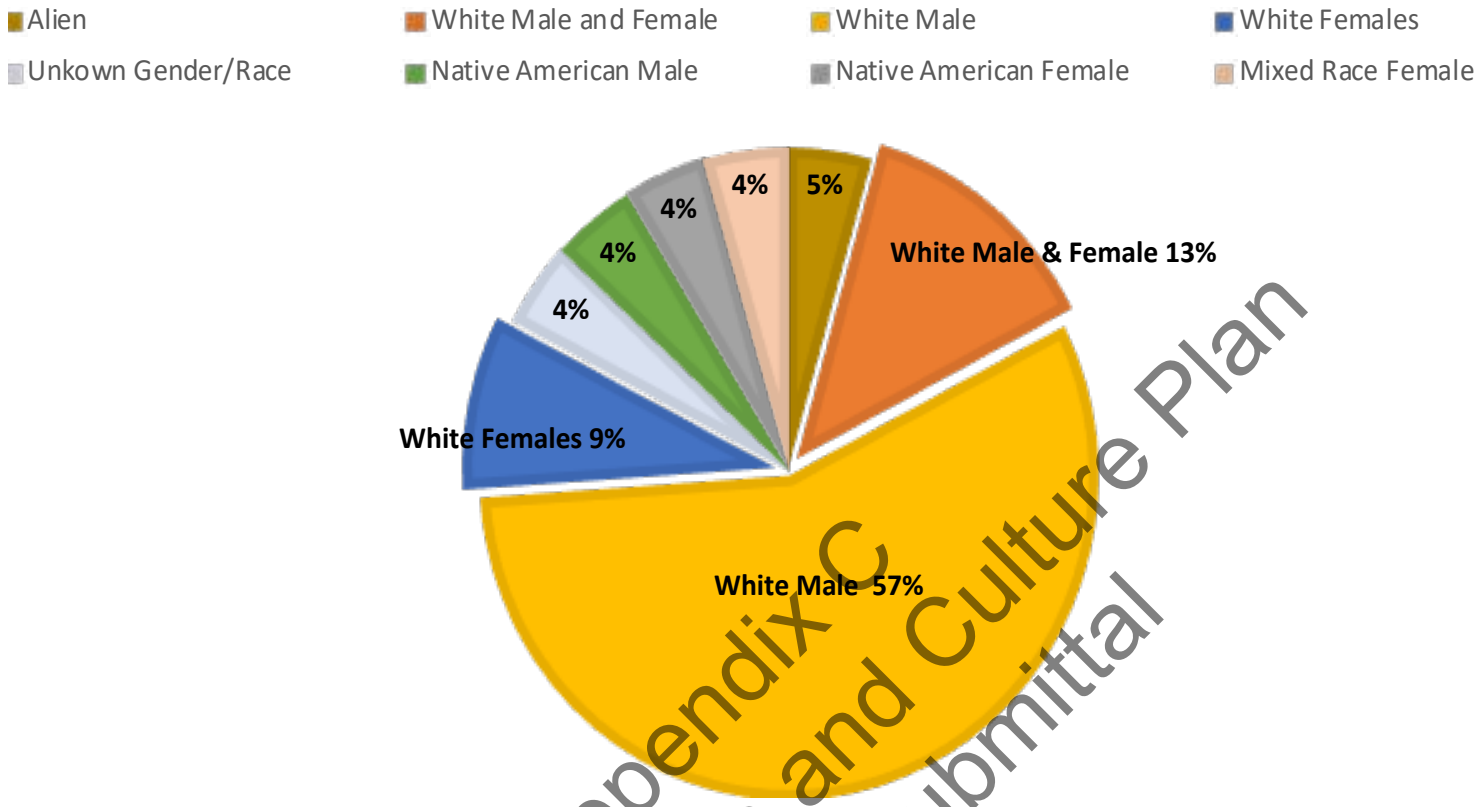
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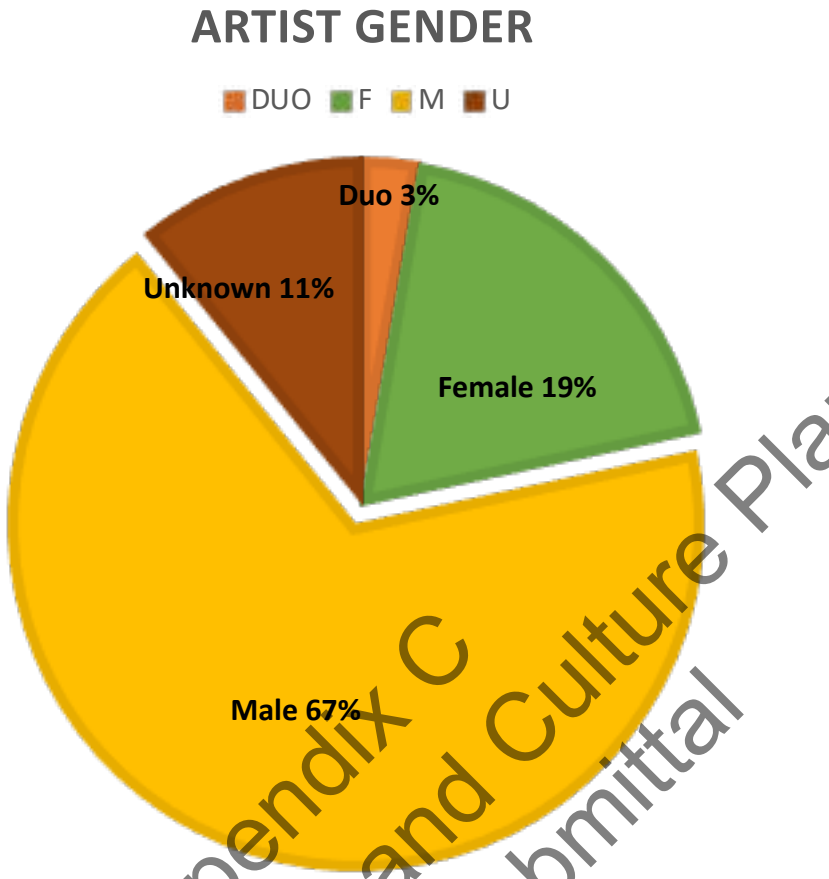


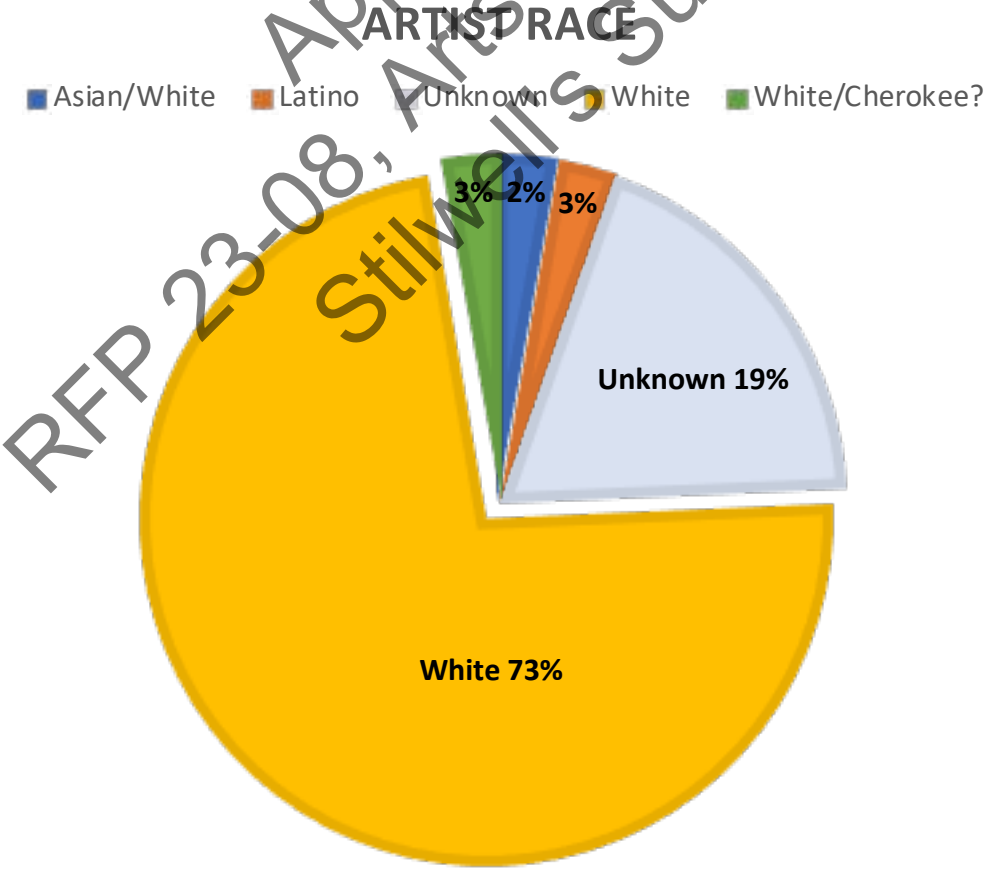
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FIGURAL SUBJECT MATTER: GENDER AND RACE



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Questions and Key Issues

Based upon the audit and assessment of the current collection, it is clear that there are some questions and key issues for the Public Art Commission to plan for in the future.

Public Art Handbook Updates

Revisit goals from Public Art Handbook. Are these still accurate? Are there new goals that are more accurate for the Golden Community of today? A more robust planning effort is recommended to get a better sense of the community's overall opinions about its public art collection and its future development.

Accessibility

Artwork is accessible in downtown and Creekside areas. Other areas are predominantly drive-by and not pedestrian accessible. How can the collection be spread into other communities and areas where people gather or other parts of the City that are being developed?
It is clear that the sculptures in the center of the City are engaging people and causing some social media interest. The Public Art Commission could consider moving around some of the smaller sculptures on occasion to generate new interest.

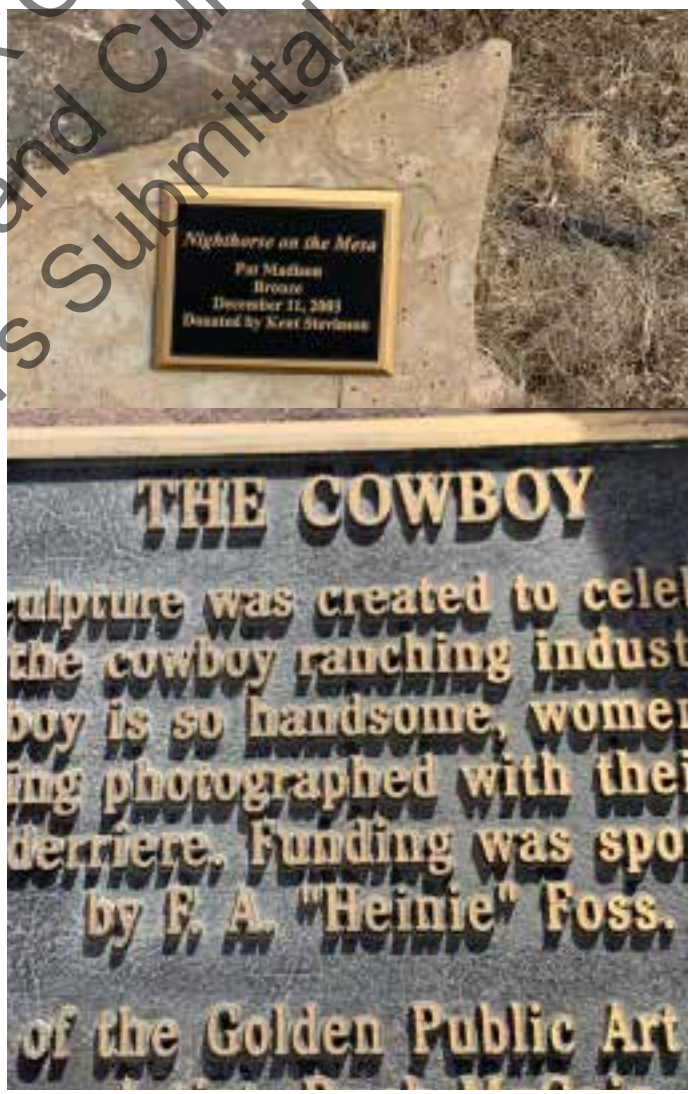
Lighting

A lighting program along the creek would add to accessibility at night and during winter, and make the area feel safer.

Plaques

The Public Art Commission should consider a program to fix several issues:

- Awkward placement: some plaques are places awkwardly, including in areas where you might sit to view the creek or the sculpture.
- Dangerous placement: the plaque at Nighthorse on the Mesa is incorrect and placed in a traffic circle. It should be corrected and moved to a safer place for people to read it.
- Incorrect information: several of the titles do not match the title given by the sculptor, and or have incorrect attribution.
- "Copies" and Attribution: with the artwork that has been identified as mass-produced or "knock-offs," the PAC could consider that the plaque show the title only, or unattributed, or "Artist Unknown." This would help to address possible copyright issues.
- One plaque asking people to touch the derriere of the Cowboy. Is that appropriate in the "Me Too" era?



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Questions and Key Issues (cont.)

Removed Sculptures
A formal deaccession process is needed to permanently remove sculptures from the collection or determine them irreparable.

Wind on the Mesa
The rocks placed on the sculpture are clearly meant to be a water feature. The Public Art Commission should consider removing the rocks, or the sculpture looks incomplete.

Promotional Materials
Tourists do not care who officially owns and maintains the artwork. The PAC should consider Inclusiveness for tourists visiting Downtown and develop guides and a tour to promote the collection as well as other items and areas of interest.

Triceratops Fossil
The Triceratops fossil should not be considered a work of art in the collection. The PAC should consider putting it under the purview of the historical society or School of Mines. However, including it in a tour of artwork is appropriate.

Lion in Lions Park
There is a bronze sculpture in Lions Park that is not included on the current collection list. The PAC should consider "adopting" this work, since it can be considered bronze sculpture and needs care and maintenance in the future.

Short-term and Long-term Acquisition Goals
Unsolicited proposals and donations can be cumbersome to manage. PAC should establish a process and set of criteria for reviewing potential donations or unsolicited proposals. Also establish program-wide goals that guide acquisitions to ensure any accepted donation is suitable and appropriate for the collection as a whole.

Diversity
Until recent murals were commissioned, it is clear that the collection was not particularly diverse, inclusive, nor does it "promote diversity and pluralism." The Public Art Commission must face this fact in future planning for the collection if this is a continued goal for the collection/City.



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APPENDIX B
PUBLIC ART SURVEY

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Golden Public Art Survey

SURVEY RESPONSE REPORT
20 September 2017 - 11 September 2022

PROJECT NAME:
Public Art Framework Plan

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BANG THE TABLE engagementHQ

SURVEY QUESTIONS

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Q1 What are the first three things (words or phrases) that comes to mind when you think of Golden?

kmatthews335 7/06/2022 01:06 PM	community, fun and beautiful
jennmo 7/06/2022 02:03 PM	Nature, community, and activity
CindyJaye 7/06/2022 05:16 PM	Home, an image of downtown Washington Street, outdoors
mwisell 7/07/2022 07:23 AM	Outside Walkable Commuo
Dave Shuey 7/07/2022 12:59 PM	Friendly; unique; authentic.
Eskett 7/07/2022 01:55 PM	Historic, Coors, CSM
krissmurphy 7/07/2022 02:44 PM	Community, Outdoors, Geology
judithgoeke 7/08/2022 06:14 AM	tourist town crowded beautiful setting
tony.shouse 7/08/2022 08:34 AM	friendly active disjointed
JulieBartos 7/08/2022 12:12 PM	beautiful views, coors and western history
Hschovanec 7/08/2022 12:34 PM	Nature, community, walkable
lmwink 7/09/2022 06:52 AM	Foothills Outdoor [wxploring] Quaint downtown
jproff448	tourists small town foothills

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7/11/2022 02:49 PM

mtrout 7/12/2022 06:00 AM	Table Mountains, small town feel, recreation
astangelo 7/12/2022 01:00 PM	Outdoor Access Recreation Opportunities Vibrant Downtown
fangacx 7/12/2022 05:39 PM	Small-town feel Close to the outdoors White
Climberbiker 7/13/2022 01:02 PM	Home nature history
Karen Oxman 7/16/2022 11:38 AM	Clear Creek and trail, Home, viable downtown
jesse.eggers 7/18/2022 11:04 AM	Outdoors, progressive, School of Mines, beer
Sarah 7/18/2022 02:25 PM	CSM, Coors & beer
MRE 7/18/2022 03:13 PM	friendly beauty downtown
donnaschow 7/20/2022 01:06 PM	Home. Growing. At-risk.
imkristie 7/21/2022 07:18 PM	Historic, community, foothills
Jaycee 7/24/2022 08:59 PM	Small town Clear Creek Self-contained
cecragan 7/26/2022 09:48 AM	Community, Creek, Mountains
Tracy A 7/27/2022 05:14 PM	Outdoors, history, fun

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Lilybosworth 7/30/2022 05:58 PM	mountains education community
Cmjdee 8/01/2022 12:44 PM	Over-developed, crowded, historical
mctebo 8/01/2022 01:21 PM	Foothills, small town, biking
HideawayArt 8/01/2022 05:40 PM	Unique, good for families, perfect setting
gmcstravock 8/01/2022 11:00 PM	Cozy, foothills, small town
whiplashsaxifrage 8/02/2022 02:38 PM	Community, environment, culture
Janashford 8/03/2022 08:30 AM	Gathering Happiness Fun
flintr 8/03/2022 09:22 AM	Safe and scenic
deb_in_golden 8/03/2022 09:36 AM	home
msquier 8/03/2022 10:35 AM	Clear Creek, great restaurants/bars, community
Jmtrudell 8/03/2022 12:48 PM	outdoors, hiking, biking
lynnsvoboda 8/03/2022 02:30 PM	community, outdoors, family
hnewell2015 8/03/2022 02:39 PM	Quirky, friendly, beautiful
shumaker 8/03/2022 03:25 PM	Friendly community, Clear Creek/nature, not diverse

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Begonaruiz 8/03/2022 03:28 PM	West, changed, outdoors
Chefinegurl 8/03/2022 03:54 PM	Clear creek Howdy Folks Outdoors
Libby 8/03/2022 04:04 PM	Visually beautiful from most perspectives, like gazing down Washington, 12th, 11th and catching bird's eye views. A place near home for eating out with variety or utilizing basic services. A pretty place to walk, hike, bike, drive or people watch.
Lhunt 8/03/2022 04:12 PM	Small foothill community
elliesv 8/03/2022 04:21 PM	Nature, small town, community
finally 8/03/2022 04:22 PM	Western, rustic, & open space mountains.
kmonaweck 8/03/2022 05:42 PM	Nice, beautiful, sleepy
Donna Mattson 8/03/2022 05:46 PM	Small town, good place to live, good restaurants.
camillejr 8/03/2022 09:59 PM	clear creek, Mines, hills
Andy 8/04/2022 06:3[illegible] AM	Unfortunately, booming crowded city. The place where I grew up. Bad city planning through the years, anything gos type of mentality, as long as you bring our businesses revenue.
faustinecurry 8/08/2022 03:17 PM	Community, Uniqueness, Western
kaxelrod 8/09/2022 09:00 AM	Historic The foothills Clear Creek
Francine	home warm delightful

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8/10/2022 01:12 PM	
Sgarrow 8/10/2022 05:08 PM	Friendly, quiet, rustic
SingingDove 8/10/2022 07:56 PM	*Small-town feel *Beautiful downtown *Full of art
Anonymous 8/11/2022 05:54 PM	Character, history and picturesque.
Anonymous 8/11/2022 07:58 PM	Good place to live, safe, scenic
Anonymous 8/12/2022 07:15 PM	Small, friendly, a little quirky
Anonymous 8/12/2022 07:46 PM	Cute, small town, community
Anonymous 8/12/2022 08:08 PM	Friendly, small town, community
Anonymous 8/13/2022 01:41 AM	creek mines climbing
Anonymous 8/13/2022 07:40 PM	historic, recreation, community
Anonymous 8/14/2022 09:16 AM	Good place to live. Well run city. Great neighbors.
kschwaab87 8/15/2022 11:37 AM	Expensive, beautiful, smaller mountain town
Anonymous 8/15/2022 03:45 PM	Walkable, close to beautiful hiking trails, great location
Anonymous 8/16/2022 10:45 AM	great city, beautiful outdoors, long history

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Anonymous 8/17/2022 12:18 PM	Coors, Tourism, Trails
Anonymous 8/17/2022 01:20 PM	historic character, small-town feel, gateway to the mountains
Anonymous 8/17/2022 02:13 PM	The Welcome to Golden sign on Washington st. Walking along the creek. Where am I gong to park?
Anonymous 8/17/2022 04:30 PM	small town feel, sense of community, history
Anonymous 8/17/2022 04:55 PM	The arch
Anonymous 8/17/2022 09:51 PM	Great police, fire, parks, and public works service Good neighbors Easy shopping
Anonymous 8/18/2022 01:28 PM	Clear creek, small historic mountain community, coors
Anonymous 8/21/2022 08:41 PM	Historic, touristy, hometown
Anonymous 8/22/2022 03:21 PM	friendly, safe and welcoming
Anonymous 8/24/2022 01:07 PM	Parks. Mountains. Outdoors.
Anonymous 8/24/2022 01:28 PM	Beer Gold History
Anonymous 8/24/2022 09:44 PM	Quaint downtown, safe and family oriented
Anonymous 8/25/2022 06:05 PM	What a quaint little town.
Anonymous	Crowded, beautiful, friendly

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8/25/2022 09:21 PM

Anonymous 8/27/2022 09:51 AM	Unique, small, community
Anonymous 8/27/2022 10:19 AM	Clear Creek Small Town Beautiful
Anonymous 8/27/2022 06:10 PM	Butes, Gold & The West.
Anonymous 8/27/2022 06:56 PM	Beer, mountains, golden grass
Anonymous 8/28/2022 12:41 PM	small town home
Anonymous 8/30/2022 01:05 PM	small town, great access to outdoors, significant change
Anonymous 9/01/2022 09:41 AM	Mountains, outdoors activities, community
Anonymous 9/01/2022 11:22 AM	Coors Clear Creek Brown
Matt Murphy 9/01/2022 05:38 PM	Home, love, great
Anonymous 9/04/2022 11:26 AM	Colorado Vibes Mountain Vistas Small Town
Anonymous 9/04/2022 02:31 PM	Community, quaint, historical
Anonymous 9/05/2022 02:27 PM	GREAT, SMALL TOWN, FUN
Anonymous 9/07/2022 02:37 PM	community, collaborative, historic

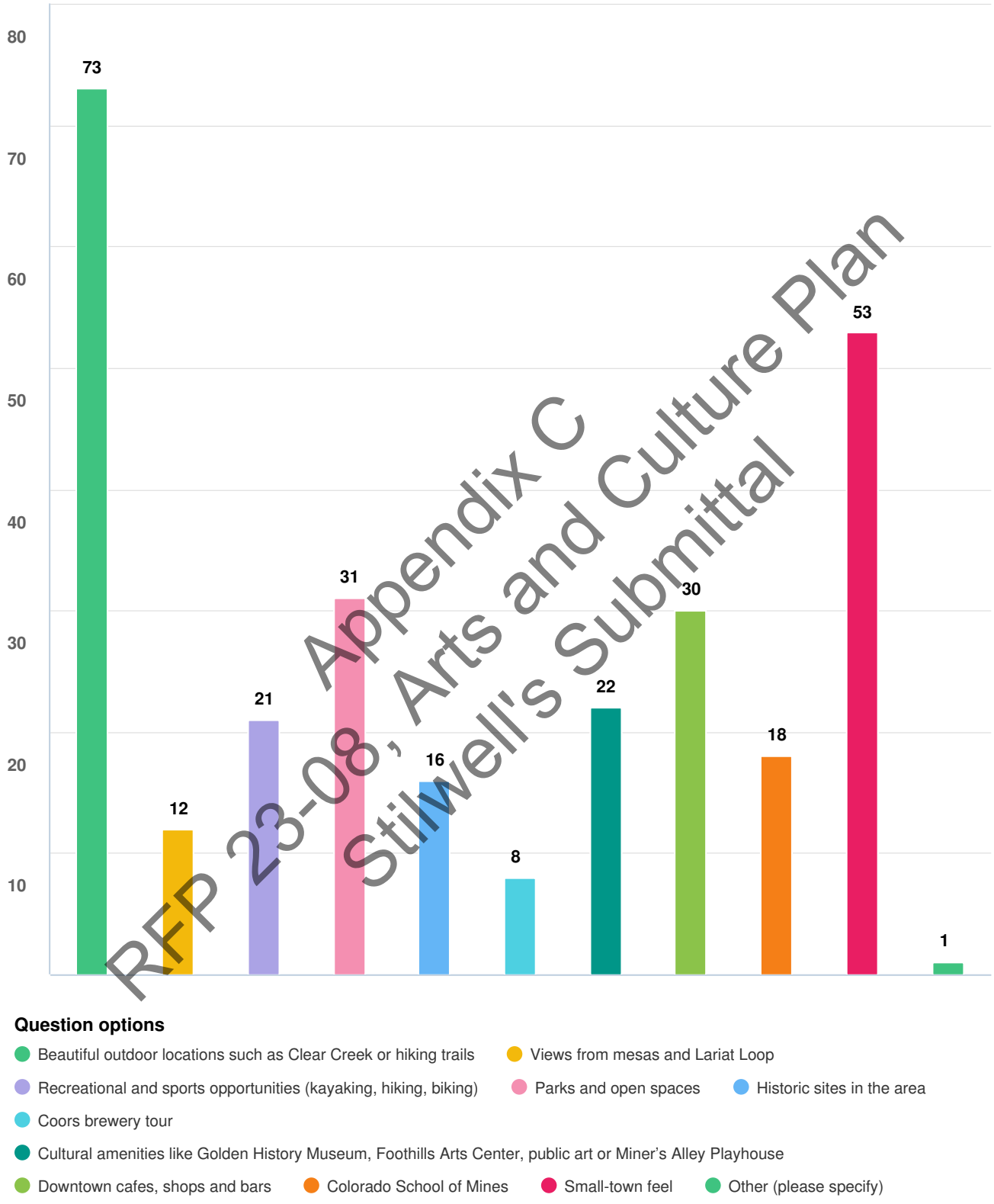
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kjacobs@firstaffirmative.com 9/07/2022 02:53 PM	the mesa, "Howdy Folks", clear creek
Anonymous 9/07/2022 06:24 PM	Coors, CSM, clear creek
Anonymous 9/09/2022 03:13 PM	small town, very clean, outdoor recreation

Mandatory Question (96 response(s))
Question type: Essay Question

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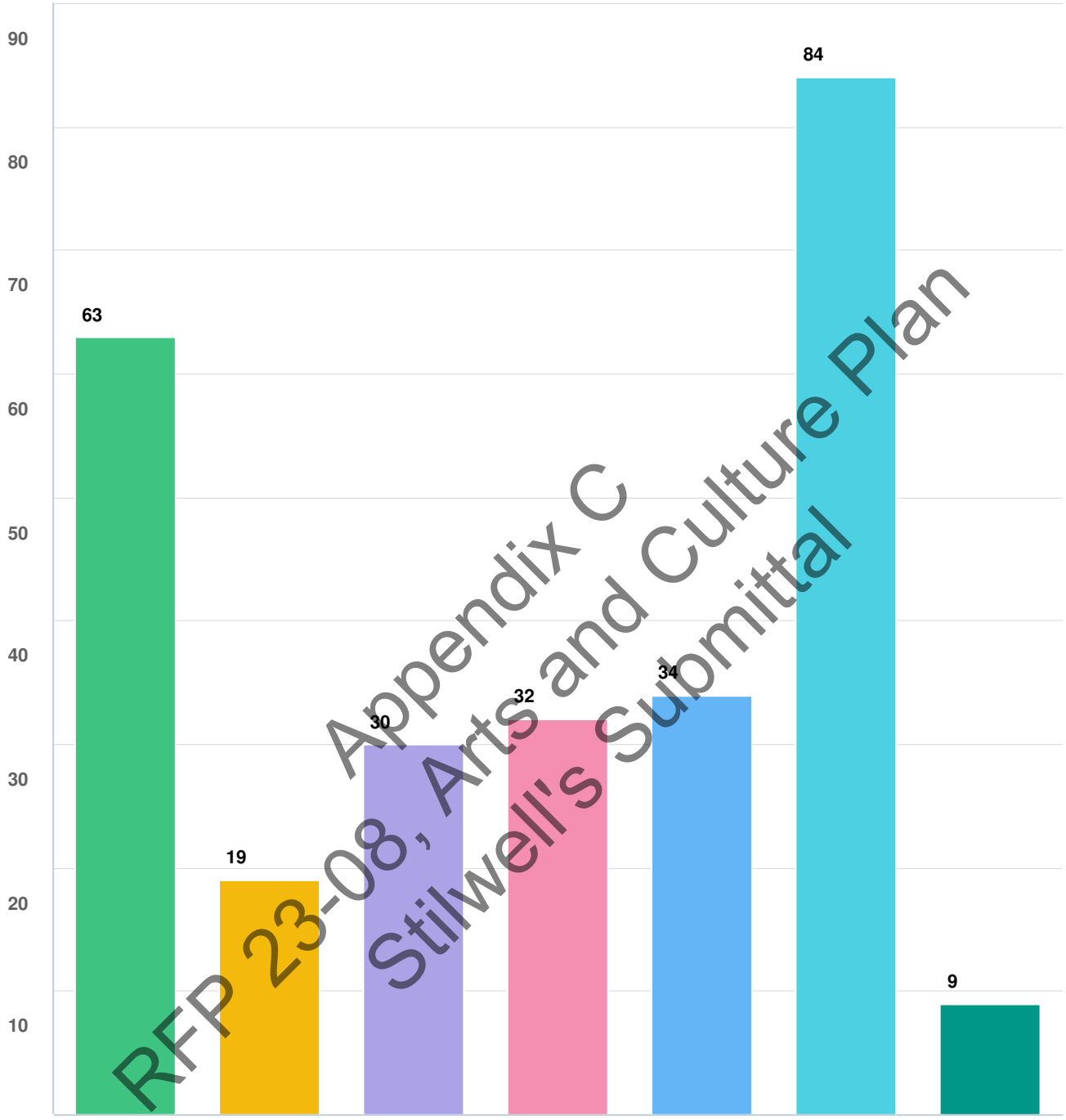
Q2 What are the three most important things that make Golden unique and different from other cities in the region to visit? (Choose 3)



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Mandatory Question (96 response(s))
Question type: Checkbox Question

Q3 When you have visitors, where do you take them/suggest they go?



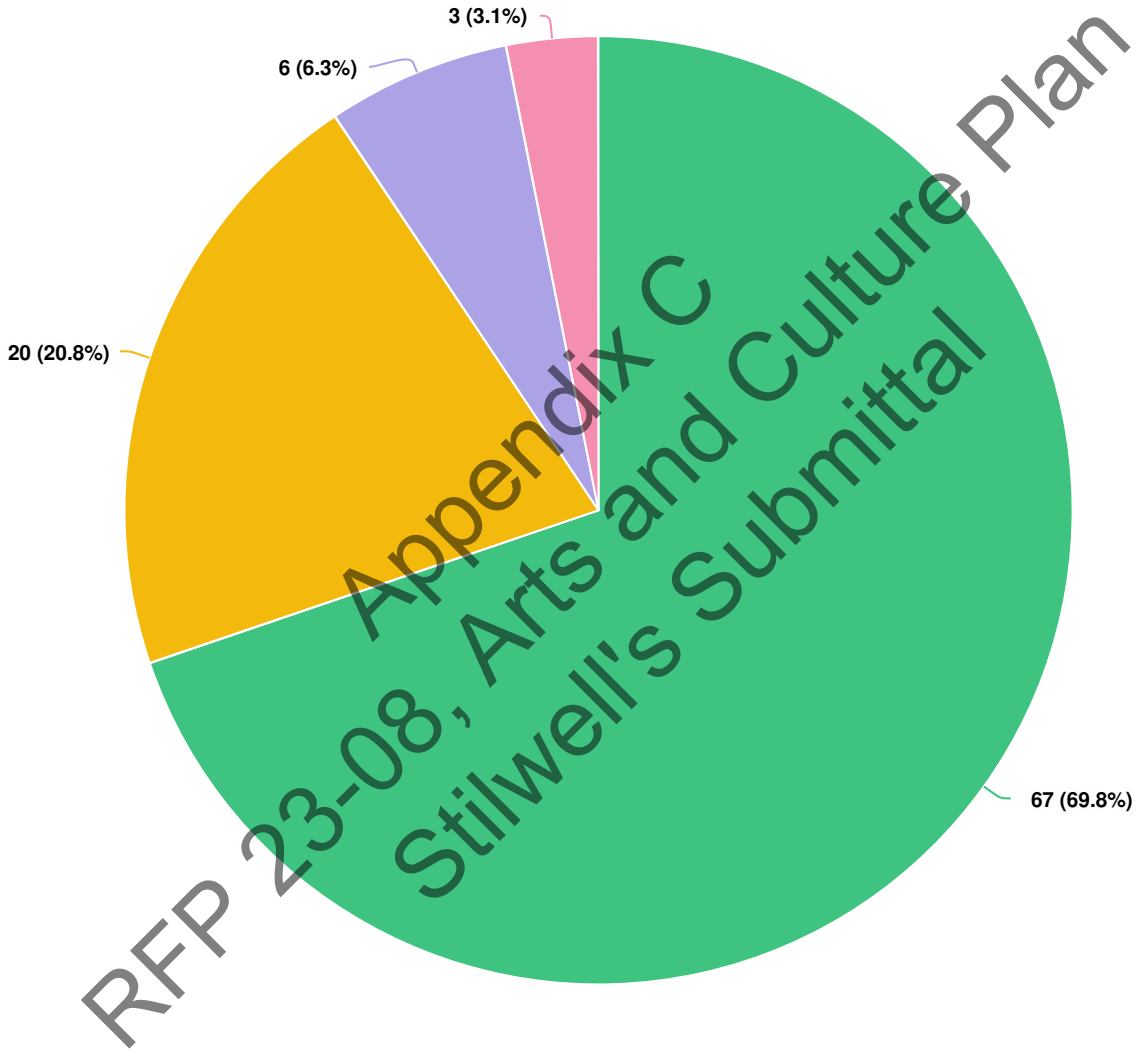
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Question options

- Hiking or biking in the area
- On a tour of the Coors Brewery
- Visit cultural amenities like museums or galleries
- Community festivals and events
- On a sightseeing drive around the area
- Walking/recreating along Clear Creek
- Someplace other than Golden (please specify)

Mandatory Question (96 response(s))
Question type: Checkbox Question

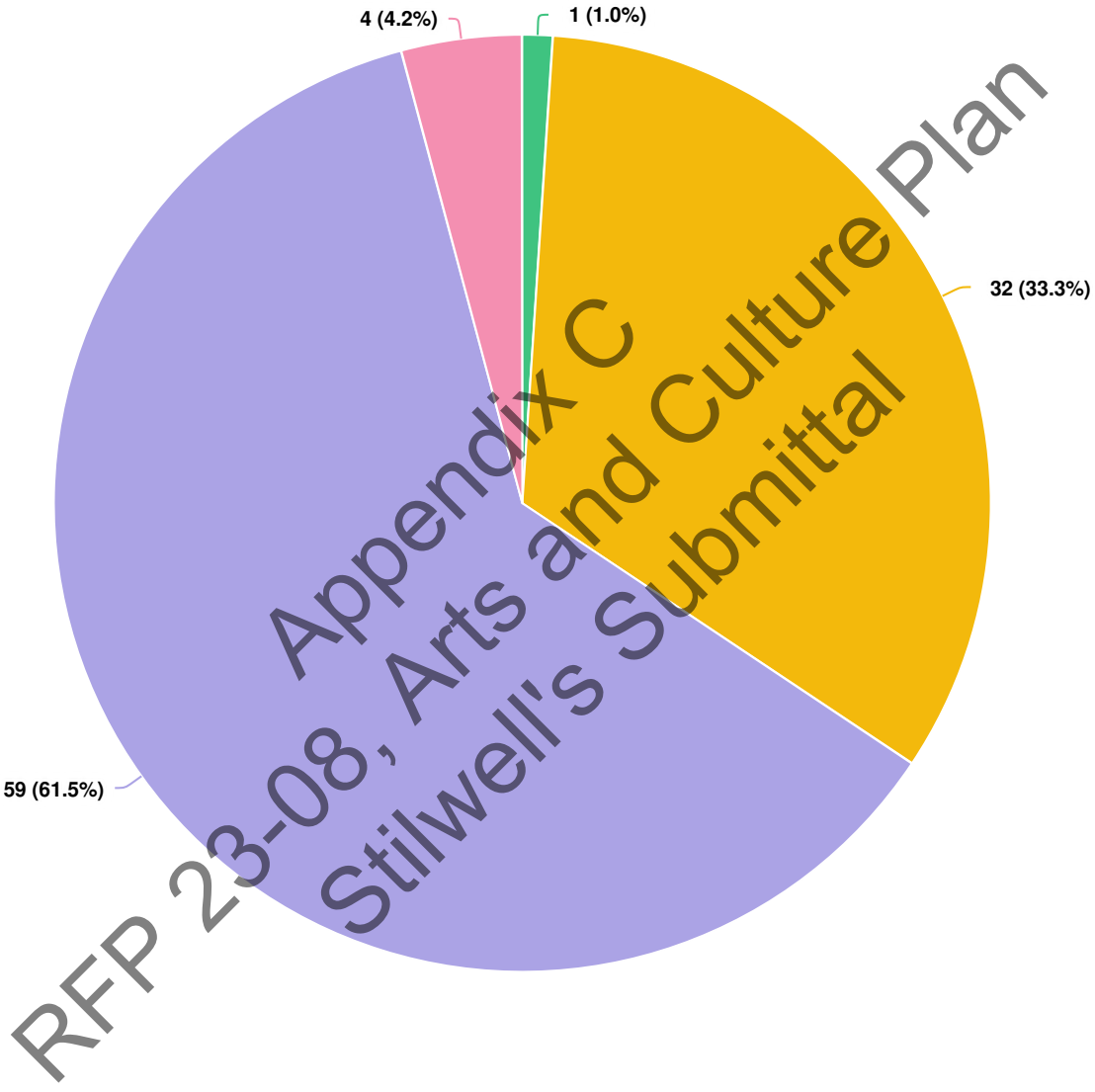
Q4 **Broadly, the arts can be defined as all creative activities including painting, sculpture, performance, music, literature, and dance, etc. Based on this definition, how important is it to you and your family to experience the arts?**



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Mandatory Question (96 response(s))
Question type: Radio Button Question

Q5 **How often do you seek out arts and culture in Golden? For example, attending art events, theater productions or musical performances, or visiting museums, public art, etc.?**



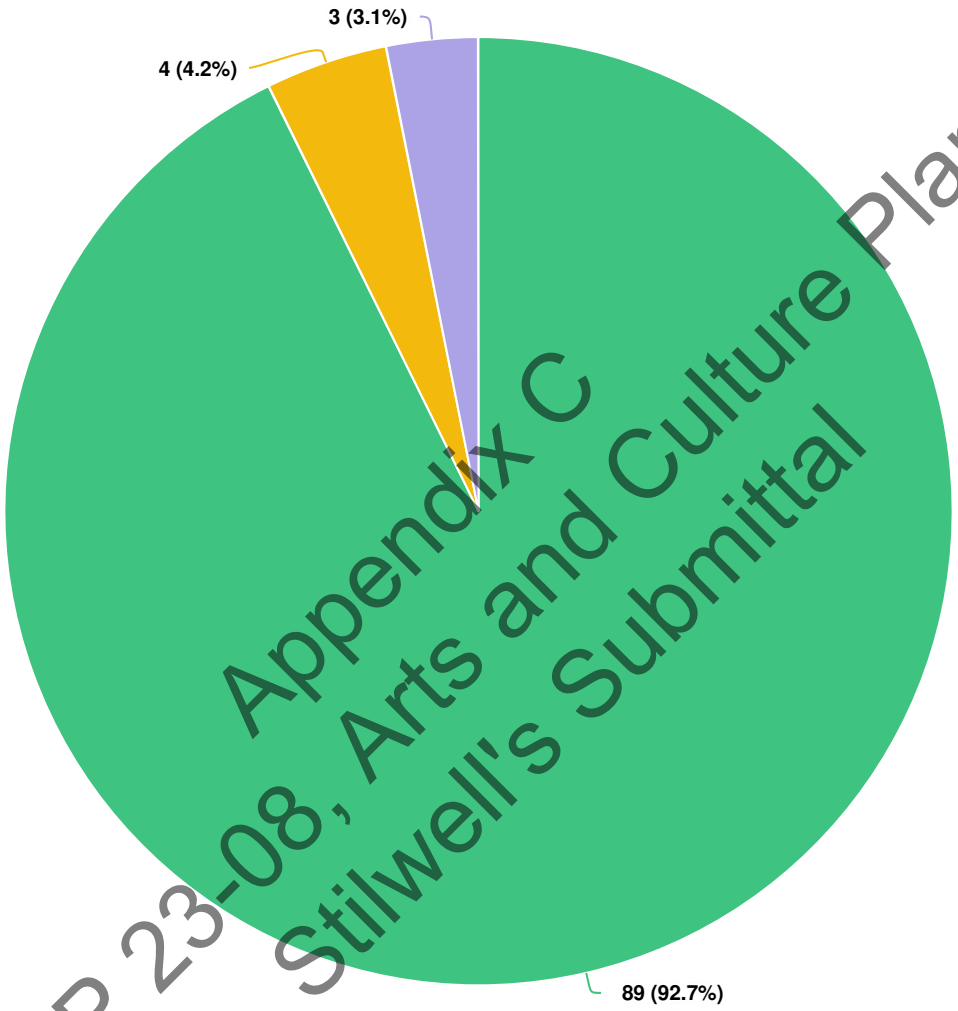
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Question options

Daily Weekly Only occasionally Never

Mandatory Question (96 response(s))
Question type: Radio Button Question

Q6 Do you think public art adds value to your community?



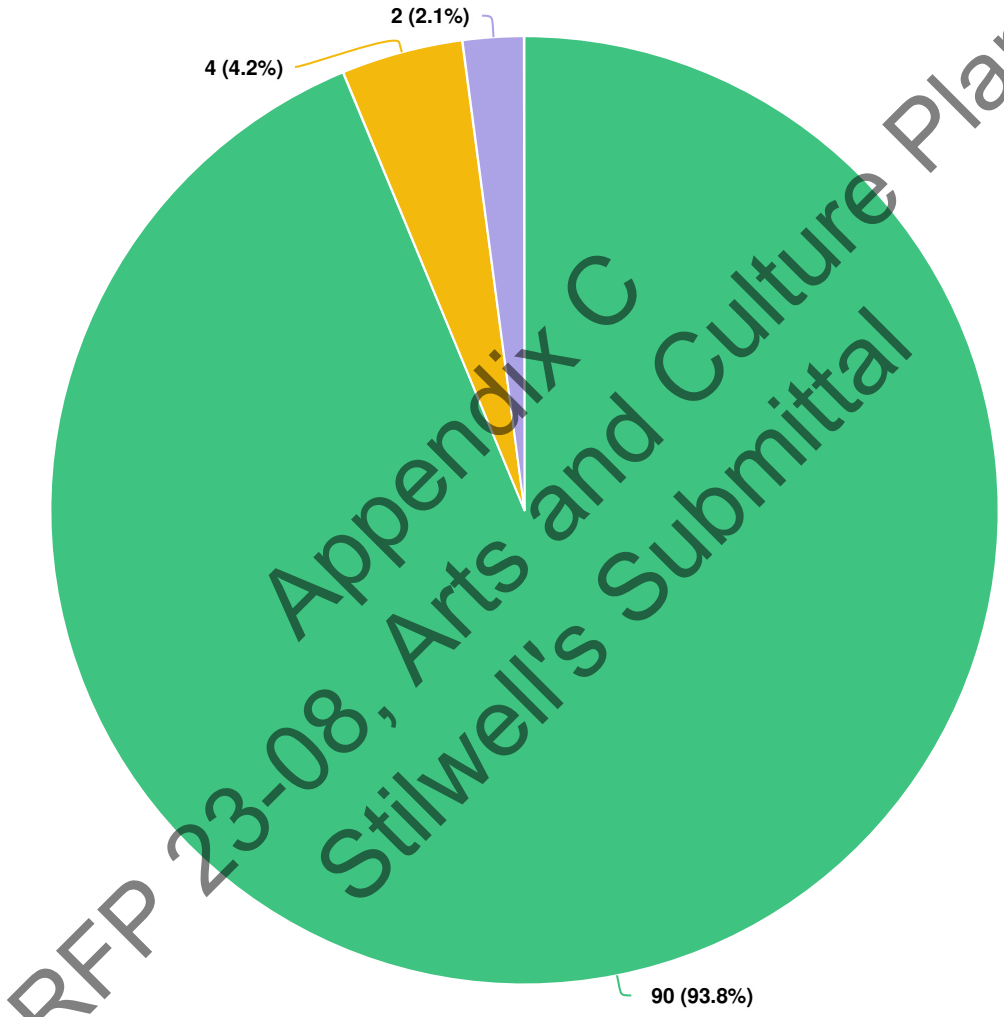
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Question options

Yes No Not Sure

Mandatory Question (96 response(s))
Question type: Radio Button Question

Q7 **Public Art is broadly defined as sculptures, murals and other works of art in the public realm that are free and open to the public. Have you viewed/noticed/enjoyed public art in Golden?**



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Question options

Yes No Unsure

Mandatory Question (96 response(s))
Question type: Radio Button Question

Q8 What public art in Golden have you viewed/noticed/enjoyed?

kmatthews335 7/06/2022 01:06 PM	I always love the statues along Washington Ave. Also, the sculptures along clear creek and the new painted recepticals in downtown.
jennmo 7/06/2022 02:03 PM	On Washington, a lot of brass sculptures that feel historic, but also a number of modern art pieces painted around the heart. On the outskirts of downtown, the hummingbird and the triceratops and child/bird sculptures are also a tie into the art of Golden.
CindyJaye 7/06/2022 05:16 PM	The trout along clear creek, the bike rider on 19th street, the running kids that turn into birds, the fishing cowboy, greetings from Golden mural
mwisell 7/07/2022 07:23 AM	Road sculptures Sidewalk sculptures Murals
Dave Shuey 7/07/2022 12:59 PM	Bronze statues
Eskett 7/07/2022 01:55 PM	Sculptures & murals, Foothills Art Center, RM Quilt Museum
krissmurphy 7/07/2022 02:44 PM	I have viewed all of the public art in Golden. I have enjoyed very little of it. The humming bird on South Golden Rd at Ulysses is nice as are some of the murals.
tony.shouse 7/08/2022 08:3[illegible] AM	washington & 19th mural the hummingbird Washing Ave mural north of Hwy 58 bronze statues EVERYWHERE! Bronze is a ducking of creative duty to the community dressing up the cycling bronze statue by the bike path just above 6th ave Mt Zion the 'M' the 'G' the castle rock the canal trail bike path everywhere
JulieBartos 7/08/2022 12:12 PM	Murals, bronze sculptures and love the itty bitty art!
Hschovanec 7/08/2022 12:34 PM	Sculptures in roundabouts, sculptures along clear creek and main street, murals on previously ugly/bland retaining walls or electrical boxes

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lmwink 7/09/2022 06:52 AM	Murals; painted electrical boxes
jproff448 7/11/2022 02:49 PM	Sculptures around town and in roundabouts
mtrout 7/12/2022 06:00 AM	the fly fishing cowboy, the big hummingbird at the roundabout
astangelo 7/12/2022 01:00 PM	Murals & Statues Music Festivals/Live Music
fangacx 7/12/2022 05:39 PM	The many bronze statues, murals and painted traffic control boxes
Climberbiker 7/13/2022 01:02 PM	Statues, Jesse Crock paintings
Karen Oxman 7/16/2022 11:38 AM	Every statue and mural and ittybittyart in Golden.
jesse.eggers 7/18/2022 11:04 AM	I love the murals and the sculptures around town!
Sarah 7/18/2022 02:25 PM	the bronzes and the murals
MRE 7/18/2022 03:13 PM	sculptures murals paintings
donnaschow 7/20/2022 01:06 PM	Sculpture along Clear Creek. Painted traffic structures. Murals. Gardens.
imkristie 7/21/2022 07:18 PM	Murals, sculptures, Itty Bitty art, the art adjacent to Foothills Art Center, Miners Alley plays, Clear Creek Historic Park, the Golden History Museum, various festivals
Jaycee 7/24/2022 08:59 PM	Statues Murals Little art work around town

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cecragan 7/26/2022 09:48 AM	All of the sculptures around town. More than anything, I really enjoyed the addition of the hummingbird on South Golden.
Tracy A 7/27/2022 05:14 PM	Murals, sculptures
Lilybosworth 7/30/2022 05:58 PM	bronze statues around town (Western scenes & Lookout Mountain Biker) large murals along Washington Street small murals in the Clear Creek Corridor flower mural on 19th Street the hummingbird statue near King Soopers "Golden" mural on Clear Creek
Cmjdee 8/01/2022 12:44 PM	Murals on buildings and utility boxes, sculptures downtown and along Clear Creek
HideawayArt 8/01/2022 05:40 PM	Triceratops family and other sculptures; murals, electrical boxes.
gmcstravock 8/01/2022 11:00 PM	Some of my favorite public art is the elk sculpture on Heritage Rd and the cyclist sculpture heading up Lookout Mountain road. I also like the sculptures down by Clear Creek in town!
whiplashsaxifrage 8/02/2022 02:38 PM	Lately we've enjoyed the Itty Bitty Art project, we seek out new building murals, I always enjoy seeing the hummingbird sculpture on South Golden Road, and outdoor sculptures.
Janashford 8/03/2022 08:30 AM	Love the statues, Miners Alley for shows, beautiful murals, even the electrical boxes that are painted
deb_in_golden 8/03/2022 09:36 AM	I generally find the sculptures in Golden to be a bit "over the top" and not very attractive. I enjoy the murals, but too many more will make the town feel like a bit garish.
msquier 8/03/2022 10:35 AM	Pop up art that are around the city. It's become a game to find them all. We need more.
Jmtrudell 8/03/2022 12:48 PM	The hummingbird statue and other artwork around downtown Golden

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lynnsvoboda 8/03/2022 02:30 PM	The new horse mural downtown. The many bronze sculptures downtown and on the over-designed 93 overpass. The hummingbird on Old Golden Road. The dinosaurs on 93. The art-covered signal boxes. The concrete wall murals on Washington Ave.
hnewell2015 8/03/2022 02:39 PM	The hummingbird by King Soopers, all the statues downtown. Mural at east end of Washington and 19th.
shumaker 8/03/2022 03:25 PM	Hummingbird statue on S Golden Rd; various murals; recent mini-art installations
Begonaruiz 8/03/2022 03:28 PM	The bird in the south golden road roundabout, the new sculptures on highway 93, the mural by the history museum
Chefinegurl 8/03/2022 03:54 PM	Murals. Sculptures. Landscaping. .
Libby 8/03/2022 04:04 PM	The many sculptures; murals & flower beds.
Lhunt 8/03/2022 04:12 PM	Viewed. Big colorful shiny objects that don't belong here. Bright paintings. I don't mind the horse mural.
elliesv 8/03/2022 04:21 PM	The murals on the electrical boxes, the mural on Washington, the sculptures on Washington and along Clear Creek, sculptures in the roundabouts.
finally 8/03/2022 04:22 PM	The various bronze art works. The small art recently. Art in the various traffic circles.
kmonaweck 8/03/2022 05:42 PM	All of it!
Donna Mattson 8/03/2022 05:46 PM	Statues, murals on buildings.
camillejr 8/03/2022 09:59 PM	Mini art installations, murals, sculptures

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faustinecurry 8/08/2022 03:17 PM	Sculptures, murals, museum
kaxelrod 8/09/2022 09:00 AM	Statues near downtown and along Clear Creek, murals in various locations, the art fairs
Francine 8/10/2022 01:12 PM	murals and sculpture
Sgarrow 8/10/2022 05:08 PM	Sculptures in the round abouts, bronze statues, murals
SingingDove 8/10/2022 07:56 PM	All bronze statues and some of the tiny new art (can't wait to find the rest)
Anonymous 8/11/2022 05:54 PM	The statues and mural art including the fish sculptures under the bridge. Also the artwork in the History Museum.
Anonymous 8/11/2022 07:58 PM	the bird by King Super's. It blocks the view of traffic around the traffic circle, making things less safe.
Anonymous 8/12/2022 07:15 PM	Bridge and statues on Washington Welcome to golden arch Sculptures in round snouts on golden road
Anonymous 8/12/2022 07:46 PM	All the sculptures along clear creek and random paintings along the creek. I just with there was more indigenous art!
Anonymous 8/12/2022 08:0[illegible] PM	I love all the itty bitty art things and the hummingbird
Anonymous 8/13/2022 01:41 AM	Dragon sculpture in Parfet park, sculptures on Washington
Anonymous 8/13/2022 07:40 PM	The murals and sculptures! LOVE THEM!
Anonymous 8/14/2022 09:16 AM	The outdoor statues and items along highway 93. Also the mural on Washington Ave.

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kschwaab87 8/15/2022 11:37 AM	I enjoy the sculpture that is one image driving one way and a different image when you drive the other.
Anonymous 8/15/2022 03:45 PM	Hummingbird, Cider 49 Mural, Dinosaur Trail Mural & the wrapped electrical boxes
Anonymous 8/16/2022 10:45 AM	murals and sculptures
Anonymous 8/17/2022 01:20 PM	Sculptures along the creek - we are particularly fond of the trout; hummingbird on south golden road; painted mural art downtown and also at 19th and Washington;
Anonymous 8/17/2022 02:13 PM	The hummingbird at Ulysses & S. Golden Road (I don't like that it was moved. I love the piece, but it can't be viewed/enjoyed in it's present location. Maybe move it to the small park where Ford and Jackson meet?) The new mural on the corner of 19th and Washington - really brightens up the corner (and my day). The Nighthorse/Campbell statue is disappearing in the vegetation at it's present location. Want to see the Picasso mural, but haven't figured out where it is (I'm usually driving). Guess I need to walk around downtown more!
Anonymous 8/17/2022 04:30 PM	sculptures along creek and downtown, weird sculptures on 93
Anonymous 8/17/2022 04:55 PM	Sculptures throughout the city
Anonymous 8/17/2022 09:51 PM	The bronze sculptures everywhere, of course! Jesse Crock's murals.
Anonymous 8/18/2022 01:28 PM	All the murals, bronze sculptures,
Anonymous 8/21/2022 08:41 PM	statues, Itty Bitty Art, murals
Anonymous 8/22/2022 03:21 PM	statues (the Prospector is my favorite), the beautiful painted "banner" mural on the history museum building (old postcard style), of course the Foss building mural, the tiles on the walk by the library

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Anonymous 8/24/2022 01:07 PM	Little paintings
Anonymous 8/24/2022 09:44 PM	Murals, sculptures
Anonymous 8/25/2022 06:05 PM	Pat Madison's Cutthroat
Anonymous 8/25/2022 09:21 PM	All the sculptures, all the he murals all over town, the transformer box covers, the Xmas lights
Anonymous 8/27/2022 09:51 AM	Murals, statues in the park, gardens.
Anonymous 8/27/2022 10:19 AM	All the small art around Golden
Anonymous 8/27/2022 06:10 PM	Murals & Sculptures throughout town.
Anonymous 8/27/2022 06:56 PM	The colorful dinosaur
Anonymous 8/28/2022 12:41 PM	sculptures all over town
Anonymous 8/30/2022 01:05 PM	Having lived here for 30 years I think I've viewed/noticed/seen it all.
Anonymous 9/01/2022 09:41 AM	Murals and the FAC
Anonymous 9/01/2022 11:22 AM	Murals, sculptures along Washington and in parks
Matt Murphy 9/01/2022 05:38 PM	The elk sculpture at Heritage & Kimball, the Hummingbird and Native American sculptures on SGR, the sculptures along Washington Ave., the murals downtown, sculptures along 93 to the north.

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Anonymous 9/04/2022 11:26 AM	Sculptures by Pad Madison
Anonymous 9/04/2022 02:31 PM	Murals, sculptures
Anonymous 9/05/2022 02:27 PM	I LOVE, LOVE, LOVE all the wonderful statues around town. I LOVE the ones you've chosen like at 19th and 6th, all the ones on both sides up and down the creek, and the ones on Washington. SO nice! I like the murals also.
Anonymous 9/07/2022 02:37 PM	sculptures and murals scattered throughout Golden
kjacobs@firstaffirmative.com 9/07/2022 02:53 PM	sculptures on creek and downtown, traffic circles, tiny art project, moaic on creek near library, murals on Washington Ave
Anonymous 9/07/2022 06:24 PM	Street art, murals
Anonymous 9/09/2022 03:13 PM	The itty bitty art show is wonderful!

Mandatory Question (90 response(s))
Question type: Essay Question

Q9 Are there neighborhoods or priority areas in Golden that would benefit from public art? (Describe location or nearest intersection.)

kmatthews335 7/06/2022 01:06 PM	no suggestion
jennmo 7/06/2022 02:03 PM	Hmmm...gathering areas, maybe along south Golden Rd from Golden HS
CindyJaye 7/06/2022 05:16 PM	I don't have any suggestions. Sorry.
mwisell 7/07/2022 07:23 AM	North golden parks

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Dave Shuey 7/07/2022 12:59 PM	No priority areas
Eskett 7/07/2022 01:55 PM	Washington and Hwy 93 north of Hwy 58
krissmurphy 7/07/2022 02:44 PM	We have so many trailheads that invite so many visitors, what a wonderful opportunity to enrich our arts community in an area that has thus far been neglected.
judithgoeke 7/08/2022 06:14 AM	I feel there is already enough public art and would oppose more. The city appears cluttered and some of the murals are beyond busy and distracting.
tony.shouse 7/08/2022 08:34 AM	24th & Illinois - tons of traffic & speeding
JulieBartos 7/08/2022 12:12 PM	A environmental art piece set up at New Loveland Park and framing the spectacular view of Golden to the southwest would be fun!
Hschovanec 7/08/2022 12:34 PM	South Golden between the Mills Mall and Johnson road
lmwink 7/09/2022 06:52 AM	Anywhere “downtown” - including off of Washington. Ford St. Walking path along creek (especially if it extends east). South Golden Rd. area definitely needs help.
jproff448 7/11/2022 02:48 PM	The "neglected" areas of Golden, i.e. South Golden Rd, areas near Colfax/I70 (anywhere along Colfax really)
mtrout 7/12/2022 06:00 AM	we seem to have plenty
astangelo 7/12/2022 01:00 PM	I would like to see more art at parks and open space outside of the downtown core.
fangacx 7/12/2022 05:39 PM	Not sure, imagine S Golden

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Climberbiker 7/13/2022 01:02 PM	South Golden
Karen Oxman 7/16/2022 11:38 AM	Could do more to put art on the ugly green utility boxes around town...esp east of Clear Creek Commons....and others. The ones with art are really nice to view. It would be great to have a performance center (Parks and Rec has the plans!) for Parfet Park, southeast corner, for performances and other art like exhibits, music, theatre, dance.
jesse.eggers 7/18/2022 11:04 AM	I loved the addition of the elk sculpture to the roundabout on Heritage Road! I'd love to see more of this sort of thing - perhaps on Washington or 19th in the areas outside of downtown (where there currently isn't this sort of thing yet)?
Sarah 7/18/2022 02:25 PM	not to my knowledge
MRE 7/18/2022 03:13 PM	Washington & 14th
donnaschow 7/20/2022 01:06 PM	Beyond downtown Golden and Clear Creek.
imkristie 7/21/2022 07:18 PM	The intersection on South Golden Road and East Street (the triangle park), Lion's Park, the numbered streets going east and west from Washington Avenue
Jaycee 7/24/2022 08:59 PM	Nothing comes to mind at the moment
cecragan 7/26/2022 09:48 AM	South Golden is fairly devoid of public art other than the mural on 19th and Washington.
Tracy A 7/27/2022 05:14 PM	more in mesa Meadows and north Golden
Lilybosworth 7/30/2022 05:58 PM	the library and town hall entrances and buildings (may be part of Heart of Golden vision)

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Cmjdee 8/01/2022 12:44 PM	I cannot think of a place.
mctebo 8/01/2022 01:21 PM	I actually think Golden spends too much money on statues. The recent additions on the east side of highway 93, just North of Washington (the cut-out looking figures in orange and blue) are not very attractive, invisible from the walking path, and hard to see from the highway.
HideawayArt 8/01/2022 05:40 PM	South Golden Rd beyond King Soopers
gmcstravock 8/01/2022 11:00 PM	n/a - someone else can answer this better!
whiplashsaxifrage 8/02/2022 02:38 PM	I think some additional art in our parks would be nice. I recently vacationed in Park City Utah and thought their bike path/tunnel murals were VERY cool!
Janashford 8/03/2022 08:30 AM	Get rid of the ugly G on South table mtn.
flintr 8/03/2022 09:22 AM	None
deb_in_golden 8/03/2022 09:36 AM	Not too many more
msquier 8/03/2022 10:35 AM	The round about on South Golden that leads to NREL. Keep expecting a big sculpture.
Jmtrudell 8/03/2022 12:48 PM	I'm not sure I can think of one right now
lynnsvoboda 8/03/2022 02:30 PM	I am uncertain where, but areas that are lacking in public art.
hnewell2015 8/03/2022 02:39 PM	More art in Pleasant view

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shumaker 8/03/2022 03:25 PM	Not sure
Begonaruiz 8/03/2022 03:28 PM	Near official buildings (sheriff, courts), near schools
Chefinegurl 8/03/2022 03:54 PM	South Golden Road near high school
Libby 8/03/2022 04:04 PM	I don’t know of spot.
Lhunt 8/03/2022 04:12 PM	No. The art is in the eye of the beholder. I find beauty in nature. Not shiny metallic objects that do not resonate with me. Put up a tree if you must do something.
elliesv 8/03/2022 04:21 PM	South Golden
finally 8/03/2022 04:22 PM	along Ford, Jackson and by High School
kmonaweck 8/03/2022 05:42 PM	Yes, any unused traffic control box, or area that people's line of sight regularly goes (even in passing).
Donna Mattson 8/03/2022 05:46 PM	19th Street
camillejr 8/03/2022 09:59 PM	Can't think of one
Andy 8/04/2022 06:36 AM	The public art is so grandma around this town I don’t enjoy it. It’s like going to your mothers house and looking at her collection of steel yard art
faustinecurry 8/08/2022 03:17 PM	Neighbors on both sides of Washington Ave north of Hwy 58
kaxelrod 8/09/2022 09:00 AM	I would love to see the tradition of the bronze sculptures continued as part of the Heart of Golden project to expand the green space and

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	park areas. The buffalo is always a big highlight and an attraction to kids. Sculptures in the parks that are interactive are appreciated by many.
Francine 8/10/2022 01:12 PM	parks
Sgarrow 8/10/2022 05:08 PM	Clear creek path downtown
SingingDove 8/10/2022 07:56 PM	can't think of any
Anonymous 8/11/2022 05:54 PM	The downtown areas seems obvious and it should be.
Anonymous 8/11/2022 07:58 PM	Public art is a waste of taxpayers money
Anonymous 8/12/2022 07:15 PM	Unsure
Anonymous 8/12/2022 07:46 PM	Not sure!
Anonymous 8/12/2022 08:08 PM	Lions park
Anonymous 8/13/2022 01:41 AM	fine with how it is
Anonymous 8/13/2022 07:40 PM	YES!!! The Coors Brewery itself - no offense, but it's pretty ugly and intimidating. I think they could create a really amazing and mutually beneficial relationship with the community by commissioning works and creating scholarships and grant programs.
Anonymous 8/14/2022 09:16 AM	Any place art can be placed will benefit from it. I would especially like to see a mural on the retaining walls along Goldco Circle that face Ford Street.

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kschwaab87 8/15/2022 11:37 AM	I think it should be all over downtown, then sporadically outside of downtown.
Anonymous 8/15/2022 03:45 PM	Maybe along the trail from Mines baseball stadium up to Jeffco building.
Anonymous 8/16/2022 10:45 AM	Colfax Ave
Anonymous 8/17/2022 12:18 PM	Downtown, along Clear Creek, maybe a new sculpture park.
Anonymous 8/17/2022 01:20 PM	not sure
Anonymous 8/17/2022 02:13 PM	Less traditional locations which might catch someone's attention - like the mural at 19h & Washington or the painted tiles in the Clear Creek sidewalk.
Anonymous 8/17/2022 04:30 PM	along the peak to Plains trail just past 6th avenue
Anonymous 8/17/2022 04:55 PM	.
Anonymous 8/17/2022 09:51 PM	along Johnson Road -
Anonymous 8/18/2022 01:28 PM	By coors/ golden mill where parking is being expanded.
Anonymous 8/21/2022 08:41 PM	Downtown and along the creek has the most visible space for public art, so that's probably most important. Also, anytime an area can be enhanced by public art is important -- such as the aspen trees with hidden words that were painted along Washington St across from the rental units.
Anonymous 8/22/2022 03:21 PM	any corner of 10th & Ford (Burgess park)

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Anonymous 8/24/2022 01:07 PM	Downtown. Along trails.
Anonymous 8/24/2022 01:28 PM	Washington Ave, parks
Anonymous 8/24/2022 09:44 PM	Parks
Anonymous 8/25/2022 06:05 PM	Golden Gate Canyon
Anonymous 8/25/2022 09:21 PM	NoGo = North Golden, North of HWY 58 on and around Washington AVE
Anonymous 8/27/2022 09:51 AM	South golden, pleasant view.
Anonymous 8/27/2022 10:19 AM	NA
Anonymous 8/27/2022 06:10 PM	continue to weave more through the downtown area where the action is.
Anonymous 8/27/2022 06:56 PM	Sure
Anonymous 8/28/2022 12:41 PM	10th street area east of ford
Anonymous 8/30/2022 01:05 PM	The often overlooked, South Golden Rd corridor (with the exception of roundabouts)
Anonymous 9/01/2022 09:41 AM	Library
Anonymous 9/01/2022 11:22 AM	The side of Coors on 58th so it's not just a giant gray concrete structure greeting visitors.

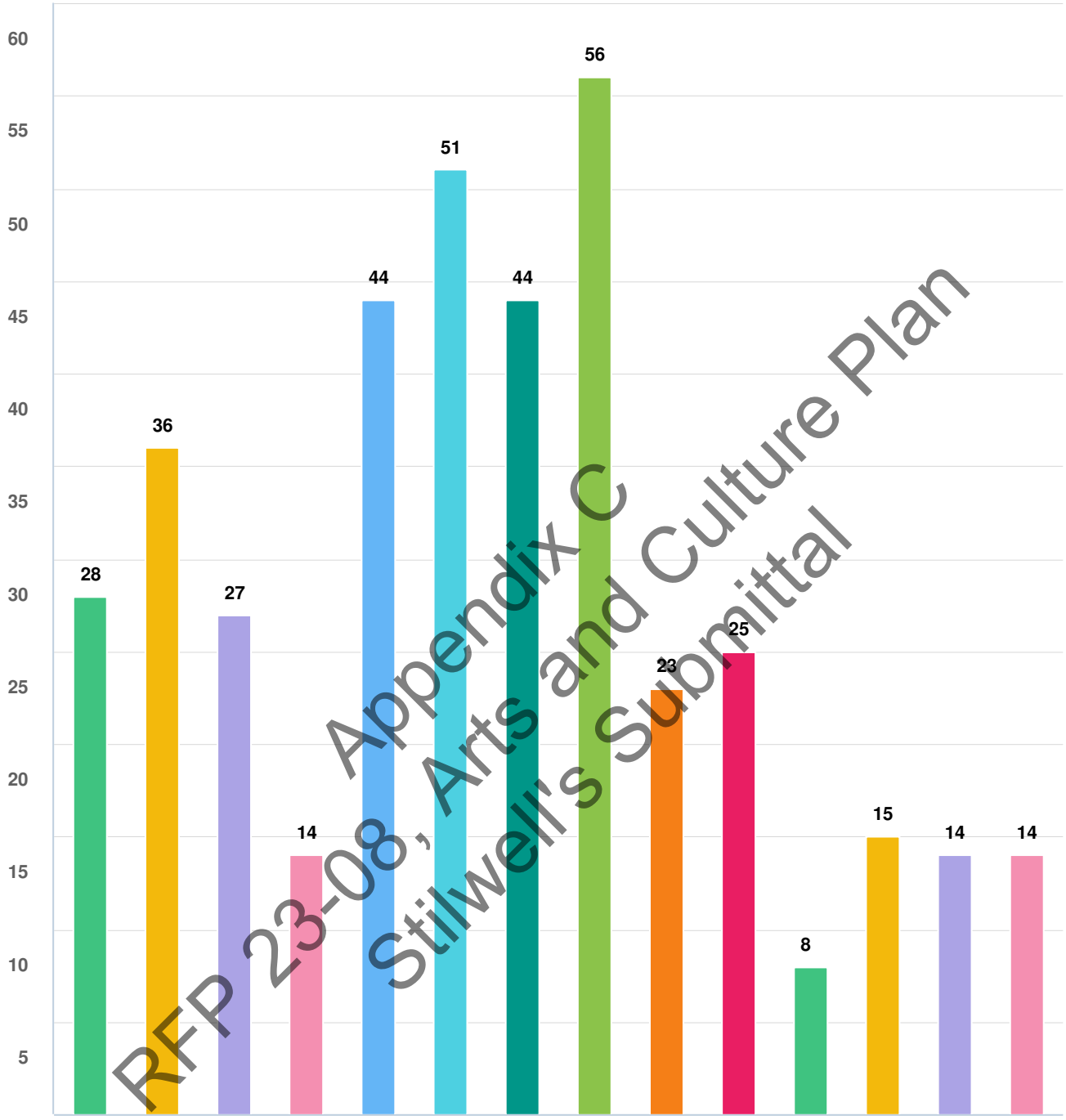
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Matt Murphy 9/01/2022 05:38 PM	In public parks throughout town- lots of public space within neighborhoods that would benefit from sculpture (interactive?) or murals (if there are opportunities as such).
Anonymous 9/04/2022 11:26 AM	Golden Gate Canyon
Anonymous 9/04/2022 02:31 PM	South Golden
Anonymous 9/05/2022 02:27 PM	Not that I can think of
Anonymous 9/07/2022 02:37 PM	Looking forward to Coors Redevelopment and hoping more art is incorporated there. Also more art in old Coors headquarters area.
kjacobs@firstaffirmative.com 9/07/2022 02:53 PM	NA
Anonymous 9/07/2022 06:24 PM	Downtown
Anonymous 9/09/2022 03:13 PM	N/A

Mandatory Question (96 response(s))
Question type: Essay Question

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Q10 What types of art would you like to see more of in Golden?



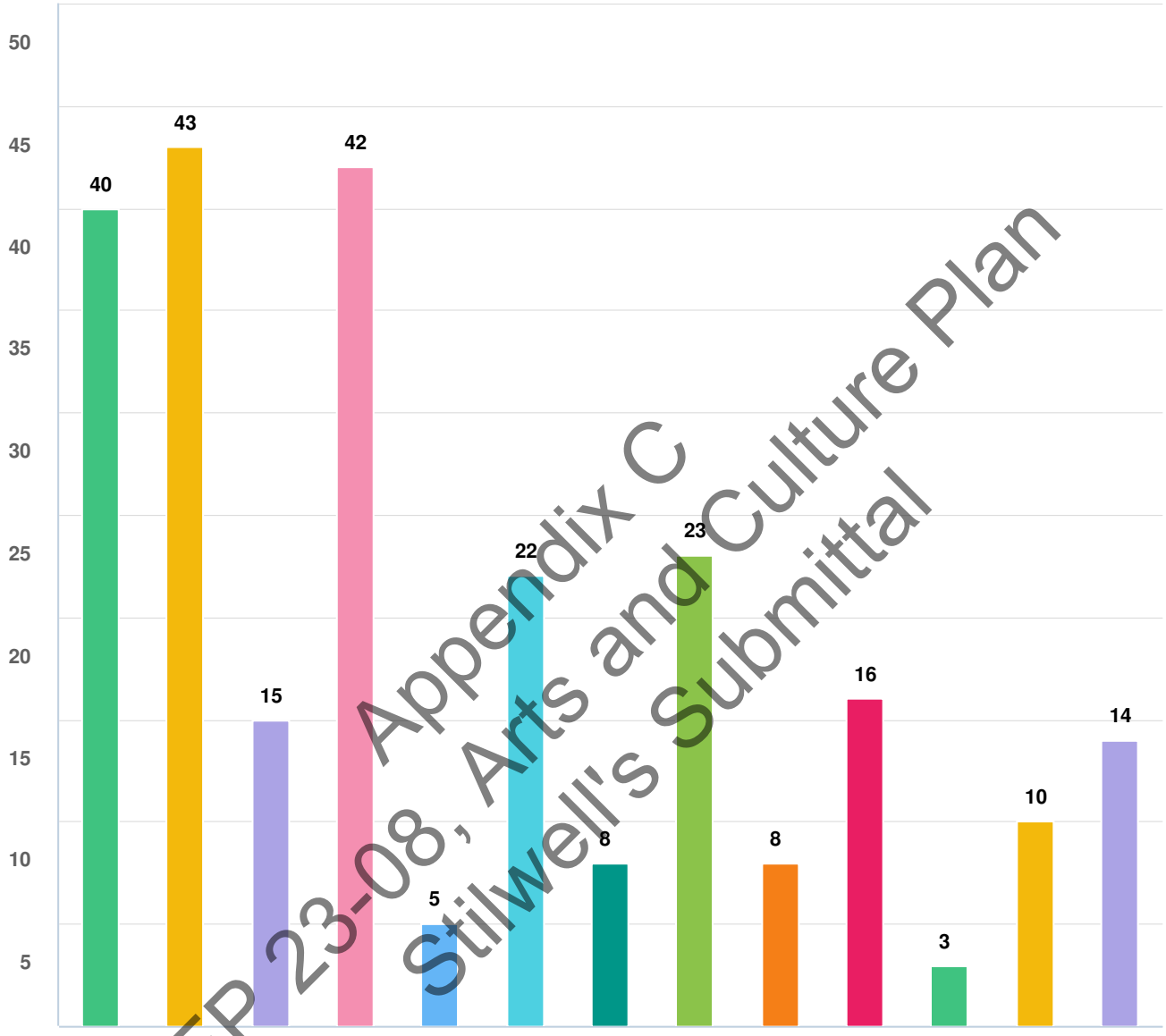
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Question options

Traditional sculpture | Contemporary sculpture | Painting | Photography | Kinetic-interactive artwork | Murals | Earthworks/environmental art | Functional art (benches, bike racks, etc.) | Temporary art exhibitions | Light-based art | Sound-based art | Memorials and fountains | Performance-based | Other (please specify)

Mandatory Question (96 response(s))
Question type: Checkbox Question

Q11 **Currently, Golden has a Public Art Commission (PAC) appointed by City Council that is charged with selecting and maintaining the artwork for the City. If you could make a suggestion to the PAC for three things you hope they might focus on in the ne...**



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Question options

- Add art to more locations throughout Golden (inside City buildings, parks outside downtown, etc.)
- Add more varieties of artwork (kinetic, murals, abstract, etc.)
- Create a temporary (a/k/a "Art on the Streets") art program
- Continue the mural program
- Create a permanent sculpture park somewhere in the City
- Promote more art-related programs and events around the City
- Create more digital resources related to the Arts in Golden (maps, downloadable tours, etc.)
- Find ways to engage and educate kids through art
- Host guided art & culture tours
- Pursue certification of Downtown as an "Art District" in Colorado
- Find ways to engage and educate kids through art
- Keep it exactly the way it is (no need to change anything)
- Other (please specify)

Mandatory Question (96 response(s))
Question type: Checkbox Question

Q12 What other thoughts do you have about public art in Golden?

kmatthews335 7/06/2022 01:06 PM	I really like the murals on the buildings, especially the current ones. I am not a fan of the "oldies" are such as on Faith Tatoo. I don't see the point in going backwards when no one remembers this place - current artwork is more inviting. I do love alot of the murals I wish the one on CO Cidery did not look so tropical and more mtns like - as Golden is just that. But great job and I appreciate the efforts and it adds to the beauty of downtown.
jennmo 7/06/2022 02:03 PM	Variety is best, less of the old brass sculptures. More modern art.
CindyJaye 7/06/2022 05:16 PM	I love Golden and I love the public art collection. Thanks for keeping art a part of the community. Anything you can do to continue to inspire us is appreciated.
mwisell 7/07/2022 07:23 AM	If you decide to go with a sculpture park please include Gardens and walkways. The Arvada Center's just looks like they threw pieces out in a junk field.
Dave Shuey 7/07/2022 12:59 PM	Public Art Commission is being used as a pawn and slush fund for Foothills Art Center.
Eskett 7/07/2022 01:55 PM	1) More is not necessarily better. 2) Non-objective (abstract or conceptual) art is often more thought-provoking and engaging than objective art (portraying a recognizable object). However, integrating abstract or conceptual works into a historic environment is tricky and sensibilities could be offended by such juxtaposition. It is suggested to introduce some contemporary/abstract/concept works into new building environments or park settings outside of the core downtown or historic areas.
krissmurphy 7/07/2022 02:44 PM	I find the narrow viewpoint of the excessive number of bronze sculptures throughout downtown extremely disappointing. It's 2022, why is the majority of the art reminiscent of 300+ years ago? Even art from 1922 would be more engaging and more aligned with our contemporary world. Art doesn't have to be literal or blatantly representational to be embraced by the community. While art appreciation is very subjective and I do not expect to love every piece in any collection, my personal preferences don't impact the

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	offensiveness of depictions of Native Americans executed by whites. I appreciate your efforts to engage the community with this survey, but if you have genuine interest in hearing an array of perspectives you could start by holding your monthly meeting at a more accessible time.
judithgoeke 7/08/2022 06:14 AM	Currently, public art lacks a cohesive plan. Many of the sculptures that were donated in the past and placed along Clear Creek are more akin to playground structures to climb on than art. Grounds for Sculpture, https://www.groundsforsculpture.org is a good example of true outdoor art. I feel Golden looks cluttered and un-serious when it comes to art, especially sculpture. Our natural surroundings are beautiful on their own, without embellishment.
tony.shouse 7/08/2022 08:34 AM	- remove the bronze that doesn't reflect the values and history of Golden (e.g. Patriot on clear creek bike path) - add color (love the murals and hummingbird as they express creativity not manufacturing bronze crap a.k.a. CART (short for crap art) - integrate arts and public safety (creative crosswalks, painted paths for the growing ebike boom,
JulieBartos 7/08/2022 12:12 PM	Thank you for soliciting community feedback!
Hschovanec 7/08/2022 12:34 PM	While murals and sculptures are wonderful, I think it is more important that there are regular events for local artists to teach the community about art and sell their art. This program should promote as many local artists as possible.
lmwink 7/09/2022 06:52 AM	No more animals, cowboys, or trite/stereotype “western” sculpture. :-)
jproff448 7/11/2022 02:49 PM	I do like seeing the sculptures around town, but I personally prefer things that are more colorful like murals and paintings
mtrout 7/12/2022 06:00 AM	limit art on crowded sidewalks
astangelo 7/12/2022 01:00 PM	Less bronze statues. More serendipitous installations like itty bitty art. More kinetic, murals, abstract, earthworks/environmental and light-based art. More installations outside of the immediate downtown area. More temporary art installations/events (ex.

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	https://waterloogreenway.org/creek-show/?tab=past-shows)
fangacx 7/12/2022 05:39 PM	More art that reflects a more complex view of the historic “western” town image that is more diverse (women, native Americans, African Americans, Hispanic Americans) etc and a look toward the future too
Climberbiker 7/13/2022 01:02 PM	Doing great, keep it up.
Karen Oxman 7/16/2022 11:38 AM	Please keep the art that is permanent in line with Golden's history. If there is an area for kinetic art, have it all in one area, accessible and visible.
jesse.eggers 7/18/2022 11:04 AM	Public art is a wonderful addition to the culture of the community - please keep it coming!
Sarah 7/18/2022 02:25 PM	We have a very nice program. I would like to see the CSM and Coors art incorporated into the city's marketing materials.
MRE 7/18/2022 03:13 PM	Golden greatly benefits from public art.
donnaschow 7/20/2022 01:06 PM	Please expand art projects to the entire city, not only downtown. Allow access to previews before selection and installation.
imkristie 7/21/2022 07:18 PM	I love the public art that’s currently in Golden and hope you see more!
Jaycee 7/24/2022 08:59 PM	I see people taking photos next to sculptures on town a lot.
cecragan 7/26/2022 09:48 AM	Would love to see some diversity by moving the bronze statues to other locations, and replacing with more variety. Would like to see women memorialized equally as men are.
Tracy A 7/27/2022 05:14 PM	na

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Lilybosworth 7/30/2022 05:58 PM	I'm grateful we have it!
Cmjdee 8/01/2022 12:44 PM	I would hope accepted works are not too abstract. Art should enhance the historical and western significance of the city.
mctebo 8/01/2022 01:21 PM	None.
HideawayArt 8/01/2022 05:40 PM	Golden is on a good track for enhancing the art scene. As an artist it is very welcoming. I hope the focus for future public art will show preference to Golden artists first. Foothills has done a great job of that...I just want it to continue.
gmcstravock 8/01/2022 11:00 PM	The art is something that really stands out and makes Golden feel special. I think it'll continue to be something that draws others into our town to visit and to stay!
whiplashsaxifrage 8/02/2022 02:38 PM	I would love more opportunities for music and performing arts to be public events in Golden (for example, an amphitheater where the Jefferson Symphony could perform for free. Basically, a small town version of the free Leavitt Amphitheater concerts in Denver or the free concerts on "the Lawn" in Buena Vista.)
Janashford 8/03/2022 08:30 AM	We have a lot of permanent art, it would be nice to feature local artists somehow on a rotating basis.
flintr 8/03/2022 09:22 AM	Is this really a government function?
deb_in_golden 8/03/2022 09:36 AM	Too much more public art will be garish. Has the commission thought about landscaping as a form of art? That lends itself better to the natural beauty and can be very creative.
msquier 8/03/2022 10:35 AM	An outreach to Golden High School or graduates to encourage/support local artists. Please offer a free booth to their arts programs for the different art festivals.
Jmtrudell 8/03/2022 12:48 PM	I love art, anything we can add would be a bonus

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lynnsvoboda 8/03/2022 02:30 PM	Golden has done a terrific job with public art.
hnewell2015 8/03/2022 02:39 PM	I love Golden for how artistic * quirky it is. There's no place like home.
shumaker 8/03/2022 03:25 PM	I would love to see more diversity of styles and perspectives in our public art; the multitude of bronze statues are homogeneous and dated, and contribute to a narrative of Golden as a city that values a rose-tinted and white-centric view of history and the "old west."
Begonaruiz 8/03/2022 03:28 PM	There is a significant number of bronze sculptures, maybe adding some variety would be nice
Chefinegurl 8/03/2022 03:54 PM	Make sure the sculptures don't create visual blocks or obstacles for traffic. There should not be obstructing art in the center of traffic circles/roataries/roundabouts.
Libby 8/03/2022 04:04 PM	Implementation to walkway projects.
Lhunt 8/03/2022 04:12 PM	Please keep it natural If you must add more stuff.
elliesv 8/03/2022 04:21 PM	NA
finally 8/03/2022 04:22 PM	Keep public art western rustic based/looking not like the running/moving silver and orange stuff on east side of 93 on way out of town. The bronze works mainly in downtown and on 19th street overpass are awesome and get fantastic responses from people. Triceratops trail's little building as recently painted looks just plain awful gaudy.
kmonaweck 8/03/2022 05:42 PM	Subtly is important, take the little dinosaur on the SE corner of 11th and Washington (at the bottom of the handicap ramp) for example.
Donna Mattson 8/03/2022 05:46 PM	I enjoy all the forms of art that are currently in Golden.

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camillejr
8/03/2022 09:59 PM

Continue to update the public art guide annually

Andy
8/04/2022 06:36 AM

If I were you, I would take a look at what the school of mines has done with there sculptures. They bought real art in most cases. Stop decorating and make purchases of quality real art from real artists. Make a curated collection. As a trained artist, I look at your past purchases and it's kinda of a joke in the art community, sorry.

faustinecurry
8/08/2022 03:17 PM

Golden has done a wonderful job building its public art portfolio, but there is more can be done and more people that can be inspired. Please keep thinking and moving forward!

kaxelrod
8/09/2022 09:00 AM

I appreciate the historic figures represented through sculpture around Golden, however I would like to see a more inclusive representation of historic figures such as female founders or trailblazers. I would also like to thank the PAC for all that they do to contribute to our wonderful and unique town through art in Golden!

Francine
8/10/2022 01:12 PM

Don't be afraid to try new things.

Sgarrow
8/10/2022 05:08 PM

I love noticing new art around town. Especially the new small murals

SingingDove
8/10/2022 07:56 PM

The first thing we noticed when we moved here in 2009 were the bronze statues. We feel in love with "Bucky" and were upset when he was moved for the cyclist for a spell of time. We were pleased when Bucky returned and then after the bridge was built they moved the cyclist to the base of our neighborhood. I love how one our neighbors respectfully and creatively decorates the cyclist for the holidays. Thank you for allowing them to do this as it brings me, and others, much joy.

Anonymous
8/11/2022 05:54 PM

I've heard of a group is seeking to add statues of Golden women. I agree. There are none. Please support this endeavor.

Anonymous
8/11/2022 07:58 PM

Golden should have better places to spend money. Replace the dying trees in the city is one area. Mow the tall weeds in the public areas some is another area.

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Anonymous 8/12/2022 07:15 PM	None
Anonymous 8/12/2022 07:46 PM	Golden would really benefit from more indigenous perspectives on art and environmental art
Anonymous 8/12/2022 08:08 PM	No more bronze representational statues!!!
Anonymous 8/13/2022 01:41 AM	I wouldn't want anything that would detract from clear creek's accessibility/usability
Anonymous 8/13/2022 07:40 PM	I would still also love to see guided art and culture tours and promoting more digital resources! Also I'd love to get involved if there is a need! mcsherryme@gmail.com! Thank you!
Anonymous 8/14/2022 09:16 AM	I love what the PAC is doing. Keep it up. I think you are very innovative and will continue doing great things regarding art..
kschwaab87 8/15/2022 11:37 AM	I would love to see way more murals and art around Golden
Anonymous 8/15/2022 03:45 PM	Visiting other towns in Colorado, they seem to have more contemporary sculptures in cities such as Grand Junction, Leadville, & Longmont (obviously). Would love to see variety.
Anonymous 8/16/2022 10:45 AM	art in parks and public buildings would be a great addition; support for local artists and artisans as well
Anonymous 8/17/2022 12:18 PM	n/a
Anonymous 8/17/2022 01:20 PM	not sure
Anonymous 8/17/2022 02:13 PM	Murals need to go on a wall that is easily visible from a number of viewpoints. Statues should be accessible to walking around them. It's hard to appreciate them when you're trying to drive. Traffic circles are

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	particularly inaccessible. I'm not thinking about a "sculpture park" , but individual locations which are walkable and have nearby parking if someone wants to get a better look.
Anonymous 8/17/2022 04:30 PM	The sculptures that were moved on 93 that are supposed to be different from different angles are very hard to see and comprehend when driving by.
Anonymous 8/17/2022 04:55 PM	The sculpture on Highway 93 near Washington is fascinating, but I've never been able to really see it driving past. Something this complex should be in a place where it can be viewed more carefully.
Anonymous 8/17/2022 09:51 PM	Thank you.
Anonymous 8/18/2022 01:28 PM	I would love to find out how to help out with this committee as a designer and artist who has a passion for public art and engaging the community through art. Victoria- Vldesign36@yahoo.com
Anonymous 8/21/2022 08:41 PM	The sculptures that we currently have seem outdated. There's not very many women or people of color represented. It seems like it's mostly white men and wildlife.
Anonymous 8/22/2022 03:21 PM	I like to see art that reflects the geographical location and its history
Anonymous 8/24/2022 01:07 PM	NA
Anonymous 8/24/2022 01:28 PM	There are way too many “bronze” realistic-but-smaller sculptures.
Anonymous 8/24/2022 09:44 PM	Adds interest and enjoyment to Golden
Anonymous 8/25/2022 06:05 PM	Golden needs to learn from examples of other towns. Art can make a town unique and lasting memories for tourist.
Anonymous 8/25/2022 09:21 PM	Public art is and has been a fabulous addition to the community. It makes golden interesting, educational, and unique. The more the

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	better!! More contemporary additions, and less traditional murals and sculptures, would be welcome.
Anonymous 8/27/2022 09:51 AM	We need to promote more small artists and their work
Anonymous 8/27/2022 10:19 AM	Na
Anonymous 8/27/2022 06:10 PM	Would like more unique statement pieces that fit with the city and give it energy, vs a lot of little pieces that are similar and don't stand out.
Anonymous 8/27/2022 06:56 PM	I like weird art
Anonymous 8/28/2022 12:41 PM	Promote local artists
Anonymous 8/30/2022 01:05 PM	Please, no more cheesy bronzes of kids or animals
Anonymous 9/01/2022 09:41 AM	Cut down on the use of aerosol spray paints in murals. VOC's can negatively effect the ozone. Find an environmentally friendlier way to promote art and nature.
Anonymous 9/01/2022 11:22 AM	A collaborarative space for multiple artists would be interesting to see
Matt Murphy 9/01/2022 05:38 PM	Variety!! The world of art is diverse and we should reflect that throughout the City.
Anonymous 9/04/2022 11:26 AM	We have lived in Golden, Colorado, City and County for more than 35 years. Golden should promote local Artisans more.
Anonymous 9/04/2022 02:31 PM	Promote art related to environmental conservation!!!
Anonymous 9/05/2022 02:27 PM	I really like what you have done already in Golden. I especially like the statues that you already have that give such a nice Colorado feel in Golden.

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Anonymous 9/07/2022 02:37 PM	Great to see this as a priority and thank you for asking for public comments.
kjacobs@firstaffirmative.com 9/07/2022 02:53 PM	don't shy away from controversial topics, modern themes. Don't just aim for lowest common denominator.
Anonymous 9/07/2022 06:24 PM	Thank you
Anonymous 9/09/2022 03:13 PM	N/A

Mandatory Question (96 response(s))
Question type: Essay Question

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APPENDIX C
FEATURED PUBLIC ART

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PUBLIC ARTWORK FEATURED IN THIS PLAN

All images courtesy of the City of Golden.

All artwork copyright of artists listed.

Front Cover (L to R, Top to Bottom)

Adolph Coors, Sarah Maloney

Shoshone Spirit, William Gee

Brother and Sister at the Rodeo, artist unknown

Winter Wind on the Mesa, Marie Barbara

Cowboy's Day Off, Michael Hamby

Day Dreamer, by Dan Ostermiller

Howdy Folks, Jeff Rudolph

Joy of Music, George Lundeen

The Cowboy, Buck McCain

The Kayak Racer, Tyler Richardella

The Monarch, Buck McCain

Two Deer, artist unknown

Lending a Helping Hand, Cloyd Barnes

Strength, Dedication, Discipline, Determination, Jeff Rudolph

Return of the Cutthroat, Pat Madison

Page 9

"Murgy" (the Lizard), Will Betke-Brunswick

Page 11

Top: Rotary Butterflies, Pat Madison

Bottom: Nighthorse on the Mesa, Jeff Rudolph

Page 14

It Takes a Village, Judy Gardner

Page 17

Top: Return of the Cutthroat, Pat Madison

Bottom L: Son of Liberty, James Muir

Bottom R: Victorian Dress Up, artist unknown

Page 18

Portal Through the Depths, Haley Knowles

Page 20

Rocky Mountain Hummer, Don Kennell

Page 21

Splatter-paint art, Kids of Golden

Page 22

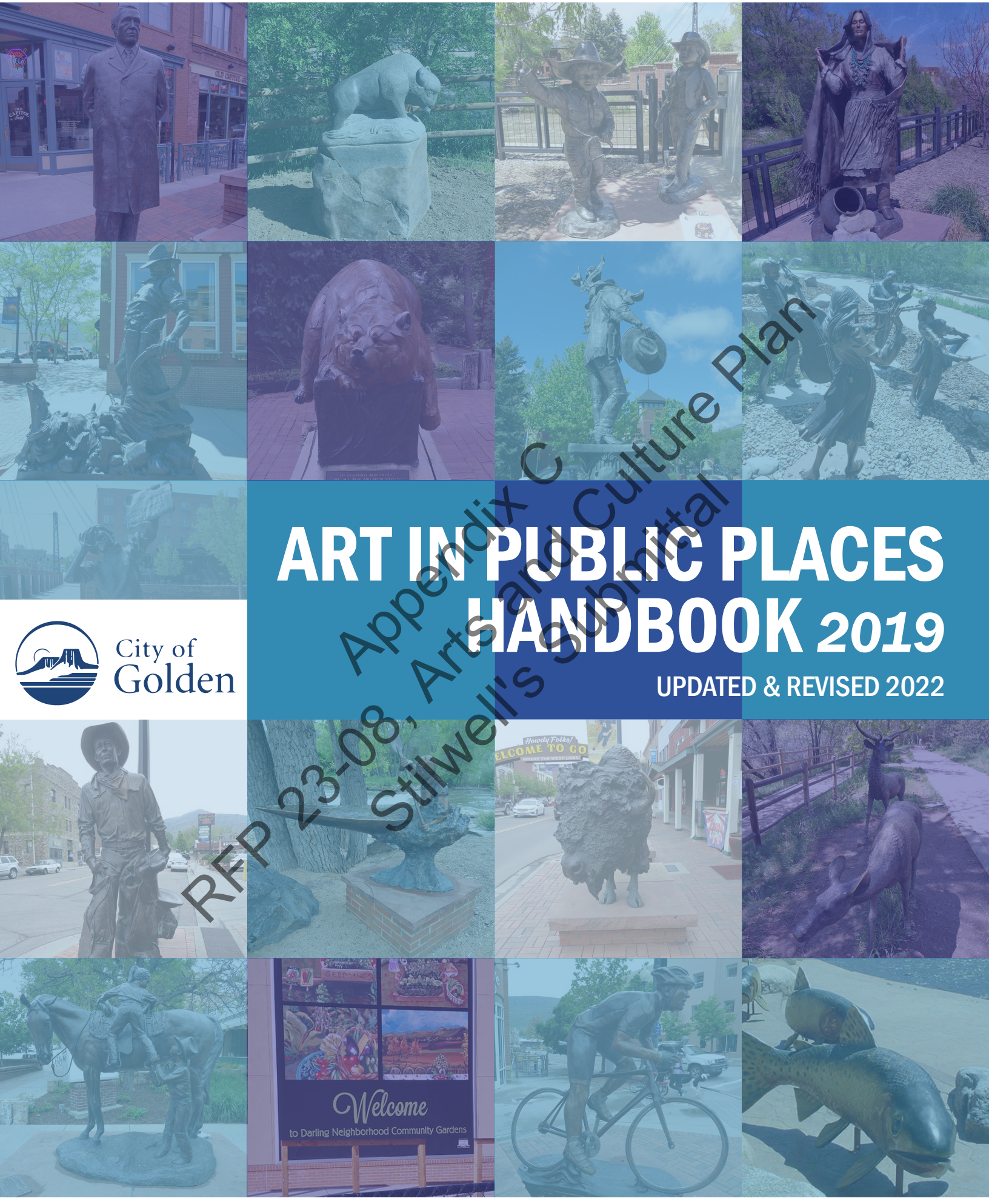
Top: Cameron's Dragon, Mary Zimmerman

Bottom: The Monarch, Buck McCain

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Rocky Mountain Spring, Michelle Wolins

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City of Golden

ART IN PUBLIC PLACES HANDBOOK 2019

UPDATED & REVISED 2022

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SECTION 1
INTRODUCTION & MISSION/VISION/GOALS

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Section 1: Introduction & Mission/Vision/Goals for the Golden AIPP Program

1.A. Introduction

Golden is a scenic, bustling, former gold rush town, resting between two mesas at the base of the Rocky Mountain foothills. The City's Art in Public Places Program (AIPP Program) has helped to create a unique, vibrant and art-filled downtown and creek-side area, and this public art collection contributes to the quality and cultural identity of our community.

Golden's art collection began as several generous donations of traditional sculpture to the City. These sculptures reflect the early history of Golden's foundations and heritage. In recent decades, the collection has grown, become more diverse and has been sprinkled throughout the community. It is beginning to tell a new, more contemporary story about Golden, its communities and its bright future. As the City continues to progress, the AIPP Program will continue to evolve along with it, communicating its collective history and shared vision for the future of this community.

1.B. AIPP Program Mission and Vision

Mission: To enrich the public environment and experience for residents and visitors through the arts.

Vision: To create and support diverse arts projects and programs of and for the entire Golden community, through leadership, stewardship, and partnerships.

1.C. Golden AIPP Program Goals

Background: In 2013, an Art in Public Places Handbook was written, outlining the policies and procedures that guide the AIPP Program. In 2022, these policies and procedures were updated and edited to better reflect the goals and purpose of the AIPP Program.

The following four program goals were identified for the future of the program:

Goal A. Advocate for Advancing Arts in Golden

Art contributes to our quality of life, civic pride and economic vitality. We will be the City's key advocates for including art in all City decisions, planning, and construction, where possible. We will embrace and elevate public art in Golden and will support City leadership as it considers establishing broader support for arts and culture.

Goal B. Create a Diverse and Accessible Collection for Golden

As stewards of the City's public art collection, we will create a collection of permanent and temporary artwork that:

- Features work of the highest level of artistic excellence;

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- Features work by a broad and diverse group of artists, working in a variety of methods and media;
- Explores and reflects a diversity of themes, subjects and traditions; and
- Enriches public spaces in all parts of our City and is accessible and available to everyone.

Goal C. Maintain our Collection for Golden

Golden's collection of artwork is an asset to our community. We will maintain, conserve and care for the collection for generations to come.

Goal 4. Promote the Arts for Golden and Beyond

Golden's public art collection will inspire, educate, and create conversation. We will promote and inform the public about Golden's public art and seek to increase public understanding through education, media, and events.

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SECTION 2
AIPP DEFINITIONS

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Section 2: AIPP Definitions

Public art is defined in City of Golden Municipal Code Chapter 2.60 (see appendix) but is further detailed in this handbook.

2.A. Public Art

"Public art" as defined by this policy, is artwork that is:

- Owned by the City of Golden and acquired (in whole or in part) with public funding and sited on public property; and/or
- Donated or loaned specifically to the City's AIPP Program; and/or
- Sited on private-property and owned by the City according to a legal agreement ; and/or
- Privately-sponsored artwork that is sited on publicly-owned land according to a legal agreement between City of Golden and private sponsor.

2.B. Inclusions

The Golden AIPP Program includes public art that is:

- Temporary or permanent;
- Located inside or outside of a public building;
- Located in the public right-of-way; and/or
- Located on private land according to a legal agreement between City of Golden and a private landowner.

2.C. Types of Public Art

Public art may include, but is not limited to, the following types of artwork:

- Sculpture: in the round, bas-relief, mobile, kinetic, in any material of combination of materials;
- Painting: all media, including portable and permanently affixed works and murals;
- Digital, projected and electronic art;
- Graphic Arts: printmaking and drawing;
- Mosaics;
- Photography, film or video;
- Light-based art;
- Craft: clay, fiber and textiles, wood, metal, plastics, glass, and other materials; both functional and nonfunctional;
- Mixed media & collage;
- Fountains, memorials and decorative memorial plaques;
- Earth works and environmental installations;
- Conceptual and text-based artwork;
- Sound-based artwork;
- Functional artwork: pavers, benches and other functional items if designed by an artist; and
- Performance-based artwork that produces a permanent leave-behind.

2.D. Not Considered Public Art

The Golden AIPP Program does not consider the following to be public art:

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- Directional elements, signage, or way-finding elements except where those elements are an integral part of a work of art designed by an artist;
- Educational plaques except where the plaque is an integral part of a work of art designed by an artist;
- Objects which are mass-produced and not designed by artists, such as standard playground equipment, benches, drinking fountains, and light fixtures.
- Decorative, ornamental, or functional architectural elements unless designed by an artist;
- Landscape gardening, except where these elements are designed by an artist, are an integral part of a work of art, or in service to a work of art;
- Signage, murals or artwork which serves as advertising for a business; and/or
- Temporary or permanent artwork that is privately sponsored and located on private land according to a legal agreement between the private entity and the City.

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SECTION 3
GROUPS INVOLVED WITH GOLDEN AIPP PROGRAM

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Section 3: Groups Involved with the Golden AIPP Program

The City of Golden's AIPP program is administered solely by the Public Art Commission (PAC) and involves other groups as outlined in the section below. Other departments, commissions and entities such as Public Works, Parks and Recreation, and the Downtown Development Authority shall have advisory roles in the Golden Public Art Program, but the PAC has final approval for the City's expenditures of public funding on artwork and makes decisions for the city-owned art collection, including acquisitions, maintenance, and planning.

3.A. Public Art Commission (PAC)

The purpose of the PAC is to be stewards of the AIPP Program for the City of Golden. As such, they are charged with oversight of acquiring, managing, maintaining the public art collection as well as acting as program spokespeople and champions. Members of the PAC are appointed by City Council to carry out the duties and responsibilities of the AIPP Program for the City of Golden. The establishment and responsibilities of PAC are defined in Golden Municipal Code (GMC) Chapter 2.64 (see appendix) but are further detailed in this handbook.

3.A.1. Appointment & Membership

The City Council shall appoint a Golden Public Art Commission composed of seven members as follows:

- The Executive Director of the Foothills Art Center or their designee (*ex officio* member);
- A representative selected by the board of directors of the Golden Civic Foundation (upon approval of City Council);
- Additional members shall be individuals who are artists, arts professionals or have demonstrated interest or expertise in architecture, art criticism, art education, art history, graphic arts, interior design, landscape architecture, town planning or other art and design related fields, or who have demonstrated a strong interest in the visual arts and civic improvement;
- All PAC members shall either be full-time residents of Golden or business owners in Golden; and
- Other non-residents of Golden will be considered for board membership on a case-by-case basis.

3.A.2. PAC Duties & Responsibilities

The duties and responsibilities of PAC are defined in GMC Chapter 2.64 (see appendix) but is further detailed in this handbook. The PAC shall:

- Adopt rules of procedure governing its proceedings consistent with the Golden Charter and Municipal Code;
- Select, acquire, and maintain the city's public art in fulfillment of the goals of the City's AIPP Program Goals (see Section 1);
- Identify suitable locations within the city for public art;
- Facilitate the maintenance, preservation and safety of the public art collection;

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- Prescribe procedures for the competitive and transparent selection, acquisition, placement, display, rotation and deaccessioning of public art;
- Oversee the public art budget as well as solicit grant funding for public art projects;
- Prepare an annual report of the PAC's yearly activities, including expenditures and goals for the coming year;
- Act as ambassadors for the AIPP program within in the community; and
- Promote public art through a public education program and materials.

3.A.7 Meetings
The PAC shall meet monthly at a regularly scheduled time and place as agreed upon by its members, which shall be open and accessible to the public. A public record of all meetings will be kept.

3.B Staff Liaison(s)

The Golden City Manager shall appoint Staff Liaison(s) to provide administrative support and assistance to the PAC as necessary to accomplish the duties of the PAC and the purposes of this section. The City Manager may appoint additional staff to assist with the duties of the PAC as needed.

3.C Consultant(s)

The PAC may hire consultants and/or specialists to assist with elements of the program as needed.

3.D City Council & City Manager

The PAC has full approval authority for its own policies and expenditures. In some cases, in accordance with Golden's purchasing policies and City Codes, the City Council or City Manager may request to approve projects or contracts on a case-by-case basis.

3.D. Selection Jury

The PAC may serve as the jury for all art acquisitions. However, the PAC may alternatively select a special jury to review submissions. In such cases, proposals shall be considered by the jury and a final choice(s) will be presented to the PAC for acceptance. These types of selection juries can provide additional community input, specialist input and other important perspectives for the public art selection process. The PAC, together with the Staff Liaison, shall decide whether a jury is needed and confirm the use of a jury through a majority vote of the PAC.

3.D.1. Jury Size & Membership
The size of the jury shall be determined by the PAC. Jurors are appointed by a majority vote of the PAC and serve at the discretion of the PAC. Jury members may be removed by a majority vote of the commissioners. The jury may include but is not limited to:

- One professional artist;
- One art professional which may include an additional artist, art historian, museum curator, or arts coordinator;
- One community lay person interested in the project;
- One person who either lives or works near the proposed site for the artwork;
- One PAC member;

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- City of Golden Staff or leadership as needed for their knowledge of the project area, neighborhood, etc.; and
- Additional jurors may be chosen for the jury as deemed appropriate.

3.D.2. Jury Voting rights
Each juror has one vote, and no juror has the right of veto. If a consensus cannot be reached by the jury, then a majority vote carries the decision. The jury has the right to make no selection if there is no proposal judged to be of sufficient merit. The jury will forward its decision to the PAC for final vote and acceptance.

3.D.3. Non-Voting Jury Advisors and Consultants
The Staff Liaison or their appointee shall serve as a nonvoting resource for each selection and will keep records of the jury deliberations and decisions. The PAC may also appoint non-voting advisors and consultants to provide guidance and advice related to the project. For example: artwork appraisers, engineers, conservation and maintenance specialists and other arts professionals. Advisors do not vote.

3.E. Conflict of Interest

It is expected that members of the PAC, AIPP Staff and Liaisons, Selection Juries, members of subcommittees, panels or any other ad hoc groups or individuals working with the AIPP program may be aware of the work of some artists and arts organizations who submit their work for consideration for public art projects. Such awareness alone does not constitute a conflict of interest, nor does owning a piece of work by a submitting artist. A conflict of interest is deemed to exist if a member/jurist is related to an artist, either through family, marriage or domestic partnership, any other relationship of economic interdependence, a business relationship such as representing the work of an artist as a gallery owner, or if a member stands to gain direct benefit, whether financial or otherwise, from the selection of an artist. If a member is related to an artist under consideration in one of the ways mentioned above, they shall state that they have a conflict of interest and shall recuse themself from voting or further discussion on the project in question.

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SECTION 4
PUBLIC ART ACQUISITION: GUIDELINES

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Section 4: Public Art Acquisition: Guidelines

The mission of the PAC and the AIPP Program is to enrich the public environment and experience for residents and visitors through the arts. The PAC will continue to expand and add variety to the public art collection in alignment with the mission, vision and goals outlined in Section 1. The following section provides the policy for acquiring works of art through Golden's AIPP Program.

4.A. Acquisition Policies

All Public Art shall be selected through a fair and transparent process. The PAC may adopt new policies and procedures at any time to guide their process. Artwork may be acquired by a variety of methods: direct commission via open competition, direct purchase (with or without competition), permanent donation, community collaboration and/or temporary loan. Each acquisition method is described in detail in Section 5: Public Art Acquisition: Methods.

4.B. Funding

AIPP new acquisitions, projects and programs may be funded via the following sources:

4.B.1. One-Percent Funding

According to the AIPP ordinance (see appendix), one percent (1%) of the construction cost of each new City of Golden Capital Improvement Project (CIP) with an estimated construction cost of over fifty-thousand dollars ($50,000) may be deposited in the City's Art in Public Places Reserve Account (Reserve Account). With guidance from the AIPP Staff Liaison, the City's CIP project managers and Accounting staff will ensure the proper allotment of funds to be reserved for artwork in the Reserve Account in each case.

4.B.2. Yearly Allotment

The City of Golden will annually allocate funds to support general AIPP expenses to ensure consistency for the program. City Council may elect to provide the AIPP program with a yearly budget allotment for its programs and collection maintenance. The Staff Liaison to the PAC shall make recommendations to the PAC, City Council and City Staff for yearly allotment funding during Golden's annual budget process.

4.B.3. Donated and/or Grant Funds

The PAC may combine any of the funding sources listed above with donated/granted funds from various outside sources for the acquisition of artwork. The combined donated funds shall be used according to donor or grantor designation or if undesignated at the discretion of the PAC.

4.C. Budget Assignment

At the time of an acquisition approval, whether by donation, commission, loan or purchase, the proposed budget for an artwork shall be set aside in the AIPP Reserve Account and should cover all costs of design, fabrication, installation, and maintenance. Costs may include:

- Pedestals, bases, lighting, landscaping or other display components;
- Site development, rental equipment, site-safety, or other installation needs;

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- An identification plaque, photography and dedication ceremony; and
- Contingency.

4.D. Site Selection

To ensure public art is safe, properly sited as well as fairly and equitably distributed throughout the City of Golden, the PAC shall consider the criteria below to guide the placement of art projects. City Departments will provide support, professional expertise, and advisement as needed for installations selected by the PAC. Criteria shall include:

- Relationship of scale of the artwork and the site's physical dimensions;
- Whether or not there is other public art in the vicinity;
- Compatibility of the design and location with the character of the site;
- Relationship of proposed artwork to existing artworks in the vicinity;
- Accessibility to the general public, with particular attention paid to Americans with Disabilities Act (ADA);
- Visibility and access for the public at least during normal building or park operating hours without cost or permission;
- Vehicular, bicycle and pedestrian traffic patterns, including ingress/egress;
- Public safety (see Section 6. Safety Policy);
- Environmental impacts;
- Impacts on adjacent property owners;
- Sightline obstruction and traffic impacts/distractions;
- Maintenance requirements created by the installation, such as landscaping, lighting, underground utilities and accessibility for maintenance;
- Future development of the site; and
- Any other criteria deemed by the PAC or the City to be important.

4.E. Contracts & License Agreements

Following the final selection of an artwork or artist, regardless of funding source or acquisition method, a written contract or license agreement shall be prepared by the PAC and the Staff Liaison and approved by the City Attorney. Each contract will be drafted on a case-by-case basis, but usually outlines the following items:

- Project scope and deliverables;
- Description of artwork to be acquired;
- Insurance requirements for all parties;
- Contract amount and payment schedule;
- Project milestones;
- Artists' rights, including copyright;
- City of Golden's rights vis-à-vis the artwork;
- Warranties and maintenance/restoration agreements;
- Provisions for making changes to the contract or contract amount;
- Provisions for cancellation of the contract by any party; and
- Other legal requirements as requested by City Attorney.

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SECTION 5
PUBLIC ART ACQUISITION: METHODS

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Section 5: Public Art Acquisition: Methods

As stated in Section 4, public art shall be selected in a fair and transparent selection process. At every phase of art selection, the public will have opportunities to be involved and kept apprised of the PAC's activities through the PAC's regular open and accessible meetings and minutes. Artwork may be acquired by the following methods: direct commission via open competition, direct purchase (with or without competition), permanent donation, community collaboration and/or temporary loan. Each acquisition method is outlined below.

5.A. Project Initiation

All acquisitions of artwork may be initiated by the PAC, Staff Liaison, or others in the Golden community (Community Proposal). If the project is initiated internally--by the PAC or AIPP Staff Liaison--these acquisitions can occur at any time. Unsolicited Community Proposals will be proposed and reviewed twice a year every April and October (or at times to be announced to the public by the PAC). To move forward, Community Proposals must be approved to move forward by a majority vote of the PAC. This policy shall apply to all acquisition methods stated below.

5.B. Acquisition Policy for Direct Commissions

A direct commission allows the PAC to directly solicit artists to create a unique proposal for a particular site. The resulting artwork is a distinctive original work of art proposed and specifically designed for a location in the City of Golden. Usually, such commissions are solicited and selected via an open competition.

5.A.1.Direct Commission Project Initiation
New commissions for artwork can be initiated by the PAC, Staff Liaison, or others in the Golden community (see 5.A. above for details).

5.A.2. New Direct Commission Proposal
All new art commissions must go before the PAC and be accompanied by a New Commission Proposal which briefly outlines the proposed project. New Commission Proposals shall include the following information:

- Brief project introduction and how the project will further the AIPP Program Goals;
- Selection method;
- Proposed project location;
- Proposed type of artwork and materials;
- Proposed purpose/audience;
- Expected timeline;
- Expected budget requested from Public Art funds and/or from other funding sources;
- Maintenance considerations; and
- Any other information pertinent to the project as needed/requested.

5.A.3. City Staff Review
Before the PAC approves the Commission Proposal to move forward, the PAC may require review by City of Golden Staff for consideration of the following factors: public safety, pedestrian, and vehicular traffic patterns, impacts on operational functions of the City, environmental impacts and other planning issues.

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5.A.4. PAC Review and Approval
Following review and comments by City Staff, the PAC shall review the New Commission Proposal and approve or disapprove the project to move forward through a majority vote. They may also request additional information. The PAC will base their decision on the following criteria:

- Whether the proposed project adheres to Golden's AIPP Goals (Section 1) and stated policies;
- Whether the proposed project is in alignment with existing PAC master/strategic plans;
- How the new artwork will contribute to the overall diversity of the collection and Golden community at large;
- Whether the proposed site is appropriate and meets the standards outlined in Section 4.D.;
- Expected budget, available resources, and timing of the project; and
- Other criteria as noted by the Staff Liaison and PAC.

5.A.5. Approved Commission Proposals:
Once a Commission Proposal has been approved by the PAC, the PAC and the Staff Liaison will create an outline of the next steps toward completion of the project. Items to include are:

- Selection Jury appointment;
- Project orientation from City staff, as needed;
- Method of selection (see Section 5.A.7. below);
- Timing of selection process;
- Project integration dates;
- Budget;
- Expected impacts on the neighborhood or area during installation; and
- Other items pertinent to understanding the approved project.

5.A.6. Budgeting Approved Commissions
Once the PAC approves a Commissioned project to move forward, the Staff Liaison shall set aside appropriate funding in the AIPP Reserve Account to cover all costs of the project and a contingency.

5.A.7 Art Selection Methods for Commissioned Art
Most often, new commissions are selected using a competitive process open to artists according to criteria set by the PAC or selection jury. The PAC can serve as the jury for open competitions, however, may alternately select a jury to review submissions (see Section 3.D.above). In such cases, proposals shall be considered by the jury and a final choice or choices will be presented to the PAC for acceptance.

5.A.8 Selection Methods Available to PAC for Direct Commissions
Open Competition via Request for Qualification (RFQ):

- Project is advertised to the public and all interested and qualified artists may submit qualifications (images of past work, biography, artist statement, etc.) for consideration.
- One or more artists may be selected to move on to a proposal phase. Artists are paid an small honorarium/artist fee to cover the cost of their artwork proposal and/or travel to the site.

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- Artists will be selected for commission based upon their artwork proposal. If no proposal is deemed suitable, the project can be suspended, or re-called using any selection method.
- Records of the selection process are reviewed and certified in a public meeting of the PAC.

Open Competition via RFQ & Interview

- Project is advertised to the public and all interested and qualified artists may submit qualifications (images of past work, biography, artist statement, etc.) for consideration.
- One or more artists may be selected to move on to an interview phase. Artists are not paid for their interview and do not develop or present an artwork proposal.
- Artists will be selected for commission based upon their interview, qualifications and other answers to questions as directed by the selection jury or PAC. If no interviewee is deemed suitable, the project can be suspended, or re-called using any selection method.
- Records of the selection process are reviewed and certified in a public meeting of the PAC.

Limited Competition/Invitational

- A select number of artists are invited to submit qualifications or proposals for a site. An appropriate fee shall be allocated for the artists' participation and/or proposals as determined by the PAC.
- Artists will be selected for commission based upon their proposal, interview, qualifications, and other answers to questions as directed by the selection jury or PAC. If no invitee is deemed suitable, the project can be suspended, or re-called using any selection method.
- Records of the selection process are reviewed and certified in a public meeting of the PAC.

5.A.9. Selection Criteria

When evaluating qualifications, a proposal or interview by a particular artist, the PAC or selection jury generally considers:

- The artist's excellence and experience with public art projects;
- The ability of the artist to work cooperatively and effectively with the PAC and the City of Golden;
- The artist's presentation;
- The technical feasibility of a proposed project and the artist's technical ability; and
- Other factors deemed by the PAC to be important.

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5.B. Acquisition Policy for Direct Purchase

Direct purchase results in acquisition of artwork that is already fabricated, and part of an artist's collection or part of a collection or from a gallery. The artwork can be acquired without competition or via an open call for artwork. The artwork is then purchased and modified to be installed in Golden.

5.B.1. Direct Purchase Project Initiation
Proposals for Direct Purchases of artwork can be initiated by the PAC, Staff Liaison, or others in the community. The PAC may approach an artist directly, or vice-versa.
If initiated by an artist or others outside the PAC, the acquisition must be proposed (see section below) and may move forward if approved by a majority vote of the PAC.

5.B.2. City Staff Review
Before the PAC approves a Direct Purchase to move forward, the PAC may require review by City of Golden Staff for consideration of the following factors: public safety, pedestrian, and vehicular traffic patterns, impacts on operational functions of the City, environmental impacts and other planning issues.

5.B.3. PAC Review
Following review and comments by City Staff, the PAC shall consider the following prior to any direct purchase of artwork:

- Whether the proposed project furthers Golden's AIPP Program Goals (Section 1) and stated policies;
- Whether the proposed artwork is in alignment with existing PAC master/strategic plans;
- How the new artwork will contribute to the overall diversity of the collection and Golden community at large;
- Whether the artwork can be appropriately sited and meets the standards outlined in Section 4.D.;
- Expected budget, available resources and timing of the project; and
- Other criteria as noted by the Staff Liaison and PAC.

5.B.4. Direct Purchase Proposals
Artists or others outside the PAC who approach the PAC to purchase an artwork should be prepared to submit the following to the PAC:

- A cover letter explaining why the work should be added to the City's public art collection and how this purchase will further the stated AIPP Program Goals;
- A proposal overview with the artist's name, title of the artwork, dimensions, medium, date produced, number in the edition if applicable, restrictions on reproduction, and other information the artist deems pertinent;
- Proposed location for artwork and installation requirements;
- A resume and references;
- A maquette and/or images or the actual work to show scale and condition of artwork;
- A conservation assessment describing the artwork's condition, along with a maintenance plan, authored by the artist or a qualified conservator;
- A signed statement indicating that they have read and will comply with all aspects of the Art in Public Places Safety Policy and other relevant policies;
- Proof of provenance;
- A signed statement that the proposer has legal authority to sell the artwork; and/or
- A release of image rights for the piece permitting publishing of photographs of the piece as the City of Golden sees fit.

5.B.5. Direct Purchase via Open Call for Artwork

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In some cases, the PAC may solicit an "Open Call for Artwork" to purchase artwork that is for sale from different artists, galleries, or collectors. This type of open call will result in more choices for the PAC.

5.B.6. Selection Jury
The PAC can serve as the jury for open competitions, however, may alternatively select a jury to review submissions (see section 3.D. above). In such cases, proposals shall be considered by the jury and a final choice or choices will be presented to the PAC for acceptance.

5.B.7. Selection Methods Available to PAC for Direct Purchases via Open Call
The PAC and the Staff Liaison shall be responsible for developing the selection process and public participation component for each direct purchase. The project will consider the following selection methods:

Open Call for Artwork:
- A site, budget and criteria for artwork is advertised to the public and all interested and qualified artists may submit images of existing artwork for purchase.
- A work of art is selected and approved for direct purchase from these submissions. If no work is deemed suitable, the project can be suspended, or re-called using any selection method.
- Records of the selection process are reviewed and certified in a public meeting of the PAC.

Limited Competition/Invitational:
- A selected number of qualified artists are invited to submit works of existing art for sale.
- A work of art is selected and approved for direct purchase from these submissions. If no invitee is deemed suitable, the project can be suspended, or re-called using any selection method.
- Records of the selection process are reviewed and certified in a public meeting of the PAC.

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5.C. Acquisition Policy for Donations

Generous donations from members of the community, arts organizations and private parties have been the foundation of the City of Golden's public art collection. The PAC encourages donations of artwork that follow these policies and advance the goals of the AIPP Program.

5.C.1. Limitations
Golden's AIPP Program has limited project funds as well as municipal sites appropriate for the installation of artwork. To ensure the quality and diversity of the collection, the PAC uses the following guidelines to carefully consider whether a proposed donation is appropriate to add to the City's collection. The PAC accepts only those works that will, in its discretion, further the AIPP Program Goals.

5.C.2. Donation Initiation

Proposals for donated artwork can be initiated by the PAC, Staff Liaison, or others in the community. If initiated by others outside the PAC, a Donation Application must be submitted and approved to move forward by a majority vote of the PAC.

5.C.3. Donation Applications

Any donation proposal to the PAC must be done so through a written Donation Application submitted to the PAC. To assure fairness and transparency, Donation Applications are reviewed only twice a year during the PAC's regular April and October meetings. The PAC may elect to review Donation Applications at other times under special circumstances. Each Donation Application should include:

- A cover letter explaining that the artwork is offered to the City as a gift and why the work should be added to the City's collection;
- An explanation of whether the donation is for a permanent addition to the City's collection or if it is a temporary loan (see Section 5.D.);
- A description of how the work of art contributes to the overall AIPP Program Goals;
- Artist's resume or biography information and examples of the artist's past work;
- Maquettes, images or the actual work to show the condition and proper scale of the work;
- Proof of the artwork's provenance, exhibition history or a letter of authenticity from the artist, if appropriate;
- A current estimate of value;
- A site plan and landscaping plan for proposed installation site;
- A conservation assessment authored by the artist or a conservator describing the artwork's condition, expected life span, and maintenance requirements, including projected costs for maintenance;
- Proposed donation of funds to support ongoing maintenance of the artwork;
- An acknowledgement that the artwork complies with all aspects of the Safety Policy (see Section 6);
- A statement that the proposer has legal authority to donate the artwork; and
- Additional information as requested.

5.C.4. Maintenance considerations

When accepting a gift into the collection, the PAC may require that the donor sign a maintenance agreement or establish a maintenance endowment to ensure adequate care for the artwork. The PAC is unlikely to consider donations that require immediate or extensive maintenance.

5.C.5. Timing

To assure fairness and transparency, the PAC reviews Donation Applications by outside parties twice per year at their regular April and October meetings, unless otherwise published. Exceptions to this timing can be made if deemed appropriate by a majority of the PAC. After review, the PAC may choose to accept or decline a gift, or to table an offer.

5.C.6. Selection Jury

The PAC can serve as the jury for donation applications, however, may alternately select a jury to review submissions (see Section 3.D. above). In such cases,

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applications shall be considered by the jury and a final choice or choices will be presented to the PAC for acceptance.

5.D. Acquisition Policy for Loans

To increase the variety and artistic quality of public art for the community, the City of Golden will occasionally display art loaned to the City by artists, institutions or organizations. This allows for rotating exhibitions of artwork and assures that the art displayed within the City remains fresh. To ensure the quality of the works displayed, the City designates the PAC as the entity to review such loans. The PAC shall use the following guidelines to decide whether a proposed loan is appropriate, the duration of the loan, and where it should be located.

5.D.1. Loan Initiation

Proposals for loans of artwork can be initiated by the PAC, Staff Liaison, or others in the community. If initiated by others outside the PAC, in order to move forward, the acquisition must be proposed and approved by a majority vote of the PAC.

5.D.2. Solicitation of Loaned Artwork

In some cases, such as an exhibition of local artists in a public building, the PAC may solicit an "Open Call for Artwork" to request loans from different artists, galleries, or collectors. This type of open call will result in more choices for the PAC. The selection process will follow similar guidelines as Section 5.B. for Direct Purchase above. In the solicitation to the artists, the loan term, location of display, and compensation to the artist shall be clearly stated.

5.D.3. Process for Consideration of Unsolicited Loaned Artwork

The PAC requests that individuals or entities interested in loaning artwork follow the steps to the Donation Procedure in Section 5.C. above. In addition to the items listed on the Donation Proposal, the lender must indicate that the loan is offered on a temporary basis, the duration of the loan, and any other terms for the loan. Other items may be requested including:

- Precise terms of loan offer (terms, duration, etc.);
- Details on installation and de-installation;
- Terms for any required maintenance during the term of the loan;
- Terms of repair agreement if artwork is damaged during the loan term; and
- Insurance requirements.

5.D.4. Loan Agreement

Following the final selection of an artwork or artist, a Loan Agreement shall be prepared by the PAC and the Staff Liaison and approved by the City Attorney. The loan agreement may include the following stipulations:

- Terms of installation and de-installation of the artwork, including details of transportation of the artwork to the site. Installation and removal must take place with the assistance of the appropriate City staff.
- Terms of insurance for the artwork during transport and the loan period as well as liability insurance to cover the City and the artist(s) and/or owner.
- Agreement that the City is not responsible for normal wear and tear, damage resulting from the exposure to the elements, gradual deterioration, vandalism or damage due to force majeure.

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- Permission for the City to photograph artwork for the AIPP program's promotional use.

5.D.5. Exemptions
These guidelines shall not apply to:
- Artwork loaned to City staff or officials for display in their personal offices;
- Gifts of State presented to the City by other governmental entities (municipal, state, national or foreign); and
- Artwork loaned to nonprofit organizations that manage City entities or properties or to City of Golden museum(s).

5.E. Special Temporary Artwork, Exhibitions & Murals

"Temporary artwork" is defined separately from loaned artwork above (Section 5.D.). Temporary artwork is proposed for a site as a semi-permanent work that will be destroyed, weathered away or removed after a period of time. Examples of temporary artwork include environmental works of art, installations, event-based artwork or murals.

5.E.1. Temporary Art Agreement
Acquiring Temporary Art shall follow the appropriate acquisition method outlined in Section 5.A, B, and C. In addition, a Temporary Art Agreement outlining the terms of the temporary exhibition, installation or mural shall accompany the required application/proposal. Information that must be included:
- Expected short term maintenance costs and procedures;
- Expected term or lifespan of art installation;
- Value of artwork (for insurance purposes);
- Proposed site; and
- Proposed disposal of the artwork (if applicable) or deaccession procedure and disposition.

5.E.2. PAC and Staff Approval
All temporary works of art will be reviewed by the PAC in consultation with appropriate City departments such as Public Works, Fire, Community and Economic Development, Recreation, and/or Police. Their recommendations will be considered prior to approval by the PAC or selection committee.

5.E.3. Insurance & Maintenance
Golden shall maintain appropriate insurance for the work of art for the duration of the temporary display period. Golden shall maintain and conserve the loaned artwork during its term of installation or according to the Temporary Art Agreement.

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SECTION 6
SAFETY POLICY

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Section 6: Safety Policy

Maintaining a safe environment for our community and visitors is of key importance for the AIPP Program. All art accepted into Golden's public art collection is evaluated regularly to make sure artwork is not damaged or does not become a safety hazard. The City of Golden through the PAC should endeavor to follow safety precautions provided by the City's risk management agency when considering art for purchase and placement. This safety policy should be provided to any artist or donor as part of the acquisition process.

6.A Design for Safety

All artwork on display in the collection should be constructed with consideration given to the following points:

- No sharp points, corners or edges that could cut or puncture;
- No protrusions or projections that could entangle clothing;
- No pinch, crush or shearing points that could entrap a body part or clothing;
- No trip or slip hazards that may cause a fall, or cause injury if fallen upon;
- No suspended hazards; and
- The art should be securely anchored to avoid toppling.

6.B. PAC and Staff Review

A review process shall take place to evaluate each art piece before it is acquired for the collection. PAC members (and City Staff representatives as needed) should ask the following questions:

- Is it suitable content for public display in accordance with community standards?
- Does it pose any physical hazards, such as those stated above?
- Has the artwork (and its supports) been reviewed and approved by a licensed engineer?
- Could the artwork be easily damaged?
- Should it be accessible for the public to touch, or should such access be prohibited?
- Even if such access is prohibited is it likely that people, especially children, would attempt to play on or around the art piece, especially if it is an unmonitored location? Does this pose additional safety hazards?

6.C. Location review

The PAC shall consider proposed locations for the following safety issues:

- Avoid situating pieces near playgrounds, which may invite children to play on the art piece, unless the art piece was designed for that purpose or could safely withstand this type of interaction;
- If climbing is permitted, create a soft fall area under the sculpture;
- Consider the proximity to roadways so that the art piece does not obstruct traffic line of sight or risk being struck by traffic;
- Consider signage that warns of climbing or touching the art; and
- Discourage activities that put the public or artwork in danger.

6.D. Removal & Repair of Art

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Once the art is on display, it will be reviewed regularly for damage or deterioration. If a piece is damaged and/or declared a safety hazard, it will be repaired or removed immediately.

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SECTION 7
MAINTENANCE POLICY

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Section 7: Maintenance Policy

The works of art in the collection are assets of the City of Golden. As such, it is the responsibility of the City and the PAC to maintain the collection of publicly-owned artwork to ensure the long-term value of these assets and that the collection can be enjoyed for generations to come. The following policy outlines the documentation, preservation, and maintenance processes that will support this goal. The policy will be implemented on a piece-by-piece basis that recognizes the value of each work of art in the collection. The AIPP program shall not maintain artwork outside of its acknowledged collection without prior legal agreement between the City and the owner of the artwork.

7.A. Documentation

Each work of art in the collection shall be properly and regularly documented with the following:

- Complete inventory of the collection including current location of each work;
- Periodic condition reports;
- Records of actual maintenance performed and an assessment of those efforts;
- Photographs and maintenance documentation;
- Artist's maintenance recommendation, methods and materials information, potential problems with the work, finishes information (e.g., painter's name; when, where, what, and how the piece was finished), quality of materials used, installation information, warranties, professional and/or other knowledgeable opinions regarding preservation and maintenance; and
- Artist's resume, artwork history, estimated value, where the work has been exhibited, and any transcriptions or recordings of personal interviews with the artist.

7.B. Pre-Acquisition Maintenance Documentation

Before a piece is accepted into the City's collection the PAC and Staff Liaison will review the artwork and provide an expected maintenance assessment. The PAC will engage appropriate City staff and outside contractors and/or experts as needed to assess the work. If available, the artist will also be consulted for recommendations on maintenance. This information will become part of the permanent documentation of the specific piece and reside in the records of the Staff Liaison.

7.E. Maintenance Process

7.E.1. Inspection and Condition Report

At regular intervals determined by the PAC, the collection will be surveyed for maintenance and repair reporting. Paid professional condition appraisers/conservators and/or knowledgeable volunteers, craftspeople or industry experts will perform the inspection for each piece. An inspection and condition report for each piece will become part of the permanent documentation of the specific piece and will reside with the Staff Liaison.

Each medium will require that personnel with the appropriate expertise be consulted to develop maintenance criteria.

7.E.2. Maintenance Plan

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Based on the inspection and condition report, artist maintenance recommendations and pre-acquisition maintenance assessment, a maintenance plan will be developed and updated annually to schedule and perform cleaning, repair, and other required maintenance to preserve each piece in the public collection. This plan is initiated by the PAC and coordinated by the Staff Liaison.

7.E.3. Performing Routine Maintenance
Paid professionals and/or trained and supervised volunteers will perform routine maintenance according to the maintenance schedule and condition report for each specific piece. The Staff Liaison will initiate and coordinate routine maintenance activities.

7.E.4. Artist Involvement
Some works of art will be accompanied by a set of maintenance recommendations provided by the artist and/or owner. In these cases, all efforts will be made for the maintenance or repair to be undertaken by the artist or their designee.

7.E.5. Special & Emergency Maintenance
Paid professionals/craftspeople or knowledgeable volunteers will perform maintenance that requires specialized tools, equipment, or knowledge on an "as needed" basis. The PAC will use the condition report and/or site visits to determine need. If a work of art has been deemed unsafe to the public, it shall be removed from its site and stored until repairs can be made or considered for de-accession (Section 6.D.).

7.E.6. Funding
Funds for maintenance will be established through a budget developed by the PAC and the Staff Liaison. Funds will come from the AIPP Reserve Account. In cases of donated artwork, potential donors may be requested to contribute to the future maintenance fund. In some cases, additional supplemental funding may be requested for larger repairs at the annual AIPP budget review.

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SECTION 8
DEACCESSION POLICY

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Section 8: Deaccession Policy

Occasionally, public art needs to be refreshed and/or deteriorating artwork must be removed from the collection. Deaccessioning is a procedure for withdrawing a work of art from the City of Golden's public art collection. All artwork in the collection will be considered permanent parts of the collection unless these artworks were created as temporary, semi-permanent art or the art is on loan. Artworks may be considered for removal from the collection (deaccessioned) with a majority vote of the PAC.

8.A. Criteria for Deaccession

The PAC may deaccession artwork for any of the following reasons:

- The artwork endangers public safety;
- The artwork has been severely damaged or is determined to be in unsatisfactory condition and continued maintenance or repair is not feasible;
- The artwork lacks a suitable display site or the artwork is site specific in an area/building that is slated for re-development, remodeling, or destruction;
- The condition or security of the artwork cannot be reasonably guaranteed where located;
- The artwork is incompatible with the rest of the collection or is not aligned with the current Public Art Goals;
- The City or PAC wishes to replace the artwork with a piece of more significance;
- The artwork requires excessive maintenance or has faults in design or workmanship, causing an undue maintenance burden for the City of Golden;
- The artwork is fraudulent or not authentic;
- The artist requests the removal from the collection;
- The artwork is a maquette or other item for which there is no longer storage;
- The City cannot properly care for or store the artwork;
- The artwork is a memorial or monument that is out-of-date or has lost significance to the community;
- Significant adverse public reaction towards artwork has continued unabated over a five-year period; or
- For any other significant reason articulated by the PAC, at its discretion.

8.B. Disposition/Disposal of Artwork

While deaccession is being considered, the disposal or disposition of the artwork must be considered as well. The PAC may consider the following options for disposition of a deaccessioned artwork, listed in order of preference:

- Return to the artist;
- Return to the donor;
- Donation or trade to another tax-exempt public institution;
- Sale or auctioned, with preference given for sale at an advertised public auction or public marketplace that will best protect the interest, objectives and legal status of the collection (with proceeds returned to the AIPP Program or maintenance fund);
- Destruction/disposal; or
- Any other option deemed appropriate by the PAC.

8.C. Artist involvement

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The PAC and staff will make every effort to involve the artist (or artist's estate) in the decision to deaccession a work of art and in some cases, the PAC may require formal permission of the artist before considering removal from the collection. Before deaccessioning any artwork, the PAC shall comply with all terms and conditions relating to deaccession which are found in the acquisition contract or any other agreement which may exist between the artist and the City of Golden.

8.D. Process

The PAC will regularly review the pieces in the City's Public Art collection to determine whether any piece(s) should be recommended for deaccession. In addition, the PAC reserves the right to deaccession any artwork at any time deemed appropriate by the PAC. Deaccessioning process must take place during a regularly scheduled PAC meeting or a special meeting (see Section 3.A.8).

8.E. Deaccession Report

The Staff Liaison will present the PAC with a written deaccession report with the following information:

- Data and information about the artwork that is proposed for deaccession;
- Narrative on the history of the work of art and its acquisition;
- Value of work to be deaccessioned;
- Correspondence with the artist (if any);
- Detailed account for the reason(s) for its removal from the collection;
- Time frame and budget for removal of the artwork;
- Review by the City attorney outlining any legal issues related to the request (as needed);
- Means of disposal or disposition of the artwork; and
- If artwork is to be sold or auctioned, where proceeds from the sale will be placed.

8.F. City Staff Input

The Staff Liaison shall also submit the report to the appropriate City of Golden departments so that they may provide any feedback on the deaccession. No public artwork shall be removed, re-sited or altered by any other City department or public or private entity or individual without the prior review and approval of the PAC.

8.G. Public Notice

This deaccession report will be made public as part of the Public Art Commission agenda materials posted prior to the official meeting and vote to deaccession. The public shall be encouraged to attend and comment on the deaccession.

8.H. PAC Approvals

A majority of PAC commissioners in a quorum must approve a deaccession of artwork from the City collection. The final decision will be documented and made public through the PAC minutes.

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APPENDIX

Golden Municipal Code Chapter 2.60 Art in Public Places

2.60.010
The purpose of this chapter is to provide a means to fund the acquisition of artwork by the City for display in public places, to establish guidelines for selection of artwork for the City's public art collection, to provide for the display of the City's collection and to provide for the management, maintenance and repair of artwork in the City's public art collection.

2.60.020: Definitions
As used in this chapter, unless the context otherwise requires, the following words or phrases shall have the meanings ascribed below:

Artwork includes, but is not limited to, a sculpture, monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, weaving, carving and stained glass, but would not normally include landscaping, paving, architectural ornamentation or signs, unless such elements are an essential component of the artwork itself.

Commission means the Public Art Commission created and established in section 2.64.010 of this Code.

Construction Cost means the actual cost of any construction project, including any contingency reserve, but excluding land acquisition costs, engineering and administrative costs, costs of fees and permits, and indirect costs, such as interest during construction, advertising and legal fees.

Construction Project means the construction, substantial renovation or addition to any public building, facility, park or other public improvement by the City or its agents, including, without limitation, all landscaping, parking areas and similar areas and facilities associated with such improvement, with an estimated total construction cost of $50,000.00 or more. "Construction project" includes only those projects designed to create a permanent improvement and does not include projects that are primarily for the purpose of ordinary maintenance, repair or replacement. The term "construction project" does not include any improvements made by any special improvement district, and any other improvements exempted by the City Manager from the requirements of section 2.60.040 of this chapter. If a question arises as to whether a construction project is subject to the provisions of this chapter, the City Manager shall make the final determination.

Public Art means any artwork displayed for two weeks or more in or on City owned property in an area open to or viewable by the public, on the exterior of any City-owned facility, or on non-City property open to or viewable by the public, if the artwork is installed or financed, in whole or in part, with City funds or grants procured by the City, or if the artwork is owned by, donated to, or on loan to the City.

Reserve Account means the art in public places reserve account established by this chapter.

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2.60.030: Account Established

There is hereby established a reserve account within the sales and use tax capital fund, to be known as the "Art in Public Places Reserve Account." The funds set aside from construction projects pursuant to section 2.60.040 of the Code, and all funds received by the City for public art, whether donated, earned, or secured through grants or otherwise obtained by the City, shall be deposited in this account. City Council may also fund the account in its discretion and subject to appropriation. The funds in this account shall be expended only for acquisition, installation, maintenance, repair or removal of public art and for expenses incurred by the City in the administration of this chapter and chapter 2.64 of this Code.

2.60.040: Funds for Public Art

a) The City shall cause an amount equal to one-percent (1%) of the construction cost of each construction project for which the total estimated construction cost is fifty-thousand dollars ($50,000) or more to be deposited in the City's Art in Public Places Reserve Account, and that amount shall be included by the City in all estimates of necessary expenditures and all requests for authorizations or appropriations for such construction projects. If any project is partially funded from any source that precludes art as an object of expenditure of funds, then this section shall apply only to the amount of funds not so restricted. All funds set aside for artwork shall be paid into the reserve account. Alternately, the City may include public art as part of the overall design of a City construction project pursuant to section 2.60.050 of the code.

b) As an alternative to determining the funding level based upon the construction costs as provided in subsection (a) above, and in an effort to create a more predictable and consistent funding level, the City Council may, in conjunction with the annual adoption of the City Capital Improvement Program, adopt a resolution to establish a policy pertaining to a fixed amount of funds to be deposited in the Art in Public Places Reserve Account. Such resolution will consider the average or typical level of funding that would otherwise be deposited based upon the construction cost calculation in subsection (a) above.

c) Funds in the Art in Public Places Reserve Account shall be expended as directed by the Public Art Commission consistent with the terms of this chapter and chapter 2.64 of this code, the City's policies regarding Art in Public Places, and the City's purchasing policy.

2.60.050: Site Integrated Public Art

Artistic elements incorporated into the original designs of buildings and public spaces create opportunities to enhance the aesthetic character of public spaces through site-integrated public art. In lieu of the one percent deposit in the art in public places reserve account provided for in section 2.60.040 of the Code, the City may choose to include site-integrated public art as a part of the overall design and installation of a City construction project. The value of the public art provided must be equal to or greater than one percent of the total estimated construction cost of the project. Artwork included as part of a City construction project design must comply with all applicable ordinances, rules, and regulations, and with the City's policies regarding art in public places. All proposals for site-integrated public art shall be subject to review and approval by the Public Art Commission .

2.60.060: Public Art Selection Criteria

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The Public Art Commission shall review all artwork proposed for the AIPP Program for conformance with the following criteria and the purposes of this chapter.

a) Conceptual compatibility of the design with the immediate environment of the site;
b) Appropriateness of the design to the function of the site;
c) Compatibility of the design and location with the architectural or historical character of the site;
d) Creation of an internal sense of order and desirable environment for the community by the design and location of the artwork;
e) Preservation and integration of natural features for the project;
f) Appropriateness of the materials, textures, colors and design to the expression of the design concept;
g) Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art in public places to ensure a variety of style, design and media throughout the community;
h) Anticipated costs and labor to install, maintain, or repair the artwork;
i) Compliance with all aspects of the City's art in public places safety policy; and
j) Whether the proposed artwork will further the following goals of the City's AIPP Program:

i. Enrich the public environment for residents and visitors through the incorporation of the visual arts;
ii. Increase the livability and artistic richness of the Golden community
iii. Enable the City to attain recognition on state and national levels as a leader in the visual arts; iv. Increase public access to artwork and to promote understanding and awareness of the visual arts in the public environment;
v. Make the mundane interesting, fun, playful or inspiring;
vi. Promote diversity and pluralism in public art and to reflect a wide range of multicultural expression; and
vii. Contribute to the economic vitality, quality of life, and civic pride of the Golden community.

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2.60.070: Approval and Display of Public Art and Site Selection

All public art installed or relocated in the City after the effective date of this chapter shall first be reviewed and approved by the Public Art Commission prior to installation or relocation.

a) Artwork selected by the Public Art Commission for inclusion in the City's public art collection pursuant to the provisions of this chapter may be placed in, on or about any City property, or on private property by agreement with the owner thereof if the artwork will be visible and exposed to the public on the private property. Placement of public art shall comply with the City's policies applicable to art in public places, and the name of the artist shall be identified on or near all public art.
b) Public art owned by the City may also be loaned for exhibition elsewhere, upon such terms and conditions recommended by the Public Art Commission and subject to approval by the City Manager.
c) City officials responsible for the design or construction of construction projects in the City shall make appropriate space available for the placement of public art, in consultation with the Public Art Commission . The Public Art Commission shall advise the department responsible for the particular construction project of the commission's

decision regarding the design, implementation and placement of public art in connection with such project.
d) Public art may be installed on privately owned property with a written agreement between the City and the property owner specifying the proprietary interests in the artwork. Any such agreement shall be subject to review and approval as to form by the City attorney before execution by the City, and shall ensure that:

i. The installation of the public art will be done in a manner that will protect the artwork and the public; and

ii. The public art will be maintained in accordance with the City's policies concerning art in public places; and

iii. The property owner shall indemnify the City and provide adequate property insurance for the artwork.

e) Installation, maintenance, alteration, refinishing and relocation of public art shall be done in consultation with the artist whenever feasible.
f) No public art shall permanently be removed, altered or changed without the review and approval of the Public Art Commission ; except that review and approval of the Public Art Commission shall not be required for temporary removal of public art by City personnel for maintenance or repair, or for temporary or permanent removal of public art that, in the sole discretion of the City Manager, poses a public health or safety hazard.
g) The staff liaison to the Public Art Commission shall maintain a detailed record of all public art, including site drawings, photographs, designs, names of artists and names of architects whenever feasible, shall give appropriate recognition to the artists, and shall appropriately publicize and promote the city's public art and AIPP Program.
h) All other provisions of this chapter notwithstanding, the placement of public art shall be subject to the city manager's authority to issue and adopt rules, orders, and regulations as are reasonably necessary for the administration, protection and maintenance of buildings and property belonging to the City of Golden and any other public buildings and property under the control, management or supervision of the city manager, as provided in section 2.08.110 of this Code.

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2.60.080: Ownership

All artwork donated to the city and all artwork purchased or acquired by the city at the direction of the Public Art Commission, and using city funds shall be titled in the name of, and owned by, the city.

2.60.090: Exemptions

The following artwork is exempt from the provisions of this chapter:
a) All artwork in the collections of, or on display at, or under the auspices of, the Golden History Museums; and
b) All artwork on display in private city offices or other areas of city-owned facilities that are not generally accessible to or frequented by the public.

2.08.010: Authority of City Council Generally

The corporate authority of the City of Golden being by law vested in the city council, the council shall be the body of final responsibility in all matters affecting the city, and shall have all powers, and be subject to responsibilities and limitations, which may now or hereafter be granted or imposed by law.

Golden Municipal Code Chapter 2.64 Public Art Commission

2.64.010: Creation and Appointment

a) There is hereby created a Public Art Commission for the City, which shall be comprised of seven voting members, as follows:

b) Five of the members shall be residents of the City and appointed by the mayor, with approval by a majority of the City council;

i. One member shall be the executive director of the Foothills Art Center or their designee, with approval by a majority of City council.

ii. One member shall be selected by the board of directors of the Golden Civic Foundation, with approval by a majority of City council.

iii. All members shall serve without compensation.

c) Members of the Public Art Commission shall not hold any other municipal office or position on a standing municipal board, commission or authority, except that members of the commission may serve on other temporary committees, task forces, or similar ad hoc groups.

d) The City Manager shall appoint a Staff Liaison to provide administrative support and assistance to the commission as necessary to accomplish the duties of the commission and the purposes of this chapter.

2.64.020: Terms

The five resident members and the one member selected by the Golden Civic Foundation shall serve terms of four years, and shall be eligible for reappointment for no more than two consecutive terms. Upon initial appointment, three of these members shall be randomly selected to serve initial terms of two years. The term of the executive director of the Foothills Art Center or their designee shall be ex officio, subject to approval by City council.

2.64.030: Authority to Adopt Procedures

The Public Art Commission shall have the authority to adopt rules of procedure governing its proceedings consistent with applicable requirements and provisions of the Golden Charter and Municipal Code, and shall conduct all of its proceedings in accordance with such rules. The rules of procedure shall be posted and available to the public.

2.64.040: Meetings

The rules of procedure shall include the time and place of regularly scheduled meetings, which shall be open to the public. A record of all meetings will be kept at City Hall.
The commission may call special meetings, as it deems necessary, subject to public notice within reasonable time before the meetings. Such meetings shall be open to the public. In the event there is no business pending before the commission, the regular monthly meeting may be cancelled.

2.64.050: Officers

The Public Art Commission shall choose one of its members to act as chair and one member to serve as vice-chair. The chair shall preside at all meetings of the board, except that in his/her absence, the vice-chair shall preside. The City shall provide a secretary to the board.

2.64.060: Duties of the Commission

a) The primary purposes of the Public Art Commission shall be to promote, select, acquire, and maintain public art in fulfillment of the goals of the City's AIPP Program, to

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administer the provisions of this chapter and chapter 2.60 of this Code pertaining to the City's AIPP Program, and to adopt policies and guidelines necessary for such administration.
b) The commission shall prepare and submit, not later than March of each year, a report to City council of its activities and expenditures for the prior year.
c) The commission shall prepare and submit an annual plan to City council describing its goals and plans for the City's AIPP Program for the coming year, and amend such plan as necessary.

2.64.070: Adoption of Policies and Guidelines

a) The Public Art Commission shall adopt policies and guidelines:
i. To identify suitable art objects for City buildings or property;
ii. To facilitate the preservation of art objects and artifacts that may be displayed in public places;
iii. To prescribe a method or methods for competitive selection of art objects for display;
iv. To prescribe procedures for the selection, acquisition, placement, display, rotation and Deaccessioning of public art;
v. To address safety and other precautions with respect to the selection, location and maintenance of public art; and
vi. To address any other matter necessary for the administration of chapters 2.60 and 2.64 of this Code and the City's AIPP Program.

b) All policies adopted by the Public Art Commission and any amendments thereto, are subject to review and approval by City council, and shall be effective upon City council's adoption of same by resolution.

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City of Golden

PUBLIC ART FRAMEWORK PLAN

Appendix C
RFP 23-08, Arts and Culture Plan
Stilwell's Submittal

City of Golden
911 10TH ST. GOLDEN, CO 80401
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PAC
GOLDEN PUBLIC ART COMMISSION

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December 13, 2022

To the City of Golden,

The arts are an essential component of Golden's past, present and future. In the City of Golden, the Public Art Commission (PAC), appointed by the Golden City Council, is responsible for the ongoing stewardship of the City's public art collection. This Public Art Framework Plan was developed in cooperation with expert consultants, ThereSquared LLC and MIG, and formulated with valuable input from the PAC Board, Golden's elected officials and staff, and the community at large. Adopted by the Golden City Council, the Public Art Framework Plan, is intended to guide the board's work and collection policies for the next several years by articulating the vision, goals, and strategies for enriching the public art experience for our residents and visitors.

Thank you for your continued support and enthusiasm for arts in Golden, particularly our public art program.

Sincerely,

Kristie Brice
Chair, City of Golden Public Art Commission

ACKNOWLEDGMENTS

A special thank you to the Golden Art in Public Places Public Art Commission and the City staff and community members who thoughtfully engaged in the Public Art Framework Planning process and helped to shape this document.

PUBLIC ART COMMISSIONERS

Cindy Jaye

Rick Souders

Hassan Najjar

Katalin Wishart - Vice Chair

Julie Bartos

Lisa DeCaro

Kristie Brice - Chair

CITY OF GOLDEN STAFF LIAISONS

Steve Glueck

Robin Fleischmann

CONSULTANTS

Kendall Peterson, Theresquared, LLC

Jay Renkens, MIG

Mark De La Torre, MIG

Finley Sutton, MIG

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Appendix C
Arts and Culture Plan
Stilwell's Submittal
RES 23-08,

Alt Text: Welcome to Golden arch gateway leading into town.



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Alt Text: Black dog lays in the sun in front of the Welcome to Golden arch gateway.

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CHAPTER 1
PROJECT & PROCESS

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Introduction & AIPP History

Golden is a scenic, bustling, former gold rush town, resting between two mesas at the base of the Rocky Mountain foothills. The City's Art in Public Places Program (AIPP Program) was established in 2013 to help the City of Golden continue to build and maintain their collection of city-owned artwork. The Public Art Commission (PAC) is the board appointed to guide the program. The AIPP program has helped to create a unique, vibrant, and art-filled downtown area and beyond, and the public art collection contributes to the quality and cultural identity of our community.

This Public Art Framework Plan (PAFP) has the purpose of guiding and aligning the PAC's goals for the next five years of the AIPP Program. However, this document is a working or living document that may change from year to year, as priorities evolve, and as different opportunities present themselves.



Alt Text: Directional sign that reads "Golden Fine Arts Festival"

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The Public Art Commission (PAC)

The purpose of the Public Art Commission (PAC) is to act as stewards of the AIPP Program for the City of Golden. As such, they are charged with oversight of acquiring, managing, and maintaining the public art collection. Furthermore, the PAC serves as program spokespeople and champions of importance for visual arts in the entire community. Members of the PAC are appointed by City Council to carry out the duties and responsibilities of the AIPP Program for the City of Golden. The establishment and responsibilities of PAC were first defined in Golden Municipal Code Chapter 2.64 and are further detailed in the 2022 Public Art Handbook.

Each calendar year, the PAC shall review the recommendations and strategies contained in this Framework Plan, using it as guidance for the creation of a yearly work plan to submit to City Council.



Alt Text: Small painted art piece called Murgy the Lizard.

Original AIPP Goals

The original goals for the AIPP program were outlined in City of Golden Municipal Code Chapter 2.60. These goals shifted slightly in the original 2013 Public Art Handbook and have been completely revised for the publication Public Art Framework Plan, as detailed later in this document. The original goals were:

- Enrich the public environment for residents and visitors through the incorporation of the visual arts;
- Increase the livability and artistic richness of the Golden community;
- Enable Golden to attain recognition on state and national levels as a leader in the visual arts;
- Increase public access to works of art and to promote understanding and awareness of the visual arts in the public environment;
- To make the mundane interesting, fun, playful or inspiring;
- To promote diversity and pluralism in public art and to reflect a wide range of multi-cultural expression; and
- To contribute to the economic vitality, quality of life, and civic pride of the Golden community.

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Golden's Public Art Collection

BACKGROUND

Golden's public art collection began in the 1990's with many generous donations of traditional bronze sculpture to the City. At the time, there was no group overseeing that donation process, and there were no over-arching goals or criteria to guide the program. These initial sculptures tended to reflect the early history of Golden's foundations and heritage.

Since the establishment of the PAC in 2013, the collection has grown and become more diverse. Furthermore, it has been integrated throughout the larger Golden community. It is beginning to tell a new, more contemporary story about Golden, its community and its bright future. As the City continues to grow and develop, the AIPP Program will continue to evolve along with it, communicating its collective history and shared vision for the future.

COLLECTION AUDIT & ANALYSIS REPORT (2021)

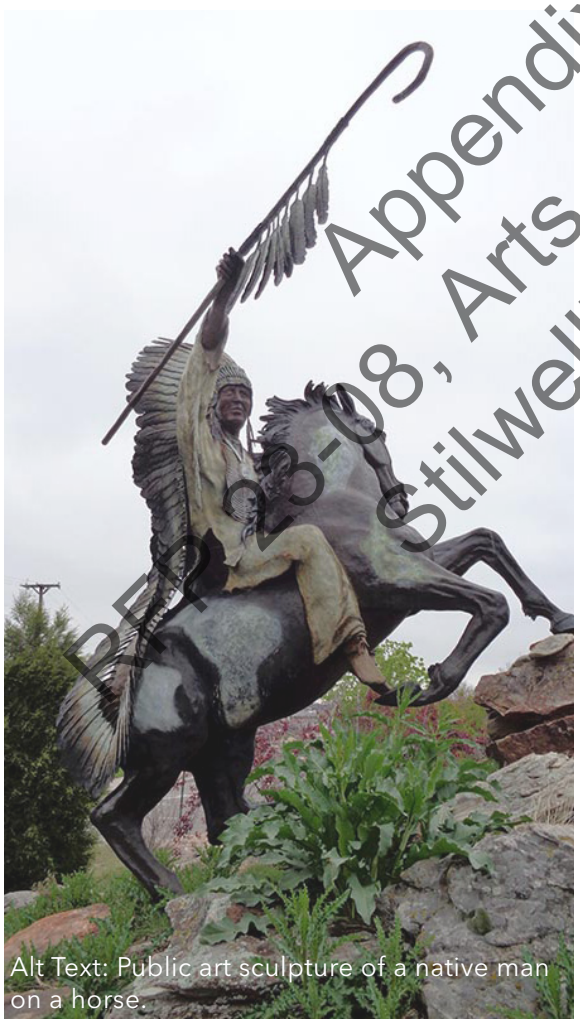
The PAC commissioned an Audit and Analysis of the collection in 2021 with a focus on summarizing the collection's strengths and weaknesses, themes, and gaps. The report (see Appendix) provided with PAC with some key observations:

- Golden is a community that values public art and sites artwork in prominent locations for residents and visitors to the community, mostly in the downtown area.
- Much of the collection is represented by traditional bronze figural artwork depicting historic or allegorical figures and western animals.
- The community and visitors truly enjoy the collection and engage with it regularly.
- The collection is not very diverse, whether in location, siting, or materials, nor artist genders, genders depicted or styles. However, this is improving with the addition of murals and more contemporary pieces.

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Alt Text: Public art piece of a large butterfly



Alt Text: Public art sculpture of a native man on a horse.

Public Art Framework Plan (PAFP)

PURPOSE & NEED

Building from the findings of the Audit and Analysis which focused on the collection itself, in late 2021, the PAC began work on a Public Art Framework Plan to better understand the current program's strengths, weaknesses and opportunities. For this plan, consultants reviewed the audit of the existing collection, conducted interviews, surveyed the community, and held several study sessions with the PAC to understand how the AIPP program can diversify its strategies, expand partnerships, identify funding, and clarify its mission moving forward. The plan was finalized in fall of 2022. The result will be a collection of short, longer-term, and ongoing strategies to enhance and improve both the collection and the Art in Public Places program and Golden's creative community.

ORDINANCE & HANDBOOK REVIEW

In January 2022, the PAC met with consultants to review and discuss the existing public art ordinances and existing Public Art Handbook. Both of the public art ordinances that guide the PAC and the AIPP program are straightforward, however they could benefit from some additional language to better support the PAC's new goals to include language to allow for arts education programming in the future after consultation and approval by Council.

Appendix C
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The Public Art Handbook outlines the AIPP program policies. It was originally drafted in 2013 and edited again in 2016 and 2017. The document was missing some key components (mural policy, conflict of interest) and some sections were underdeveloped and needed editing. It was determined that the Handbook needed to be re-written and updated as a part of the consultant's scope of work. The final document was presented and approved in fall of 2022.

PAC ENGAGEMENT

Throughout the process, the PAC functioned as a steering committee, vetting initial products, guiding community engagement, and reviewing final deliverables. The PAC met several times throughout the process, with some meetings functioning as general updates and project report-outs, and others focused on more detailed discussions such as in the crafting of the plan goals and review of the engagement findings.

COMMUNITIY & STAKEHOLDER ENGAGEMENT

Beyond the PAC, the PAFP process engaged the broader community to establish a better understanding of resident priorities as it relates to the role of art and types of art most appropriate for Golden. The types of events and activities varied by time of day, time of year, and method of input.

Early engagement, such as during the Autumn Fest in fall of 2021, focused on introducing the public to the project and the PAC and announcing future engagement opportunities. Activities at this event were framed more in a "did you know?" format, with different boards and handouts highlighting the current state of area in Golden.

During the winter of 2021-2022, the consultants conducted one-on-one or small group interviews with over fifteen stakeholders identified by the staff and PAC members. Each interview focused on the AIPP program, its impact, and views on how the program could be improved. Interviews were kept confidential, and the consultants distilled the comments into themes which added insight into the PAFP.

Later engagement deployed both in-person and online opportunities to solicit input from the larger community. During Golden Civic Foundation's Summer Jam hosted in June of 2022, local Golden residents were provided with a variety of crafts and art activities, aimed at both creating art with a paint-balloon splash wall and tissue paper flowers and encouraging conversations around art. During these art-based activities, a dot-preference board provided the opportunity to indicate which types of art were most appropriate for Golden moving forward.

Online engagement was hosted through Guiding Golden (www.guidinggolden.com) An arts-focused online survey was open from June-August 2022, inquiring about various aspects of art in Golden, from personal priorities to the role of commissions and committees.

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PAFP: NEW AIPP PROGRAM, MISSION, & GOALS

The AIPP program has long operated under the goals and vision from the original ordinances. Through the planning process, the recommended Mission, Vision, and Goals for the AIPP program have been redefined, updated, and broadened.



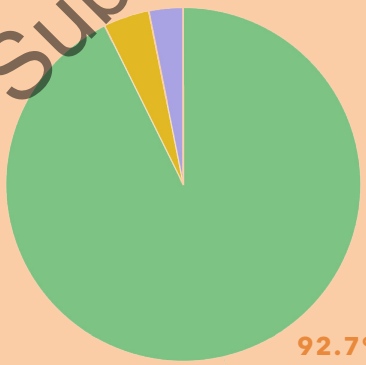
Alt Text: Woman helps a child put on gloves for a painting activity.

Public Art Survey

An overwhelming majority (nearly 70%) believe it is very important to experience the arts.



Over 90% responded that Public Art adds value to the Golden community.



When asked what types of artwork they would like to see more of in and around the community, they majority stated they would like more functional artwork (benches, bike racks, etc.) as well as more murals. Kinetic/interactive artwork as well as environmental artwork also scored high.

All of these suggestions from the community will be taken into account as the PAC develops their criteria for acquiring artwork in the next five years.

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Alt Text: Public art sculpture of a small village built into the side of a tree.

RFP 22-08 Appendix C
Arts and Culture Plan
Sidwell's submittal



CHAPTER 2
MISSION, VISION, & GOALS

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New AIPP Mission

To enrich the public environment and experience for residents and visitors through the arts.

New AIPP Vision

To create and support diverse arts projects and programs of and for the entire Golden community, through leadership, stewardship, and partnerships.

Updated AIPP Goals

GOAL A: ADVOCATE FOR ADVANCING THE ARTS IN GOLDEN

Art contributes to our quality of life, civic pride and economic vitality. We will be the City's key advocates for including art in all City decisions, planning, and construction, where possible. We will support City leadership as it considers establishing broader support for arts and culture and we will embrace and elevate all arts in Golden.

GOAL B: CREATE A DIVERSE & ACCESSIBLE COLLECTION FOR GOLDEN

As stewards of the City's public art collection, we will create a collection of permanent and temporary artwork that:

- Features work of the highest level of artistic excellence;
- Features work by a broad and diverse group of artists, working in a variety of methods and media;
- Explores and reflects a diversity of themes, subjects and traditions; and
- Enriches public spaces in all parts of our City and is accessible and available to everyone.

GOAL C: MAINTAIN OUR COLLECTION FOR GOLDEN

Golden's collection of artwork is an asset to our community. We will maintain, conserve and care for the collection for generations to come.

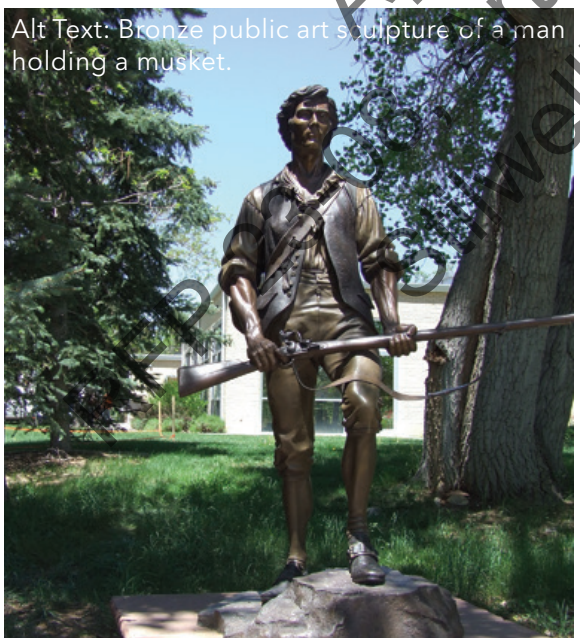
GOAL D: PROMOTE THE ARTS FOR GOLDEN & BEYOND

Golden's public art collection will inspire, educate, and create conversation. We will promote and inform the public about Golden's public art and seek to increase public understanding through education, media, and events.

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Based on the these goals set forth, the following recommendations and strategies have been organized in a phase approach. These account for a five-year planning window; revisit every year and re-work strategies after year five. **NEAR-TERM** activities are expected to be activated within a one- to two-year window. **LONG-TERM** activities are expected to be activated sometime in the later part of the five-year planning window. **ONGOING** activities should be happening year-round and simultaneous to all near- and long-term activities.


Alt Text: Public art sculptures large fish.


Alt Text: Bronze public art sculpture of a man holding a musket.


Alt Text: Bronze public art sculpture of a young girl.

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Goal A: Advocate for Advancing the Arts in Golden.

A.1. NEAR-TERM TASKS AND STRATEGIES

A.1.a. AIPP Ordinance Changes

- Review current ordinance with an eye to updating it to new goals, the makeup of the PAC, and other clarifications.
- Include option for Arts Education in the new ordinance wording in case the PAC would like to add programming in this area.

A.1.b. Support Golden's Arts & Culture Master Plan

- Assist Council as needed.
- Encourage and advocate for inclusion of public art in all City plans moving forward.

A.1.c. Advocate for Proper Placement of the Public Art Program

- Advocate for further research into which department can best support the PAC and its activities into the future.

A.1.d. Create an Advocacy Document/ White Paper for Public Art

- The white paper could evolve out of the Frequently Asked Questions document (written in Summer 2022). Include an outline of goals, future projects, and advocacy.



Alt Text: Itty bitty public art piece of blue material filling in a crack in a wall.

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A.2. LONG-TERM TASKS AND STRATEGIES

A.2.a. Investigate refining the PAC recruitment and appointment process.

- Create questions for potential PAC/Arts Commission members to be asked in recruitment interviews.
- Investigate adjusting the eligibility requirements for a new, redefined PAC/Arts Commission to make it more balanced and diverse.

A.2.b. Investigate partnerships for creating more arts education programming through the AIPP program.

A.2.c. Advocate for the expansion of City-funded arts programming and events.

A.3. ONGOING TASKS AND STRATEGIES

A.3.a. Advocate for 1% funding for qualified Capital Improvement Projects (CIP).

- Assign a PAC member to accompany staff to meetings where these projects are discussed/planned.

A.3.b. Encourage and advocate for inclusion of the arts in all new City plans moving forward.

A.3.c. Ensure art is a consideration for all City projects.

- Establish regular communications between the PAC and Public Works and Parks to make sure new projects include options for public art.
- Advocate for arts inclusion in the Heart of Golden project.
- Advocate for public/private collaborations and cross-promotion of Golden's industries.

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Goal B: Create a Diverse & Accessible Collection for Golden

B.1. NEAR-TERM TASKS AND STRATEGIES

B.1.a. Create a yearly report and work plan.

- Using this document, add, review, and re-prioritize yearly strategies.
- Using this document, review yearly accomplishments and activities.
- Create a forward-looking yearly work plan to guide and track yearly activities and give presentations.
- An annual report can be useful for tracking yearly activities according to the work plan and reporting to City Council.

B.1.b. Update the Public Art Handbook for adoption and alignment with the new goals, mission, and vision and policies.

B.1.c. Review all legal documents, application forms and templates for alignment with new policies in the Public Art Handbook.

B.2.d. Reinforce the PAC's role for funding/selecting/approving public art projects in the City of Golden (DDA, Parks, Public Works); continue to educate community about this role.



Alt Text: Large public art sculpture of a blue hummingbird.

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B.2. LONG-TERM TASKS AND STRATEGIES

B.2.a. Create a 5-year collection plan to establish new parameters, locations, and budgets for Golden's Public Art collection.

- Refer to the 2021 Audit Report and 2022 Community Survey results from (in Appendix) to guide the PAC on the creation of the collection plan and art selection criteria.
- Identify specific catalytic art opportunities,
- Consider establishing a collection philosophy (criteria of what you may and may not consider for the collection for the next five years).
- Establish primary and secondary art locations.
- Focus on diversity of artists, mediums, scale, location, and subjects.
- Consider art that is contextual and thematic–beyond just "Western."
- Catalogue potential and preferred types of sculpture and artwork for the collection.
- Locate art intentionally and contextually.
- Encourage artwork that educates and engages all ages.

B.2.b. Investigate establishing a sculpture park to combine the outdoors and sculpture. Incorporate art into the parks and natural landscapes

B.2.c. Operate the Downtown/Creekside area as a Public Arts District (a place/destination and a program with outreach to visitors and community)

B.3. ONGOING TASKS AND STRATEGIES

B.3.a. Integrate consideration of public art in all City programs and funding decisions.

B.3.b. Integrate public art into projects across the City, particularly projects outside of Downtown.

B.3.c. Always work to enact a fair and transparent public selection process with clear criteria for selection.


Alt Text: Yellow, blue, and red paint splattered onto a canvas.

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Goal C: Maintain Our Collection for Golden

C.1. NEAR-TERM TASKS AND STRATEGIES

C.1.a. Establish a dedicated maintenance fund in addition to public art capital and programming funding; assure that it rolls over each year.

C.1.b. Formalize a maintenance program.

- Establish regular maintenance needs for all City-owned art.
- Prioritize yearly maintenance needs.

C.1.c. Establish a new policy of requesting maintenance funding for donated artwork

C.1.d. Clarify ownership of all Golden public art pieces, including interior artwork, murals etc.

- Include new artwork in the regular maintenance plan.

C.1.e. Establish a policy recommendation for the restoration/maintenance of historic murals in Golden.


Alt Text: Bronze public art sculpture of a dragon.



Alt Text: Bronze public art sculpture of a bison.

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Goal D: Promote the Public Art Collection for Golden & Beyond

D.1. NEAR-TERM TASKS AND STRATEGIES

D.1.a Formalize recurring public art events (e.g. the Itty Bitty Art Program.)

D.2. LONG-TERM TASKS AND STRATEGIES

D.2.a. Update and improve public art collateral.

- Create a public art tour(s) and include artwork that is not owned by the City.
- Revise public art map.
- Consider a smaller Downtown area art map including non-City artwork.
- Prioritize website improvements and user-friendly formatting (a site off of City site?).
- Create downloadable "Arts Walks" for visitors.

D.2.b. Investigate applying for the Downtown as a Certified Creative District for Colorado.

D.2.c. Establish community events to feature the arts and the public art collection.

D.2.d. Establish areas where the arts can be in service of established local events, city initiatives, etc.

D.3. ONGOING TASKS AND STRATEGIES

D.3.a. Continue to promote Golden as an art district/destination through coordinated marketing with Visit Golden and City communications.

D.3.b. Advocate for tourism websites outside Golden to feature and market the Golden Arts District.



Alt Text: Itty bitty art piece of a painted pipe to look like flowing water.

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Alt Text: The creek in the foreground with the Coors factory featured in the background.

RFP 23-06 Appendix C Arts and Culture Plan Stilwell's Submittal



CHAPTER 3
IMPLEMENTATION

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Implementation

YEARLY WORK PLANS

From this Framework Plan, review yearly activities at the end of the year, and implement yearly work plans for the next year's activities.

ANNUAL REPORTS

From this Framework Plan, review yearly activities at the end of the year and develop an annual report for City Council, other City staff, and the community.

ORDINANCE CHANGE

At a time to be determined, update the new public art ordinance that better reflects the AIPP program goals (in this PAFP document).

ART IN PUBLIC PLACES HANDBOOK UPDATE

If the ordinance changes or other rules and regulations change that affect the AIPP program, issue changes to the AIPP Handbook accordingly.

SUPPORT CITY LEADERSHIP IN ITS ARTS & CULTURE MASTER PLAN

As mentioned in AIPP Goal A, the PAC will follow and support City leadership as it considers establishing broader support for arts and culture.

CONTINUE TO ENGAGE THE COMMUNITY

Though the work of the PAFP process, the PAC now better understands its role in the community and the need for the community to embrace and support the program. The PAC presence at community events helped elevate the PAC's status and importance and helped to educate the community about PAC activities. This outreach to the community should continue, particularly as the PAC implements the PAFP strategies over the next several years.

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ARTS VISION 2030

THE CULTURAL PLAN FOR THE PIKES PEAK REGION
OCTOBER 2021



THE TIME IS NOW

Now is the time to be bold!
Surrender fear to the exploration of new creative endeavors.

Now is the time to be courageous!
Advocate for each other loudly and without hesitation.

Now is the time to be collaborative!
We are at our strongest when we connect, share, and champion each other.

Now is the time to be innovative!
Reimagine art with accessibility and equity across the region.

Now is the time to lead with change!
Art is a catalyst for revolution, liberation, and progression.

Now is the time to create art in the image of our region!
Where every person can say, “I am reflected in the art I see in my community.”

This is the future we are working towards.
Art representing your neighborhood, family, identity, heritage, passions, pain, and joys.
Art weaving into the fabric of the region seamlessly.
Art permeating systems, institutions, and structures of power.

From leaders, teachers, artists, and community members, your voice matters.
From BIPOC, Queer, Disabled, Women, and other marginalized groups, your voice matters.
Your voice and the voices of our diverse community are integral to this vision.
The uplifting and collective support of each other is the only way through.
It will take all of us to implement this work.
We cannot do this without you.
We need you to champion art in the ways only you can.

See yourself reflected in these declarations.
Make your home in the words and be held by their support.
Feel the way your body is called to a specific action.
Find the ways you add to the vibrance of art and creativity in this vision and join us.
Fight alongside us to be better tomorrow than we are today.
We see our future for art as life-saving.
We see the future of art in you.

Let art become Aspen grove.
An interconnected network of roots that supply and nourish each other.
Despite size or range, let us come together for the good of the people.
Stand in solidarity and community with those similar and different from yourself.
Bound by creativity and possibilities.
As we grow the legacy of art in the Pikes Peak region.

BY ASHLEY CORNELIUS
PIKES PEAK POET LAUREATE (2021-2023)
AND ARTS VISION 2030 STEERING COMMITTEE MEMBER

Appendix C
RFP 23-08, Arts and Culture Plan
Stilwell's Submittal

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AN INVITATION

From the Arts Vision 2030 Leadership Team

In the fall of 2018, we started the process to create a new 10-year cultural plan by discussing who else to invite into this important work. While the Cultural Office and Bee Vradenburg Foundation have been honored to steward the effort, and will continue to support the plan well into the future, we knew that crafting a meaningful, relevant, and successful plan would require many voices and perspectives. And, we knew that the scale of creative transformation in these pages would require the ownership, investment, and inspiration of many partners inside and outside of our creative community. So, we began inviting.

We invited Arts Vision 2030's Steering Committee with great intention and they continue to guide and shape the plan. We thank each of them for volunteering to help organize, analyze, and imagine together over a longer and more difficult period of time than any of us expected.

We invited key donors to join the Cultural Office and Bee Vradenburg Foundation in investing in this work. We are appreciative of their trust and backing. Thanks to their generous financial support, we have undertaken an ambitious and comprehensive process to explore the creative growth, opportunities, and complexities ahead for the Pikes Peak region.

We invited Kendall Peterson and Jill Stilwell, from ThereSquared LLC, to be our lead consultants, supported by Rachel Cain. Their expertise and camaraderie has far exceeded our hopes, and they have infused professional rigor, insight, and joy into Arts Vision 2030.

Now, we invite you to engage this new cultural plan and complete it with your own ideas, time, and investment, for the incredible benefits it will deliver to our regional life. Together, we are stronger, more creative, and ready for the decade ahead!

Angela Seals
Lead Project Coordinator for Arts Vision 2030 & Deputy Director, Cultural Office of the Pikes Peak Region

Andy Vick
Co-Chair of Arts Vision 2030 & Executive Director, Cultural Office of the Pikes Peak Region

David Siegel
Co-Chair of Arts Vision 2030 & CEO, Bee Vradenburg Foundation

Special thanks to in-kind partners Onebody Ent & KLand Community Cares, Manitou Arts Center, Poetry719, Colorado Springs Fine Arts Center at Colorado College, Lulu's Downstairs, and There Squared LLC.

STEERING COMMITTEE



Chris Alvarez
Alvarez Art School, Painter, Board of Directors for the Cultural Office of the Pikes Peak Region



Ryan Bañagale
Colorado College Visual & Performing Arts, Musician



Marc Benning
Lulu's Downstairs, Blank Tape Records, Musician



Jodie Bliss
Bliss Studio & Gallery, Artist, Town of Monument



Cynthia Chung Aki
Golden Lotus Foundation



Ashley Cornelius
Poetry 719, Arts Therapist, Poet



Lisa Cross
D49 Art Teacher & Pikes Peak Arts Council



Jasmine Dillavou
Artist, Activist



Ryan Flores
Musician, Photographer



Ralph Holloway
Woodland Park Arts Alliance, Artist



Sally Hybl
Actor, Arts Advocate



Natalie Johnson
D14 School Board, Manitou Art Center



Cheerish Martin
Singer, Actor



Matt Mayberry
Colorado Springs Cultural Services/ Pioneers Museum



Daisy McGowan
UCCS Galleries Contemporary Art, Artist



Jordan McHenry
Dance Alliance of the Pikes Peak Region, Dancer, Instructor



Susan Pattee
Arts Advocate, Bee Vradenburg Foundation Trustee



Michelle Rozell
Cripple Creek Heritage Museum



Sarah Sheppard Shaver
PPCC Drama Department, Springs Ensemble Theatre, Actor



Becca Sickbert
Manitou Springs Creative District



Abby Simpson
Pikes Peak Library District Sand Creek Library Director



Claire Swinford
Downtown Partnership, Downtown COS Creative District, Artist



Herman Tiemens
Arts Advocate, Tiemens Foundation



Sergei Vassiliev
Colorado Springs Philharmonic principal clarinet, EPIC Concerts Pikes Peak Region

Special thanks to the following individuals for part-time service:
Sky Hall *(Tri-Lakes Views, Town of Monument)* and Lynne Hastings *(Actor, Director).*

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Arts and Culture Plan
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INTRODUCTION

WE ARE
a booming region spanning mountains, cities, towns, and plains.

WE ARE
a collaborative and increasingly diverse community.

Creativity and self-expression are intrinsic to our history and identity.

The Pikes Peak region includes Colorado's El Paso and Teller counties, surrounding the majestic "fourteener" Pikes Peak. The urban center of Colorado Springs spreads out at the foot of Pikes Peak, radiating out into mountain towns, panoramic natural vistas, and rural communities. As the second largest population center in Colorado, the Pikes Peak region is home to more than 750,000 people and rapidly growing in number and diversity. Along with the population, remarkable growth is anticipated for the local economy, jobs, and tourism.

Our arts, culture and creative community is also growing and flourishing. Creativity and self-expression are intrinsic to the history of this area from the time of its earliest human inhabitants. Indigenous cultures have lived in this region for 5,000 years, leaving behind petroglyphs, Ute prayer trees, and other signs of historic creativity. The first permanent settlement was established in what is now Old Colorado City in 1859. Colorado Springs was established in 1871 to take advantage of the extraordinary scenic beauty of its surroundings to develop a "Little London" in the American West, and the mountain towns of Teller County followed in the 1890s. This remarkable setting continues to attract travelers, artists and entrepreneurs.

For much of the region's history, artistic practice hummed in pockets of vibrancy, supported by volunteer-led organizations. Now, more than 400 arts and cultural groups and organizations enliven the Pikes Peak region. The 2017 Arts & Economic Prosperity Study with Americans for the Arts defined the annual economic impact of the local nonprofit creative sector at $153.3 million.

The creative sector's regional, collective identity began galvanizing over the past 20 years. In 2001, the Bee Vradenburg Foundation became the first local foundation dedicated to investing in regional arts. The Cultural Office of the Pikes Peak region (Cultural Office) was founded in 2006 as our first professionally-staffed local arts agency. Efforts by these organizations and so many others ushered in a new era of cooperation, collaboration, and vision that resulted in the community's first Cultural Plan in 2010.

The regional 2010 Cultural Plan sunset in 2020. Now, after years of planning and months of public input, research and reflection, we, the creative community of the Pike Peak region, are proud to announce the publication of our new 2020-2030 cultural plan—Arts Vision 2030.

RFP 23-08, Arts and Culture Plan
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Cultural planning is a best practice for guiding communities through long term growth and development. Along the way, the process of planning builds unity and perspective by accessing new ideas from varied voices. Planning also aligns stakeholders and creates a shared vision for the future.

THE STORY OF ARTS VISION 2030

Working together, the Cultural Office of the Pikes Peak Region and the Bee Vradenburg Foundation convened a diverse steering committee of local creative leaders in 2018, and initiated the process to develop Arts Vision 2030 as the next cultural plan for the Pikes Peak region from 2020-2030.

Arts Vision 2030 builds upon the regional 2010 Cultural Plan starting with an evaluation of our progress and cultural growth over the past decade. To create a vision for the next decade of arts and culture development, key stakeholders were engaged and input gathered directly from our broad community. The result is this living document to galvanize, guide and inspire the arts and creative community towards common goals.

Arts Vision 2030 received funding from El Paso County, the Bee Vradenburg Foundation, Cultural Office of the Pikes Peak region, National Endowment for the Arts, Kirkpatrick Family Fund, Tiemens Foundation, and Colorado Educational and Cultural Facilities Authority. The Cultural Office and Bee Vradenburg Foundation guided the process, amplifying the leadership of the 24-member Steering Committee of local creatives.

The Arts Vision 2030 Steering Committee established values for the Arts Vision 2030 process for a plan that would be of, for, and by the community.

LAND ACKNOWLEDGEMENT

The Pikes Peak region is situated on the ancestral homeland of the Ute Peoples, who are the Southern Ute, Ute Mountain Ute, and Northern Ute. Other tribes who lived and hunted on this land include the Cheyenne, Arapaho, Comanche, and Apache. Even through forced relocation and land dispossession, we recognize that the land still holds Ute traditions, language, stories, and history. Today, Indigenous people from many Native nations reside here and continue to make significant contributions to our community.

PLANNING VALUES

In 2018, the Arts Vision 2030 Steering Committee set forth the following values to guide the cultural planning process:

- **Inclusion** of the full creative community, across boundaries of discipline, geography, and demographics
- **Ambition** to seize the opportunities of a coming decade of population growth
- Belief in local **artistic quality**, with support for its further enrichment
- **Professionalism** based on national best practices, with distinctly regional voice and relevance
- **Boldness** about the creative sector's contribution to our region's vitality across sector

CULTURAL EQUITY STATEMENT

Adapted with permission from Americans for the Arts (AFTA)

"To support a full creative life for all, our arts and creative community commits to championing policies and practices of cultural equity that empower a just, inclusive, equitable nation."

DEFINITION OF CULTURAL EQUITY

Cultural equity embodies the values, policies, and practices that ensure that all people—including but not limited to those who have been historically underrepresented based on race/ethnicity, age, disability, sexual orientation, gender, gender identity, socioeconomic status, geography, citizenship status, or religion—are represented in the development of arts policy; the support of artists; the nurturing of accessible, thriving venues for expression; and the fair distribution of programmatic, financial, and informational resources.

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IMPACT OF THE PANDEMIC

In March 2020, the world was disrupted by the COVID-19 pandemic. Quarantines and social distancing requirements have had an enormous impact on this region, and in particular our creative community. While we still struggle to see the end of the pandemic, the lasting outcomes and consequences for the creative sector are still coming into focus.

The pandemic shuttered much of the creative sector for varying lengths of time, and portions of the sector may never fully recover. Nationally, we know that creative employment is beginning to pick up, but there is increasing evidence that the creative sector is coming back more slowly than other sectors of the nation's economy.

ARTS JOBS
▼ 16%
SINCE BEFORE THE PANDEMIC

Artists/creatives were, and remain, among the most severely affected segment of the nation's workforce. 95% lost creative income during the pandemic. At the height of the pandemic in 2020, 63% experienced unemployment.

95% OF ARTISTS & CREATIVES LOST INCOME DURING THE PANDEMIC

	BIPOC ARTISTS	WHITE ARTISTS
UNEMPLOYMENT	69%	60%
% INCOME LOST	61%	56%

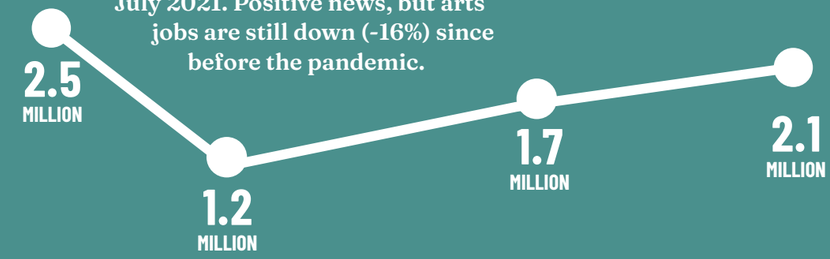
BIPOC artists had even higher rates of unemployment than white artists in 2020 due to the pandemic (69% vs. 60%) and lost a larger percentage of their creative income (61% vs. 56%).



As of July 2021, 39% of organizations with in-person programming remain closed to the public. The vast majority, however, expect to return to in-person activities by the end of 2021.

39% REMAIN CLOSED TO THE PUBLIC

The US Bureau of Labor Statistics reported in August 2021 that "Arts, Entertainment, and Recreation" jobs dropped from 2.5 million to 1.2 million between February and April 2020 (-53%). By January 2021, jobs rebounded to 1.7 million and are up to 2.1 million as of July 2021. Positive news, but arts jobs are still down (-16%) since before the pandemic.



*DATA SOURCE: AmericansForTheArts.org/node/103614

The arts have endured and continue to serve community needs. An earlier 2020 survey* stated that 65% of the over 19,000 organizations participating said that they have been "delivering artistic content to raise community spirits and morale."

Anecdotal evidence suggests the Pikes Peak region was impacted less severely than other parts of the country. Tourism has continued to flourish despite the pandemic, as many of our tourist destinations are outdoors. Many arts organizations pivoted to online and outdoor arts delivery. During the summer of 2021, many arts and culture activities and events returned, with the Meadowgrass Music Festival and Colorado Springs Juneteenth Festival kicking off the season.

While more data and time is needed to better understand the permanent and lasting effects of the pandemic, especially on smaller businesses, organizations and individual artists, our regional arts and creative community seem poised to rebound and continue to thrive and grow.

IMPACT OF RACIAL RECKONING

Following the murder of George Floyd in Minneapolis, MN on May 25, 2020, protests against police brutality erupted nationwide, and the Pikes Peak region was no exception. Starting May 30, Black Lives Matter protesters demonstrated in downtown Colorado Springs every day for more than two weeks. Music, theater, poetry and visual arts were incorporated, and a "Black Lives Create Fest" was held to support local BIPOC artists. Equity, inclusion and racial justice grounded the first conversations of the Arts Vision 2030 Steering Committee and the plan's strategic design throughout. George Floyd's murder elevated critical conversations about race in the Pikes Peak region, and Arts Vision 2030 is a stronger and more equitable plan as a result of this historic context.

PLANNING IN CONTEXT

In early 2020, ThereSquared LLC, a consulting team from Denver, was selected to facilitate the Art Vision 2030 process and began working with the Steering Committee and planning for public engagement. When the pandemic began, all project activity was put on hold.

The leadership team decided to relaunch cultural planning one year into the pandemic with the belief that the project would support the creative sector's recovery and resilience and lay groundwork for post-pandemic success.

Arts Vision 2030 restarted in early 2021 with a redesign of community engagement to be completely virtual. Stakeholder interviews and focus groups were conducted over Zoom. An interactive website with engagement tools like surveys, mapping, forums, and idea boards was launched at ArtsVision2030.com, and social media accounts engaged the public on Facebook, Twitter, and Instagram.

The plan proceeded through five phases:



Insight and ideas from the community were critical to the planning process. This work uncovered the community's needs, interests, and opportunities and guided Arts Vision 2030's vision, declarations and commitments, and implementation ideas. Most importantly, Art Vision 2030 is the community's plan. It was developed through an open, inclusive process and will be implemented in the same spirit.

Our pent-up creative community responded with thousands of people engaging over five months. In fact, 4,500 people were touched by the process and 664 made direct contributions to the plan.

The redesigned virtual process reached more residents throughout the region than the original in-person process would have.

The planning process engaged hundreds of people throughout the community. Many were asked to share three words they felt represented their vision of the future.

Here's what they said:



RFP 2308 , Arts and Culture Appendix C Strategic Plan
Cotilwell's Signature

HIGHLIGHTS FROM THE 2010 CULTURAL PLAN

The original 2010 Cultural Plan sunset in 2020 and much has changed in the region since its inception. The original plan and other planning efforts brought a shared vision to our region and resulted in many successes for our arts and creative community.

Founding two state-certified creative districts in Downtown Colorado Springs and Manitou Springs, alongside growing arts districts and art walks in Old Colorado City, Monument, Ivywild and the Knob Hill Urban Arts District.

Passage of the Manitou Arts, Culture, and Heritage tax (MACH) and increased support for the arts through the Lodging and Auto Rental Tax (LART) in Colorado Springs.

Expansion of arts marketing programs to a much wider scale, including Peak Radar, Arts Month, and efforts of Visit Colorado Springs.

A formal partnership between the Colorado Springs Fine Arts Center and Colorado College.

Expanding events and programs such as First Friday, What If? Festival, Patty Jewett Porchfest, Juneteenth, Green Box Arts Festival, Pridefest, and a variety of concerts, festivals, and celebrations.

Increasing access to the arts was achieved through programs like Military Arts Connection, free admission programs and youth passports at cultural venues, free concerts, Free-For-All Shakespeare, City as a Venue series, and Curbside Culture.

Regular participation in Arts and Economic Prosperity Studies to quantify the economic impact of the nonprofit arts sector.

Establishing a spectrum of new arts venues, including the Ent Center for the Arts.

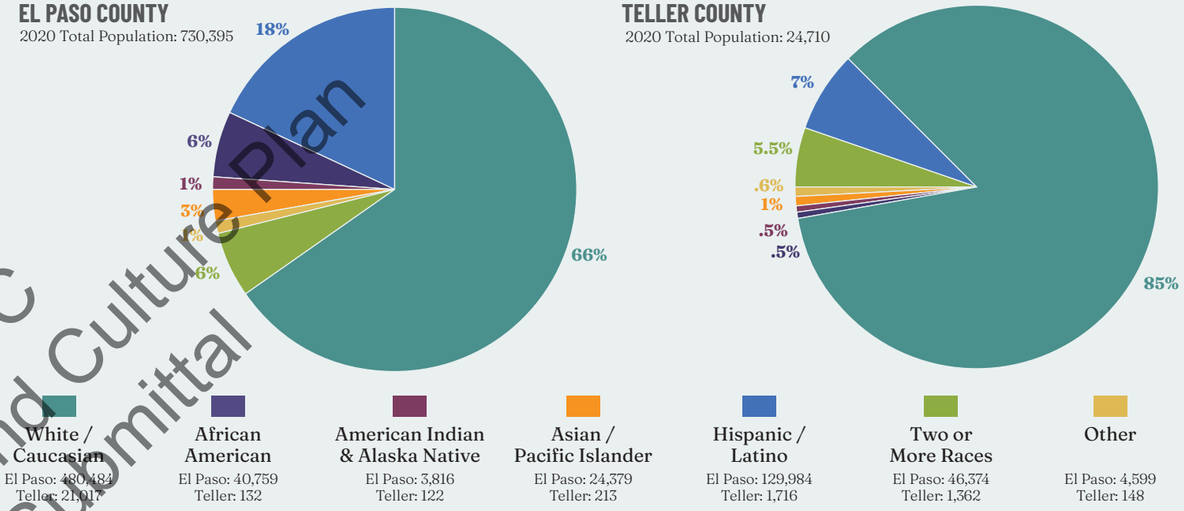
Greater presence of public art through a variety of programs like the Art on the Streets in Downtown Colorado Springs, Southeast Street Art Project, University Village Colorado shopping center and Tri-Lakes Views in Monument, and the adoption of a Public Art Master Plan for the City of Colorado Springs.

See the appendix for a full summary and assessment of the 2010 Cultural Plan.

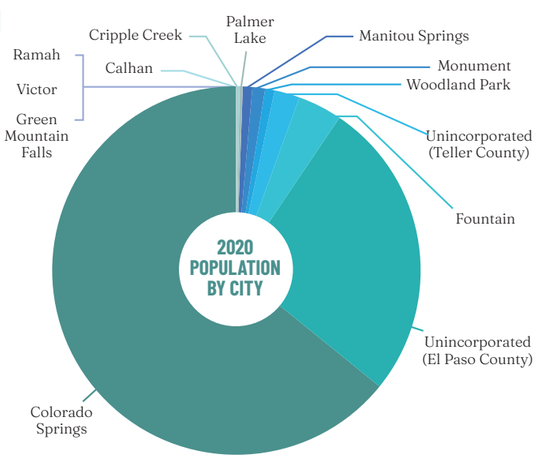
BY THE NUMBERS

Since the 2010 cultural plan, the population of both Teller and El Paso counties has grown and continued the trend of becoming more racially and ethnically diverse. By 2030, projections show the region topping 800,000 and reaching more than a million residents by 2045. Teller county could reach 125,000 by 2050.

POPULATION BY RACE AND ETHNICITY: 2020



POPULATION BY CITY: 2020



Sources: U.S. Census Bureau 2020 Redistricting Data (Public Law 94-171) Summary File Compiled by the Colorado State Demography Office. Date Produced: 08/13/2021

City	Total Population
Ramah	146
Victor	426
Green Mountain Falls	563
Calhan	704
Cripple Creek	1,258
Palmer Lake	2,887
Manitou Springs	5,283
Monument	7,398
Woodland Park	7,885
Unincorporated (Teller County)	15,819
Fountain	29,784
Unincorporated (El Paso County)	195,423
Colorado Springs	478,215

MILITARY POPULATION

40,364 active duty

132,994 civilian employees, retirees, and family members

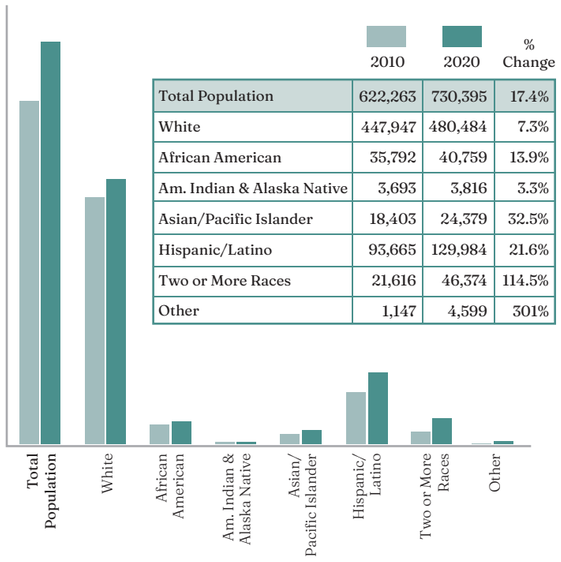
1,993 reservists

176,331 total residents with close military affiliation in the region

RFP 22-08, Appendix C Arts and Culture Plan Stilwell's Submittal

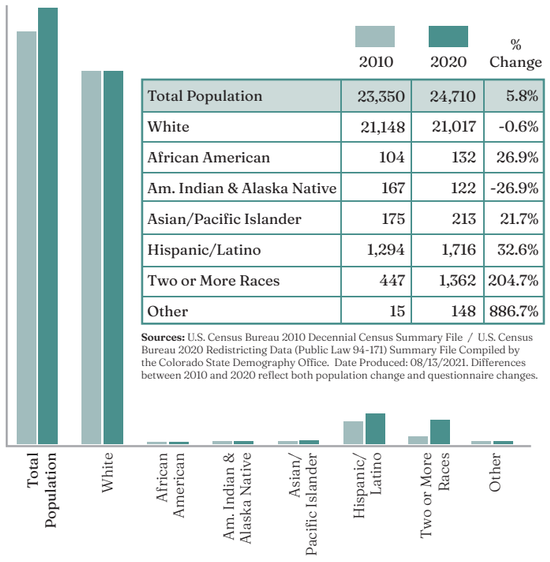
POPULATION BY RACE AND ETHNICITY: 2010 vs. 2020

EL PASO COUNTY



	2010	2020	% Change
Total Population	622,263	730,395	17.4%
White	447,947	480,484	7.3%
African American	35,792	40,759	13.9%
Am. Indian & Alaska Native	3,693	3,816	3.3%
Asian/Pacific Islander	18,403	24,379	32.5%
Hispanic/Latino	93,665	129,984	21.6%
Two or More Races	21,616	46,374	114.5%
Other	1,147	4,599	301%

TELLER COUNTY



	2010	2020	% Change
Total Population	23,350	24,710	5.8%
White	21,148	21,017	-0.6%
African American	104	132	26.9%
Am. Indian & Alaska Native	167	122	-26.9%
Asian/Pacific Islander	175	213	21.7%
Hispanic/Latino	1,294	1,716	32.6%
Two or More Races	447	1,362	204.7%
Other	15	148	886.7%

Sources: U.S. Census Bureau 2010 Decennial Census Summary File / U.S. Census Bureau 2020 Redistricting Data (Public Law 94-171) Summary File Compiled by the Colorado State Demography Office. Date Produced: 08/13/2021. Differences between 2010 and 2020 reflect both population change and questionnaire changes.

AGE DISTRIBUTION



Over the last decade, the population's age distribution has shifted from younger to older, with the under-20 age group declining and the 65 and older group growing. Projections expect the senior group to continue to grow annually as more older residents move to the region along with aging of existing residents. Although the 20-34 age group representative of young professionals also grew, this group is expected to experience the smallest growth moving forward.

CREATIVE JOBS

The region is expected to gain jobs, by as much as 41% by 2050. This includes creative jobs which make up approximately 5% of total employment in the region. The Western States Arts Federation (WESTAF) Creative Vitality Index (CVI) collects data on 57 different creative occupations by county; the Pikes Peak region saw creative job growth from 2010 to 2019.

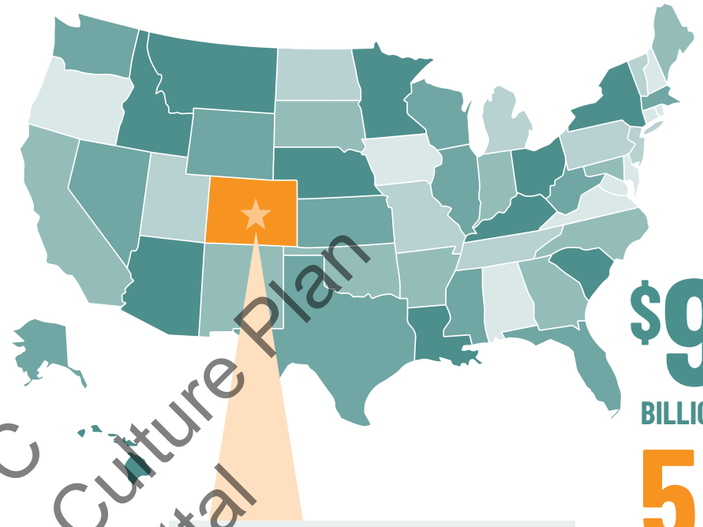
TOTAL JOBS EXPECTED TO GAIN AS MUCH AS **41%** BY 2050

CREATIVE JOBS MAKE UP APPX. **5%** OF TOTAL JOBS IN THE REGION

DATA COLLECTED ON **57** CREATIVE OCCUPATIONS

	2010 Creative Jobs	2019 Creative Jobs	% change
El Paso County	11,011	11,671	▲ 6%
Teller County	246	249	▲ >1%
TOTAL	**11,257**	**11,920**	**▲ 663 or 6%**

ECONOMIC IMPACT OF THE NONPROFIT ARTS AND CULTURE ORGANIZATIONS



The nation's arts and culture sector—nonprofit, commercial, education—is a $919.7 billion industry that supports 5.2 million jobs. That is 4.3% of the nation's economy—a larger share of GDP than sectors like agriculture, transportation, and construction.

$919.7 BILLION DOLLAR INDUSTRY

4.3% OF THE NATION'S ECONOMY

5.2 MILLION JOBS NATIONWIDE

In the Pikes Peak region, the economic impact of the arts not only enhances quality of life, but also supports economic well-being.

ALL FIGURES FROM THE **ARTS & ECONOMIC PROSPERITY STUDY 5 (2017) FOR THE PIKES PEAK REGION**

5,070 the number of jobs nonprofit arts and culture orgs supports in the region

$153.3 MILLION ▲ the annual economic activity generated by the nonprofit arts and culture sector in the Pikes Peak region

$51.2 MILLION ▲ the amount nonprofit arts and culture organizations spend in the community on goods and services

$102.1 MILLION ▲ the amount of event-related spending by audiences beyond their ticket for admission to arts and cultural events

$100.8 MILLION ▲ annual household income to local residents

Appendix C
RFP 23-08, Arts and Culture Plan
Stilwell's Submittal

TOURISM



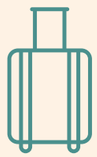
$64.23

amount each visitor spends beyond the price of admission in the community on things like lodging, meals and transportation.

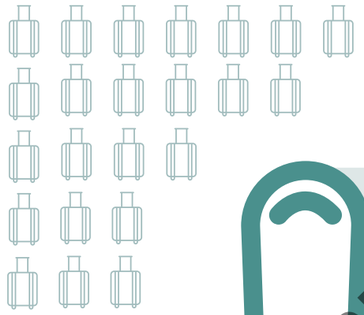
$28.73

amount local attendees spend beyond the price of admission.





THE PIKES PEAK REGION ATTRACTS
23 MILLION VISITORS PER YEAR (2017)



TOURISM EXPECTED TO INCREASE
25% BY 2028

Tourism is on the rise. Colorado Springs and the Pikes Peak region attracts 23 million visitors per year (2017), and tourism is expected to increase by 25% by 2028 (Colorado Springs and Pikes Peak region Destination Master Plan). Teller County's largest industry is and will continue to be tourism.

ALL FIGURES FROM THE
ARTS & ECONOMIC PROSPERITY STUDY 5 (2017)
FOR THE PIKES PEAK REGION

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REGIONAL PLANS ALIGNMENT WITH

Arts Vision 2030 is aligned with other regional planning efforts. These include El Paso County Master Plan, Teller County Strategic Plan update, Plan Colorado Springs (PlanCOS), Colorado Springs and the Pikes Peak Regional Destination Master Plan, Plan Manitou, Woodland Park Market Analysis and Opportunity Assessment, Colorado Springs Public Art Master Plan, and several others.

These regional planning efforts each identified bolstering the arts and creative sector as a key component of the plan's goals. For example, an entire section in PlanCOS is titled "Renowned Culture" with a focus on "promot[ing] and embrac[ing] arts, culture, and education as essential parts of our lives and our identity." In the Destination Master Plan, one of the "5 Big Ideas" is to "make the region the place for four-season arts, culture and festivals in Colorado."

The El Paso County Master Plan also addressed the importance of the arts and creative sector to the County. With County support, regional arts can "draw residents and visitors to new places across the County with mural or sculpture walks, festivals, and other programming." (See appendix for a table that shows plan alignment.)

As these regional plans are implemented, Arts Vision 2030 should be considered a resource to support their arts and creative sector goals.

FINDINGS

Throughout the Arts Vision 2030 planning process, hundreds of people shared their experiences, thoughts, concerns, ideas, and dreams for arts and creativity in the region. ***Here's what we found:***

Connect and Nurture Creative Talent: Regional artists and creatives share a collaborative spirit. However, they can also feel disconnected and somewhat isolated from one another in this dispersed region. There is a lack of awareness of resources and opportunities to come together as a sector. Creatives often feel that they need to leave the region to gain experience or make a living as artists or entrepreneurs. The region's collaborative spirit can be harnessed and amplified to establish an even stronger arts and creative community, increase local opportunities, and build the network for bringing these voices together more frequently.

Sustainability: Artists, creatives, and arts organizations in the region continue to battle for subsistence, let alone vitality. They often struggle to earn a living wage, find affordable work spaces, housing, and secure high-quality venues. Arts organizations continue to seek sustainable funding from a limited group of supporters. Without consistent and diversified funding and access to resources, artists and arts organizations cannot plan for the future, or grow and take risks with their programming and work.

Spaces, Places, and Venues: There are many facilities that support the arts in the region, but there are still gaps in the arts infrastructure. More spaces are needed to support small to midsize organizations, grassroots groups, and emerging artists in different pockets of the region. These facilities can serve as stepping-stones for smaller groups to build capacity. There is a clear desire for a large outdoor performance space to accommodate growth in the region and showcase the area's natural beauty.

Equity, Diversity, and Inclusion: The Pikes Peaks region is becoming more diverse in so many ways, however, programming and support has historically favored the traditional and Eurocentric. There is a strong desire to celebrate, promote, share and grow the arts throughout the region, while honoring each area's unique identity. Strategies should support and amplify the needs of our diverse audiences, artists, and creatives.

Arts Leadership: There are a growing number of diverse and emerging leaders who are passionate about the arts throughout the region. They care deeply about elevating the community's culture and increasing inclusion in the arts. They are seeking support and are ready to contribute. Quite a few local arts organizations are facing leadership transitions in the coming decade, as their founders prepare to retire.

Creativity in the Military: The region has a large military population, with five installations. It is a diverse and transient population that is often difficult to engage in the arts. Some personnel feel disconnected from pursuing creative outlets, and many military families want rich educational opportunities for their children. The arts are proving to be an antidote to mental health issues, but can also be a resource and outlet for the broader military community.

Arts Education for All: Arts education is inconsistent across the 17 different K-12 school districts in the region. Some districts are emphasizing and funding the arts, while others are reducing offerings, sharing art teachers across schools or cutting programs altogether. The decentralized structure makes it challenging for the arts and creative community to interact with K-12 schools effectively or efficiently. Other barriers that hinder access to arts education include lack of awareness of available opportunities, funding and costs, transportation and language. There are strong arts leaders within the school system who could be leading a larger movement or having greater impact with more support. Higher education institutions do not currently offer a Bachelor's of Fine Arts or a Master's of Fine Arts degree. While some of their cultural facilities are state-of-the art, others are in need of improvements.

Visibility and Economic Vitality: Performance venues and art galleries are fairly well known locally, but not fully promoted as part of the region's draw. Local talent and the creative industry suffer economically from this lack of visibility. The arts and cultural sector contributes to the local economy. Growing and leveraging this impact should be a focus for advocacy and economic development work. Marketing the arts should be emphasized as a driver for the region's tourism.

Advocacy: A common theme in the region is the need for greater advocacy to ensure that artists and creatives are influencing decisions that affect the creative industry and the region. In the past decade, the arts community has taken a large step in getting "into the room" with local leadership; the next stage is to embolden a unified voice and wield its influence to advance change. From local governments to developers to tourism and business, the arts need to be integrated and valued, and take on a more influential role in the region.

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DECLARATIONS & OPPORTUNITIES

Art Vision 2030 is the regional community's cultural plan.

It was developed by, of, and for the community. The following Declarations and Opportunities present a living framework to guide collaboration, strategy, investment, vision, and more. No one organization or person alone can fulfill this plan. Instead, it will take the entire regional arts and cultural community, along with cross-sector partners and local leaders, to make it happen.

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OPENING DECLARATION

Equity, diversity, inclusion, and justice is at the heart of each and every one of our Declarations and the cornerstone of Arts Vision 2030.

In the past, we have not collectively made these values a priority.

As the foundation of this new plan, we DECLARE that:

We must empower a **JUST, INCLUSIVE, AND EQUITABLE** Pikes Peak region. We commit to holding doors open for one another, including all voices, and advancing historically underrepresented artists, creatives, and audiences in our communities.

We open the Declarations of Arts Vision 2030 by also affirming our Cultural Equity Statement adapted from Americans for the Arts:

To support a full creative life for all, our arts and creative community commits to championing policies and practices of cultural equity that empower a just, inclusive, equitable nation.

We will honor these commitments as we begin our work to realize Arts Vision 2030.

We, the arts and creative community of the Pikes Peak region,

DECLARE

that...

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We must empower a **JUST, INCLUSIVE, AND EQUITABLE** Pikes Peak region. We commit to holding doors open for one another, including all voices, and advancing historically underrepresented artists, creatives, and audiences in our communities.

We are strongest when we **COLLABORATE.** We commit to connecting across our communities, sharing resources, and amplifying one another's creativity.

Artists, creatives, and arts entities deserve the opportunity to thrive and prosper here. We commit to developing diversified **FUNDING AND RESOURCE** strategies to fortify and embolden our creative lives.

The arts are critical to our region's identity and authenticity. We commit to promoting our region as an **ARTS DESTINATION** for both experiencing art and making art.

We are powerful together and our voices matter. We commit to speaking up and wielding our influence to **CHAMPION CREATIVE INTERESTS** in local and regional decisions.

Leadership within our creative community is vital to our survival and growth. We commit to developing and advancing **DIVERSE AND EMERGING ARTS LEADERS.**

SPACES AND VENUES are critical for sharing our creative gifts. We commit to building, expanding, and maintaining accessible, thriving spaces for artistic expression.

The arts foster creativity, innovation, and life skills and are essential to being human. We commit to supporting **HIGH-QUALITY ARTS EDUCATION** and access to arts experiences for every student across the region.

We, the arts and creative community of the Pikes Peak region, DECLARE that...

We are strongest when we **COLLABORATE.**
We commit to connecting across our communities, sharing resources, and amplifying one another's creativity.

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Use Arts Vision 2030 as a living framework to guide collaboration, strategy, investment, vision and more.

2. Create and regularly convene creative groups to foster collaboration, encourage networking, share resources, and accelerate change.

a. Groups could be formed around geography, discipline, military partners, cultural or ethnic backgrounds, arts educators, etc.

3. Develop a creative industry-specific online "bulletin board," clearing house or centralized mechanism for artists to find regional venues, events, jobs, opportunities and resources. Make it easier to seek out gigs and find venues, similar to a Craigslist for creatives.

4. Create more and diverse programs for local creatives, to provide new opportunities for unexpected collisions, cross-pollination, and stronger relationships.

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OPPORTUNITIES **TO REACH FOR:**

1. Establish an annual summit for cross-regional collaboration and partnering. This is an opportunity for the creative groups to share accomplishments and discuss where there are still gaps. Focus on sharing and advancing Arts Vision 2030 as a community.

2. Forge greater cross-sector relationships between the arts and other regional sectors, like healthcare, business, development, government and military, to ensure that the creative sector is relevant, and leveraged as an asset to advance regional goals.

a. Healthcare and mental health services offer enormous potential for partnering with the arts for healing, aging, suicide prevention, and emotional wellbeing.

b. Businesses, government entities, and developers building campuses and complexes should consider artists as partners for creative placemaking.

c. Use the arts to promote environmental stewardship, as the region shifts toward renewable energy sources, responsible tourism, and more.

Americans for the Arts "Arts + Social Impact Explorer" to generate ideas on cross-sector partnerships:
AmericansForTheArts.org/SocialImpact

We, the arts and creative community of the Pikes Peak region, DECLARE that...

Artists, creatives, and arts entities deserve the opportunity to thrive and prosper here. We commit to developing diversified **FUNDING AND RESOURCE** strategies to fortify and embolden our creative lives.

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Expand and centralize services and resources to help artists and creatives grow in their professions. The solution should be comprehensive, regional and sustainable. The need is urgent and greatly exceeds the current offerings.

- **a.** Consolidate and expand professional development workshops and classes for artists and creatives. Some suggested class topics include: budgeting and financial management, pricing, seeking grant/sponsorships/fellowships, contracting, how to become a public artist, finding buyers, promoting your work, scoring gigs, public speaking, branding, selling yourself, photographing/filming your work, social media marketing, how and where to exhibit your work, business planning, etc.
- **b.** Offer training in technical theatre to support the performing arts.
- **c.** Connect performers and artists to professional level classes to stay on top of their game and expand their skills.
- **d.** Offer informal opportunities for artists and creatives to network, share knowledge and learn from one another.
- **e.** Increase opportunities for art exhibition and sales. Consider expanding existing festivals or developing a new juried festival that connects artists and buyers.
- **f.** Produce regional "hiring showcases" for performing artists of all kinds and invite producers, directors, and agents to connect with talent.
- **g.** Help create interdisciplinary cross-pollination opportunities, such as poets performing at visual arts exhibit openings, or art displayed during opening night of a theatre production.
- **h.** Strengthen existing small business programs for creative businesses and artist entrepreneurs.
- **i.** Explore business and legal services through existing state and national program networks (similar to Colorado Attorneys for the Arts).
- **j.** Continue to assess the specific needs of local artists to determine which programs are most needed and effective.

2. Track and share quantitative data on the breadth and depth of funding for the creative community. Use this data to identify opportunities for growth.

3. Invest in a multi-year advocacy and public relations campaign to build the case for public funding for the arts.

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OPPORTUNITIES **WITHIN REACH,** CONTINUED:

4. Advocate for Lodging and Automobile Rental Tax (LART) increase with a dedicated percentage for the creative sector in Colorado Springs.

- **a.** Create a framework for a publicly funded granting program to distribute this LART percentage strategically and equitably to artists and arts organizations.

5. Convene (annually) regional arts funders to foster greater philanthropic giving and support of the arts and creative community. Focus on advancing equity goals in the sector.

6. Leverage shared giving models to create more meaningful investment in local arts.

- **a.** Strengthen existing programs like "Fund for the Arts" at the Pikes Peak Community Foundation and emphasize equity in its design.

7. Advocate for the funding of the top priorities of the Colorado Springs Public Art Master Plan. This will unlock more opportunities for local artists, more support for businesses that want to do public art projects, more equity in where public art is located, and the creative potential of art in public spaces overall.

8. Better integrate arts and cultural information into orientation and recreational programming for military audiences.

OPPORTUNITIES **TO REACH FOR:**

1. Research and identify opportunities for other regional taxation models, similar to the Manitou Arts, Culture, and Heritage tax (MACH) passed in 2019, that take advantage of existing political boundaries, like school districts or fire protection districts, for areas that aren't incorporated as a city.

- **a.** Advocate for the passage of a lodging/tourism tax with a designated percentage supporting the arts in local municipalities beyond Colorado Springs, and unincorporated El Paso County, and Teller County.

2. Cultivate an engaged business and corporate community in support of arts and culture.

- **a.** Increase corporate financial support for the arts.
- **b.** Explore effective national models of business engagement in the arts to build on existing local programs.
- **c.** Continue partnerships with leadership programs like Leadership Pikes Peak and Colorado Springs Leadership Institute.
- **d.** Encourage business volunteerism and Board service within the creative sector.

3. Invest in artists and emerging creative entrepreneurs, especially underrepresented community members, through micro loans and other tools.

4. Cultivate broader development of cultural districts, particularly ones that qualify for the State Certified Creative District program, to tap into state monies and marketing support.

5. Explore options for group health care for the arts and creative community.

We, the arts and creative community of the Pikes Peak region, DECLARE that...

The arts are critical to our region's identity and authenticity. We commit to promoting our region as an **ARTS DESTINATION** for both experiencing art and making art.

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Expand collaborative efforts with tourism partners, like Visit Colorado Springs, Pikes Peak Region Attractions, Pikes Peak Lodging Association, and others, to elevate the promotion of cultural tourism.

- **a.** Support increased membership by creative organizations in Visit Colorado Springs.
- **b.** Attract more regional/national arts conferences and symposiums.
- **c.** Expand and attract large scale cultural tourism events, and leverage existing successful local events and festivals to be a bigger regional draw.

2. Learn from the success of Arts Month to develop a broader year-round tourism and branding campaign for arts and culture in the region.

3. Develop an annual arts event to attract and cater to a military audience, helping to consistently connect the military and arts communities through an annual tradition.

4. Develop and market locally-curated "art trails" or day trip itineraries that lead visitors to arts and culture destinations. These itineraries can be prepackaged and distributed to local and state tourism agencies and posted on social and digital media.

- **a.** Create specialized itineraries to include creative businesses that are led by, or primarily serve, BIPOC or LGBTQ communities.
- **b.** Broaden scope to cross-promote culinary, brewery, distillery destinations and non-traditional creative experiences, especially outside of Colorado Springs.

5. Produce collaborative or combined promotional materials, promoting genres like galleries or existing local events or festivals together to showcase the critical mass of the arts as a tourism draw.

6. Elevate new and existing opportunities for national or international artists to travel to the Pikes Peak region to develop new work and interact with the regional arts community.

7. Explore ongoing enhancements to Peak Radar's tourist and local resident engagement efforts.

8. Promote and build the region's public art collection as part of creative placemaking and regional draw.

OPPORTUNITIES **TO REACH FOR:**

1. Strengthen and expand partnerships with local media for consistent arts coverage, and explore the possibility of recurring editorial or critical review.

2. Develop an arts brand that is more inclusive and regional, beyond specific city brands like City Above the Clouds, Olympic City USA, etc.

3. Collect more inclusive, annual data on cultural tourism to better understand and articulate the economic impact of the creative sector and provide more effective and persuasive tools for arts advocacy.

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We, the arts and creative community of the Pikes Peak region, DECLARE that...

We are powerful together and our voices matter.
We commit to speaking up and wielding our influence to **CHAMPION CREATIVE INTERESTS** in local and regional decisions.

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Develop a multi-year advocacy and public relations plan to incrementally build the case for public funding for the arts.

2. Support statewide and national arts advocacy efforts.

3. Develop specialized rosters of qualified artists to encourage contractors, developers, business/building owners and event planners to hire more local artists and creatives.

- **a.** Conduct a biennial "request for qualifications" to verify quality and accuracy of information in the listings.
- **b.** Promote the roster to potential consumers of artistic works and programs.

4. Position artists and arts leaders to be informed and sought-after contributors in development decisions about the region's growth and future.

- **a.** Promote and support diverse arts leaders as policy makers, political leaders and board members.
- **b.** Formalize creative sector representation on boards and committees across the region so the arts don't miss out on opportunities, funding, and decision making.

OPPORTUNITIES **TO REACH FOR:**

1. Hire an arts and development advocate to engage with the development community to encourage and facilitate art in public places, creative placemaking, and employment of local artists, designers, and vendors.

2. Hire a dedicated arts political advocate for the region to support a robust advocacy program.

- **a.** Designate and facilitate inclusive coalitions of arts advocates to address the many issues that affect artists, creatives, and arts entities, with emphasis on diversity, equity, and inclusion. Important issues include equitable distribution of public art throughout the region, affordable/attainable housing, living wage, transportation access, workforce development, displacement, etc.
- **b.** Develop white papers and political platforms to distribute to city and town councils and political leadership about the importance of the arts in the area.
- **c.** Develop "talking points" during election time and make these available to all politicians, board members and general public regardless of affiliation.
- **d.** Collect data that captures the economic activity of creative industries and distribute the information regularly.
- **e.** Centralize access to current research and reports on creative sector topics.

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We, the arts and creative community of the Pikes Peak region, DECLARE that...

Leadership within our creative community is vital to our survival and growth. We commit to developing and advancing **DIVERSE AND EMERGING ARTS LEADERS.**

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Create an Emerging Arts Leaders (EAL) Council that participates in Americans for the Arts EAL network and has a defined advisory role for local leadership with the Cultural Office, Bee Vradenburg Foundation, arts funder consortium, etc.

2. Prioritize hiring diverse and emerging candidates for positions in arts administration.

3. Support and empower diverse and emerging arts leaders to take their place in leadership on the Boards of Directors of local arts organizations.

- **a.** Explore setting a percentage goal for racial and ethnic diversity for individual arts and culture boards.
- **b.** In selection, cultivate board members based on their expertise, experience, and diverse perspectives, not only their access to financial resources.
- **c.** Grow diversity training to boards to ensure new voices are validated and supported equitably.

4. Actively and intentionally create a leadership program to reach and train diverse and emerging creatives as leaders.

5. Fund scholarships to increase access for creative leaders to become members in regional leadership and professional networking programs, like Leadership Pikes Peak, Colorado Springs Leadership Institute, Rotary, chambers of commerce, etc.

6. Nominate diverse creative leaders for awards, scholarships, and recognition throughout the region.

7. Ensure that established leadership programs in the region include arts and culture as a featured sector in their curriculum and program conversations.

8. Hire a Public Art Expert in accordance with the Colorado Springs Public Art Master plan. This position would serve as a leader and a resource to build and guide public art for the region.

OPPORTUNITIES **TO REACH FOR:**

1. Partner with higher education to offer arts administration and nonprofit training - including Masters of Arts Administration, internship and career pipeline programs - to serve the region's arts organizations.

2. Offer more mentorship and/or apprenticeship programs to connect student-artists and emerging artists to creatives with more established careers.

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We, the arts and creative community of the Pikes Peak region, DECLARE that...

SPACES AND VENUES are critical for sharing our creative gifts. We commit to building, expanding, and maintaining accessible, thriving spaces for artistic expression.

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Expand access for the local arts community to existing small and mid-size performance venues by better defining facilities' uses, access policies, and pricing structures.

2. Conduct an inventory and assessment of all existing venues and spaces in the region; survey local groups about these spaces and assess the gaps. (Include parks, mobile stages, and other flexible/temporary space options.)

3. Support the creation and presentation of art in informal, outdoor, or mobile settings.

4. Advocate for investment in low-cost, DIY, and nontraditional cooperative spaces to support creation, production and performances by creatives and arts organizations.

5. Work with developers, governmental agencies, and community advocates to create more affordable housing for artists.

a. Support the existing ArtSpace project and see it through to fruition.

6. Work with planning and zoning administration to create more flexible zoning for live/work spaces and amend sign code to open more possibilities for murals.

7. Support and guide the development of an outdoor amphitheater that suits the needs of a variety of artistic genres and will serve a wide range of audiences.

8. Expand the presence of public art and creative infrastructure within future development and parks projects, both private and public.

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OPPORTUNITIES **TO REACH FOR:**

1. Develop a strategic plan, based on the venue assessment above, that prioritizes a way forward for the region's development of new spaces as well as supporting or growing the capacities of existing spaces.

2. Promote ownership of artist-owned venues and spaces through small business loans and other assistance programs to protect artists from being priced out of their spaces as the region grows.

3. Support dedicated spaces for expression by and for underrepresented communities, particularly BIPOC, LGBTQ+ populations.

4. Create spaces for shared administration/business resources for arts organizations strategically placed throughout the region.

5. Study the need for a creative incubator space in the region and determine what services are needed. Consider whether a physical or virtual incubator is a more effective solution.

We, the arts and creative community of the Pikes Peak region, DECLARE that...

The arts foster creativity, innovation, and life skills and are essential to being human. We commit to supporting **HIGH-QUALITY ARTS EDUCATION** and access to arts experiences for every student across the region.

OPPORTUNITIES **WITHIN REACH:**

KEY: IMPLEMENTATION TACTIC | EQUITY, DIVERSITY, AND INCLUSION FOCUS

1. Support programs to increase access to the arts for local educators and students, like arts passports, family engagement initiatives, and more.

2. Improve student and teacher awareness of traditional and nontraditional arts opportunities available in the community.

- **a.** Develop and distribute information through school networks about arts learning opportunities for K-12 students offered outside of school by the arts community. Include information that reduces barriers, such as transportation, fees and scholarships, translation, etc.

3. Create a pre-approved roster of teaching artists that work in schools to augment arts education inside the classroom.

- **a.** Explore collaboration with Think360 Arts for statewide connections and training.

4. Convene arts representatives from each of the 17 school districts with artists and creatives who work in arts education to share successes and challenges and to continue to work towards greater access to arts education for all K-12 students in the region.

5. Expand scholarships, sliding fee scales, and free offerings for students to participate in arts educational programs.

- **a.** Establish a regional arts scholarship fund.

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Stilwell's Submitted

OPPORTUNITIES **TO REACH FOR:**

1. Hire an arts education expert to oversee regional research, coordination, information-sharing and program development.

2. Research the access, variety, and quality of arts education offerings across school districts. Use this information to direct advocacy, funding, partnerships and programmatic opportunities to those students with the least access to arts education.

3. Building on the success of the existing regional student art exhibition for Congressional District 5, create additional opportunities for students across the region to showcase their creativity.

- **a.** Create an awards program that recognizes students working in nontraditional art forms (like digital media, spoken word, music production, video, etc.)

4. Benchmark and share how schools can use the arts in service of teaching non-art subjects (like math and science), and how the arts can advance DEI work with students.

5. Encourage young creatives to stay in the region after graduation (both high school and college) by introducing them to available networks of support and career opportunities.

- **a.** Expose K-12 students to arts and creative career opportunities, and ensure arts are included in career education and represented at career fairs.
- **b.** Expand opportunities for students interested in the arts to connect with creative careers and working artists in the region.
- **c.** Develop more mentorship or apprenticeship programs connecting secondary students to working artists and creatives.
- **d.** Expand artists in residence programs and ensure the visiting artists connect with students across the region.

6. Support the creation of BFA or MFA degree programs and continued improvement and expansion of higher education arts facilities.

IMPLEMENTATION

Arts Vision 2030: A Living Framework

The creation of Arts Vision 2030 is just the beginning. The opportunities laid out above are a living framework to guide collaboration, strategy, investment, and vision, all in service of advancing the arts, culture and creative communities. Arts Vision 2030 is a catalyst for more detailed action steps to determine how, when, and who will collaborate to achieve these opportunities.

TIMING

The opportunities under each declaration fall into one of two categories: "Within Reach" or "To Reach For."

"Within Reach" are those opportunities that could be accomplished earlier in the plan. These opportunities tend to require lower levels of resources (time and money), may have already been started but require additional support, or may be a high priority within an organization's existing strategic plan. For these reasons, these opportunities are considered more achievable.

Opportunities under the "To Reach For" heading are longer-term. These opportunities may require more resources (time and money), take longer to plan and develop, or require significant changes in perceptions or infrastructure.

Regardless of labels, flexibility is key to this plan. The community will prioritize and take advantage of opportunities as they arise. As we have all experienced during the pandemic, adaptability is essential to progress.

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LOOKING FORWARD

Sharing Arts Vision 2030 with the communities that helped develop it is the first step to implementation. A public discussion guide and series of discussion sessions will follow this plan's release to help groups across the region explore their roles and potential connections.

The Cultural Office and the Bee Vradenburg Foundation will periodically convene local arts leaders to champion Arts Vision 2030. Together they will set forth simple and specific measures for tracking the success of the plan and report back to the community. These measures should be within the following declaration areas:

- **Convenings of the arts and creative community**
- **DEI initiatives/impacts**
- **Funding and resource initiatives**
- **Arts advocacy participation/ efforts**
- **Arts interactions with tourism**
- **Diverse and emerging leadership**
- **New or improved arts venues**
- **Arts education opportunities/ participation**

Collection of data could be done through an online crowdsourcing evaluation tool in which the community helps provide the data, or through in-person sharing, perhaps at an annual summit.

Through the Arts Vision 2030 process, despite the pandemic, we witnessed unprecedented engagement from the arts and creative community and beyond. The process brought together stakeholders, community partners, grassroots innovators, activists, military, developers, business, and regional leaders, together with the arts and creative community.

To implement Arts Vision 2030, the collaborative spirit and strong initiative of the region's people demonstrated during the planning process must continue. Through these boldly stated declarations, our arts and creative community affirms its commitment to the collective force of our combined voices. We believe all these declarations and opportunities are possible - by working together.

ARTS VISION 2030

APPENDIX (ONLINE)

- Special Thanks
- Online Engagement Report
- Creative Vitality Index Dashboard
- Examples of Programs for Inspiration
- Assessment of 2010 Cultural Plan
- Table of Regional Plan Comparison
- Colorado Demographers 2021 Report for Teller and El Paso Counties
- Arts Organization Inventory

Find Arts Vision 2030 online, as well as the Appendix and the most up to date information over time, at
CulturalOffice.org/Resources



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Design by Neon Pig Creative

Find Arts Vision 2030, and the most up to date information about it over time, at

CulturalOffice.org/Resources

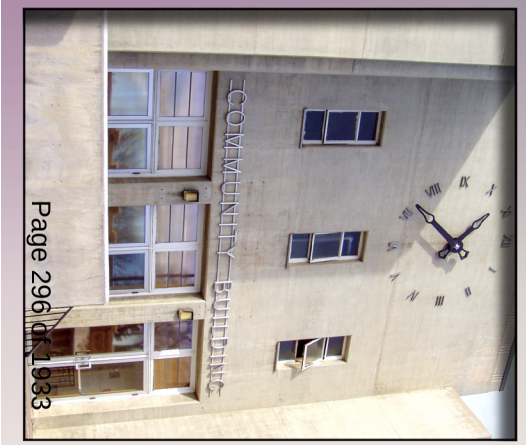
ARTS AND CULTURE

City of Loveland

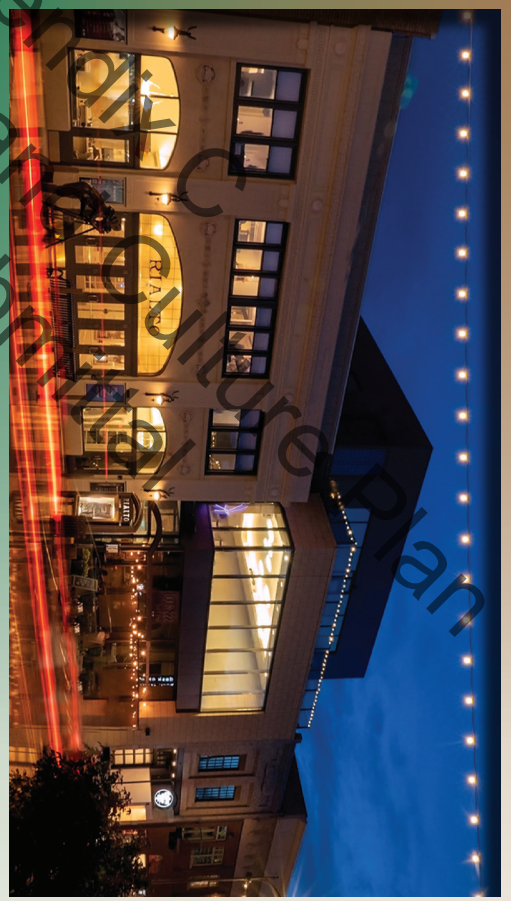
Cultural Services Department
City of Loveland
2022 Master Plan

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Appendix C













Cultural Services Department

2022 Master Plan



After more than a year of community outreach via individual interviews, group meetings, open houses and surveys, the Cultural Master Plan was "finalized" before publication in January 2020. Then COVID arrived and the world changed. An unfamiliar lexicon appeared: Masking, Social Distancing, Contact Tracing, PCR Tests and Quarantining. And we "pivoted," the newly popular verb for 2020/2021.

As cultural facilities with high public contact, we were challenged to not only protect staff to the best of our abilities, but to protect the public who visited us as well in our facilities.

The Museum and Rialto schedules, of course, were tossed in the air like confetti. It led us to reconsider some of the ways we operated and led, especially, to much more online content. We started live streaming shows from the Rialto, made possible by a quick-response donation from Backstage Rialto for needed equipment; live streaming programs from the Museum; and online education activities for adults and children on the Museum's website.

It was also a juggling act to rebook performances at the Rialto and exhibits and programming at the Museum, especially when we weren't sure when we'd be open. When the time came to reopen, there were many adjustments that had to be made, such as social distancing markers, the removal of touchpoints in the Museum to avoid infection spread, contact tracing lists, and new seating plans to maintain adequate social distancing, a special challenge witwh fixed seating in the Rialto. The Museum closed once for several months before reopening. The Rialto closed twice during 2020. Both were at the direction of the Larimer County Department of Health. 2021 brought changing restrictions throughout the year.

The Beet Education Center was open for about two weeks when it had to shutter. However, it was fortuitous that the much larger facility allowed us to open for socially distanced classes much sooner than we could have in the previous space. I'm pleased to share that the facility continues to be active and use for classes and programming is constantly growing.

The Art in Public Places program was the anomaly during this time. Art projects grew during the pandemic as construction projects stayed on pace and the Visual Arts Commission voted to add a granting program to assist local artists, which created more projects than usual. I could not be prouder of the work the entire staff did to keep the department operating in one form or another, open and closed, during 2020 and 2021. As we move into 2022 we hope the end is in sight, but only time will tell.

The Cultural Master Plan was put aside as everyone directed their energies into responding to COVID. Now that we are, hopefully, on the other side of it, we have spent the past few months reviewing and updating this Cultural Master Plan. Some of the information is pre-COVID, as it best represents our usual operations, and some of it has been updated to reflect recent changes.

I truly appreciate everyone who has participated in some way in shaping this document. We look forward to getting back to business as usual and moving ahead with the many ideas for future growth of Cultural Services and the community of Loveland.

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Cultural Services enriches lives and connects our community through diverse arts and history experience.

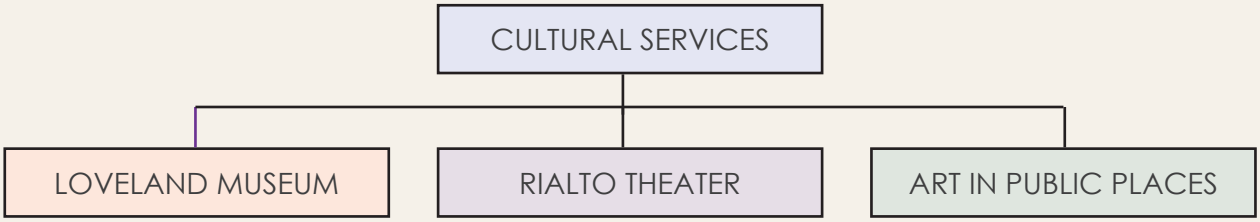
COVER IMAGES: (top to bottom) Loveland Museum, The Beet Education Center, Rialto Theater, Art in Public Places (AIPP)-*Shelter Cove* by Mary Régat, and the Pulliam Community Building

INTRODUCTION



Rialto Theater Summer Concert Series, Hazel Miller Band

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This Cultural Master Plan addresses 4 of the 8 focus areas of the Loveland City Council Strategic Plan: Outreach, Collaboration & Engagement; Economic Vitality; Innovation & Organization Excellence; and Inclusion/Livability

The City of Loveland, through the Cultural Services Department, has been offering art and history experiences to the community since the 1930s. Lovelanders highly value their existing arts and history programs. More than 35,000 people visit the Museum each year and 29,000 attend more than 200 performances and events at the Rialto. The art installed through the Art in Public Places program has become synonymous with Loveland's identity.

These well-loved programs and well-used facilities are feeling the pressure of growth. The Department is keenly aware of requests from citizens for more services, programs, events, exhibits, and experiences. Meeting these needs requires an engaged community and careful planning.

For over a year, the community has been engaged in identifying their desires and needs for the future. Key themes have led to the development of goals and strategies. The potential to expand the Museum with the recent purchase of the adjacent Reporter-Herald building (now The Beet Education Center), the revitalization of the Pulliam Community Building, and a newly designated Creative District are new opportunities, part of our inevitable growth. Now is the time to plan for continued success.

RFP 23-08, Arts and Culture Plan
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Pause For Reflection by Laurel Gregory Peterson



TOP 100
Best Places to Live
by *Livability.com*
in 2020

2015
SmartAsset.com
named Loveland the
#1 BOOMTOWN
in the US





City of Loveland

Population has
increased
21.34%
SINCE 2012



Population is projected
to grow another
28%
by 2028

Appendix C
DP 23-06, Arts and Culture Plan
Stilwell's Submittal



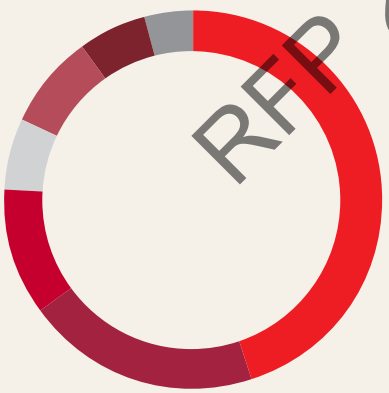
She Bends-Women in Neon Exhibit at the Loveland Museum

Appendix C Arts and Culture Plan
RFP 2308, Arts and Culture Plan
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Museum Visitors

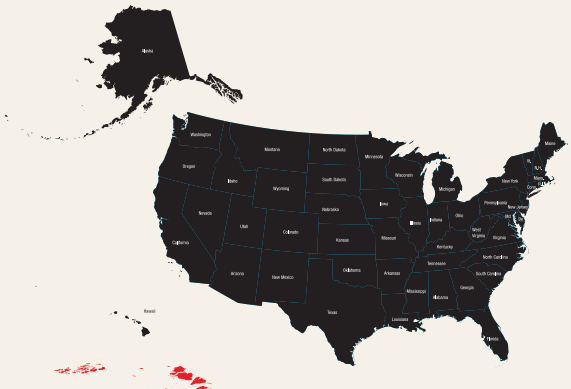
We surveyed 5,402 visitors between the months of January 1, 2019 through December 31, 2019.

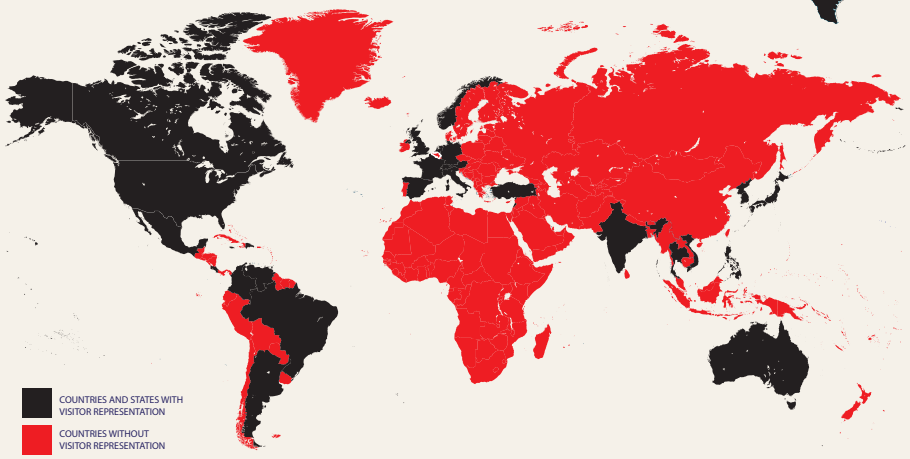
- 45% of visitors came to the Museum with the intention of seeing the Main Gallery exhibit
- 20% were just in the area
- 11% visited for an outing for their children
- 6% came to learn more about Loveland's history
- 8% visited because of Night on the Town or on free admission days
- 6% came for a variety of other reasons
- 4% came to attend a class or program



International and National Visitor Representation

Interest in the Loveland Museum brought visitors from 48 states, 1 US territory, and 22 countries around the world, as far away as Korea!







Acumen by Mark Aeling

Appendix C Culture Plan
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Art In Public Places

What a year! 2020 was unique on so many levels but, above all else, it illustrated the joy of Art in Public Places. Artwork within the public realm remained available to Loveland residents and visitors alike through our sculpture gardens, the downtown outdoor sculpture display and City parks and right-of-ways.

538
Total number of pieces in the public art collection

25
Total number of artworks acquired in 2020
(4 donations and 21 VAC purchases/commissions)

$11.6
Estimated value of the collection

375
Sculptures receiving maintenance in 2019

2020 TAAP 3D: Seven on-loan sculptures were installed within the planting beds along Fourth Street between Jefferson and Garfield Avenues in mid-June.

The Ambiguous Family by Joe Norman, CO

Deconstructed Apple by Jorge Leyva, MO

The Rusted Spire by Christopher Knight, IL

The March Hare by Jacob Novinger, ID

Angelica by John Benedict, AZ

Germination by Gregory Fields, CO

Bubble Bench by Matt Burney, OR

Every sculpture installation has a story to tell and 2020 was no exception.





David Archuleta at the Rialto Theater Center

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Rialto Theater Patrons

The Rialto continues to be the hub of cinema and live performance in downtown Loveland.

TICKETS

27,092 tickets sold in 2019

EVENTS

265 events were held in the Theater during 2019

REVENUE

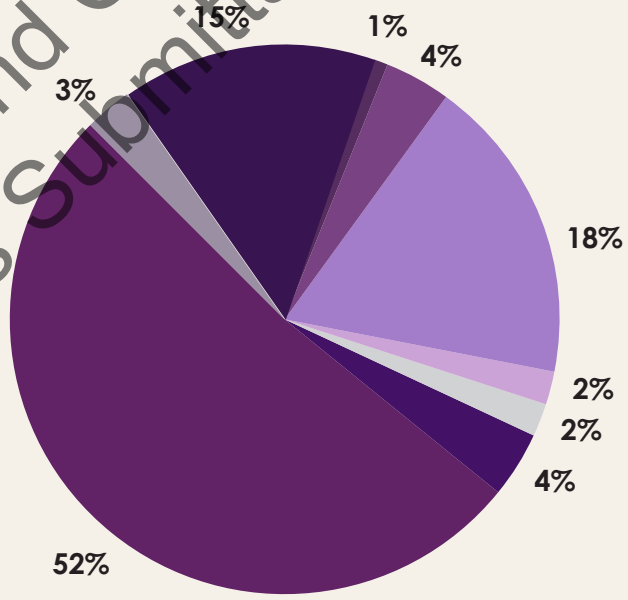
Generated revenue from ticket sales and rental fees was **$487,002** in 2019

PARTNERS

We continue to build on our strong rental partnership and hosted **42** different rental groups in 2019

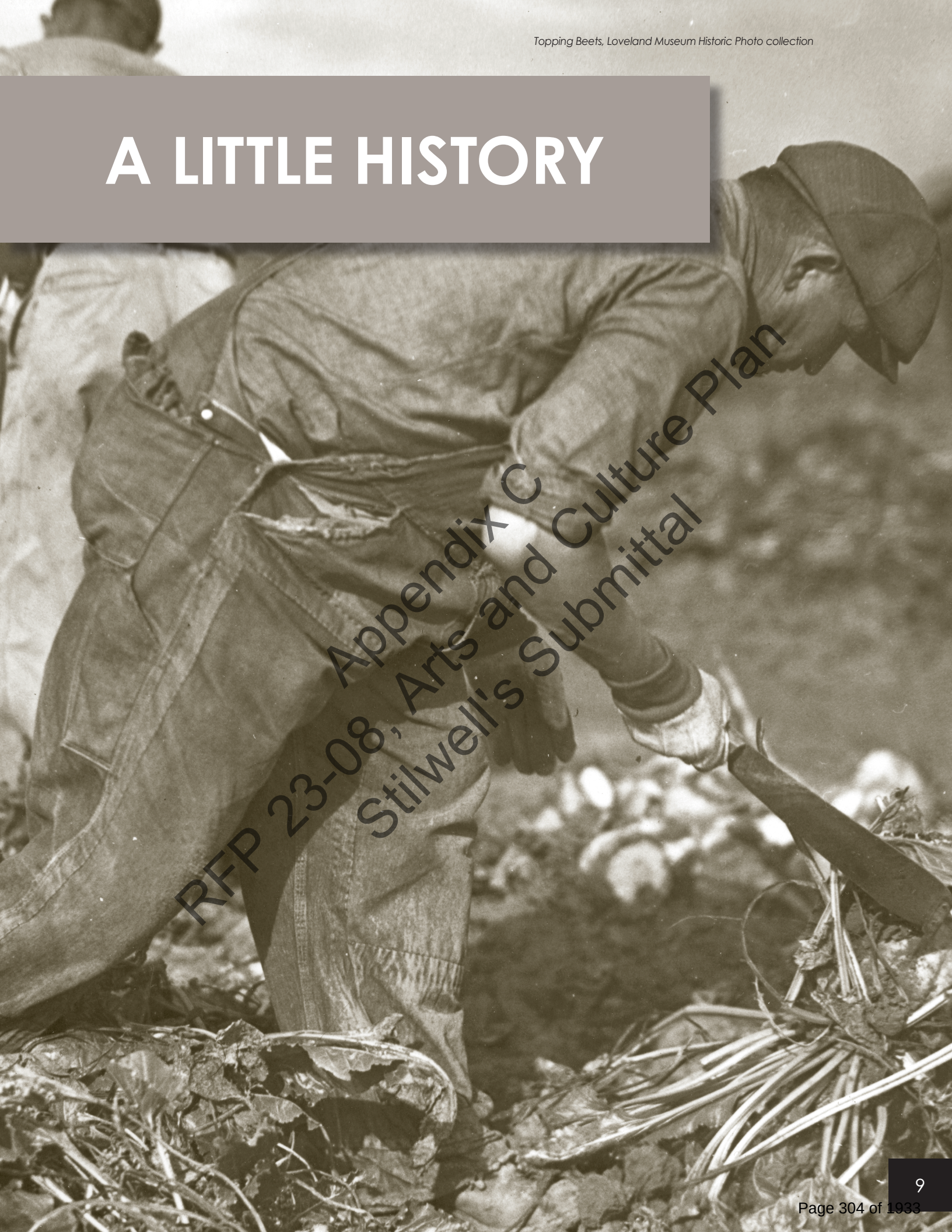
SERIES

16 "Rialto Presents" shows proved successful with several sold out shows



2019 RIALTO ATTENDANCE

Loveland (52%)	13,878
Berthoud (4%)	1,042
Fort Collins (18%)	4,706
Greeley (2%)	557
Johnstown (2%)	420
Longmont (4%)	1,026
Windsor (3%)	822
Other Colorado (15%)	4,048
Other States (1%)	251



Topping Beets, Loveland Museum Historic Photo collection

A LITTLE HISTORY

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Rialto Marquee, Loveland Museum Historic Photo collection

RIALTO THEATER

Originally, a silent movie theater opened in 1920, the Rialto is Loveland's premier performing arts venue welcoming national and international touring acts. The Rialto also serves as the home to local performing arts groups.

LOVELAND MUSEUM

Founded in 1937, the Museum presents contemporary art exhibits and local history exhibits in the galleries, provides engaging programming in the arts and history for all ages, and presents special events in art and history for the community.

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Historical Timeline for Cultural Services

1919



Harold Dunning Begins Collection Local History Objects

1920



Rialto Theater opened its doors

1938



Loveland Museum opened its doors

1956



Loveland Museum erected at 5th and Lincoln

1972



Bronze Foundry Art Castings of Colorado opened

1984



First Sculpture in the Park Show

1985



Art in Public Places ordinance was adopted, establishing a public art program



ART IN PUBLIC PLACES

The first Colorado city to pass a 1% Art In Public Places (AIPP) ordinance in 1985, Loveland boasts more than 542 works that express the community's profound commitment to the arts and creates a unique sense of place. In addition to four sculpture parks (Benson Park, Chapungu Park, Civic Center and McWhinney-Hahn Sculpture Park) art can be found throughout Loveland.

PULLIAM COMMUNITY BUILDING

Built in 1936, the Pulliam Community Foundation Building served as a community center. After falling out of service, the building is finding a new life thanks to a partnership between the Pulliam Foundation and the City. After renovation, the Pulliam Community Foundation Building will return as a vital community asset for a variety of uses.

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1990

Museum accredited by the American Association of Museums

1992



Museum expansion (doubled its size)

1996



Rialto Theater is revitalized and reopened

2012



Rialto Theater 3-story addition adds Green Room and event spaces

2019



Renovation to the Pulliam Community Building begin

2019



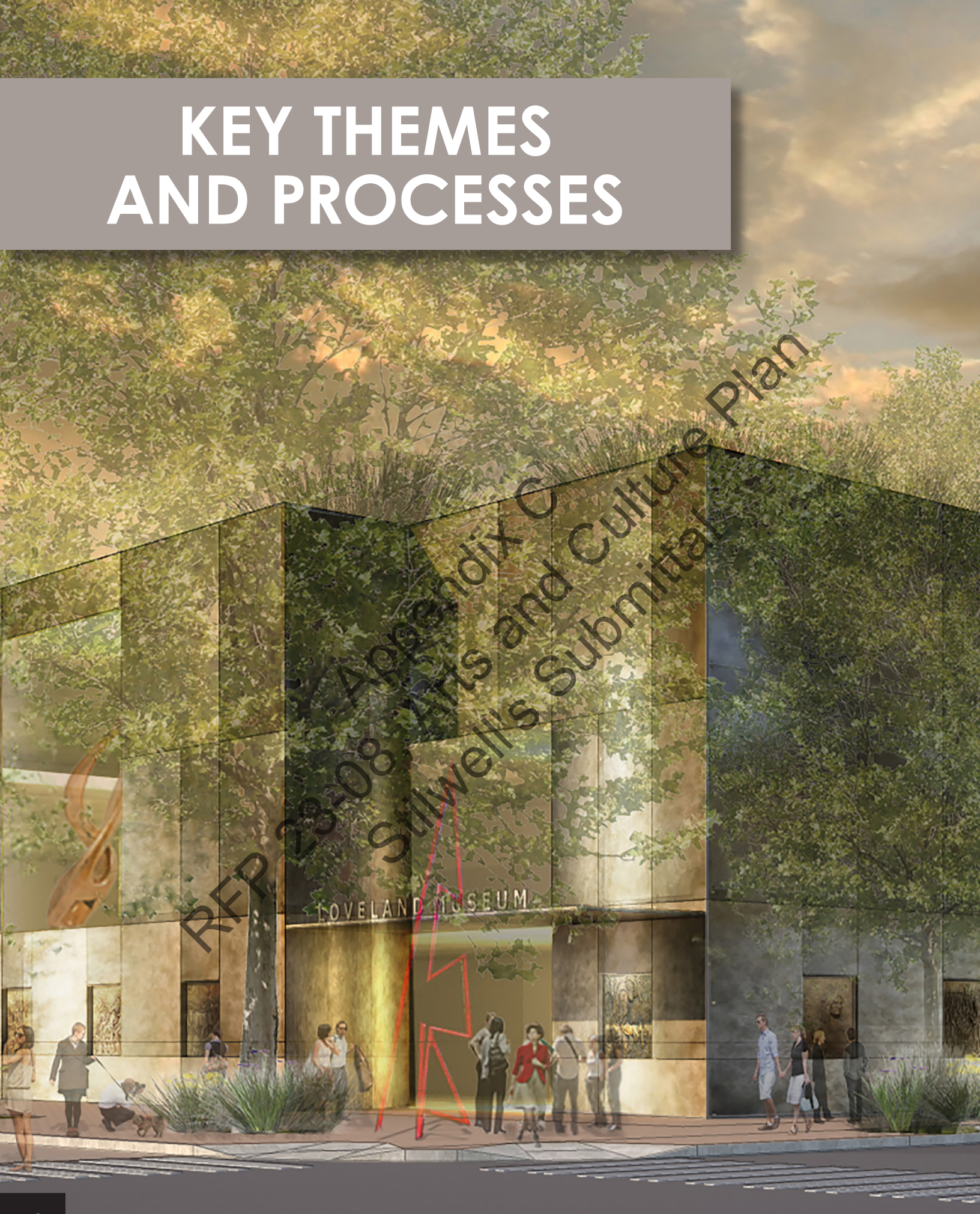
City purchases the former Loveland Reporter-Herald building (now The Beet Education Center) for Museum expansion

2020



Covid-19 Pandemic

KEY THEMES AND PROCESSES



RFP 23-08 Appendix C
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Architectural rendering of proposed new Art Museum expansion



Flora and Fauna Exhibit, at the Loveland Museum

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The Cultural Services Department is poised to expand with the purchase of the former Reporter-Herald building (The Beet Education Center), the revitalization of the Pulliam Community Building, the growing public art collection and its recent renewed focus on downtown and a newly designated Creative District. With these opportunities, the inevitable growth of the region, and the popularity of current cultural activities, now is the time to plan for continued success.

Through widespread meetings with community members, boards and commissions, City staff, and arts and history advocates, we have learned that Loveland's cultural assets are abundant; opportunities for growth and improvement exist; and there are challenges that the Cultural Services Department is uniquely equipped to fulfill with the appropriate support and resources.

The Cultural Master Plan serves as a ten-year road map for the Department to ensure that it can continue to best serve the public, meet the changing, growing demands and expectations of the community, and contribute to the vibrancy of Loveland.



THE CULTURAL SERVICES MASTER PLAN IS BUILT AROUND FOUR KEY THEMES:

1. CONNECT
2. PARTICIPATE
3. CREATE: IDENTITY
4. THRIVE

Each of the themes are considered of equal priority and reflect many of the creative and resourceful ideas received from stakeholders and community members. The plan incorporates goals, strategies, and initiatives for each theme, which will help guide the Cultural Services Department in the future and provide a proposed action item list that will help meet the goals of the plan.

THE PROCESS:

In late 2018, the Cultural Services Department launched an arts and culture master planning process. The process focused on a needs assessment, analysis of existing programs, exhibits, and performances offered by the Department, the critical value of the arts and history to the Loveland community and the important role the Department plays in providing these services to the community.

The planning process included three important phases:

1. Research and Discovery - assessed the current standing of the Cultural Services Department, developed an asset inventory of arts and history programs and facilities in Loveland, analyzed existing planning documents, and economic and demographic data.

2. Community Engagement - Helped inform the themes and strategies of the plan through stakeholder interviews, focus groups, a community forum, and City Boards and Commissions meetings.

3. Setting the Strategy - synthesized the findings from research and extensive community engagement.

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CONNECT



Monument In Right Feet, Major Kurtzman

RFP 23-09 Appendix C
Stillwater Arts and Culture Plan
Submittal

GOAL:
Connect our community members to one another through arts, culture, and history experiences.

As Loveland grows, change is inevitable, but disconnecting from neighbors and losing the feeling of community does not have to be a result. Through the arts and connecting with history, Loveland's residents, neighbors and visitors can feel connected to one another where they live, work, and play.

STRATEGY 1:

Continue to Engage New Audiences and Deepen Cultural Experiences

Purpose: To identify and reach under served communities such as teens, the growing senior population, culturally diverse communities, young professionals, and those who cannot afford to participate through expanded programming

- Continue the high-caliber exhibitions at the Loveland Museum and touring performances at the Rialto Theater
- Increase historical changing exhibits at the Museum and variety of performances at the Rialto for wider appeal
- Continue offering high quality cinema and outdoor concerts
- Create pop-up exhibits, self-guided art and history tours, Art in Public Places educational events, business networking events and other various programs to reach new audiences
- Increase after-hours opportunities for adults and teens
- Provide new and creative opportunities for volunteering and internships
- Enhance collaborative programming with other City of Loveland Departments
- Further develop an Artists in Residency program

STRATEGY 2:

Elevate and Expand Cultural Services Relationships with Diverse Communities

Purpose: To serve the entire community and expand opportunities for more voices to be part of the Cultural Services Department by building upon current relationships with diverse communities.

- Identify diversity gaps in programming and create programs with diverse appeal
- Encourage diverse representation on boards and commissions
- Increase opportunities to engage diverse voices in ideation/program/exhibit development
- Build upon existing relationships with growing Latinx community
- Grow stewardship of presenting in different languages

STRATEGY 3:

Develop Cultural Experiences, Public Art and History-Based Place Making Strategies to Connect Neighbors to One Another

Purpose: To create visual, physical elements in the public environment that connects people to the stories of the community and to each other

- Partner with Parks and Recreation/Library mobile van programs to bring exhibits, hands-on activities, performances to neighborhoods and parks
- Identify needs and funding options for public art projects such as murals, sculpture, and new technology
- Use oral history projects to honor voices of Loveland's neighborhoods
- Create a downtown artful stroll highlighting unique stops and environments
- Beautify bus stops with public art
- Install sidewalk pavers celebrating the stories of Loveland
- Incorporate history along trails and on streets through interpretive panels
- Normalize at home learning through online lectures, workshops and classes as a free/affordable method to connect people despite quarantine restrictions and other public health guidelines

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STRATEGY 4:

Bring Community Together Through Arts and History Experiences and Informal Learning In Welcoming, Comfortable, Right-Sized, and Well-Equipped Cultural Facilities

Purpose: To expand and improve current cultural facilities in order to serve the growing needs of the community to access art and history experiences and to provide informal gathering spaces that serve the community's needs.

- Expand the Loveland Museum
- Continue improvements to Rialto Theater
- Continue investing in the Pulliam Community Building
- Renovate the former Reporter-Herald Building (currently The Beet Education Center) to meet ADA compliance, and modify the facility as needed for education services, to allow full use of the facility and expand education offerings at the site

STRATEGY 5:

Continue investment in the Pulliam Community Building as a Downtown Community Cultural Center

Purpose: To re-activate this community resource as an accessible, flexible, multi-use, and affordable space for the community to gather for all types of events and activities.

- Support all types of events and activities
- Provide larger downtown event space
- Host Cultural Services programs and events
- Allow some performances, recitals, and rehearsals to relocate from the Rialto
- Combine rental oversight with Rialto

STRATEGY 6:

Create New Spaces for Arts, Culture, and History Experiences

Purpose: To provide spaces where hands-on and informal learning can take place so that the needs of the community to make art, perform, and learn about the history of Loveland are met.

- Develop a Center for American Sculpture focusing on significant role of Loveland in sculpture history
- Create a black box theatre in Devereaux Room for amateur and experimental theater
- Complete feasibility study for potential larger performing arts venue
- Create a free/low cost Community Studio as a drop-in space for all residents to use
- Support the development of additional studio space for local artists
- Create a plan and timeline to vacate the alley, between the Museum and the Beet and provide additional outside space for programs as well as conceptually unify both buildings

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Tot class at the Beet Education Center

PARTICIPATE

RFP 23-08, Arts and Culture Plan
Appendix A
Stilwell's

Goal:

Encourage and inspire Loveland's spirit of art making and expressions of cultural heritage.

Loveland's creative advantage stems from the people who live here. The community craves participation in "making" activities. The benefits of creating are many, including mental health benefits, such as relieving stress and increasing brain plasticity, encouraging problem solving, creative thinking, and collaboration. Encouraging participation and offering a variety of art making and cultural and heritage-sharing opportunities at all levels will enhance Loveland's unique community.

STRATEGY 1:

Expand Visual Art-Making Opportunities for the Public

Purpose: To encourage the making of art by expanding Cultural Services' classes and workshops, offering opportunities for many different interests, ages, and abilities.

- Expand classes and workshops to what is already offered to create a complete complement of classes
- Continue to offer classes from novice to professional levels
- Provide opportunities for the public to showcase their work
- Expansion of accessibility options, including lower cost and virtual offerings
- Collaboration with service groups and classes to reflect their interests/needs
- Create more classes to cover a variety of topics and mediums beyond what's already offered

STRATEGY 2:

Increase Creative Activities for People to Express and Share in Cultural Heritage

Purpose: To expand Cultural Services program offerings so that the community is able to build relationships and understanding through participation and learning about one another's stories.

- Expand program offerings around cultural heritage and history
- Offer opportunities for the public to showcase their own heritage or stories
- Build upon and create new partnerships to expand reach and opportunities
- Continue to collect stories and objects that illustrate the cultural history of Loveland.

STRATEGY 3:

Expand Opportunities for Participation in the Performing Arts

Purpose: To encourage creative expression through the art of performance and provide accessible opportunities for participation.

- Continue to offer programs like the Open Mic series for the community to be on stage
- Expand summer theater programs at the Rialto and/or Pulliam
- Increase master classes/outreach offered by touring performers for the community
- Create a Children's Theater opportunity that focuses on both performance and technology for children of all ages
- Offer lecture-based events in a variety of disciplines

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STRATEGY 4:

Develop Spaces for Community Participation in Creating and Learning

Purpose: To develop dedicated Cultural Services spaces for community participation that are appropriately equipped to meet the creative needs of the community.

- Expand and create new classrooms at the Loveland Museum and Beet Education Center
- Develop a black box theatre space in Devereaux Hach Room
- Identify places for the community to showcase their work
- Develop a lecture space with AV setup at the Loveland Museum

STRATEGY 5:

Continue to Build Robust Educational Programming

Purpose: To broaden the reach and programming geared towards Northern Colorado students, engaging them more deeply in arts and history.

- Evaluate the best practices to expand school-based programming as it relates to social studies curriculum and history, by possibly developing companion programs similar to History Days for other grades
- Increase capacity for large tours and school programs at the Museum and Rialto
- Increase the number of outreach residency programs provided by the Rialto and the Museum
- Formalize teen engagement (volunteering, curator program, internships)
- Continue to build teacher awareness, training and access to cultural resources
- Continue working with local high schools, universities and community colleges to provide tours and supplemental learning for arts and cultural topics
- Expand virtual programming with online lessons, virtual lectures and exhibits, webinars, etc
- Continue to work with and expand collaborative relationships with community groups to provide more diverse programming around social, racial, ethnic and economic topics as they relate to current art exhibits or local history
- Offer theater internship programs for area high school students interested in the performing arts (performance, production and technology)
- Expand offering of history classes and history-related programming

STRATEGY 6:

Engage the Community Through Volunteering

Purpose: Maintain volunteer program that matches volunteers to interest area(s) and allows them to learn what we do, while also providing Cultural Services with needed support.

- Develop a companion program to History Days for middle school curriculum
- Maintain the popular Rialto theater volunteer program
- Match Museum volunteers to their interest area whether that be art, history, archives, education, administration, special events
- Maintain working relationships with local colleges and universities to match students to work study positions or internships
- Formalize a teen engagement program with internships and/or a junior curator program

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CREATE IDENTITY

RFP 22-08-1933 Appendix C Artisanal Culture Plan
Submittal

Goal:

Promote Loveland's identity locally and to the world as a destination for arts, culture, and history experiences.

The community takes great pride in its art reputation and historic characteristics and sees these as the jewels in their crown. Despite its long history, Loveland's identity as an art town and a historic place still requires branding, support, and promotion. Cultural Services is in a position to help further the brand and identity of Loveland as a place to experience visual arts, performing arts, historic places, and community heritage through the promotion of its venues, programs, and special events.

- The Cultural Services Department is a major driver in the arts community providing exhibits, performances and programming unique to our venues.
- In a recent citizen survey, the Museum was one of the top three cultural activities to enjoy in the Community
- The Cultural Services Department will work to strengthen our own brand to continue to promote Loveland as a destination for the arts, culture and history experiences

Strategy 1:

Increase the visibility of Cultural Services programs

Purpose: To support the brand of Loveland, reach new audiences, and increase attendance at Cultural Services programs through marketing and promotion.

- Continue strong collaboration with Live Loveland, Visit Loveland, DDA, CD and others
- Increase marketing investment and engagement
- Cultural Services presence at existing events
- Audit wayfinding road signage/upgrade and improve Rialto Theater signage
- Improve the AIPP app to 'locate art near you'
- Continue to develop crossover promotion with other City departments

Strategy 2:

Promote the Downtown Creative District designated by the State of Colorado

Purpose: To increase the visibility of and collaboration within downtown Loveland and with other entities, such as Colorado Creative Industries, the Downtown Partnership, Downtown Development Authority, Visit Loveland, arts organizations, etc., through Creative District programming targeted at growth and tourism.

- Complete the DIY "Call Yourself Creative" process
- Bring together a diverse group of stakeholders to be engaged in the district
- Create a signature Creative District event to celebrate all the district offers

RFP 23-08, Arts and Culture Plan Appendix C Stilwell's Submittal

Strategy 3:

Strategically Employ Public Art to Further Loveland's Brand and Identity

Purpose: To influence Loveland's brand as an Art Town and support community pride by intentional AIPP placement and programs.

- Partner with DDA on artist improved alleys and pedestrian experiences
- Identify and pursue key gateway and high profile locations for public art
- Stretch AIPP Temporary Art Program beyond 4th Street
- Expand the mural program throughout the community
- Continue to encourage private investment in art for public places

Strategy 4:

Promote Place-Making Strategies to Encourage Tourism

Purpose: To identify key activities Cultural Services can pursue to help create a unique environment and sense of place through art and history elements that attract visitors and create pride for the community.

- Encourage DDA in creating a sense of place through art and history elements
- Assist in championing the Loveland Creative District to build tourism
- Encourage Loveland Economic Development to recruit and support creative businesses as part of their Strategic Plan to expand retail development
- Review City regulations that may prevent more venues from hosting live music and similar restraints to opportunities of creative expression

RFP 23-08, Arts and Culture Plan
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THRIVE



Amoré by Kim Kori

R-P 23-08, Arts and Culture Plan
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Goal:

Be a dynamic part of an ecosystem that helps artists and the creative industry thrive in Loveland.

Although Larimer County boasts more than 6,000 creatives living in its borders, a thriving ecosystem is needed to support and connect them. Professional networks heighten communication and we know when artists and creatives interact, it spurs innovation and collaboration. Adding resources to the Cultural Services Department will enable the Department to continue focusing outwardly on supporting and growing the creative industry in Loveland spurring on collaboration and cultural tourism.

Strategy 1:

Support Creative District Designation from the State of Colorado

Purpose: To bolster the creative economy in Loveland by employing the Creative District program to bring networking, visibility, economic growth, and tourism to downtown Loveland.

- Attract more people to Loveland and create an environment for creative entrepreneurs to sell, make a living and contribute to the local economy
- Create infrastructure to bring collaboration, networking, marketing, and visibility to arts and history

Strategy 2:

Identify Creative Pathways to Help Creative Entrepreneurs Be Successful

Purpose: To help creatives easily find available resources that support their success and allow them to connect with other creatives.

- Continue to build and broaden a resource list for creatives
- Collaborate with the Loveland Business Development Center, Aims Community College, etc. to build creative business acumen

Strategy 3:

Build and Support Existing Networks in Loveland

Purpose: To heighten communication, grow partnerships, and encourage collaboration making way for increased networking to occur.

- Host regular formal and informal networking events to create opportunities for greater collaboration
- Continue to connect performing arts presenters and producers to share schedules, shows, and promotion
- Build upon the connections within the history community to increase opportunities to share and promote the community's heritage
- Create a platform for special interest groups (like artists or the historical society) to engage with Cultural Services staff
- The Museum provides opportunities for professional development through exhibitions in gallery spaces. Artists gain experience and knowledge working with Curators to create exhibits and educational programming for presentation in an accredited museum setting

RFP 23-08 Appendix C Arts and Culture Plan Stilwell's Submittal

Strategy 4:

Extend Cultural Services Beyond Managing Cultural Facilities

Purpose: To grow Cultural Services staffing capacity to support the growth and connectivity of art, history, and the creative industry in Loveland.

- Grow the "outward facing" side of Cultural Services with dedicated staff to support these strategies

Strategy 5:

Assist and Encourage Future Development to Support Art and History

Purpose: To encourage public or private development in support of the arts and to serve in an advocacy role in promoting the preservation of the community's historic sites and in developing future artist spaces.

- Advocate for preservation of community's history and in developing future artistic space

Appendix C
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To fulfill the goals of this plan and begin to meet the growing needs and expectations of the community, the Cultural Services Department will need to expand its potential in terms of staff resources, finances, and facilities.

CULTURAL ASSETS



REP 23-08; Appendix C
Stilwell's Submittal
Arts and Culture Plan

The following is an overview of cultural facilities in and around Loveland, including several proposed facilities.

The Railto Theater Center shines bright for *the Star Wars premiere*

City-Owned Cultural Facilities in Loveland



LOVELAND MUSEUM
Opened 1937
503 N. Lincoln Avenue, Loveland, CO
Capacity: 446

Overview: The Museum is planning a significant expansion that will bring a larger, up-to-date museum experience and a community gathering space where visitors can appreciate local history and enjoy the affirming influence of art.

RIALTO THEATER
Built in 1920
228 E. 4th Street, Loveland, CO
Capacity: 478

Overview: For 100+ years, the Rialto Theater has served as Lovelands Community Theater. The venue is both a movie theater and a performing arts space.





FOOTE LAGOON/LOVELAND SUMMER CONCERTS
Concert series estabished in 1992
500 E. 3rd Street, Loveland, CO
Capacity: 2,000+

Overview: Located at the City's municipal headquarters, the Foote Lagoon offers a magical setting to experience live performance under the stars. Loveland Summer Concerts continues to be a beloved summer experience for Lovelanders of all ages.

RFP 23-18, Appendix C Culture Plan
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City-Owned Cultural Facilities in Loveland



THE BEET EDUCATION CENTER

Purchased 2019
201 E. 5th Street, Loveland, CO
Capacity: 251

Overview: The former Loveland Reporter-Herald Building, which occupies the corner of 5th Street and Cleveland Avenue, was purchased by the City of Loveland in 2019. The building is part of the Loveland Museum expansion plan and is currently being used for educational purposes and will eventually house the Museum's printing press.

PULLIAM COMMUNITY BUILDING

Built in 1937
545 N. Cleveland Avenue, Loveland, CO
Capacity: 1322

Overview: In 1936 David T. and Lillian B. Pulliam donated land and $20,00 for the construction of the Loveland Community Building at 545 N. Cleveland Avenue. It was built by the Works Progress Administration from 1937-1939. Although a historic landmark, the building has fallen out of service due to ADA and code requirements. The dedicated Pulliam Community Foundation has served as advocates for the renovation in partnership with the City. The Cultural Services Department is the new steward of the building and looks forward to the revitalization of the historic property.





PANDA

Purchased 2017
710 14th Street SW, Loveland, CO
Capacity: 59

Overview: The Museum houses the collection at an off-site storage facility nicknamed, PANDA. The collection move was completed in 2017 with 2/3rds of the collection now safely stored at the facility. Plans to move additional archival materials, photographs, rolled textiles and fragile Native American collections are in the fundraising stage. In addition, the Museum is the repository for the Loveland Daily Reporter-Herald historic and ongoing archive through an Enduring Records Contract with Prairie Mountain Publishing.

Appendix C Culture Plan
Arts and Culture
Planning Commission's Recommitta



HAMMOND AMPHITHEATER: This City-owned amphitheater at North Lake Park has a seating capacity of 1,000, in the grassy "bowl" area. It provides the setting for a wide variety of activities including various City events, concerts, plays, public gatherings, and weddings.

LOVELAND PUBLIC LIBRARY: The Library includes two large meeting rooms, six study rooms, and one computer classroom to host a variety of programs and meetings. It also hosts changing art displays in the Art in the Galleria.





THE FOUNDRY: The Foundry project is revitalizing Loveland's historic downtown by transforming three underutilized city blocks into a destination for locals and visitors. This new development offers convenient parking, luxury apartments, restaurants, a seven-screen movie theater, hotel, and a central plaza for year-round community entertainment such as live music, outdoor movie screenings, and festivals.

ARTSPACE: There are two buildings on the Artspace Loveland Arts Campus: the Artspace Loveland Lofts, providing 30 units of affordable live/work space, and the Feed & Grain building with 12,000 sq. ft. of commercial/ community space including a gallery.





ARTWORKS LOVELAND: Artworks offers thirty studios, plus two galleries for exhibits and programs. Artists enjoy 24/7 access, communal areas, secured entry, WiFi, and a host of other amenities.

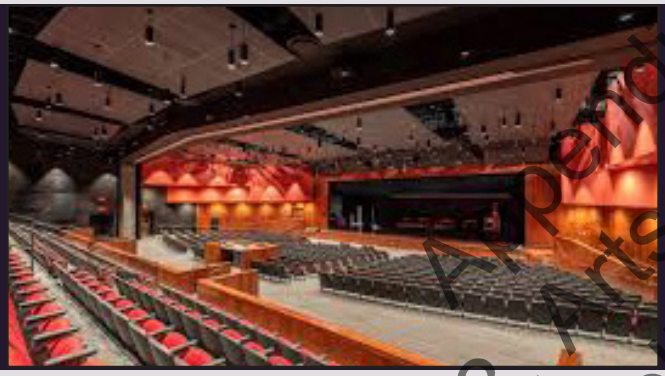
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ROBERTA PRICE AUDITORIUM (Thompson Valley HS): This school-district-owned 1,100-seat auditorium, with a recently upgraded orchestra pit, is available for rent by the community.

THE RANCH: Larimer County Fairgrounds & Events Complex: Sports, entertainment, and agricultural hub for Northern Colorado.





SUE E WALL AUDITORIUM (Mountain View HS): This school district owned auditorium is available for rent by the community.

HATFIELD CHILSON RECRECATION CENTER: This city-owned full-service fitness, sports, and aquatics recreation center also offers leisure programs in dance, pottery, and painting.





THUNDER MOUNTAIN AMPHITHEATRE: Located in the backyard of Thunder Mountain Harley-Davidson and Clear Channel Communications, Inc., Thunder Mountain Amphitheatre seats 4,464 and hosts a concert series each summer.

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History Days at the Lovoeland Museum

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Community Cultural Assets

- 4th Street Gallery
- Art Castings of Colorado
- Art in Public Places
- Artisan You Creative Works Studio
- ArtSpace
- Artsy Stamps and Paper Crafts
- Artworks Loveland
- Benson Sculpture Garden
- Broadway Bound Dance Academy
- Bronze Services of Loveland
- Budweiser Events Center
- Chapungu Sculpture Park at Centerra
- City of Loveland Parks and Recreation
- ClothRoads Film Festival
- Colorado DJ Entertainment
- Columbine Gallery and the National Sculptors Guild
- Contemporary Dance Arts LLC
- Creatorspace
- Danni Dance Corp
- Downtown Development Authority
- Encore Dance Emporium
- Foote Lagoon Amphitheatre
- Hammond Amphitheatre
- Harrington Arts Alliance
- Hart Gallery
- Hatfield Chilson Recreation Center
- I Heart Radio
- Independence Art Gallery
- JoAnn Fabrics and Crafts
- Juiced on Imagination
- Keptone Music
- Lighthouse Dance
- Lincoln Gallery (Thompson Valley Art League)
- LISA Program, Bill Reed
- Live Loveland
- Loveland Art Studio Tour
- Loveland Chamber of Commerce
- Loveland Choral Society
- Loveland Concert Band
- Loveland and Conservatory Dance



Kids Day at the Promenade

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- Loveland Dance Academy
- Loveland Downtown Partnership
- Loveland High Plains Arts Council
- Loveland Loves to Read
- Loveland Museum
- Loveland Music Academy
- Loveland Opera Theatre
- Loveland Orchestra
- Loveland Performing Arts
- Loveland Public Library
- Luminous Flux Gallery
- Lundeen Sculpture Gallery
- MacKinnon Royal Dance Institute
- Metrolux Theaters
- Moon Theatre Company
- Okay Dance
- Paint Your Frame Art School
- Pulliam Community Building
- Rialto Theater Center
- Roberta Price Auditorium, Thompson Valley High School
- Rocky Mountain Bronze Shop
- Rocky Mountain Cheer and Dance Company
- Rocky Mountain Golden Girls Baton Academy
- Sculpture Depot
- Slapstep Studios
- Studio K Music
- Studio West Dance Center
- Sue E Wall Auditorium, Mountain View High School
- The Ranch - Larimer County Fairgrounds and Events Complex
- The Studio - Dance and Music
- Thunder Mountain Amphitheatre
- Town Square Media
- Visit Loveland
- Walbye Art Studio



American Sculpture Center

The proposed Center for American Sculpture would spotlight the significant role that Loveland, its foundries, and artists have played within the greater history of modern American Sculpture. It would become a magnet offering unique cultural experiences centered on the intriguing processes of bronze, rotating exhibitions, visiting and resident artists, lectures, classes and workshops, interpretive tours, and various programs for novices to professionals, youth to seniors, all securing Loveland's place in American Sculptural history.

Children's Museum

The proposed Children's Museum of Northern Colorado seeks to bring a much-needed amenity to Northern Colorado. Children's museums utilize the process of play to set the foundation of lifelong learning. They are intended exclusively for children and their caregivers. All Exhibits will be experiential, open ended, and will encourage social interactions for children ages 2-10. The current vision calls for a museum venue with 12,000 sq. ft. of indoor exhibit space, and land to have additional outdoor exhibits. The tentative site for this museum would be around I-25 and Hwy 34, making it easily accessible to all northern Colorado families and visitors.

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Artist renderings of new Arts Center

RFP 2908, Arts and Culture Plan
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Loveland Performing Arts Center

Loveland, Colorado is widely known as an arts community. Spend any amount of time in this community, and you cannot help but notice art in a variety of forms. There are sculpture parks, foundries, and murals spread out across Loveland. Facilities like the Loveland Museum and the historic Rialto Theater serve as the backbone of the cultural arts in the area.

The question we are now facing is - do our present cultural performance facilities adequately serve the needs of our community? While the Rialto Theater is currently hosting over 400 events per year including rentals, film, and stage performances, the need for an additional performance venue is becoming more apparent.

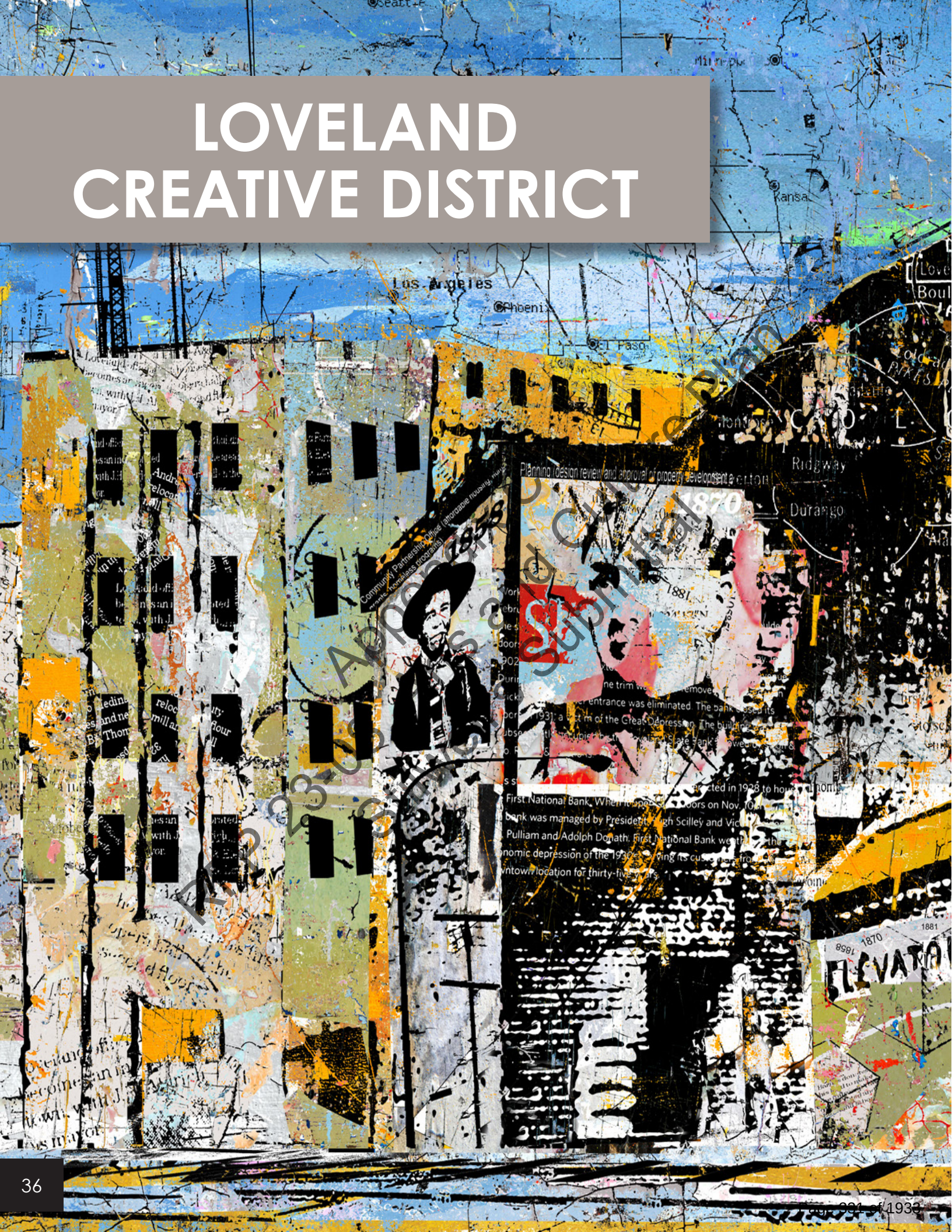
At present, the Rialto operates near capacity. It is important to note, the Rialto was created to accommodate the needs of Loveland in 1920. With a population of 5,065, Mr. Vorrieter envisioned a theater that would support the arts for years to come, and as such added over 1,000 bench seats. Presently, the capacity of the Rialto Theater is 446, due to a renovation that prioritized patron comfort over maximizing capacity. Since 2010, Loveland's population increased by 15.8%. Conservative estimates show Loveland and its neighboring communities growing by 107% by 2050.

Why Loveland needs a Performing Arts Center (PAC):
The benefits of a PAC include enhanced quality of life; improved economic development; tourism growth; increased revenue from the arts, and the synergy that comes from connecting people to cultural arts. Historically, PAC's act as the center of the arts in a community. In Loveland, the Pulliam Community Building, built in 1938, fulfilled this role for a time by hosting everything from community square dances to gala events.

What kind of Performing Arts Center would serve Loveland best?
Determining the size and seating capacity of a PAC is accomplished through a needs assessment and feasibility study. By comprehensively researching things like current and future demographics, community support, consideration of future population growth, and revenue projections, the logistical needs are determined.

In conclusion, Loveland is a community that has proven its willingness to support the arts in a variety of forms. Projections show that Loveland's population will double in the next 30 years. With our current facilities near capacity, it is time to begin the steps to determine the kind of venue that will allow Loveland to continue being a leader in the arts into the future.

LOVELAND CREATIVE DISTRICT



Approved by City Council
Resolution #R-23-0
Supplemental Plan



The Foundry Plaza

RFP 23-06; Arts and Culture Plan
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Loveland Creative District

The Loveland Creative District values and welcomes inclusive community engagement, which inspires innovation, elevates quality of life and delivers meaningful experiences for locals and visitors alike.

In 2019, recognizing that Loveland possesses unique and abundant cultural resources, Cultural Services and the Loveland Downtown Partnership (LDP) joined efforts to establish a state certified Loveland Creative District through the Colorado Creative Industries. From the onset, resident support for a creative district was viewed as paramount. Embracing a collaborative partnership, public meetings were held throughout the winter months to gauge public interest. The response was overwhelmingly positive and considered "long overdue" by many.

Within months, a resident Working Group was established to create the guiding principles and infrastructure for the district. The entire Working Group engaged in collaborative activities to address large issues, such as the Creative District boundaries, community values, district goals and a list of cultural assets. In subsequent meetings, each of these key elements were refined.

Following a rigorous application process, the Loveland Creative District was awarded state certification, joining 25 other creative Colorado communities located throughout the state.

Cultural Services welcomes the continued collaboration with The Loveland Downtown Partnership as the creative district evolves. Oversight of the Loveland Creative District will be provided by a governing board to be comprised of creatives, business owners, residents and stakeholders living or working within the designated boundaries.

Creative LOVELAND DISTRICT

Steering Committee Members

Sean Hawkins, Executive Director, Loveland Downtown Partnership
Susan Ison, City of Loveland Cultural Services Director
Suzanne Janssen, City of Loveland Public Art Manager, Project Lead
Jess Killingsworth, Cultural Services Marketing Coordinator (former)
Steve Lemmon, Rialto Theater Manager
Jill Stilwell, Arts Management Consultant



Loveland Depot

Short Term Goals

- Build a sense of excitement and vitality in the community.
- Support collaborative educational activities for people of all ages, disciplines, and experience levels.
- Provide a centralized inventory of Loveland's creative resources.

Long Term Goals

- Increase the economic activity within the District, benefiting the entire community.
- Activate under-utilized downtown buildings and public spaces for cultural, creative experiences.
- Create a sustainable model for supporting operations and programming for the Loveland Creative District.

Committees	Stakeholders	Meetings	Members	Presentations	Vote
Governance, Marketing/ Branding, Cultural Assets, Programming & Events, Educational, Restaurant & Retailer Outreach	8 Public Stakeholder Meetings	9 Working Group Meetings	21 active members comprised the Working Group	2 City Council presentations in 2019	Unanimous approval by City Council for the Loveland Creative District

Creative Districts

- **Administered by Colorado Creative Industries, the Creative District Program encourages the formation of creative districts in neighborhoods and contiguous geographic areas for the purpose of:**
- **Attracting artists and creative entrepreneurs to a community**
- **•Enhancing economic and civic capital of Colorado communities**
- **Creating hubs and clusters of economic activity**
- **Enhancing areas as appealing places to live, conduct businesses and attract visitors**
- **Serving as an economic strategy and magnet**
- **Revitalizing and beautifying**
- **Promoting a community's unique identity**
- **Showcasing cultural and artistic events and amenities**

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APPENDIX

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Chilldren enjoying the Loveland Museum



Sailiant Fluke, Phillip Mc Taggert

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STAFF RESOURCES

Cultural Services staffing has remained static for more than 10 years.

The community has shared how much they love and enjoy what Cultural Services has to offer, but residents want and expect more. To fulfill the needs of the community and meet the strategies of this plan, the professional Cultural Services staff will need to grow.

Cultural Services Directorship: Currently the Director of Cultural Services also serves as the Director of the Museum. These two areas of responsibility should be separated into two positions. With the addition of the Pulliam building and growing demand for more support of the arts and creative ecosystem, it is critical that the department have inward facing directors of each of its programs, the Rialto/Pulliam, Museum, and AIPP, and a Department Director who oversees the entire department, who is able to be outward facing to serve as a strong advocate for arts and culture in the community.

Cultural Services Board: Review, evaluate, and define the role of the Cultural Services Board to ensure its effectiveness.

Development Team: The department's fundraising activity is poised to grow in order to support a more diversified revenue picture. Grant writing, annual campaigns, fundraising events, sponsorships, fee-based programs, and donor cultivation require consistent oversight and coordination. Starting with a Development Coordinator and adding additional development staff as the program gains momentum will provide a stable environment for revenue growth.

Marketing Team: Marketing needs to increase across the department and requires additional staff. The marketing team can either reside under the Cultural Services Director to serve the entire department, or have imbedded marketing assistants, one covering the Rialto/Pulliam and a second for the Museum/ AIPP, with a shared coordinator and graphic designer. Primary responsibilities include marketing and promotion of events, exhibits, performances, installations, and programs across the Cultural Services department as well as promoting rental spaces at the Rialto, Pulliam and Museum.

Professional Theater, Museum, and Public Art staff: The Rialto, Museum, and AIPP are currently understaffed. The opening of the Pulliam to the public will require its own team of professional staff and crew, in addition to taking advantage of the marketing, event management, and rental expertise that already exists in the Department.



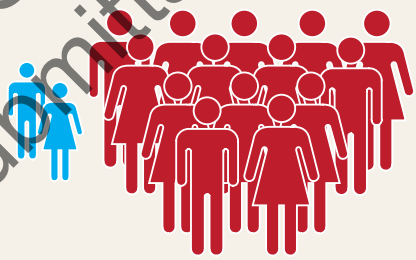
Rabbit Run, Walter Matia

PEP 20-06, Arts and Culture Plan
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Current Department Staff:

- **Susan Ison,** Director of Cultural Services (full-time)
- **Whitney Day,** Business Services Specialist (part-time)
- **Kristi Woolsey,** Executive Assistant (full-time)
- **Tegan Hollen,** Business Services Technician (full-time)
- **Clarissa Gucwa,** Business Services Specialist (full-time)
- **Caitlin Powley,** Clerk/Cashier (part-time)
- **Mikayla Adair,** Marketing Coordinator (full-time)
- **Jason Lewis,** Graphic Designer/Webmaster (full-time)
- **Suzanne Janssen,** Public Art Manager (part-time)
- **Maureen Corey,** Curator of Art (full-time)
- **Jennifer Cousino,** Curator of History (full-time)
- **Jenni Dobson,** Curator of Education (full-time)
- **Ashley Yager.** Registrar (full-time)
- **Eric Franklin,** Exhibits Preparator (full-time)
- **Steve Lemmon,** Theater Manager (full-time)
- **Roberta Cox,** Theater Coordinator (full-time)
- **Phil Baugh,** Technical Coordinator Audio (full-time)
- **Dan Fitch,** Technical Coordinator Lighting (full-time)
- **Scout Carlson,** Assistant Technical Coordinator (part-time)
- **Heather Rubald,** Assistant Theater Coordinator (full-time)

Current Cultural Services Staff



Current Part-Time Staff
Current Full-Time Staff
Future Part-Time Staff
Future Full-Time Staff

New Department Staff Positions needed (in addition to the above):

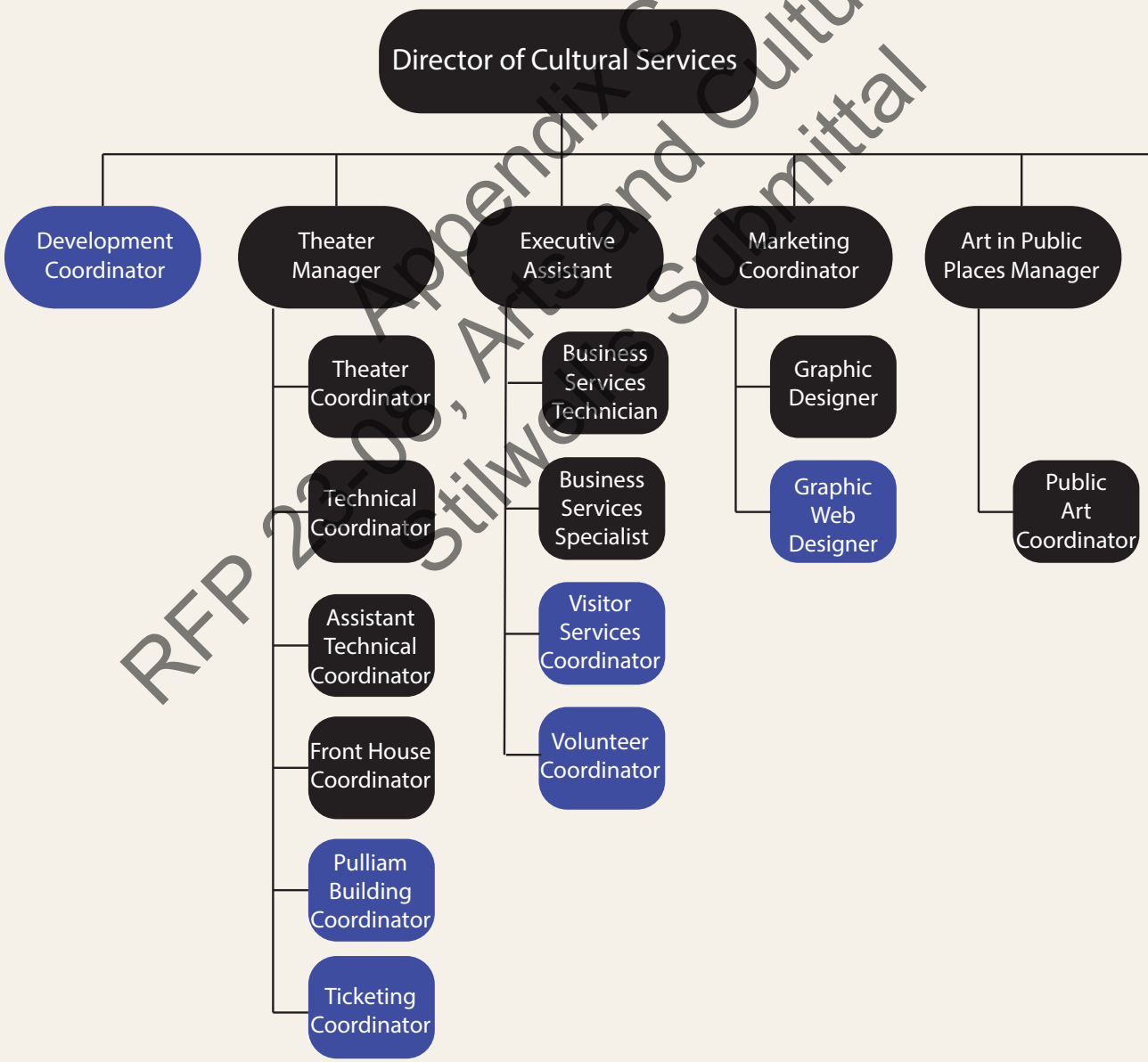
- Museum Manager (full-time)
- Development Coordinator (full-time)
- Curatorial Assistant (full-time)
- Curatorial Assistant (part-time)
- Graphic Designer/Webmaster (full-time)
- Exhibits Preparator (full-time)
- Education Coordinator (full-time)
- Visitor Services Coordinator (full-time)
- Pulliam Community Building Coordinator (full-time)
- Ticketing Coordinator (full-time)
- Volunteer Coordinator (full-time)

Future Cultural Services Staff





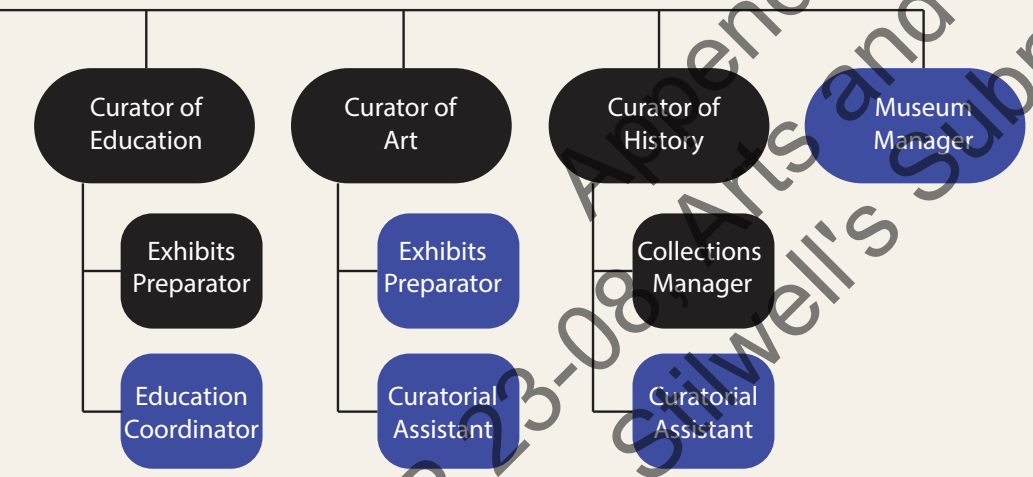
Rialto Theater Summer Concert Series, Hazel Miller Band



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Department Organization Chart



Current Staff

Proposed Staff Additions

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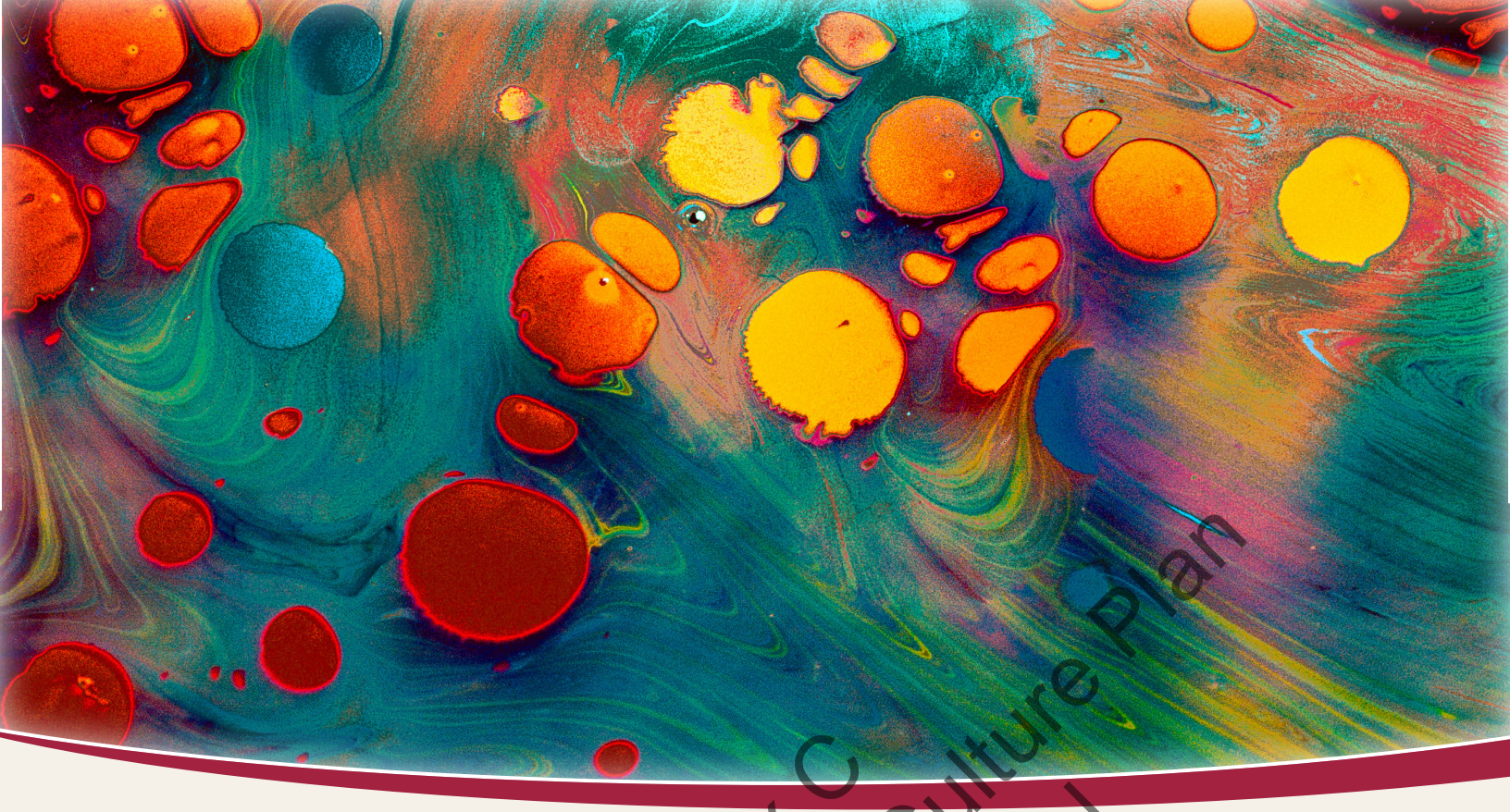


Bell Keepers, by Bruce Papitto

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FINANCES

Arts and history is a public enterprise, and not a profit-making business. However, the Cultural Services Department can increase its revenue through diversifying its funding sources. In addition to the support currently provided, the City of Loveland can also help support the department in expanding its revenue and therefore its services to the community.



REVENUE RETENTION:

- Structure Rialto budget to allow for the retention of net profits to invest in future programming and increase annual appropriations to allow for picking up mid-season shows.
- Structure secured fundraising dollars as an increase to the Museum or Rialto budgets, as opposed to reimburse City funding, thus encouraging greater fundraising efforts.

BACKSTAGE RIALTO:

- Utilize our non-profit partner, Backstage Rialto, as a revenue source via their targeted fundraising activities. Using their fundraising dollars on specific improvement projects or as a co-producing partner provides an alternative to using internal city budgets for these projects or events.

ART IN PUBLIC PLACES FUNDING:

- Private Investment in AIPP: Consider expanding AIPP to private developers on a voluntary basis. Produce collateral material; work with Economic Development and City Planning to develop an education campaign around the opportunity.

DIVERSIFY REVENUE SOURCES:

- Create a development plan to expand fundraising efforts for Cultural Services Department.
- Recreate the Museum's membership program with clear benefits (including free admission) and a marketing campaign to promote it.

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CULTURAL SERVICES - SWOT ANALYSIS

STRENGTHS	WEAKNESSES	OPPORTUNITIES	THREATS
• Niche between Denver and rural areas • Destination venues • Provide variety of cultural programs • Creative ideas • Serve as gathering places for the community • Desire to look for new ways of reaching and educating the public • Showcase internationally recognized artists • Opportunities for local/ regional artists • Collaborations with art orgs and artists • Small, but highly productive, talented team	• No parking in downtown • No bus parking/access • Not obvious what Cultural Services does in the community • Need to appeal to a broader demographic • Limitations of space and amenities in facilities • Lack of consistent support and understanding of what we do from City Council and the City • City perception that arts are extras or not viewed as necessary in budgeting process • Legal and accounting challenges for artists • Division budget nor staff have increased in many years • Change is slow in municipalities – frustrating for staff and public • Lack of support for updated technology and instant messaging	• New promotional videos • Instagram, social media • Resources to invigorate Pulliam Building • Instant messaging platform for enhanced communication • Better IT Support • Artist residencies (literary, performance, 2&3-D artists) • More money • More staff • Cross-departmental collaboration • Increased visibility within City organization • Economic growth creates new funding sources • Growth of Loveland causes changes in demographics and new audience potential	• Lack of support from some local communities • City Council (dis)approval of expansion of museum • Community dis(approval) of museum expansion • Staff leaving in order to pursue new opportunities • City budget cuts • New movie theater • Technology • City Council support of AIPP • Aging facilities

* These are comments made during public open houses.

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ART IN PUBLIC PLACES - SWOT ANALYSIS

STRENGTHS	WEAKNESSES	OPPORTUNITIES	THREATS
• Strong community engagement and support • Highly visible (throughout community, gardens, and shows) • Diversity of artists represented • Large and varied collection • Part of Loveland's identity/image • Provides opportunities for local artists • City supported program (1% for art)	• Non-City owned collections can reflect poorly on AIPP • Program is confusing to public and staff • Need more conceptual and culturally diverse art • Involve more diverse perspectives on jury committees • Internal challenges with budget department • Lack of updated education materials • Laborious process for artists • Cost of maintenance	• Exhibit highlighting AIPP • Increase programming for community to engage with AIPP content, collection and new additions • Public AIPP Tours • Tourist Information distribution • More murals • Improved marketing, tie in with City • Improve process for artists through technology • Improve AIPP website and app • Host educational seminars of job skills for artists • Entry piece on west side • Location for AIPP "Foundations" Sculpture	• Lack of support from some local communities • City council (dis) approval of expansion of museum • Community dis(approval) of museum expansion • Staff leaving for new opportunities • City budget cuts • New movie theater • Technology • City Council support of AIPP • Aging facilities

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LOVELAND MUSEUM - SWOT ANALYSIS

STRENGTHS	WEAKNESSES	OPPORTUNITIES	THREATS
• Economic impact on downtown • Viewed as central part of Loveland experience • Provides arts and culture for community • Strong community events and connectivity • Exceptional quality, blockbuster changing art exhibits – unexpected for this size of town • Outstanding, in-depth history exhibits • Unique focus on art and history • Diversity of well attended programs and classes, including history days • Main repository for Loveland history collections • Resource for schools in art and history education • Strong volunteer support • No or low admission prices • Staff and front desk service • New off-site collection facility • Affordable rental space	• People still don't know Museum exists – surprised to find • Homeless issue in park • Could develop interpretation for both history and art exhibits to better visitor experience • Need updated ways to gather feedback/ evaluate programs and exhibits • Need more space for lobby, circulation, more history exhibits, auditorium, events, classrooms, gift shop, coatroom, growth. • Facility needs updating: technology, ceiling heights, HVAC, environmental controls, front desk near paid exhibits. • Lack of council support and action by Cultural Services Board • Need to think even bigger • Competing with other events, city depts., etc. • Limited resources: money and staff • Too many ideas/ opportunities, not enough time and staff	• More hands-on interactive learning • Improve technology and AV equipment • Bigger, better, more blockbuster exhibits • Additional or new interpretation for history and art exhibits • Add staff, including full-time Development position and volunteer coordinator • Improve welcome desk area • More programs or events to connect with all age groups, 20-40 year olds, and teens • Stronger partnerships with service agencies to tailor experiences • Make the Museum's collection more accessible through exhibits, programs, tours, and online research • Cross-departmental collaborations and themed activities • Increased partnerships/ collaboration with City, community groups and local universities • Increase income from classes with more classroom space • Advertising sponsorship packages • Larger gift shop, expanded budget for more diverse merchandise • Outdoor sculpture park and venue for events	• Lack of support from some local communities • City Council (dis) approval of expansion of museum • Community dis(approval) of museum expansion • Staff leaving for new opportunities • City budget cuts • Technology • Aging facilities

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RIALTO THEATER - SWOT ANALYSIS

STRENGTHS	WEAKNESSES	OPPORTUNITIES	THREATS
• Downtown business anchor – economic impact • Only performing arts venue • Historic building is memorable and beloved • Intimate, personal venue (450 seats) • Diversity and variety of programs reach broad audiences • Provides venue for local performing arts groups • State of the art facility • Connection to expansion next door • Strong volunteer support • Staff and customer service • Liquor license	• Lack of awareness, identity unclear • Limitations on patron parking • Competition with other venues (movies, Lincoln Center) • Facility limitations (wing space, seating capacity, acoustics, sound bleed, no coatroom) • Uneven quality of programming • Missing programming that appeals to younger demographic (18-35) • Capacity limits programming • Rental partnerships can reflect negatively on Rialto • Some user groups are stretching limits of space • Lack of budget for shows, "name" performers, marketing • % of days facility is dark • Little cross-promotion with area businesses	• Feature history of Rialto within the theater and on tours for the public • Larger performance venue • Additional staff • More diversity in theater performances and concerts • Creation of season ticket package(s) • Creation of concert series geared towards younger audiences • More packaging with downtown business (dinner and a show) • Larger budget for artists fees • $$ to run outdoor concerts at Foote and Hammond (staff too) • Add seating to increase revenue • Sound proofing between theater and Bridge • Improved sponsorship/ advertising relationships with community • Updated/more pronounced marquee • Increased radio advertising • Expand membership program • Cross-departmental collaboration on events	• Lack of support from some local communities • Staff leaving for new opportunities • City budget cuts • New movie theater • Technology

RFP 23-08, Appendix C
Stilwell's Arts and Culture Plan
Submittal

ACKNOWLEDGMENTS



RFP 23-08, Arts and Culture Plan
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Loveland Museum Historic Photo collection

City of Loveland
Cultural Services Department
Arts and Culture Master Plan 2022

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CITY OF LOVELAND
CULTURAL SERVICES BOARD
Dr. Dierdre Cook, Chair
Karen Cobb
John Fogle, City Council Liason
Teri Johnson, Vice-Chair
Kris Ortmann
Susan Sharp
Cornelia Winters

CITY OF LOVELAND ELECTED OFFICIALS
Jacki Marsh, Mayor
Don Overcash, Mayor Pro Tem
Richard Ball, Councilmember
Patrick McFall, Councilmember
John H. Fogle, Councilmember
Dana Foley, Councilmember
Steven D. Olson, Councilmember
Andrea Samson, Councilmember
Jon Mallo, Councilmember

CONSULTANT TEAM
Stilwell Cultural Consulting, LLC

BACKSTAGE RIALTO
Jim Doherty, Chair
Karen Cobb, Co-Chair
Gail Luna, Treasurer
Lynne Niemeyer, Secretary
Susan Ruff
Dan Engelhardt
Leah Johnson

VISUAL ARTS COMMISSION
Jade Windell, Chair
Susan Atwater
Angela Brill
Blas Estrada
Bruce Gueswel
Greg Hoff
Maryjo Morgan
Abbie Powers
Margaret Rosborough
Curtis Rowland, Alternate

ARTS AND CULTURE

Appendix C
RFP 23-08, Arts and Culture Plan
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City of Loveland

Cultural Services Department
City of Loveland
2022 Master Plan

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-789

MEETING OF JUNE 6, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Kit Williams, City Attorney

DATE:

SUBJECT: **Funding for Arts and Culture Master Plan**

RECOMMENDATION:
Council Member Harvey is sponsoring a resolution to approve funding in the amount of $200,000.00 to develop an Arts and Culture Master Plan, and to approve a budget adjustment.

BACKGROUND:

DISCUSSION:

BUDGET/STAFF IMPACT:
Budget Adjustment in the amount of $200,000.00 attached.

ATTACHMENTS: Agenda Request - Council Member Harvey - Arts & Culture Master Plan, Staff Memo-Arts and Culture Plan Funding, BA Arts and Culture Master Plan

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

File #: 2023-789

Funding for Arts and Culture Master Plan

A RESOLUTION TO APPROVE FUNDING OF $200,000.00 TO DEVELOP AN ARTS AND CULTURE MASTER PLAN AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville has long supported local production of cultural arts including funding the multimillion dollar construction of the Walton Arts Center in cooperation with the University in 1992 and its recent multimillion dollar enlargement and enhancement; and

WHEREAS, the citizens of Fayetteville approved a bond issue of over thirty million dollars to fund the Cultural Arts Corridor improvements in 2019; and

WHEREAS, the need for the creation of an Arts and Culture Master Plan was identified by the City Administration as a priority in 2020 and specifically recommended by the Parks System Master Plan adopted by the City Council in February of 2023.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby recognizes the need and benefit to our citizens to create an Arts and Culture Master Plan, authorizes Mayor Jordan to engage a qualified consultant to create this Plan, and approves a budget adjustment in the amount of $200,000.00 to fund the creation of the Arts and Culture Master Plan.

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

TO: Mayor Lioneld Jordan

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

FROM: Joanna Sheehan Bell, Arts and Culture Director

DATE: May 17, 2023

SUBJECT: **Funding Request for an Arts and Culture Master Plan**

RECOMMENDATION:
The arts and culture sector in Fayetteville plays a vital role in our local economy and community's vibrancy. Funding of $200,000 to develop an Arts and Culture Master Plan that will strategically enhance and support this sector.

BACKGROUND:
Fayetteville has a strong history of supporting the arts, including the collaboration for the Walton Arts Center in 1992. As early as 2004, the Downtown Master Plan cited municipal action to foster the arts and culture ecosystem. This commitment was further reinforced in 2007 with the establishment of the Fayetteville Arts Council through an ordinance, which has since been updated and affirmed in 2010 and 2019. Arts and Culture have consistently featured prominently in various city planning documents, including those focused on economic development and the Welcoming Plan. This is in addition to the creation of the Cultural Arts District and The Ramble project to create connectivity in the sector. While the city's 2040 plan acknowledges cultural resources, it lacks a specific discussion of a strategy for the arts and culture sector. This gap emphasizes the pressing need to invest in a comprehensive plan to guide and advance this crucial sector. As such, the creation of the Arts and Culture Plan is directly recommended by the Parks System Master Plan adopted in February 2023.

The creation of an Arts and Culture Division and an Arts and Culture Plan was identified as an administration priority in early 2020, and the city created the full-time position of the Arts and Culture director in 2022. Leading the development and implementation of a Cultural Arts Master Plan for the City was the first priority of the job description developed for the position.

DISCUSSION:
A dedicated plan will provide clear direction for investing in the arts, promoting creativity, and nurturing cultural diversity in our city. It will guide resource allocation, identify new opportunities, and strengthen Fayetteville's cultural landscape. To develop this plan, we will engage a qualified consultant to conduct research, facilitate public meetings, and collaborate with city staff and stakeholders to develop strategies tailored directly to our city. The consultant will deliver a comprehensive plan aligning with our vision and priorities.

With an Arts and Culture Master Plan, we will position Fayetteville as a leader in arts and culture in the region (only Rogers has a plan in place as of this date), and thanks to our Municipal Arts Alliance partnership with CACHE we know that plans will also be created for Bentonville and Springdale in the next two years.

It will be of great value to have a robust Arts and Culture plan in place when the Upper Ramble opens in Fall 2024, so timing is a factor.

BUDGET/STAFF IMPACT:
This request will require the appropriation of $200,000 from general reserves.

Regarding the budget rationale, Rogers spent approximately $100,000 on their plan in 2019, and our aspirational/peer city of Charlotte, North Carolina contracted in 2022 for an extremely broad plan scope at $480,000. We have intentionally scoped our plan proposal to be slightly more intensive, community driven, and collaborative than Rogers, and less broad than Charlotte's.

Attachments:

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1204

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

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

FROM: Matt Mihalevich, Active Transportation Manager

DATE: October 18, 2023

SUBJECT: **Approval of a contract with Crafton, Tull & Associates, Inc. for design of the Drake Street Connection Trail.**

RECOMMENDATION:
Staff recommends approval of a contract in the amount of $204,275.00 with Crafton, Tull & Associates, Inc. per RFQ 23-01, selection #6 to provide professional services for the design of the Drake Street Trail Connection and approval of $25,000.00 in contingency and a budget adjustment.

BACKGROUND:
The Drake Street Trail Connection will use excess space in the 4-lane section of Drake Street to install a two-way protected trail from College Ave. west to the end where a trail will be constructed to extend to Gordon Long Park and connect to the Razorback Regional Greenway. The proposed trail will total 4,376 linear feet and connect the neighborhoods east of Scull Creek to Gordon Long Park and the Razorback Regional Greenway.

The section of Drake Street from College Ave. to Quail Creek Dr. was constructed as a four-lane minor arterial roadway in the 1990's adjacent to The Links Apartments. This street has a dead end at the west end and there are no plans to extend Drake Street in the near future, so the existing right of way is available for a trail connection extending to Gordon Long Park. The street has a very low traffic volume because it is not a through street, but it encourages short bursts of high-speed travel due to the very wide street cross section and large turning radii.

The concept for the project will reduce Drake Street from four vehicle lanes to two vehicle lanes and include a 9-foot-wide by 3,204 Linear foot long trail on existing pavement. The conversion of the northern most traffic lane to a trail will reduce the street cross section to 2 through lanes with either a continuous turn lane in the center or parallel parking on the south side. The final cross section is still to be determined based on public input. The trail users will be separated from vehicles by installing a 6-inch-tall by 2-foot-wide concrete median with reflective posts on top as needed to delineate the lanes. Intersections will have reflective crosswalk markings on the pavement and signage for motorists and trail users. The trail in the street will transition to a 10-foot-wide trail at the west terminus of Drake Street and extend through undeveloped right of way to Gordon Long Park. This concrete trail will be 1,272 feet long and will include an estimated 50-foot bridge spanning Scull Creek.

The section of the Razorback Regional Greenway through Gordon Long Park currently sees an average of 600 users per day. The trail in this location closely follows Scull Creek and the topography east of the creek naturally restricts access to the neighborhoods on the east side of the trail. The City ran a model that identified all residences and businesses within ½ mile of this project and found that there were 1,958 residential units, 266 businesses and 3,852 employees in this immediate area north, east and south of Drake Street. There are a significant number of potential trail and parkland users that are currently cut off from these amenities due to challenging topography and poor connectivity.

This project will serve people of all demographics, including many who may not have access to a vehicle and depend on other modes of transportation. We expect this connection will become an important active transportation connection with the many employment destinations along College Ave., dense neighborhoods and apartments along Drake Street and the direct connection to the Razorback Regional Greenway.

In June of 2023, a letter was sent to all property owners that are adjacent to the proposed trail and a survey was provided on speak up Fayetteville with 236 participants. 90% of the respondents expressed support for the project. Additional public input will be solicited as the design develops.

In August of 2023, the City of Fayetteville was awarded $500,000 in federal-aid funds through the Northwest Arkansas Regional Planning Commission Transportation Alternatives Program for construction of the Drake Street Trail Connection.

DISCUSSION:
On September 11th, Crafton, Tull & Associates, Inc. was selected by committee based on RFQ 23-01, selection #6. Staff worked with Crafton, Tull & Associates, Inc. to prepare a detailed scope of work and contract for this project. They have provided a proposed scope and fee in the amount of $204,275.00 for the design of this project.

Services to be provided include:
Design services will include the design of approximately 1,092 linear feet of 10-foot-wide concrete trail and approximately 3,300 linear feet of protected bike lane and restriping of Drake Street. The work will include the design of a 12-foot-wide trail bridge over Scull Creek at Gordon Long Park. The design firm will provide detailed flood analyses to determine the most feasible location for the bridge within city-owned property. The bridge design should use the flood study to evaluate a variety of bridge types with a goal of minimizing the overall bridge length while providing no-rise to Scull Creek. The work will also include sizing of pipes and a culvert for the trail crossing a tributary to Scull Creek on the east side of Gordon Long Park.

The design consultant will provide topographic and boundary surveys, pipe sizing, hydraulic studies including no-rise certification for the bridge over Scull Creek, corps of engineers permitting, trail and bridge design, bid ready construction plans and specifications, bidding services, construction engineering, and inspection services.

BUDGET/STAFF IMPACT:
The design for this project will be paid for with funds from the 2022 Trails Bond Funds.

ATTACHMENTS: SRF (#3), BA (#4), 2023-1204 Drake Street Trail Conn Crafton Tull Packet (#5), CTA Proposal - Drake Street Trail Connection (#6)

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

File #: 2023-1204

Approval of a contract with Crafton, Tull & Associates, Inc. for design of the Drake Street Connection Trail.

A RESOLUTION TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH CRAFTON, TULL & ASSOCIATES, INC., PURSUANT TO RFQ 23-01 SELECTION #6, IN AN AMOUNT NOT TO EXCEED $204,275.00 FOR DESIGN SERVICES ASSOCIATED WITH THE DRAKE STREET TRAIL CONNECTION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF $25,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a professional engineering services agreement with Crafton, Tull & Associates, Inc., pursuant to RFQ 23-01 Selection #6, in an amount not to exceed $204,275.00 for engineering design services associated with Drake Street Trail Connection, and further approves a project contingency in the amount of $25,000.00.

City of Fayetteville Staff Review Form

2023-1204

Item ID

11/7/2023

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

Matt Mihalevich	10/18/2023	ENGINEERING (621)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of a contract in the amount of $204,275.00 with Crafton, Tull & Associates, Inc. per RFQ 23-01, selection #6 to provide professional services for the design of the Drake Street Trail Connection, approval of $25,000.00 in project contingency, and approval of a budget adjustment.

Budget Impact:

4703.830.7300-5860.02	4603 - Trails Project 2019 Bonds
Account Number	Fund
46030.7300.1000	Misc. Trail Improvements Drake Street Trail Connection
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	118,949.00
		Expenses (Actual+Encum)	$	93,948.28
		Available Budget	**$**	**25,000.72**
Does item have a direct cost?	Yes	Item Cost	$	204,275.00
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	229,275.00
		Remaining Budget	**$**	**50,000.72**

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	ENGINEERING (621)	
	Requestor: Matt Mihalevich	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Staff recommends approval of a contract in the amount of $204,275.00 with Crafton, Tull & Associates, Inc. per RFQ 23-01, selection #6 to provide professional services for the design of the Drake Street Trail Connection and approval of $25,000.00 in project contingency.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1204**

Holly Black
10/18/2023 1:46 PM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

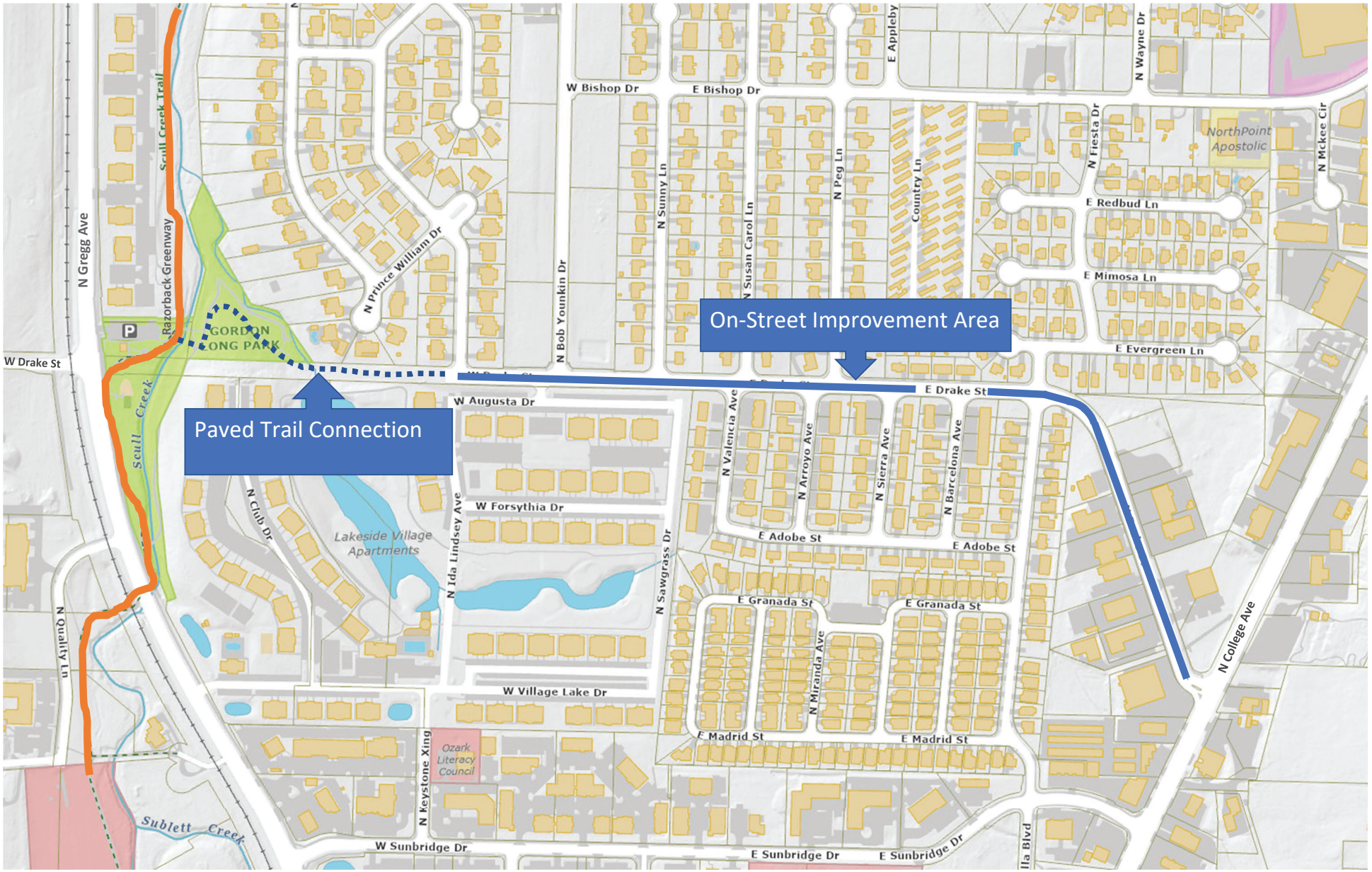
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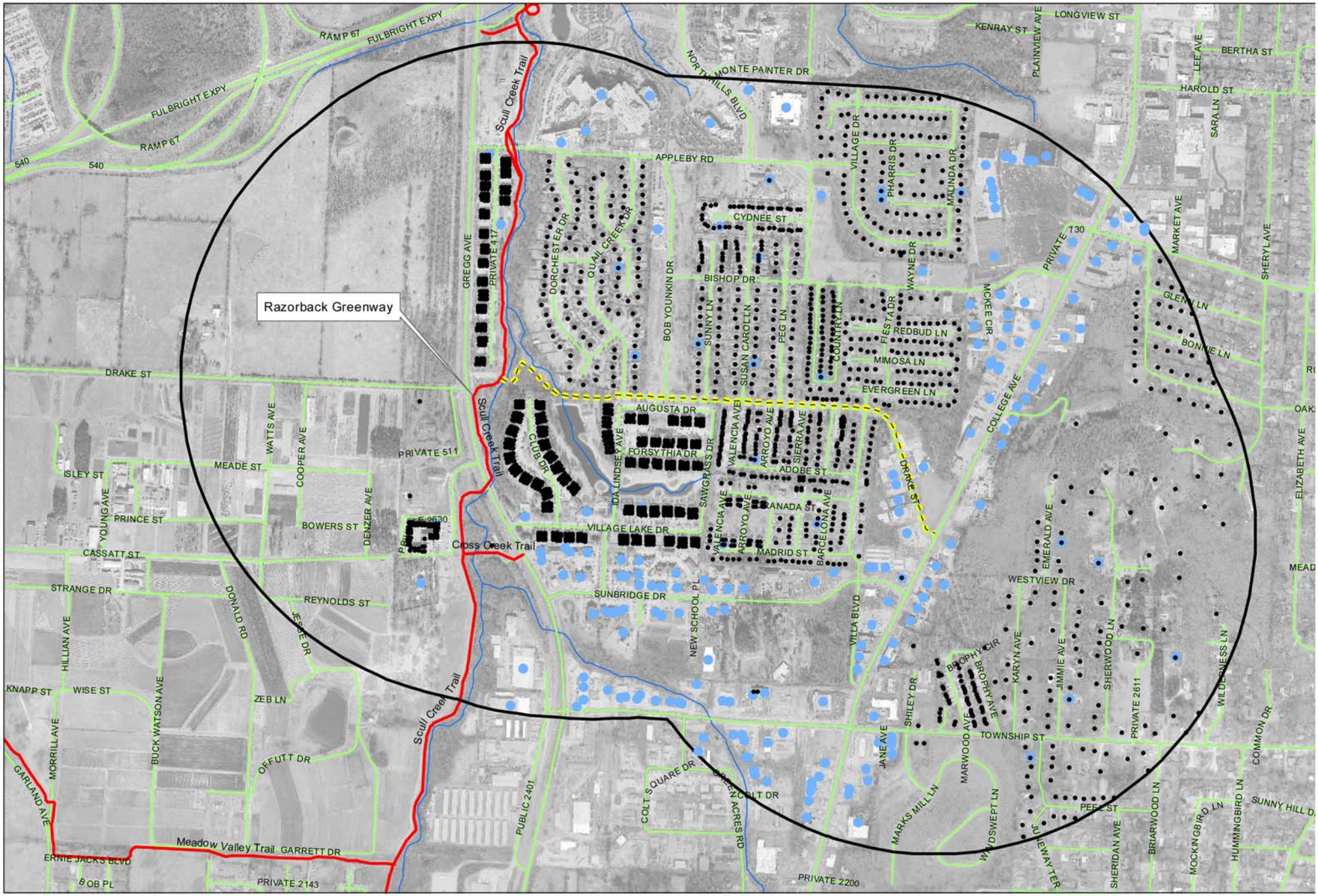
CHKD/POSTED: /

RESOLUTION/ORDINANCE

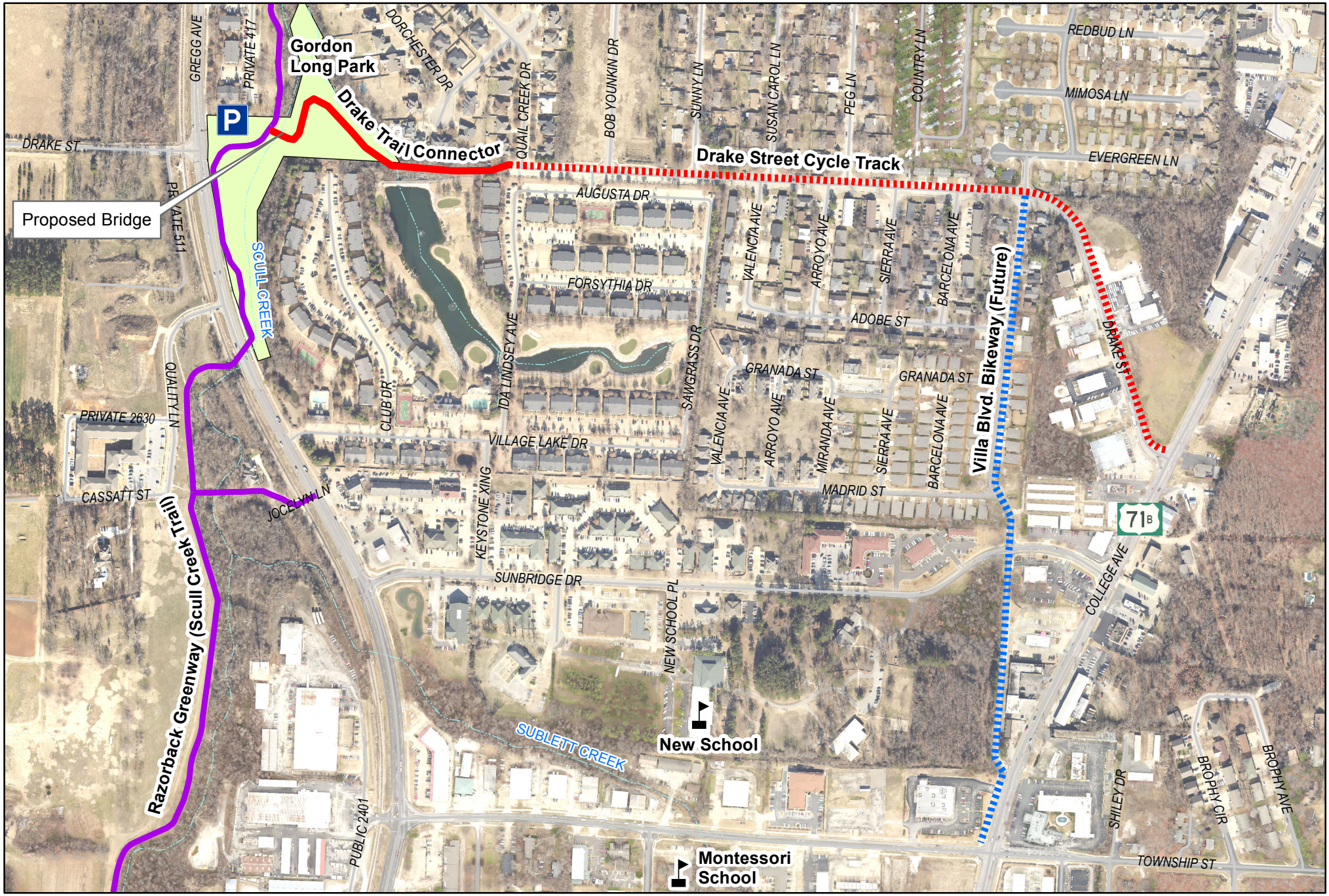
v.202398

	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
TOTAL	-	-				
4703.860.7300-5860.02	204,275	-	46030	7300.1000	EX	Capital Prof Svcs - Engineering/Architectu
4703.860.7300-5911.99	25,000	-	46030	7300.1000	EX	Contingency - Capital Project
4703.860.7999-5899.00	(229,275)	-	46030	7999	EX	Unallocated - Budget
	-	-				
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On-Street Improvement Area
Paved Trail Connection
W Drake St
E Drake St
N Gregg Ave
Scull Creek Trail
Razorback Greenway
GORDON LONG PARK
Scull Creek
N Prince William Dr
N Bob Younkin Dr
W Bishop Dr
E Bishop Dr
E Appleby
N Wayne Dr
N Sunny Ln
N Susan Carol Ln
N Peg Ln
Country Ln
N Fiesta Dr
NorthPoint Apostolic
N Mckee Cir
E Redbud Ln
E Mimosa Ln
E Evergreen Ln
W Augusta Dr
N Valencia Ave
N Arroyo Ave
N Sierra Ave
N Barcelona Ave
N Club Dr
W Forsythia Dr
N Ida Lindsey Ave
Lakeside Village Apartments
N Sawgrass Dr
E Adobe St
E Granada St
N Miranda Ave
E Madrid St
N College Ave
W Village Lake Dr
N Quality Ln
N Keystone Xing
Ozark Literacy Council
Sublett Creek
W Sunbridge Dr
E Sunbridge Dr



Document Path: G:\GIS2\Projects\2013\Trails--Drake Street Trail Connection\Maps\Drake Street Trail Connection.mxd



Legend

- Proposed Drake Trail Connection - 0.22 Miles
- Proposed Drake Street Cycletrack - 0.62 Miles
- Existing Trails Multi-Use

Drake Street Trail Connection and Cycle Track
Proposed TAP Project

0 100 200 400 600 800 1,000 Feet

CITY OF FAYETTEVILLE ARKANSAS

SELECTION COMMITTEE - VOTING RESULTS

Selection Description: RFQ 23-01, Selection #6 - Drake Street Trail Connection

Selection Committee Date/Time: 09/11/2023 at 4:00 PM

Firms are listed alphabetical order.

Overall RANK	*1* Crafton Tull	*2* Garver, LLC.	*3* Olsson
1st	IHT		
2nd		I	IHT
3rd		IIII	

OVERALL RANK SUMMARY SCORING

1st ranked firm: Crafton Tull

2nd ranked firm: Olsson

3rd ranked firm: Garver, LLC.

Tallied by:

Amanda Beilfuss, Sr. Purchasing Agent

Date: 9 / 15 / 23

K fitch

Kenny Fitch, Purchasing Agent

Date: 9 / 15 / 23

Meeting ID	85412640913
Topic	S/C Meeting: RFQ 23-01, Selections 6-8
Start Time	9/11/2023 3:55:32 PM
End Time	9/11/2023 4:15:02 PM
User Email	abeilfuss@fayetteville-ar.gov
Duration (Minutes)	20
Participants	7

Name (Original Name)	User Email	Total Duration (Minutes)	Guest
Amanda Beilfuss	abeilfuss@fayetteville-ar.gov	20	No
Lyssie Koscheski		17	Yes
Mike Wiederkehr		17	Yes
Matt Mihalevich	mmihalevich@fayetteville-ar.gov	16	No
cgranderson		7	Yes
Chris Brown		13	Yes
wabernathy		12	Yes

CITY OF
FAYETTEVILLE
ARKANSAS

5 June 2023

Dear Drake Street Area Property Owner,

City of Fayetteville is collecting public input on the future trail construction and street improvement for East Drake Street.

East Drake Street runs .6 miles from College Ave to its terminus just west of Quail Creek Drive. The street has 4 continues 11.5 foot wide travel lanes. Drake Street will not be extended to the west to connect to Gregg Ave in the foreseeable future due to the need for a very costly bridge and location of Gordon Long Park.

A paved trail connection is, however, included in the City's trails master plan which will provide a safe enjoyable connection for people walking, biking or using other mobility devices to directly access Gordon Long Park and the Razorback Greenway.

SPEAK UP FAYETTEVILLE

Please visit Speak Up Fayetteville at: **speakup.fayetteville-ar.gov** or scan this QR code to take the survey!

Currently, there are no bike lanes on Drake Street. Sidewalks on the south side Drake St lack ADA compliant ramps and are significantly deteriorated in some sections. Sidewalk on the north side of the street are missing in large sections and are blocked by mailboxes.

The current design and condition of Drake Street invites high speed driving and forces people walking, biking and using wheelchairs to travel in the roadway with no designated space or protection from motor vehicle traffic. The average daily traffic volumes are well under the recommended thresholds to warrant a 4-lane road. Accordingly, Drake St is identified as a candidate for a Road Diet in Fayetteville's Mobility Plan.

The City of Fayetteville will be applying for grant funding for construction of the paved trail connection and the Road Diet reconfiguration of E. Drake. Concept designs being considered include protected bike and walking spaces, reductions in number of travel lanes, addition of turn lanes and on-street parking.

Public input is extremely important in the grant application and the overall planning process for this project. Please take a moment to review some of the options and offer your feedback.

For questions please contact the City of Fayetteville Engineering offices at:

Email: engineering@fayetteville-ar.gov Phone: 479.575.8206

Project Report

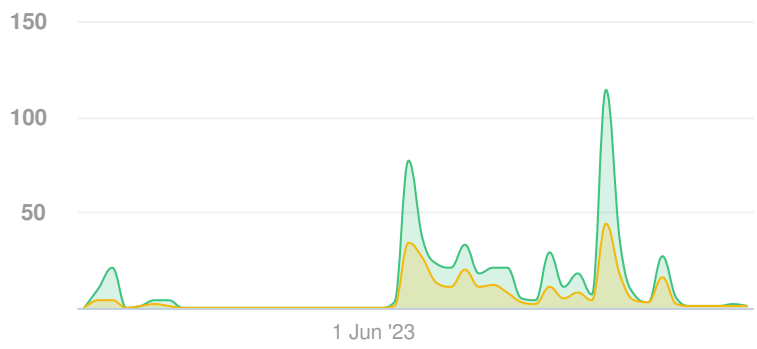
08 August 2018 - 26 June 2023

Speak Up Fayetteville

Drake Trail and Street Improvements

BANG THE TABLE engagementHQ

Visitors Summary



Highlights

TOTAL VISITS
297

MAX VISITORS PER DAY
33

NEW REGISTRATIONS
0

ENGAGED VISITORS
97

INFORMED VISITORS
125

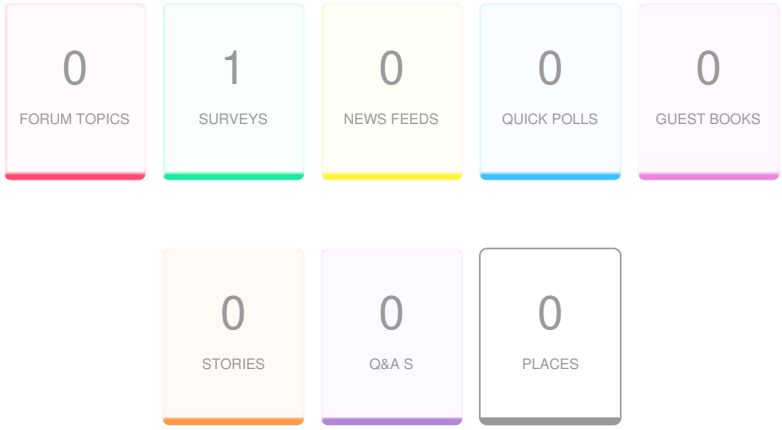
AWARE VISITORS
236

Aware Participants	236
Aware Actions Performed	Participants
Visited a Project or Tool Page	236

Informed Participants	125
Informed Actions Performed	Participants
Viewed a video	0
Viewed a photo	0
Downloaded a document	0
Visited the Key Dates page	0
Visited an FAQ list Page	0
Visited Instagram Page	0
Visited Multiple Project Pages	33
Contributed to a tool (engaged)	97

Engaged Participants	97		
Engaged Actions Performed	Registered	Unverified	Anonymous
Contributed on Forums	0	0	0
Participated in Surveys	2	0	95
Contributed to Newsfeeds	0	0	0
Participated in Quick Polls	0	0	0
Posted on Guestbooks	0	0	0
Contributed to Stories	0	0	0
Asked Questions	0	0	0
Placed Pins on Places	0	0	0
Contributed to Ideas	0	0	0

ENGAGEMENT TOOLS SUMMARY



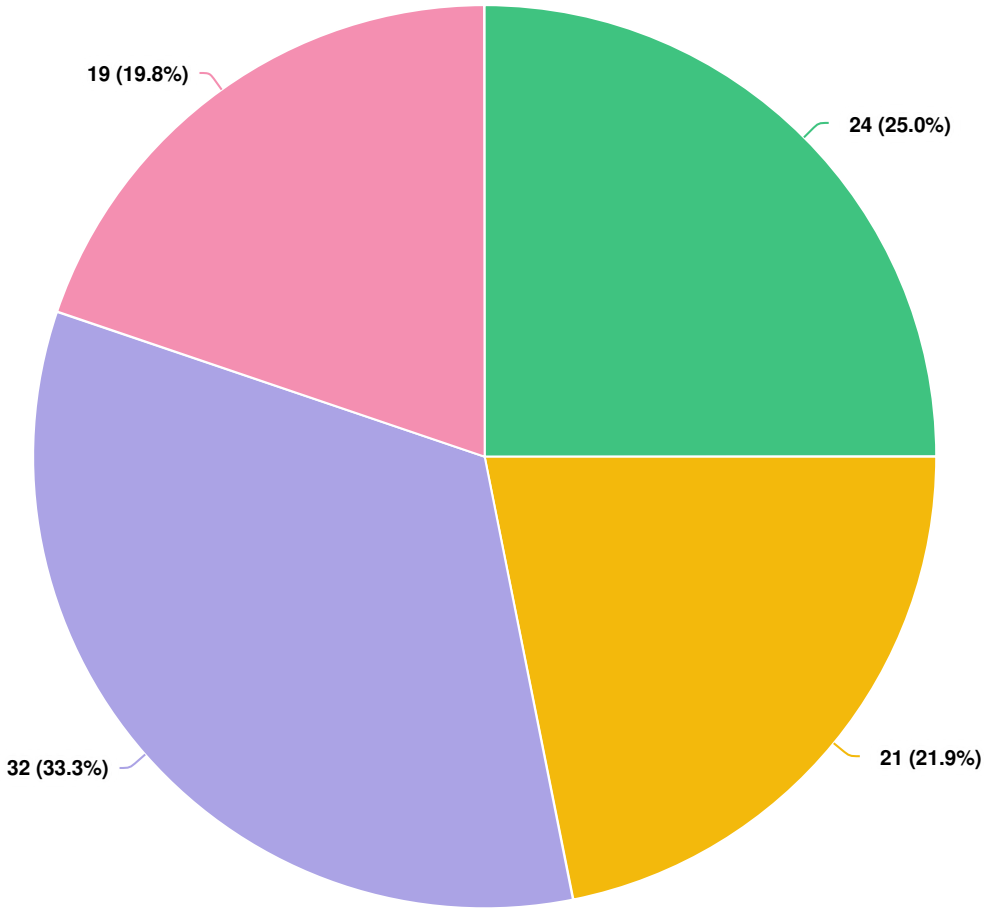
Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Survey Tool	Drake Trail and Street Improvements	Published	137	2	0	95

ENGAGEMENT TOOL: SURVEY TOOL

Drake Trail and Street Improvements

Visitors 137	Contributors 97	CONTRIBUTIONS 98

How often do you travel along East Drake Street?



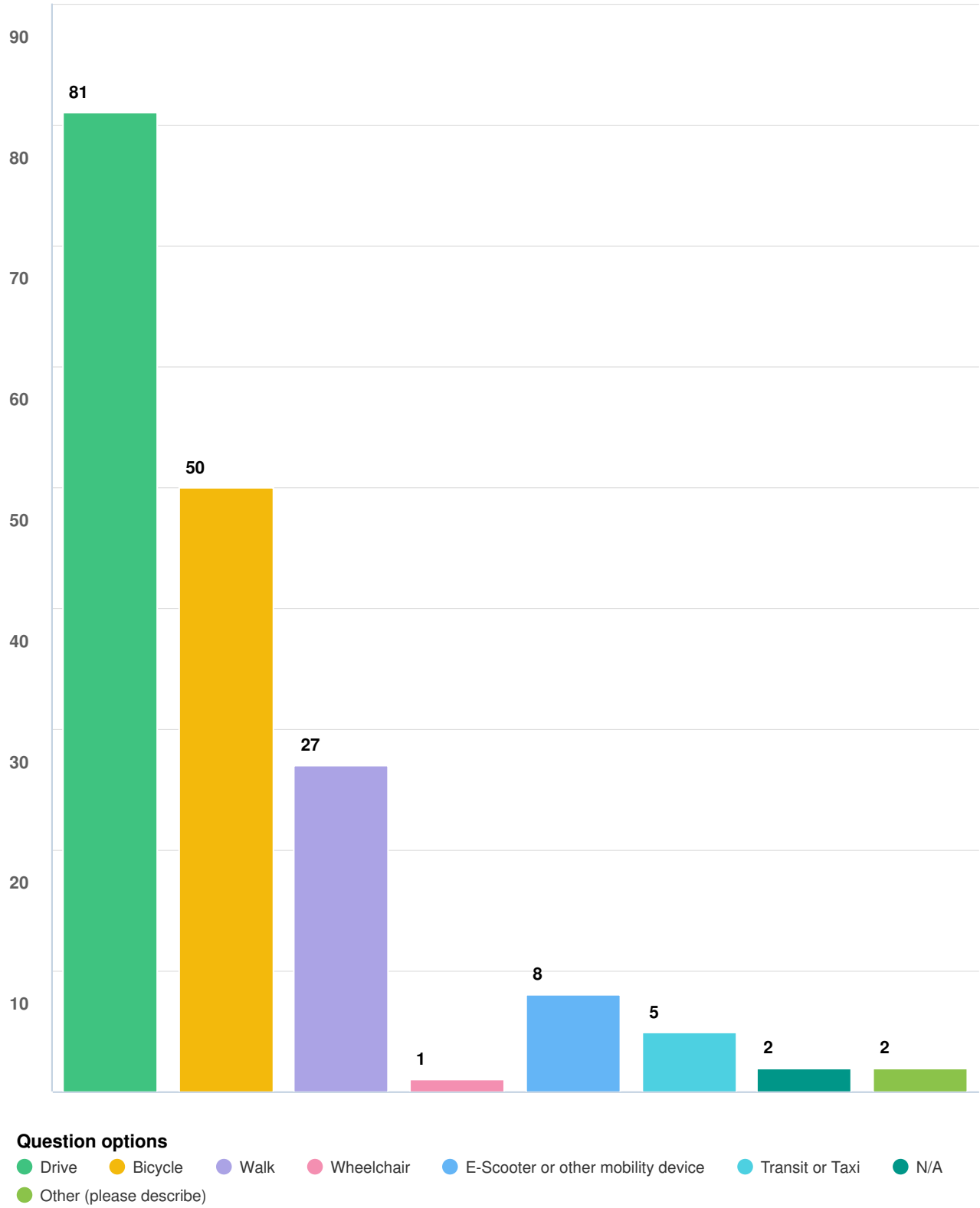
Question options

Daily Weekly Monthly Less than monthly or not at all

Optional question (96 response(s), 2 skipped)

Question type: Radio Button Question

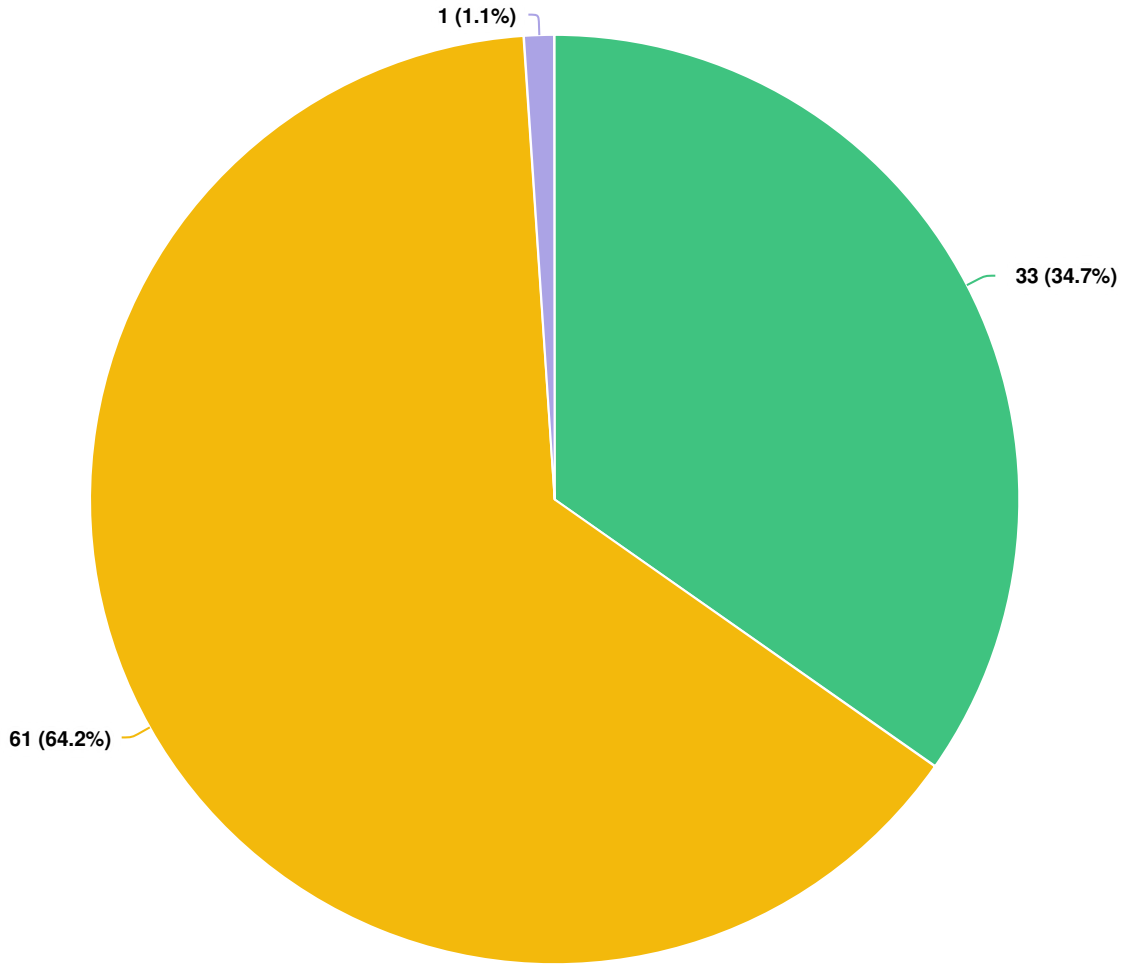
How have you traveled along East Drake Street? Choose all that apply.



Optional question (97 response(s), 1 skipped)

Question type: Checkbox Question

Do you live within 1/2 mile of East Drake Street?



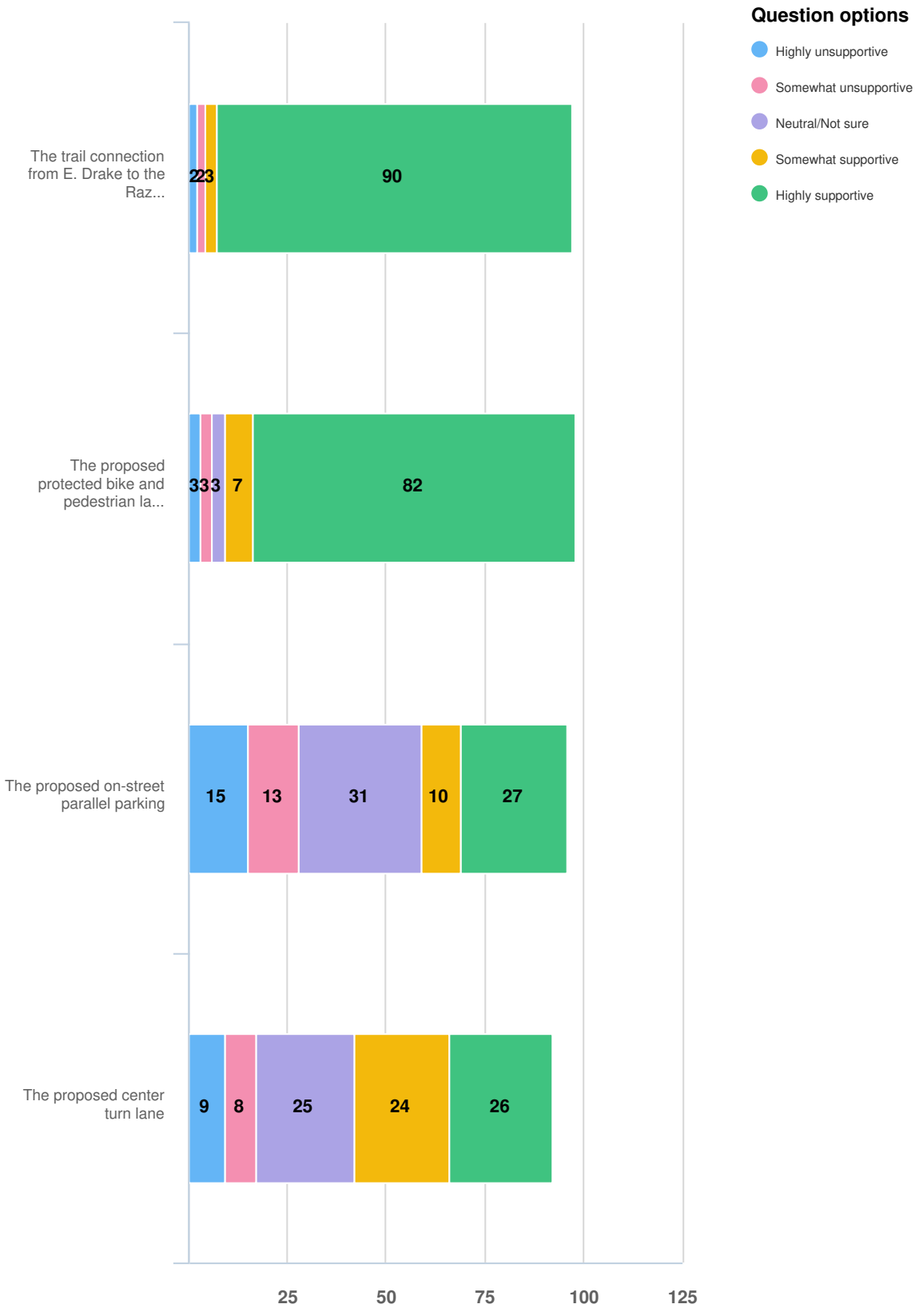
Question options

Yes No Not sure

Optional question (95 response(s), 3 skipped)

Question type: Radio Button Question

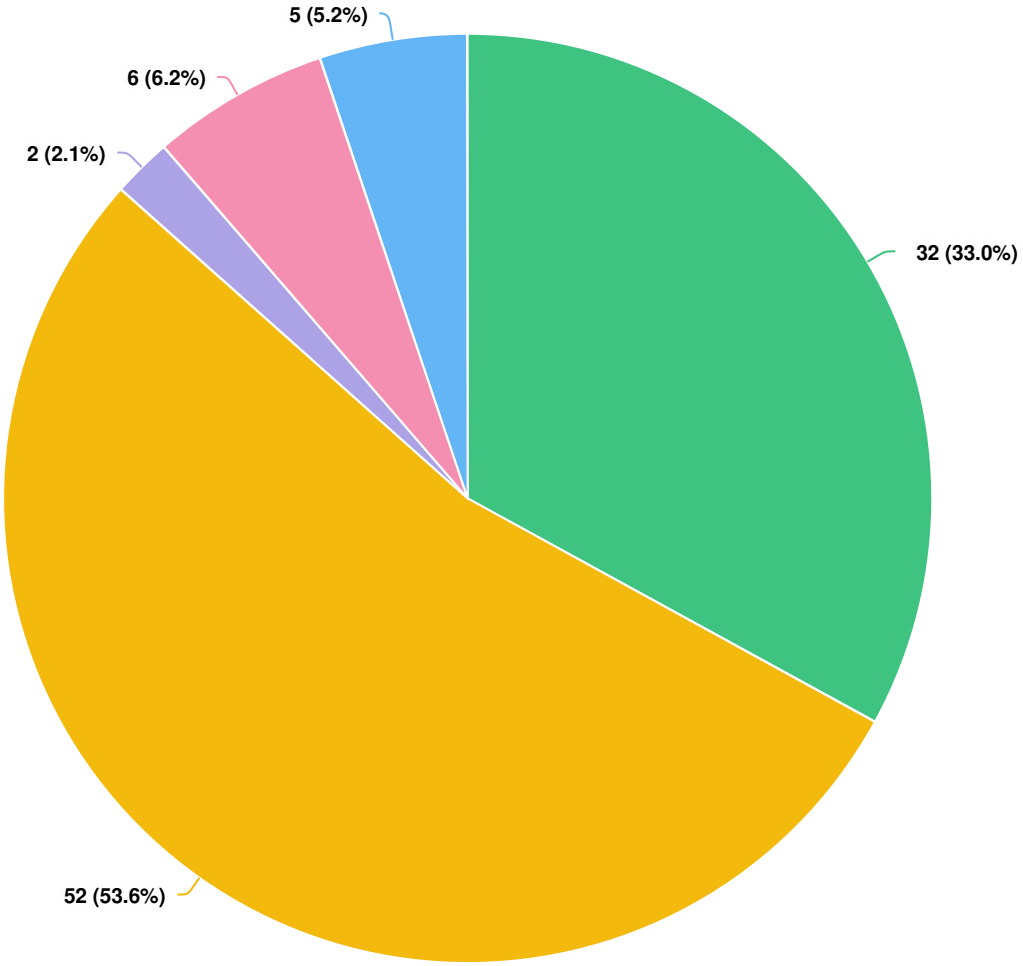
Please select the level of support for each of the proposed additions:



Optional question (98 response(s), 0 skipped)

Question type: Likert Question

Which of the following street cross sections would you prefer for Drake Street? (Click images to expand)



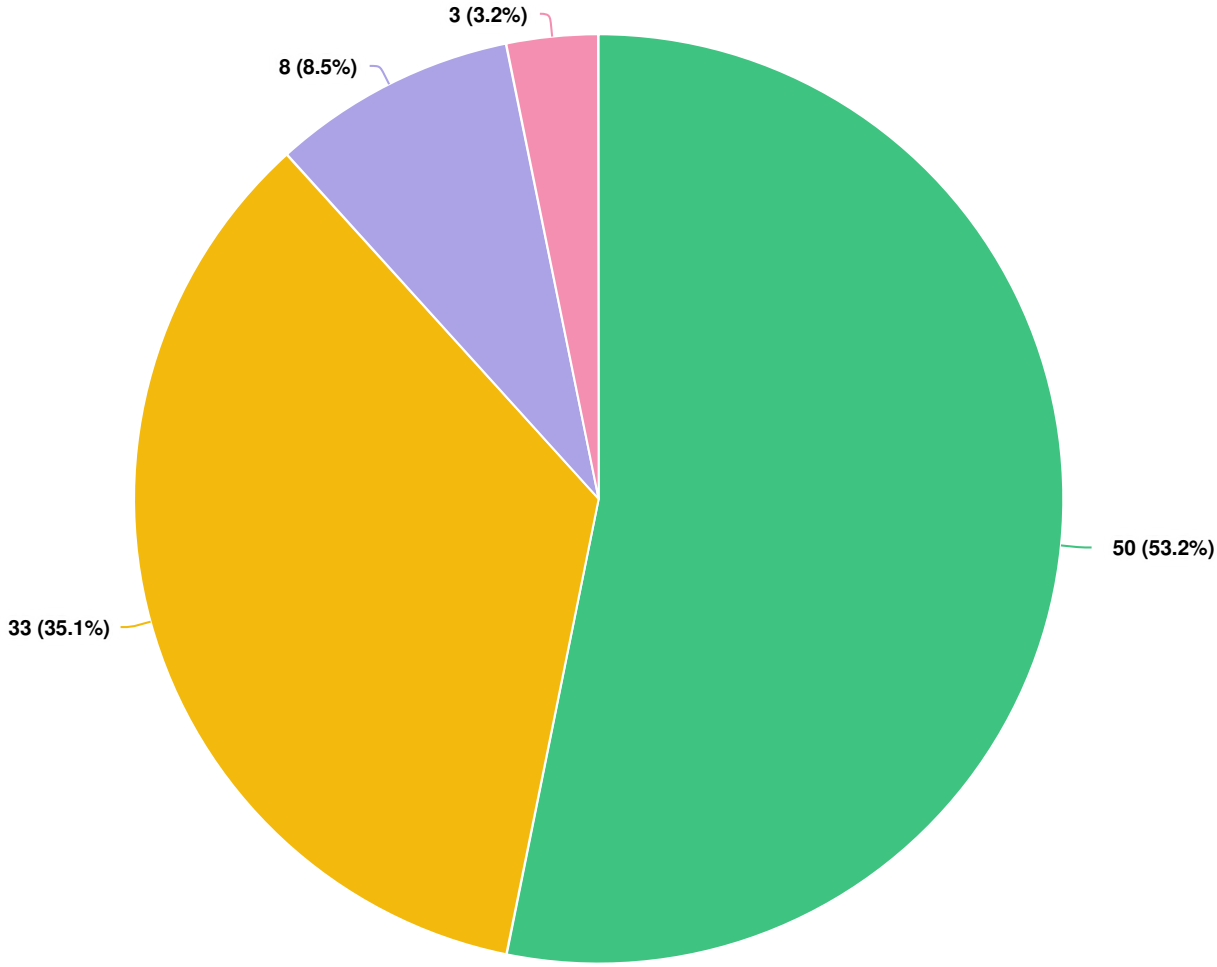
Question options

- Other (please describe)
- Existing Conditions (no change)
- Existing 4-lane cross section with shared lane symbols in outside lane
- 3-lane option with center turn lane and added protected bike/pedestrian space on south side
- 2-lane option with protected bike/pedestrian space on north side and parallel parking on south side

Optional question (97 response(s), 1 skipped)

Question type: Radio Button Question

What is your gender?



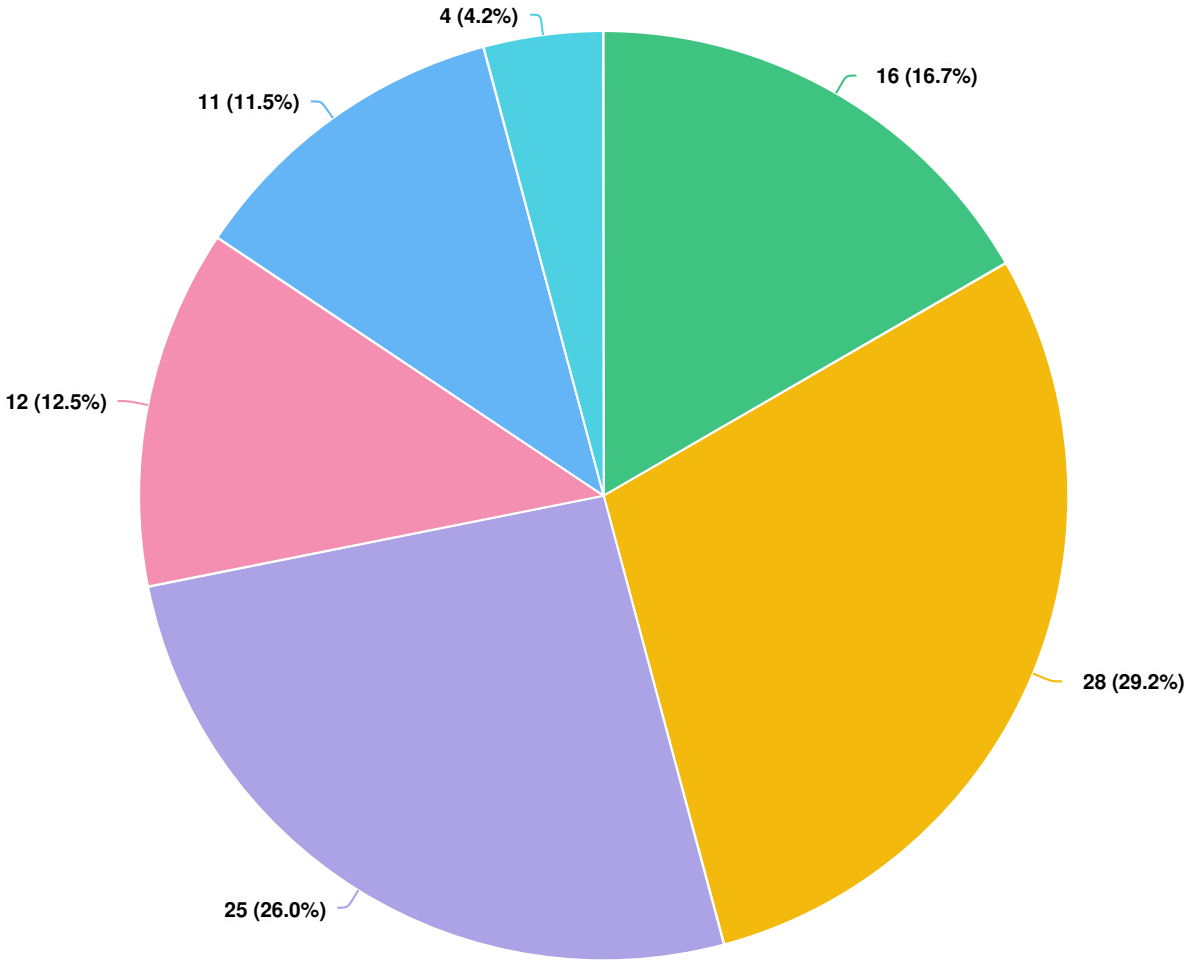
Question options

Non-binary Prefer not to say Female Male

Optional question (94 response(s), 4 skipped)

Question type: Radio Button Question

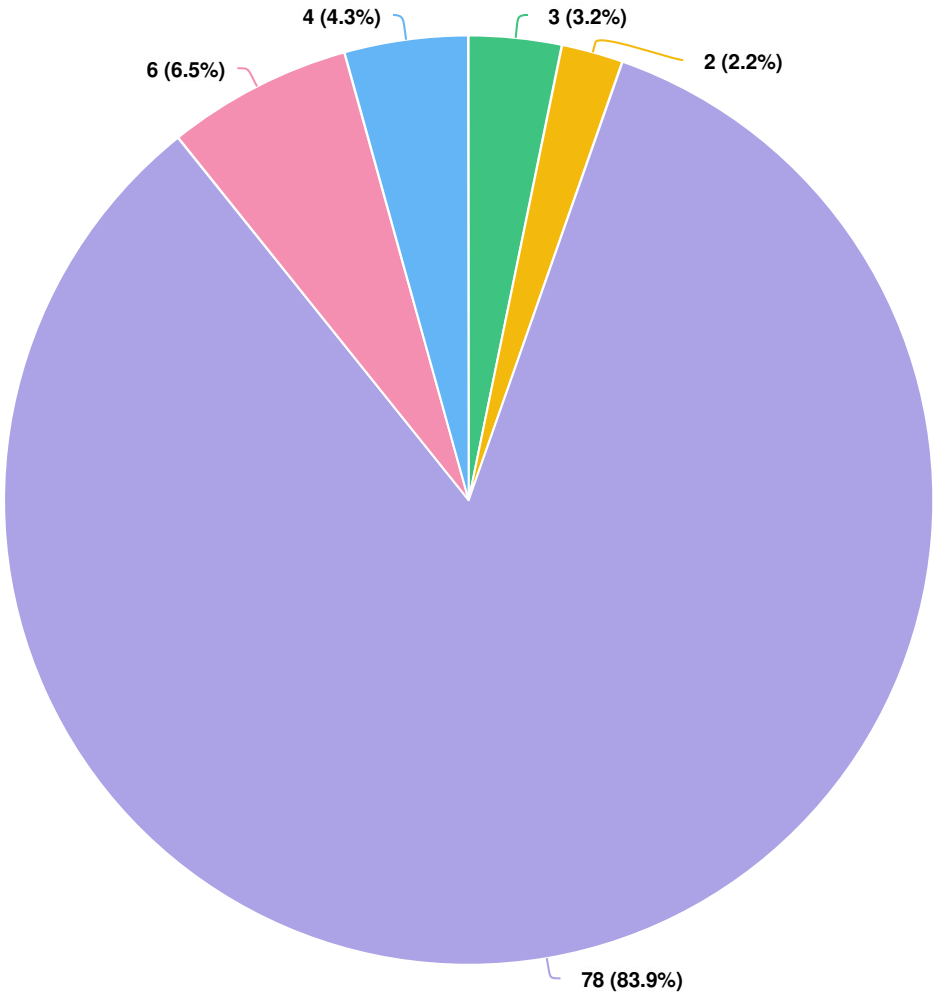
What is your age?



Optional question (96 response(s), 2 skipped)

Question type: Radio Button Question

What is your race/ethnicity?



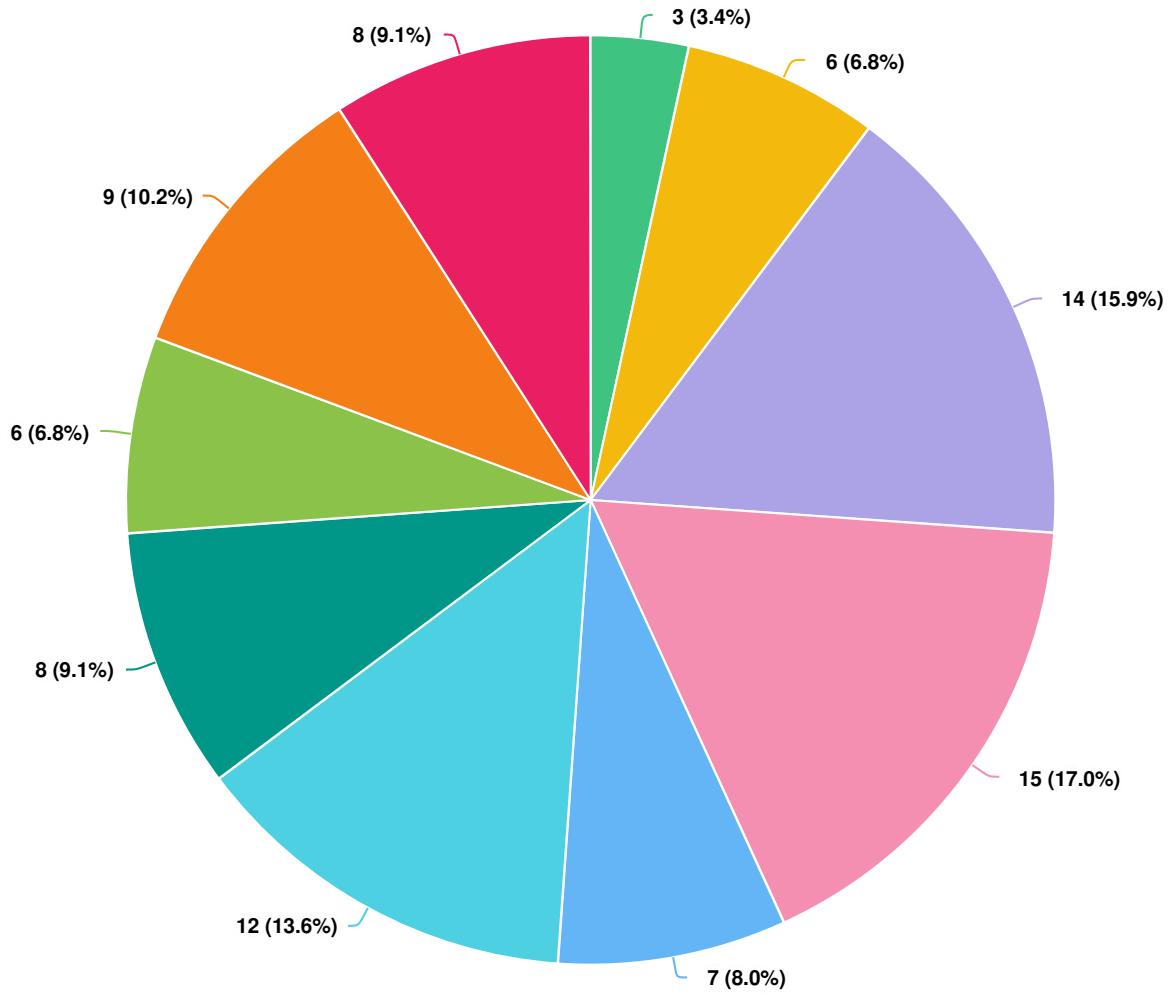
Question options

Other (please specify) Two or more races White Hispanic or Latino Black or African-American

Optional question (93 response(s), 5 skipped)

Question type: Radio Button Question

What is your annual household income?



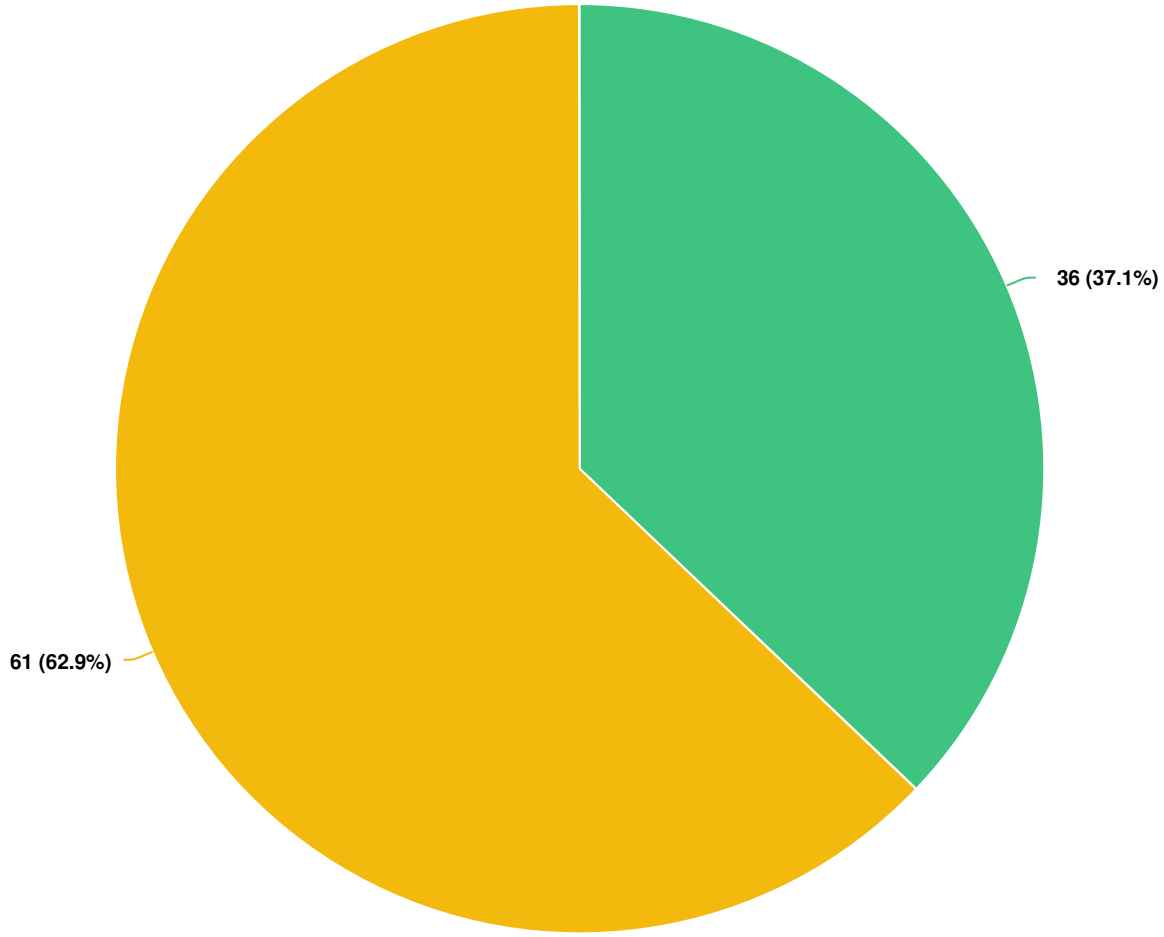
Question options

- $200,000 or higher
- $155,000 to $199,999
- $135,000 to $154,999
- $115,000 to $134,999
- $95,000 to $114,999
- $75,000 to $94,999
- $55,000 to $74,999
- $35,000 to $54,999
- $25,000 to $34,999
- $11,880 to $24,999

Optional question (88 response(s), 10 skipped)

Question type: Radio Button Question

Would you like to be contacted with future updates on this project?



Question options

No Yes

Optional question (97 response(s), 1 skipped)

Question type: Radio Button Question

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
__CRAFTON, TULL & ASSOCIATES, INC.__

THIS AGREEMENT is made as of _____, 2023, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and __Crafton, Tull & Associates, Inc._____ with offices located in __Arkansas___ (hereinafter called ENGINEER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the evaluation, design, and/or construction supervision of the ____Drake Street Trail Connection___ (The "Project"). Therefore, CITY OF FAYETTEVILLE and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of ENGINEER.

1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of ENGINEER.

1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF ENGINEER_

2.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil engineering and survey services.

2.1.1 The Scope of Services to be furnished by ENGINEER during the Project is included in Appendices A1, A2, & A3 attached hereto and made part of this Agreement.

2.1.2 ENGINEER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. ENGINEER and CITY OF FAYETTEVILLE agree that ENGINEER has full responsibility for the engineering services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

3.1 CITY OF FAYETTEVILE shall, within a reasonable time, so as not to delay the services of the ENGINEER:

3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

3.1.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

3.1.3 Guarantee access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services under this Agreement.

3.1.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.

3.1.5 The City Engineer is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

3.1.6 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to ENGINEER in a timely manner.

SECTION 4 - PERIOD OF SERVICE

4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included as Exhibit C.

SECTION 5 - PAYMENTS TO ENGINEER

5.1 The CITY OF FAYETTEVILLE shall compensate the ENGINEER based on an hourly NTE basis described in Exhibit B.

5.1.1 The maximum not-to-exceed amount authorized for all Architectural and Civil design for as described in Exhibits A1, A2, & A3 of this Agreement is $198,775, not including reimbursable expenses. Compensation for reimbursable expenses is estimated to be $5,500. Payment for a specific phase shall not exceed the scheduled amount prior to completion of that phase. Underruns in one phase may be used to offset overruns in another phase as long as the contract amount is not exceeded.

5.2 Statements

5.2.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for professional services consistent with ENGINEER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by ENGINEER and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Design phase for the Project.

5.3 Payments

5.3.1 All statements are payable upon receipt and due within thirty (30) days. If a portion of ENGINEER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise ENGINEER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.4 Final Payment

5.4.1 Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, ENGINEER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by ENGINEER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against ENGINEER or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

6.1.1 During the course of performance of these services, ENGINEER will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	$500,000 Each Accident
Commercial General Liability	
Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Automobile Liability:	
Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Professional Liability Insurance	$1,000,000 Each Claim

ENGINEER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

6.2 Professional Responsibility

ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. ENGINEER agrees not to seek or accept any compensation or reimbursements from the City of Fayetteville for engineering work it performs to correct any errors, omissions or other deficiencies caused by ENGINEER 's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of ENGINEER.

6.3 Cost Opinions and Projections

Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic

conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

6.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:

6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.2.2 An opportunity for consultation with the terminating party prior to termination.

6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

6.5.3.2 Any payment due to ENGINEER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of ENGINEER's default.

6.5.4 If termination for default is effected by ENGINEER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by ENGINEER relating to commitments which had become firm prior to the termination.

6.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, ENGINEER shall:

6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.

6.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

6.5.7 If, after termination for failure of ENGINEER to fulfill contractual obligations, it is determined that ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

6.6 Delays

In the event the services of ENGINEER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond ENGINEER's reasonable control, ENGINEER shall be entitled to additional compensation and time for reasonable costs incurred by ENGINEER in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

ENGINEER's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and ENGINEER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or ENGINEER in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ENGINEER written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and ENGINEER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of ENGINEER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to ENGINEER for services rendered by ENGINEER.

6.10 Publications

Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to ENGINEER. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

6.11 Indemnification

CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and ENGINEER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Ownership of Documents

6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.

6.12.2 Engineering documents, computer models, drawings, specifications and other hard copy or electronic media prepared by ENGINEER as part of the Services shall become the property of CITY OF FAYETTEVILLE when ENGINEER has been compensated for all Services rendered, provided, however, that ENGINEER shall have the unrestricted right to their use. ENGINEER shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property

developed, utilized, or modified in the performance of the Services shall remain the property of ENGINEER

6.12.3 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ENGINEER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.13 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:
113 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:
300 North College, Suite 317
Fayetteville, Arkansas 72701

6.14 Successor and Assigns

CITY OF FAYETTEVILLE and ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor ENGINEER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.15 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.16 Entire Agreement

This Agreement represents the entire Agreement between ENGINEER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to ENGINEER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ENGINEER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of ENGINEER:

7.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve ENGINEER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7.1.2 ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by ENGINEER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 ENGINEER's obligations under this clause are in addition to ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against ENGINEER for faulty materials, equipment, or work.

7.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and ENGINEER arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

7.3.1 ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. ENGINEER shall also maintain the financial information and data used by ENGINEER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. ENGINEER will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of ENGINEER;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

7.3.3.3.3 If the subagreement is terminated for default or for convenience.

7.4 Covenant Against Contingent Fees

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

7.5 Gratuities

7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that ENGINEER or any of ENGINEER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, the State or EPA in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to ENGINEER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

7.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against ENGINEER as it could pursue in the event of a breach of the Agreement by ENGINEER As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs ENGINEER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, ENGINEER will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ENGINEER, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Lioneld Jordan, Mayor

ENGINEER

By: William C. Burnett

William Burnett, PE, Vice President

ATTEST:

By: _____

City Clerk

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

Exhibit "A1"
Scope of Basic Services For:

Project:	Topographic Design Survey along Drake Street establishing RW along proposed trail tying into Gordon Long Park	
Client:	City of Fayetteville	
Location of Project:	Drake Street, Fayetteville, Arkansas	
Discipline:	*Surveying*	
Discipline Manager:	Ron Swift	
Project Manager:	Luke Jost, PE	
Proposal Date:	October 2023	
Billing Type:	Hourly with a Maximum/Reimbursable Expenses	
Fee:	Topographic Design Survey: Reimbursable Expenses (estimated): **Total:**	$25,000 $3,500 **$28,500**
Description of the Construction Project:	Topographic Design Survey along Drake Street & establishing RW along existing street/proposed trail route tying into Gordon Long Park, being 1,300 +/- L.F., as shown on Exhibit "C".	

The Service to be Provided by the Surveyor are as Outlined Below:

Topographic Design Survey:

- A title company will be employed to provide a title search of the property to be surveyed. The title search will include record plats (including adjoining plats), deeds (including adjoining deeds) and easement documents. The title company fee will be a reimbursable expense to the client.
- A representative from our survey department will mark the site, and we will submit a request to the local utility 1-Call System to mark all underground utilities within the proposed project site.
- Our survey crew will set at least two survey control monuments adjacent to the site that will be tied to the city state plane coordinates and elevation datum to which all survey data for this project will be referenced.
- We will provide a topographic survey of the project survey site as shown on attached Exhibit "C". Sufficient ground elevation shots will be taken for the creation of 1'-contours across the survey site, which will include some areas beyond the boundary lines, where accessible.
- We will locate all visible utility lines and those as marked by the utility 1-Call System. All flow lines of drainage inlets and pipes will be measured, and the invert elevation of sanitary sewer manholes will be recorded. All pipe sizes will be measured and shown on the topographic survey.
- Our field crew will locate trees 6" or bigger.
- We will locate fences, driveways and buildings.
- We will locate any property corners that are available for the property.
- We will prepare an AutoCAD base survey drawing of the topographic design survey of the site, which will be used for engineering design purposes. This base survey drawing will include property boundary lines and any easement lines discovered by the examination of the title search for the property or any other provided document.

Scope of Basic Services does NOT Include the Following:

- Preparation of a final subdivision plat, tract or lot split plats, tract or lot combination plats, or similar type plats as may be required by the governing agency for approval of this project.
- Surveys and plats of the property for financing, sales, or other purposes such as an ALTA or as-built survey.
- Surveys of offsite utility, street or drainage improvements not within the survey site.
- Surveys for environmental studies, including wetland delineation.
- Surveys for flood data or studies for Corps of Engineer, FEMA or other special government agency permitting.
- Surveys for location of geotechnical soil borings or pits.
- Surveying related to construction services or construction staking.
- Phase 1 Environmental Site Assessment
- Cultural Resources Survey
- Threatened & Endangered Species Habitat Assessment
- A separate tree location or landscape plat.
  Note: Services listed can be provided for additional fee.

Client Shall Provide:

- Any existing boundary and topographic survey plats of the property that are in their possession.
- Disclosure of known boundary disputes, possible encroachments, and gaps or overlaps with adjoining properties.
- Disclosure of known buried tanks or environmental concerns within the proposed improvement site area that will be required to be shown on the survey.
- Access for our survey crew personnel to enter the property to conduct the surveys.

This is the scope of services for the Project. Should there be additions to this scope of services, those services shall be compensated for additional fee.

Exhibit "A2"
Civil Scope of Basic Services for:

Project:	Drake Street Trail Connection
Client:	City of Fayetteville
Location of Project:	Drake Street, Fayetteville, Arkansas
Discipline:	Civil Engineering
Discipline Manager:	Luke Jost, P.E.
Project Manager:	Luke Jost, P.E.
Proposal Date:	October 2023
Billing Type:	Hourly with a Maximum/Reimbursable Expenses
Fee/Estimate:	Civil Design $84,595 Construction Administration $34,780 Geotechnical Subconsultant (Terracon) $25,200 Reimbursable Expenses (Estimated) $1,500 **TOTAL: $146,075**
Description of the Construction Project:	Design of approximately 1,092 linear feet of 10-foot-wide concrete trail and approximately 3,300 linear feet of protected bike lane and restriping of Drake Street. Project includes 12-foot-wide trail bridge over Scull Creek & accompanying hydraulic study.

Project scope:
Design of approximately 1,092 linear feet of 10-foot-wide concrete trail and approximately 3,300 linear feet of protected bike lane and restriping of Drake Street.

The work will include the design of a 12-foot-wide trail bridge over Scull Creek at Gordon Long Park. The design firm will provide detailed flood analyses to determine the most feasible location for the bridge within City owned property. The bridge design should use the flood study to evaluate a variety of bridge types to with a goal of minimizing the overall bridge length while providing no-rise to Scull Creek. The City anticipates using a 3-sided box culvert for the bridge over Scull Creek; therefore, the scope and fee estimate have been provided for that type of structure. If the hydraulic study determines a span bridge is required, additional fee will be required for the design. The work will also include sizing of pipes and a culvert for the trail crossing a tributary to Scull Creek on the east side of Gordon Long Park.

The proposed project will provide any required surveys, pipe sizing, hydraulic studies including no-rise certification for the bridge over Scull Creek, corps of engineers permitting (if work is necessary in their jurisdiction), trail and bridge design, bid ready construction plans and specifications, bidding services, construction engineering, and inspection services.

Detailed services to be provided by the Engineer:

Preliminary Design Phase (30%):
- Prepare Preliminary Plans (Title, Typical Section, Plan & Profile Sheets, Cross Sections)
- Meet with City and stakeholders to finalize route
- Utility coordination
- Prepare a preliminary cost estimate
- Submit plans to owner for review

60% Design Phase:
- Finalize trail geometrics based on 30% review comments

- Design of drainage structures as required
- Hydraulic analysis of Skull Creek & Tributary w/ Drainage Crossings
- Utility coordination
- Drawing Set to include:
    - Cover sheet
    - Plan & profile sheets
    - Bridge Plans
    - Signing & Striping plans
    - Typical Section
    - Cross sections
    - Standard Details
- Update construction cost estimate
- Submit plans to owner for review
- Meet with City and stakeholders to finalize route

90% Design Phase:

- Revise plans based on comments to the 60% design submittal
- Pre-final design of trail and drainage improvements
- Final Hydraulic analysis of Skull Creek & Tributary w/ Drainage Crossings
- Prepare the following construction drawings:
    - Cover Sheet
    - Plan & profile sheets
    - Typical section sheets
    - Cross sections
    - Erosion control plans
    - Bridge plans
    - Signing & striping plans
    - Notes and Standard & Special Details
- Update construction cost estimate
- Submit plans to owner for review

Final Design Phase

- Finalize plans based on comments to the 90% design submittal
- Finalize design of trail and drainage improvements
- Hydraulic analysis and no-rise certificate
- Prepare storm water pollution prevention plan (SWPPP)
- Submit final plans to City for review and approval
- Submit permit applications to ADEQ and USACE (if required)
- Update construction cost estimate

Specifications, Bidding and Contract Negotiation Phase

- Recommend Contractor to Owner
- Prepare project specifications
- Bid documents prepared and issued to bidders
- Answer bidder's questions and issue addenda
- Receive bids and tabulate results

Construction Administration Phase (assume 180 days):

- Answer City staff questions
- Construction Observation
- Final inspection & project close-out

Geotechnical (provided by subcontractor - Terracon)

- Assumes 1 boring at bridge area to a depth of 15'

END SCOPE OF SERVICES THIS CONTRACT This is the scope of services for the Project. Should there be additions to this scope of services, those services shall be compensated for additional fee.

Items Provided by City:

- Site access
- Construction materials testing
- Acquisition of Right of Way and Easements

Additional Items that can be provided by CTA under amendment or separate contract:

- Construction Phase Materials Testing
- ROW/Easement Acquisition Documents
- ROW/Easement Acquisition Services
- Retaining wall design
- FEMA applications/Coordination including CLOMR/LOMR process

Exhibit "A3"
Scope of Environmental Services For:

Project:	Drake Street Trail Connection
Client:	City of Fayetteville
Location of Project:	Fayetteville, AR (Washington County)
Discipline:	Environmental
Discipline Manager:	Stuart Gower-Jackson
Project Manager:	Luke Jost, PE
Proposal Date:	October 12, 2023
Billing Type:	Hourly NTE + Reimbursables
Estimate:	$29,200 (Hourly NTE) $500 (Estimated Reimbursables)
Description of the Construction Project:	Construction of a concrete trail, protected bike lane, bridge, and associated permitting

The services to be provided by the Engineer:

- Waters of the U.S. Delineation and Report
- U.S. Army Corps of Engineers Jurisdictional Determination Request and Coordination
- U.S. Army Corps of Engineers Nationwide Permit Application and Coordination
- Threatened and Endangered Species Desktop Review
- ADEQ Short-Term Activity Authorization (STAA) Permit Application and Coordination
- Prepare and submit to ARDOT a Tier 3 Categorical Exclusion document that meets FHWA standards
- Consultation and design of in-stream structures for energy dissipation downstream of lake
- Organize a Public Involvement meeting for the proposed project, if required
- Subcontract the completion of a Phase I Cultural Resources Survey to a qualified sub-consultant, if study is required

Scope of Basic Services does NOT Include the Following:

- Tree Survey, Tree Inventory Report, and/or Tree Preservation Plan
- Phase 1 Environmental Site Assessment
- Biological and/or Habitat Assessments/Field Surveys
- U.S. Army Corps of Engineers Standard Permit Application and/or Coordination
- Geotechnical Investigation
- Construction oversight and due diligence
- Wetland and/or Stream Compensatory Mitigation Fees or Services

Note: Services listed can be provided for additional fee.

Items to be provided by Owner:

- Site access

This is the scope of services for the Project. Should there be additions to this scope of services, those services shall be compensated for additional fee.

Crafton Tull
architecture | engineering | surveying

Exhibit "B"
Standard Hourly Rate Schedule
Effective January 1, 2023

Category	Hourly Rate
CIVIL ENGINEERING	
ENGINEERING PRINCIPAL	$ 230
SR. ENGINEERING MANAGER	$ 210
ENGINEERING MANAGER	$ 175
SR. PROJECT ENGINEER	$ 155
PROJECT ENGINEER	$ 135
ENGINEER INTERN III	$ 130
ENGINEER INTERN II	$ 120
ENGINEER INTERN I	$ 110
SR. ENGINEERING DESIGNER	$ 155
ENGINEERING DESIGNER III	$ 120
ENGINEERING DESIGNER II	$ 100
ENGINEERING DESIGNER I	$ 90
ENGINEERING CAD TECHNICIAN III	$ 85
ENGINEERING CAD TECHNICIAN II	$ 75
ENGINEERING CAD TECHNICIAN I	$ 65
ENVIRONMENTAL	
ENVIRONMENTAL MANAGER	$ 195
SR. ENVIRONMENTAL SCIENTIST	$ 145
PROJECT ENVIRONMENTAL SCIENTIST	$ 120
ENVIRONMENTAL SCIENTIST II	$ 100
ENVIRONMENTAL SCIENTIST I	$ 80
INSPECTION	
SR. INSPECTOR	$ 110
INSPECTOR II	$ 95
INSPECTOR I	$ 70
LANDSCAPE ARCHITECTURE	
LANDSCAPE ARCHITECTURE MANAGER	$ 155
SR. LANDSCAPE ARCHITECT	$ 135
PROJECT LANDSCAPE ARCHITECT	$ 110
LANDSCAPE ARCHITECT INTERN II	$ 90
LANDSCAPE ARCHITECT INTERN I	$ 75
LANDSCAPE ARCHITECTURE DESIGNER	$ 80
ADMINISTRATIVE	
ADMINISTRATIVE PRINCIPAL	$ 200
ADMINISTRATIVE MANAGER	$ 155
ADMINISTRATIVE IV	$ 100
ADMINISTRATIVE III	$ 80
ADMINISTRATIVE II	$ 60
ADMINISTRATIVE I	$ 45

Category	Hourly Rate
PLANNING	
PLANNING MANAGER	$ 200
SR. PLANNER	$ 180
PROJECT PLANNER	$ 130
PLANNER II	$ 105
PLANNER I	$ 90
SURVEYING	
SURVEYING PRINCIPAL	$ 210
SR. SURVEYING MANAGER	$ 180
SURVEYING MANAGER	$ 170
SR. PROJECT SURVEYOR	$ 150
PROJECT SURVEYOR	$ 130
SURVEYOR INTERN II	$ 120
SURVEYOR INTERN I	$ 100
SURVEY COORDINATOR	$ 100
CREW CHIEF II	$ 95
CREW CHIEF I	$ 85
FIELD SURVEYOR III	$ 70
FIELD SURVEYOR II	$ 60
FIELD SURVEYOR I	$ 55
SURVEY CAD TECHNICIAN III	$ 95
SURVEY CAD TECHNICIAN II	$ 75
SURVEY CAD TECHNICIAN I	$ 65
UAV SERVICES	
UAV TEAM LEAD	$ 115
UAV PILOT	$ 75
GEOGRAPHIC INFORMATION SYSTEMS	
GIS MANAGER	$ 125
GIS ANALYST	$ 100
GIS TECHNICIAN II	$ 80
GIS TECHNICIAN I	$ 55
REIMBURSABLE EXPENSES	
GPS Equipment	$35/Hour
Robotic Survey Equipment	$20/Hour
LiDAR Scanning Equipment	$35/Hour
UAV	$1000/Unit
Job Related Mileage	$0.64/Mile
Per Diem for Out of Town Crews	Per GSA Allowable
Airfare and other travel related expenses	At Cost
Black and white 8.5"x11" Copies	$0.15/sheet
Color 8.5"x11" Copies	$1.50/sheet
Photo Paper Color Plan Sheet Copies	$0.75/sq. ft.
Reproducible Plan Copies (Vellum)	$1.50/sq. ft
Reproducible Plan Copies (Bond)	$0.35/sq. ft.
All rates are subject to change without notice.	

Exhibit “C”
Anticipated Design Schedule

- Notice to Proceed: November 2023
- Survey: January 2024 (8 weeks)
- 30% Plans: February 2024 (4 weeks)
    - City Review (2 weeks)
- 60% Plans: April 2024 (4 weeks)
    - City Review: 2 weeks
- 90% Plans & Draft Contract docs: June 2024 (4 weeks)
    - City Review: 2 weeks
- Bid Plans & Specifications: August 2024 (4 weeks)

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1206

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Keith Macedo, IT Director

DATE: October 16, 2023

SUBJECT: **Resolution to approve OMNIA Partners contract 23-6692-02 to purchase Technology Product Solutions and Related Services through CDWG**

RECOMMENDATION:
Staff recommends approval of a resolution to authorize the purchase of Technology Product Solutions and Related Services, on an as-needed basis, from CDWG utilizing OMNIA Partners cooperative contract 23-6692-02 through April 30, 2026, and any future renewal periods.

BACKGROUND:
Technology Product Solutions and Related Services were bid through the OMNIA Partners national cooperative purchasing program (U.S. Communities, National IPA, & NCPA are wholly owned subsidiaries of OMNIA Partners). Every OMNIA Partners contract is the result of a formal competitive solicitation conducted by trained, professional procurement officials. CDWG was awarded OMNIA Partners contract 23-6692-02 on May 1, 2023, to provide Technology Product Solutions and Related Services via RFP 23-6692. The city currently purchases a large percentage of software, PC's, laptops, monitors, network storage, and various technology equipment to support citywide operations currently from CDWG, on as needed basis.

DISCUSSION:
Purchasing technology products and related Services from CDWG, through the OMNIA Partners contract, gives the City an opportunity to obtain competitive pricing which is based off a high-volume discount. If the City were to bid such products and services itself, it would not benefit from the shared purchasing power that the OMNIA Partners cooperative contract provides. The city has utilized CDWG for various technology purchases for over 10 years and has been pleased with their support, ability to deliver products quickly, and price.

BUDGET/STAFF IMPACT:
Approving OMNIA Partners Contract 23-6692-02 will allow the city to purchase technology product solutions and related services, from CDWG on an as needed basis. Technology items are purchased from various funding sources throughout the year but are primarily funded from the Sales Tax Capital technology CIP projects and the various technology related software and minor equipment operating accounts from departments across the city.

ATTACHMENTS: SRF (#3), OMNIA CDWG Award Letter (#4), OMNIA CDWG Agreement (#5)

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

File #: 2023-1206

Resolution to approve OMNIA Partners contract 23-6692-02 to purchase Technology Product Solutions and Related Services through CDWG

A RESOLUTION TO APPROVE THE PURCHASE OF TECHNOLOGY PRODUCT SOLUTIONS AND RELATED SERVICES FROM CDWG ON AN AS-NEEDED BASIS, PURSUANT TO AN OMNIA PARTNERS COOPERATIVE CONTRACT, THROUGH APRIL 30, 2026, AND ANY FUTURE RENEWAL PERIODS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of Technology Product Solutions and Related Services from CDWG on an as-needed basis utilizing OMNIA Partners Cooperative Contract 23-6692-02 through April 30, 2026 and any future renewal periods.

City of Fayetteville Staff Review Form

2023-1206

Legistar File ID

11/7/2023

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

Keith Macedo	10/16/2023	INFORMATION TECHNOLOGY (170)
Submitted By	**Submitted Date**	**Division / Department**

Staff recommends approval of a resolution to authorize the purchase of Technology Product Solutions and Related Services, on an as-needed basis, from CDWG utilizing OMNIA Partners cooperative contract 23-6692-02 through April 30, 2026, and any future renewal periods.

Budget Impact:

Various	Various
Account Number	Fund
Project Number	Project Title

Budgeted Item?	Yes	Current Budget	$	296,096.00
		Funds Obligated	$	33,657.68
		Current Balance	**$**	**262,438.32**
Does item have a cost?	Yes	Item Cost	$	144,075.00
Budget Adjustment Attached?	No	Budget Adjustment	$	-
		Remaining Budget	**$**	**118,363.32**

V20210527

Purchase Order Number:

Previous Ordinance or Resolution # 214-17

Change Order Number:

Approval Date:

Original Contract Number:

Comments: Cost described is for current 2023 PC, Laptop, and Printer replacement cost, but additional expenses are incurred to purchase equipment describe in the Information Technology Annual Replacement Plan

Technology Product Solutions and Related Services
Executive Summary

Lead Agency: Cobb County, GA

Solicitation: 23-6692

RFP Issued: August 26, 2022

Pre-Proposal Date: September 14, 2022

Response Due Date: October 13, 2022

Proposals Received: 18

Awarded to:

Contract #: 23-6692-02

The Cobb County Purchasing Department issued RFP 23-6692 on August 26, 2022, to establish a national cooperative contract for Technology Product Solutions and Related Services.

The solicitation included cooperative purchasing language in **National Contract** section as stated below:

"Cobb County, GA, as the Principal Procurement Agency, defined in Attachment A, has partnered with OMNIA Partners, Public Sector ("OMNIA Partners") to make the resultant contract (also known as the "Master Agreement" in materials distributed by OMNIA Partners) from this solicitation available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' cooperative purchasing program. Cobb County, GA is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners (a "Participating Public Agency") and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of a Master Intergovernmental Cooperative Purchasing Agreement, a form of which is attached hereto on Attachment A, or as otherwise agreed to. Attachment A contains additional information about OMNIA Partners and the cooperative purchasing program".

Notice of the solicitation was sent to potential offerors, as well as advertised in the following:

- Cobb County Purchasing website
- OMNIA Partners website
- USA Today, nationwide
- Arizona Business Gazette, AZ
- San Bernardino County Sun, CA
- Honolulu Star-Advertiser, HI
- The Herald-News – Will County (IL)
- The Advocate – New Orleans, LA
- The New Jersey Herald, NJ
- Albany Times Union, NY
- Daily Journal of Commerce, OR
- The State, SC
- Deseret News, UT
- Richmond Times-Dispatch, VA
- Seattle Daily Journal of Commerce, WA
- Houston Community Newspapers, TX

- Helena Independent Record, MT
- Las Vegas Review-Journal
- Kennebec Journal/Morning Sentinel, ME

Socio-economic Outreach: To encourage participation of small businesses, minority owned businesses and women owned businesses were notified of the Request for Proposal

On October 13, 2022, proposals were received from the following offerors:

- Alegna Technologies, Inc.
- SHI International Corp.
- Carbyne, Inc.
- Insight Public Sector, Inc.
- Audio Enhancement, Inc.
- Emergent, LLC
- Govconnection, Inc. dba Connection - Public Sector Solutions
- Iron Bow Technologies, LLC
- DLT Solutions, LLC
- Vertosoft, LLC
- Presidio Networked Solutions, LLC
- Virtual Technologies Inc.
- CDW Government LLC
- Carahsoft Technology Corporation
- Vurkada, Inc. Fiscal Note Inc.
- AGParts Worldwide Inc.
- Virtucom, Inc.

The proposals were evaluated by an evaluation committee. Using the evaluation criteria established in the RFP, the committee elected to enter into negotiations with **CDW Government LLC** and proceeding with contract award upon successful completion of negotiations.

Diversity Certification: Not being a diverse prime, has the privilege, opportunity, and responsibility to partner with diverse business partners. For members that have diversity requirements to meet, we can recommend WBE certified partners.

Geographic Preferences: Cobb County included a geographic preference, but it did not impact the score for the national award.

The Cobb County, GA, OMNIA Partners and CDW Government LLC successfully negotiated a contract, and the Cobb County executed the agreement with a contract effective date of May 1, 2023.

Diversity Certification: Not being a diverse prime, CDWG has the privilege, opportunity, and responsibility to partner with diverse business partners. For members that have diversity requirements to meet, CDWG can recommend WBE certified partners.

Contract includes: A robust catalog in the following 13 categories

- Virtualization
- Physical Security
- Communication
- Cloud
- Infra
- Dat Management
- Visual Communication
- UCC
- Broadcast Studio
- Law Enforcement
- Mobility
- Asset Management
- Data Protection
- Energy and Water Conservation
- Financial Services
- IT as Service
- Other Services & Solutions

Supplier provided federal funds certifications which are available on the OMNIA Partners website for review.

Term:

Initial thirty-six-month agreement from May 1, 2023 through April 30, 2026 with the option to renew two (2) additional one-year periods through April 30, 2028.

Pricing/Discount:

Various percentage discount off CDW-G advertised price depending on category.

OMNIA Partners website:

CDW•G Cooperative Contract | Overview (omniapartners.com)

Cobb County

Contract # 23-6692-02

for

Technology Product Solutions and Related Services

with

CDW Government

Effective: May 1, 2023

The following documents comprise the executed contract between the Cobb County, and CDW Government effective May 1, 2023:

I. Executed Master Agreement
II. Supplier’s Response to the RFP, incorporated by reference

Reference Number	
Reference Depart.	**Purchasing Department**

Master Agreement

Owner: Cobb County Board of Commissioners
100 Cherokee Street
Marietta, GA 30090

Contractor: CDW Government LLC
230 N. Milwaukee Ave
Vernon Hills, IL 60061

Description: **TECHNOLOGY PRODUCT SOLUTIONS AND RELATED SERVICES:** The undersigned parties understand and agree to comply with and be bound by the entire contents of **Sealed Bid #23-6692** ("the RFP") and the Contractor's Proposal submitted October 13, 2022, which is incorporated herein by reference.

OMNIA PARTNERS, PUBLIC SECTOR: Supplier agrees to extend Goods and/or Services to public agencies (state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit) ("Public Agencies") registered with OMNIA Partners, Public Sector ("Participating Public Agencies") under the terms of this agreement ("Master Agreement").

Governing Law: This Agreement shall be governed by the laws of the State of Georgia. As to any dispute hereunder, venue shall be in the Superior Court of Cobb County, Georgia.

Term: This Agreement shall begin on May 1, 2023, the Effective Date, for a period of thirty-six months, and shall automatically terminate and renew for two (2) additional twelve (12) month periods and shall terminate absolutely on April 30, 2028, unless earlier terminated as provided herein. Pursuant to O.C.G.A. § 36-60-13, this Agreement shall terminate absolutely and without further obligation on the part of the County at the close of the calendar year in which it was executed and at the close of each succeeding calendar for which it may be renewed. The Parties reserve the right to renew, amend or extend the Agreement for additional terms. Either party may terminate this Agreement for convenience and/or due to lack of funding at the end of each annual term.

Price: Prices for services and equipment, if applicable, as stated in the Contractor's proposal

Billing: For purchases made by Cobb County Government, all original invoices shall be submitted directly to the Cobb County Finance Department. Invoices shall bill only for items received during the period covered by the invoice and shall clearly identify such items in accordance with invoicing guidelines in the Sealed Bid Proposal. For purchases made by participating public agencies, the Contractor shall comply with each agency's invoicing and billing requirements outlined on the applicable order.

{SIGNATURES ON NEXT PAGE}

IN WITNESS, WHEREOF, this Agreement has been executed by Owner and accepted by Contractor to be effective as of the date first above written.

Cobb County... Expect the Best!

Cobb County Board of Commissioners
100 Cherokee Street
Marietta, GA 30090

Lisa N. Cupid, Chairwoman
Cobb County Board of Commissioners

5/5/23
Date

APPROVED
PER MINUTES OF
COBB COUNTY
BOARD OF COMMISSIONERS
3/14/23

CDW Government LLC
230 N. Milwaukee Ave
Vernon Hills, IL 60061

Authorized Signature

VP Contracting OPS
Title

04/18/2023
Date

FEDERAL TAX ID NUMBER
36-4230110

Approved as to form

County Attorney's Office

April 25, 2023
Date

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Cover Letter [RFP 5.1]

The proposer shall provide a cover letter describing a brief history of the Proposer and its organization. The letter will list the Principal or Officer of the organization who will be the County's primary point of contact during clarifications or negotiations. This individual must have the authority to clarify and/or negotiate all aspects on the scope of products and services on behalf of the Proposer. An officer authorized to bind the Proposer to the terms and conditions of this RFP must sign the cover letter.

See following page for our signed cover letter.

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To the extent allowable, all information and documents hereby submitted in response to the Request for Proposal/Quote ("RFP/RFQ") furnished by Cobb County Purchasing are the Proprietary and Confidential property of CDW Government LLC ("CDW•G").

10/13/2022, at 12 pm EST

One CDW Way
230 N. Milwaukee Avenue
Vernon Hills, IL 60061
P: 847.371.5800
F: 847.465.6800
Toll-free: 800.808.4239
cdwg.com/PeopleWhoGetIT

Cobb County Purchasing
122 Waddell Street NE
Marietta, Georgia, 30060

RE: CDW Government LLC's Response to Cobb County Purchasing's Technology Product Solutions and Related Services

Dear Evaluation Committee,

CDW Government (CDW•G) understands the objective of this RFP is for Cobb County and OMNIA Partners to enter a contract with a provider that can provide an extensive catalog of Technology Product Solutions and Related Services.

CDW•G was founded in 1998 and CDW was founded in 1984. Proposed here is CDW•G's complete catalog of IT products and services partners. These offerings feature three key differentiators that showcase why we are the best choice for Cobb County and OMNIA Partners:

- **CDW•G has extensive experience with multiple OMNIA Partners members**. We have multiple ongoing OMNIA contracts including Total Cloud Solutions - Region 4 ESC and OMNIA Information Technology Solutions, Products, and Services - City of Mesa, Arizona. CDW•G is uniquely positioned to successfully meet the needs of Cobb County and OMNIA Partners.
- **We are a national organization with a local focus.** CDW•G's national network of account managers has nurtured long-standing local relationships with Cobb County and OMNIA Partners Participating Entities across the county. This locally-focused customer strategy lines up with OMNIA's dedication to creating sustainable infrastructure at a local level to assist agencies with solving their mission critical challenges most effectively.
- **IT solutions are dynamic, as is CDW•G**. Our skilled consulting resources successfully architect and implement quality IT solutions that fit the needs of our customers. Throughout this proposal, customer success stories are highlighted to demonstrate CDW•G's proven proficiency in tailor-made IT solutions.

Additionally, our expertise is evidenced by our relationship with Cobb County and OMNIA Partners, and through our partnerships with leading industry manufacturers.

Should you have any questions regarding our response, please contact Eric Moore, Proposal Specialist, State and Local Government, at (765) 749-9981 or via email at eric.moore@cdwg.com. Joshua Greene, Senior Manager, Contract Negotiation will be the primary point of contract during negotiation. He has authority to clarify and/or negotiate all aspects on the scope of products and services on behalf of CDW•G. He can be reached at 317-569-4211 or at joshgree@cdw.com. CDW•G looks forward to continued collaboration with both Cobb County and OMNIA Partners on the Technology Product Solutions and Related Services contract.

Sincerely,
David C Hutchins

David Hutchins, VP Strategic Programs
CDW Government LLC

Executive Summary [RFP 5.2]

The Proposer shall provide an Executive Summary that presents in brief, concise terms a summary level description of the contents of the proposal.

Aligned with OMNIA Partners, Cobb County seeks to establish an IT sourcing vehicle to facilitate the full range of solutions required to meet the varied needs of eligible Public Sector entities. At CDW•G, we realize the quick-paced, ever-evolving nature of technology creates complexity for State, Local, and Education entities, as well as the contract structure required to support these solutions.

Our Public Sector and technology expertise, history of success with OMNIA partners, and commitment to our customers combine to create a dynamic and relevant offering. We are uniquely positioned to deliver a comprehensive contracting solution - one that simplifies buying and removes the complexity of developing and implementing IT solutions.

An Established Partnership: OMNIA Partners & CDW•G

For well over a decade, we've had the privilege of collaborating with OMNIA Partners to better aid our mutual public sector customers. Throughout this time, we've served over 8,000 customers across all 50 States within State, Local, and Education segments – demonstrating consistent increases in utilization and user expansion year after year. In fact, CDW•G is one of the largest technology solutions providers within the OMNIA Partners Contract Portfolio. With this established foundation, we can equip Cobb County to achieve accelerated awareness and adoption for any resulting agreement.

Public Sector Expertise with National Reach

We realize a true solutions provider must go beyond fulfilment. Impactful IT solutions require a vendor who understands their customers' needs and experiences. Leading with our Customer-Centric philosophy, we've structured our organization to align with the segments we serve.

Sales Organization. Our account management teams specialize by geographic region and customer vertical (K-12, Hi Ed, State & Local) – facilitating an increased understanding and awareness of local markets, trends, current events, and ultimately their customers. Additionally, we deploy an in-market, field sales force to further grow customer intimacy through local engagement. This coverage model enables immediate customer reach and awareness for any resulting agreements, fostering a seamless contract launch and adoption.

Solution Specialists. Technology no longer simply supports operations. Rather, it offers paths to innovation and efficiency. However, to leverage this potential, members require experienced advisors and subject matter experts. In essence, members need a vendor who can help them navigate their options and select the solution that can bring their mission to life. With our customers' missions in mind, we've strategically invested to integrate these vertical-specific solutions specialists into our organization.

Education. CDW•G is now among the largest education technology solutions providers as a trusted IT partner to more than 15,000 K-12 schools, as well as approximately 3,000 colleges and universities. We employ Environment Advisors (LEAs) advising on the top issues in the changing 21st century classroom environment, as well as a team of K–12 Education Strategists comprising former educators, principals, teachers of the year, chief technology officers and instructional technologists.

Public Safety. Over 16 years ago, CDW•G created a practice dedicated to solutions, services, and capabilities for public safety and first responder agencies and constituents, with far-

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reaching implications for personnel and the public alike. CDW•G's Public Safety Practice knowledge is anchored in hundreds of engagements across the US and has helped create unsurpassed technology know-how across the board, encompassing problem-solving skills, relationships with the industry's strongest partners and experience in best-practice solutions.

Driving Local Impact: Commitment to the Community

For more than 30 years, our company and its coworkers have contributed millions of dollars and thousands of volunteer hours to improve the communities where we live and work. We recognize the critical role that corporations can play in all aspects of the local community they serve. While many corporations and companies claim community involvement to be an objective (usually one to gain recognition), social responsibility is embedded into our culture and integral to our day-to-day activities.

Diversity, Equity, & Inclusion. At CDW•G, we embed diversity and inclusion into the fiber of everything that we do. We ensure that all stakeholders have the resources required to perform at their highest level. To us, our efforts toward equity extend well beyond our employees and our organization; it is a social must.

> ***Business Diversity Partners.*** CDW•G, not being a diverse prime, has the privilege, opportunity, and responsibility to partner with diverse business partners and bring them with us to every opportunity. Through our robust partner network, we can seamlessly integrate partners with the necessary capabilities into our business model with OMNIA Partners. This offers Partners access to all of the resources that we can offer while striving toward an equitable and inclusive society.

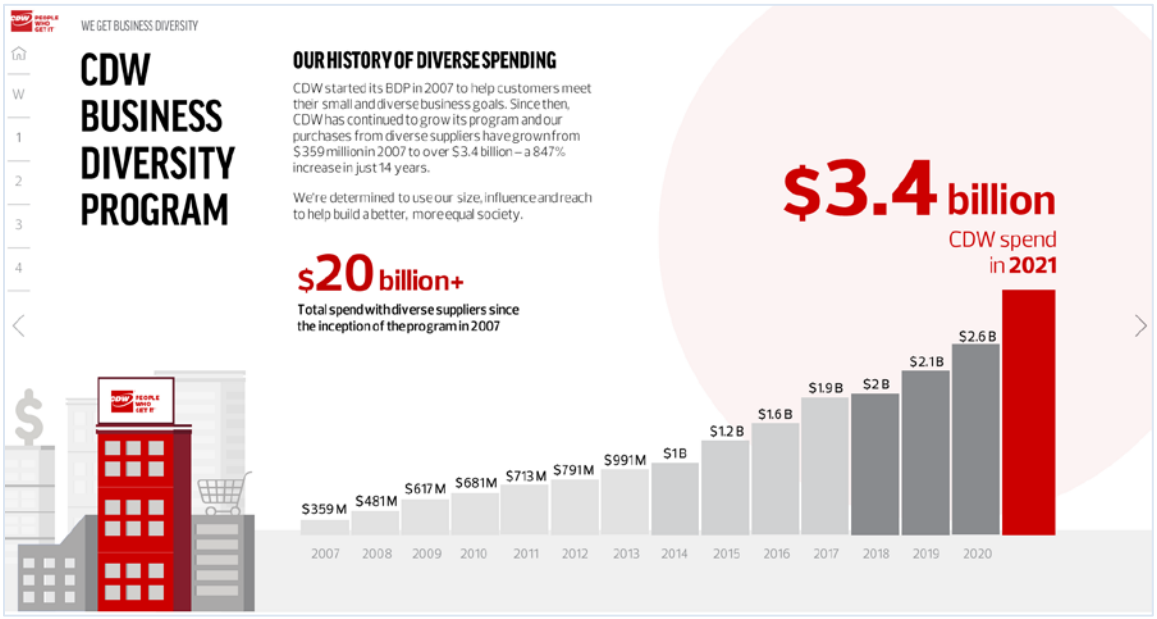


Figure 1: CDW•G Business Diversity Program

Sustainability. CDW•G has respect for the environment and there are many ways in which we act upon this value. These include seeking and receiving ISO 9001, 14001 and 28000 certifications for our distribution centers, which assures that operational aspects adhere to stringent quality standards and using the highest proportion of recycled materials allowed in our shipping containers. In our offices, we recycle paper and bottles, compost food waste and collect rainwater. Finally, our company and customers participate in the ReLeaf Program, which

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tracks paper usage and then enables tree planting. As a shared value, Cobb County and OMNIA Partners members can be confident in our commitment to sustainability.

Conclusion

We are excited at the prospect of our proposal to provide Cobb County and OMNIA Partners a comprehensive procurement solution. Through CDW•G's relentless focus, we can shepherd members through their IT journey while providing an unparalleled and authentic commitment to achieving their IT objectives now and into the future.

Summary of Contents of Proposal

Within this proposal, we have included all the required forms and responded to all questions. We have provided an Executive Summary here giving a high level overview of why CDW•G is well positioned for this response. Additionally, we have provided examples of our robust catalog in the following 13 categories:

- Virtualization
- Physical Security
- Communication
- Cloud
- Infrastructure
- Data Management
- Visual Communications
- UCC (Unified Communications and Collaboration)
- Broadcast Studio
- Law Enforcement
- Mobility
- Asset Management
- Data Protection
- Energy and Water Conservation
- Financial Services
- Success Story: IT as a Service
- Other Services and Solutions

We have thoroughly outlined our experience as well as our service capability on a national contract such as this. Included within our pricing section are the various catalog pricing and vast amount of services our company can offer Cobb County and OMNIA Partners. We have shown our financial capability and strength through our Financial Liquidity Ratios as well as explanation of our financially stability. We have provided a thorough response to the National Contract Attachment A section, including our Supplier Response to Company, Distribution and Logistics, and Marketing and Sales Section. We have included a Sample SoW that would be custome built for any service engagements under this contract as well as all Affirmative Action Evidence and signed Addendums. We respectively have included our Proposed Exceptions to this contract we wish to negotiate with Cobb County and OMNIA Partners.

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Project Team

Respondents shall provide an organizational chart for the proposed project team, as well as the relevant background and experience for every proposed team member.

Below is an organization chart for Cobb County's dedicated team.

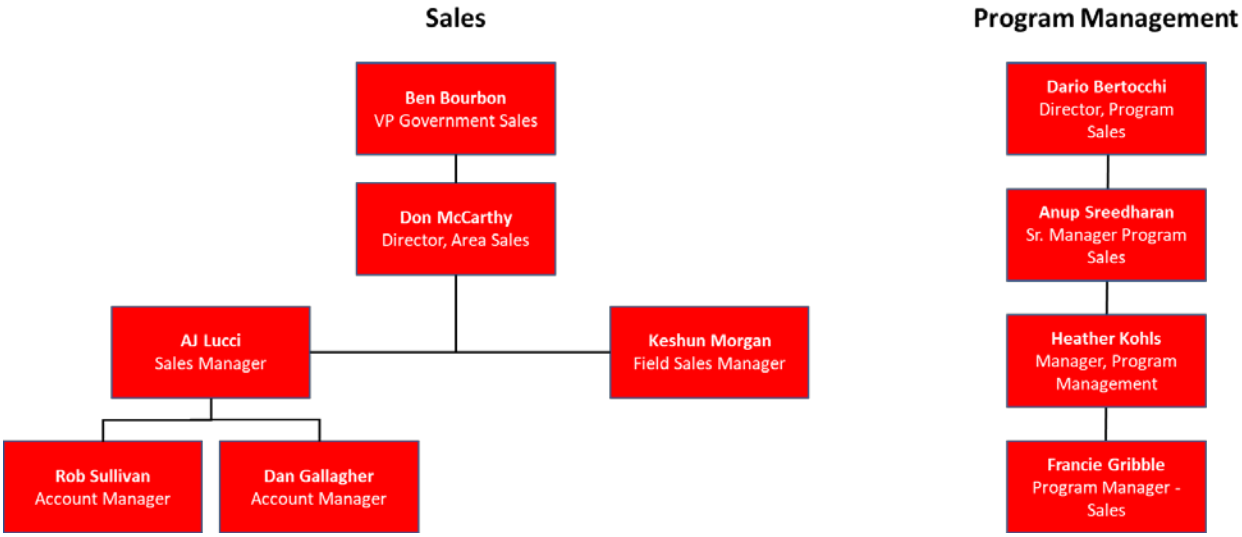


Figure 2: CDW•G Cobb County/OMNIA Organization Chart

Sales

Ben Bourbon



Ben Bourbon is vice president of Federal sales for CDW Government (CDW-G), a wholly owned subsidiary of CDW and a leading provider of technology solutions to government, education and healthcare. Bourbon is responsible for the short- and long-term performance goals, strategic direction, business initiatives and talent development of the team serving Federal customers.

For the past 20 years, Bourbon has played an increasingly prominent and valuable role at CDW. He joined the company as an account manager in 1998 and quickly moved through the ranks. Since 2002, Bourbon has held several sales and field management positions within CDW-G and was promoted to director of Department of Defense sales in 2005, to vice president in 2012 and to his current position in 2017.

Bourbon earned a bachelor's degree in marketing from North Park University in Chicago and a master's degree in business administration from the University of Wisconsin-Madison.

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Don McCarthy



Don McCarthy is a business professional with extensive sales and marketing leadership experience in the B2B technology industry. Proven success in balancing operational efficiencies and business growth He has more than 20 years' progressive and stable experience with world-class, organization. Take pride in the ability to effectively combine corporate objectives and values with personal and professional goals and work ethics. Build and foster strategic business relationships with internal and external clients, maintaining customer satisfaction at all levels. Effective builder and manager of high performing teams.

Specialties include sales pipeline management, sales planning, territory management, lead generation, customer acquisition, sales enablement, marketing strategy & planning, project management, partner management, P&L management, campaign management and data analysis, increasing ROI, email analysis.

AJ Lucci



AJ Lucci is the State & Local Regional Manager for CDW Government for customers the Florida, Georgia, Tennessee & Alabama. Lucci is responsible for the region's Partner relationships, strategic direction, team development and overall performance. For more that 20 years Lucci has contributed in various roles in the Federal and State & Local as an Account Manager, Advanced Technology Account Executive, and his current Management role.

Lucci earned a Master of Business Administration (MBA) from Marquette University and a Bachelor of Science degree in Accounting, Business Administration from Carthage College.

Rob Sullivan



Robert Sullivan is the State and Local Executive Account Manager for CDW Government in the State of Georgia. For the last 12 years, Sullivan has been supporting State, County and City Agency's in Georgia. Sullivan is your dedicated account manager who is a single point of contact for all IT. During this time, he has effectively met the needs of his customers. From unified communications and data center optimization, to notebooks, software, services and more. Prior to coming CDW, Sullivan worked for the Village of New Lenox for 6 year as a Supervisor. Sullivan can relate to government budget and procurement policies from his time as government employee

Sullivan attended the University of Illinois Urbana-Champaign.

Dan Gallagher



Dan Gallagher is the Advanced Technology Account Executive for CDW Government covering state and local customers in the State of Georgia. Gallagher has worked with Georgia Government in various roles at CDW-G for over 18 years. In the ATAE role, Gallagher is responsible for bringing CDW-G's cybersecurity, cloud transformation, datacenter, and professional services practices to the government agencies throughout the state of Georgia. Gallagher works closely with technical, administrative, and contracting agencies in the State to facilitate strategic, transformational discussions in the interest of helping IT departments stay up to date on trends in the industry.

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Gallagher earned a Bachelor of Scient in Marketing from Northern Illinois University.

Keshun Morgan



Keshun Morgan is the State & Local Field Sales Manager for CDW Government for customers across the Southeast from Texas to Florida. With CDW•G for nearly 20 years, Morgan has held a variety of roles for DoD Network Solutions Architect, to his current role. Morgan has a unique aptitude for understanding the immediate needs of a customer and determining which solution set would be suit their current needs and long term goals. Morgan works closely with the rest of the account team, and Advanced Technology Account Executives to provide our customers a wealth of knowledge regarding the breadth of CDW•G's service portfolio. Morgan is based in Atlanta, GA.

Morgan earned a degree in Health Planning and Administration from the University of Illinois at Urbana-Champaign.

Program Management

Anup Sreedharan



Anup Sreedharan is an experienced leader with US Public & Commercial Sector-Federal, State & Local, K-12, Hi-Ed, E-rate & Commercial segments. He is skilled in Program & Contract management, Strategy, Regulatory Compliance, Negotiations, Proposals, Capture & Pricing.

Sreedharan is a Certified Contract Management Expert (CCME), CF APMP, Six Sigma Green Belt, Change Management certified, Professional in Human Resources (PHR) and is responsible for management, innovation and success of 37 coworkers, managing 1000+ contracts across Public Sector with billions ($) annual revenue under management. He is responsible for contract management & growth, M&A, dispute resolution, audits, relationship management, monitor regulatory impacts, performance management, pricing, commercial strategy, onboard new offerings into contract work stream, competency development, and all things contracts.

Sreedharan earned a Master of Business Administration (MBA) from the University of New Mexico and a Bachelor of Engineering, BE Computer Engineering from the University of Mumbai.

Heather Kohls



Heather Kohls is a senior executive with expertise in Public Sector Contracting, Civilian Agency Programs, Process Improvement and Sales Operations. She has proven success with program management including cradle to grave oversight on contracts, team program managers, and customer success support personnel. She currently manages the State and Local Program Management Team for CDW Government consisting of a staff of over a dozen CoWorkers.

Kohls earned her degrees in Business Marketing and Communications from North Central College, is a Certified CSM via the Scrum Alliance, and holds her AWS Cloud Practitioner Certification.

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Francie Gribble



Francie Gribble is a Program Manager for CDW Government's State and Local Government contracts. Francie has over 20 years of government and commercial contract management experience. Francie's extensive formal training began at the Yongsan Army Installation in Seoul, South Korea for the 411th Contracting Support Brigade and continued under the Army's Internship Program at Fort Eustis, Virginia where she completed the program as a Contract Specialist with the equivalent of over 80 credit hours in Department of Defense acquisition management and leadership courses. She managed cradle-to-grave contract processes for IT hardware and software, construction, services, and supply acquisitions. Francie served as Contract Administrator for Oak Ridge Associated Universities in Oak Ridge, Tennessee, and later as Contracts Manager for RELYANT Global, LLC, where she negotiated and managed all contracts and subcontracts within the continental US.

Gribble earned a Master of Business Administration (MBA) degree from Murray State University. She also has a Master's Certificate in Contract Management from George Washington University. She is a Certified Professional Contract Manager.

Segmentation of Teams

CDW•G customer teams are built from the ground up with clearly defined roles, responsibilities and escalation paths – all sharing a common goal of exceptional customer service and satisfaction. Dedicated account teams serve their customers with exemplary service and customer satisfaction across State agencies, local governments and municipalities; public and private school districts / K-12; and institutions of higher education. We have account teams across SLED entities in the US. This segmentation allows a singular focus for each team and delivers a customized measure of support specific to each customer. Our teams are responsible for quotes, orders, pre- and post-sales consultation, and issue resolution over the life of the contract.

Each segment is further broken down by region and supported by local offices across the country. This regional, state, and local focus gives dedicated CDW•G Account Managers the opportunity to:

- Form meaningful long-term relationships with customers;
- Intimately understand their requirements, budgets and user community; and,
- Proactively provide an exceptional customer experience.

State and Local Government CDW•G's state and local government business unit is 233 coworkers strong serving the 50 states from the largest state agencies to the smallest rural community. Each state has a dedicated team assigned to ensure that each agency feels heard with personalized customer service. For example, the State of Georgia team is comprised of **7 inside Account Managers, 1 Advanced Technology Account Executive, and 2 Sales Managers.**

K-12 (Public and Private School Districts) CDW•G is one of the largest K-12 technology solutions providers and is a trusted IT partner to more than 15,000 K-12 schools. Our education strategists and learning environment advisors are former educators, principals, professors, chief technology officers and instructional technologists focused on addressing the unique needs and requirements and partnership with the world's leading IT innovators. Our K-12 team includes

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regional managers, field account executives, solution architects, education strategists and dedicated account managers.

Higher Education CDW•G has approximately 225 coworkers across the U.S. dedicated to the higher education industry that understand the needs, challenges, and market best practices. We have 50+ student interns across college and university campuses that we train and develop for post-graduate career paths to thrive in the workplace. Our team has business relationships with approximately 3,000 colleges and universities, which allow us to understand challenges and map those to success. This combined experience allows us to provide colleges and universities across Georgia with custom higher education solutions along with managed services and full lifecycle support.

One clear advantage of the CDW•G approach is the opportunity for each account manager to be an expert within their sector, enabling them respond to the very specific needs of their customers which is especially impactful in these uncertain times.

- State and local account managers follow developing legislation and understand local procurement requirements and their ultimate impact on the ability to deliver robust solutions.
- Account managers in education understand the unique impact of the Family Educational Rights and Privacy Act (FERPA) and other privacy laws on technology solutions and services.
- Our healthcare account managers understand and incorporate the guidance of the Health Insurance Portability and Accountability Act (HIPAA) working with customers to define and implement robust IT solutions.

With **roughly 1,500 CDW•G coworkers,** supported by more than 7,500 coworkers throughout CDW, our segment and regional focus help ensure that our account teams are best prepared to support the local landscape in a way unmatched by other vendors.

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Company Background/Profile [RFP 5.3]

Provide information on company background to include the following:

a. Legal name, address, phone and fax numbers, e-mail, Federal ID#, and website address.

Legal Name: CDW Government LLC
Address: 230 N. Milwaukee Ave, Vernon Hills IL 60061
Phone: 847-371-5800
Fax: 847-465-6800
Email: eric.moore@cdwg.com
Federal ID#: 36-4230110
Website Address: www.CDWG.com/PeopleWhoGetIT

b. Date business was established under current name.

1998 CDW•G | 1984 CDW LLC.

c. Size of company including the total number of employees.

CDW had nearly $21B in annual net sales with a Fortune rank of 166. With 14,600 coworkers across the organization, we have offices throughout the United States, Canada, and the UK ensuring our reach is global. We can serve customers in nearly ever corner of the globe. We have 28 U.S Sales offices.

d. Type of ownership or legal structure of business

Limited Liability Company; CDW•G is a wholly owned subsidiary of CDW LLC, which is a wholly owned subsidiary of CDW Corporation, a S Corp.

e. Has the company ever failed to complete work for which a contract was issued?

If yes, explain the circumstances.

CDW•G has not failed to complete work for which a contract was issued.

f. Are there any civil or criminal actions pending against the firm or any key personnel related in any way to contracting? If yes, explain in detail. Are there any current unresolved disputes/allegations?

To the best of our knowledge, there are no civil or criminal actions pending against CDW•G or any key personnel listed in this offer. There are no known unresolved disputes or allegations.

g. Has the firm ever been disqualified from working for any public entity? If yes, explain the circumstances.

CDW•G has not been disqualified from working for any public entity.

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h. If a Supplier requires additional agreements to be signed by a Participating Public Agency, include a copy of the proposed agreement(s) as part of Supplier's proposal.

There may be instances where additional agreements would need to be signed by a Participating Public Agency.

Services requiring a specific Statement of Work (SoW) must be mutually executed between the customer and CDW•G before work begins. We have provided a sample SoW in Appendix A.

OMNIA and its members/participating entities acknowledge that CDW•G is not the provider of the Cloud Services and in purchasing the Cloud Services, Cobb County, OMNIA, and its members/participating entities rely only on the Cloud Service Provider's service descriptions and the terms and conditions set forth in the Cloud Provider's Services Terms and Conditions. Accordingly, Cobb County and OMNIA Partners shall consider the Cloud Service Provider to be the party responsible for providing the Cloud Services and Cobb County, OMNIA Partners, and its members/participating entities, may be required to execute additional agreements, prior to provisioning/purchase of certain cloud offering.

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CDW•G Offering

CDW•G understands that Cobb County and Omnia Partners are interested in a number of services as detailed in the following sections CDW•G has extensive experience with designing and implementing the services outlined in your requirements. We understand that these services are critical to Cobb County in order to address your Technology Product Solutions and Related Services requirements.

In the following sections, you will find examples of what CDW•G can offer to Cobb County. As we maintain both a broad and deep portfolio of solutions and services, these examples show only a sample of what we can provide. We would be pleased to discuss with Cobb County the full range of services available for categories listed below.

Virtualization

Transform data center with virtualization to consolidate servers, reduce energy consumption, increase IT capacity, add system flexibility and prepare for cloud computing.

Virtualization and CDW•G

Virtualization solutions can deliver tremendous cost savings to Cobb County and OMNIA Partners. By virtualizing their server workload, your customers can significantly reduce capital expenditures for hardware, minimize their hardware footprint and save on energy expenses. Plus, virtualization will lower the time and money they put into the ongoing maintenance of their server infrastructure.

Some customers may be concerned about system performance in a virtualized environment. However, a CDW-designed solution takes into account processing, memory, storage and networking to ensure your clients' virtualized systems work as well as — or even better than — physical ones.

Benefits of virtualization include:

- Reduced capital and operating costs
- Centralized management
- Quickened disaster recovery
- Minimized downtime
- Increased hardware utilization and efficiency

CDW's dedicated virtualization team performs over 600 assessments a year. Our team is highly trained in Cisco, EMC, Microsoft and VMware solutions and can help customers design a solution that meets their specific objectives. We work with customers to assess their unique needs and then help them plan, design, implement and even manage a custom solution. We can also manage virtualization licensing to help your client remain compliant.

Our offerings include:

- Server virtualization software:
  - CDW works with the best server virtualization software vendors in the industry, and can vet options to meet your customer's specific goals.
- Storage virtualization software:
  - By extending virtualization to storage resources, your customer can transform their data center from deeply siloed operations to highly automated resources.

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- Network virtualization software:
  - This software allows your customer to manage their infrastructure.
- Assessments:
  - CDW can analyze your customer's unique environment and make recommendations for a virtualization solution that meets their specific goals.
- Professional and support services:
  - We help assess, implement and manage virtualization solutions to ensure your customers get the most return on their infrastructure investment.

Physical Security

Security solutions seaports, airports, water and wastewater, transportation, critical infrastructure, perimeter defense, physical and logical access control, identity management, antiterrorism protection, automated alarms and alerts, integration with databases containing critical security information, cyber security and asset management, endpoint security and other network security and IT security.

We Get Video Surveillance and Physical Security

Physical security solutions protect people, property and premises. Today's modern video surveillance systems enable your organization to do more than deter or catch the bad guy. Video surveillance can now help you keep an eye on operational processes and generate data insights about your business.

Video surveillance is the foundation of modern physical security systems. Integrated with access control, environmental sensors and analytics, you can better defend against threats to people and property and respond more quickly to incidents that do occur.

Enhanced video surveillance (EVS) and other physical security systems can deliver valuable capabilities beyond just security. CDW can help you find the security solution that mitigates risk and aids business objectives.

CDW•G can provide the following:

Video Surveillance

Upgrade your video surveillance system to a modern solution enhanced with analytics that detect incidents in real-time and generate searchable metadata from recorded video.

Access Control

Modernize your building security with IP-enabled door controllers, readers and credentials – all integrated with your video surveillance for complete situational awareness.

Environmental Security

Deploy IP-based sensors that extend physical security monitoring to detect chemicals, atmospheric conditions, audio, vibrations, thermal signatures and more.

Amplified Services

Deploy new cameras and sensors, configure video management systems, and integrate it all with access control, data analytics, mass notification and other systems.

Communications

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Communication solutions to converge voice, data and video communications onto a single, secure IP-based network.

In 1998, CDW•G realized the potential of unified communications through Voice over IP (VoIP) services and IP telephony solutions. We understood that the convergence of voice, video, and data on a single multi-service network meant reduced communications costs and higher productivity. Today we run our business offices and *Enterprise Command Center* (ECC) on Cisco's integrated Unified Communications architecture. We draw upon this first-hand, mission-critical operational experience when designing and installing our customers' converged network solutions. CDW•G has designed and installed over **one million VoIP and Cisco VoIP core network solutions** for our customers across our segments, many of which with at least 1,000 phones and end-users.

CDW•G has developed expertise in every aspect of Cisco's Collaboration business, including planning, network design, implementation, network management, and post-sales support. Our commitment to Collaboration solutions has enabled us to become the first Cisco partner worldwide to earn a Master Specialization in this field. CDW•G earned the Cisco Master Collaboration Partner Specialization in December 2008. We are also the first in Cisco's U.S. Central Area to obtain an Advanced Specialization in this technology as well. Cisco's Master Specializations are reserved for those partners with the highest levels of technical expertise and a proven track record of selling, deploying, and supporting Cisco solutions. We have completed over **5,000 Cisco Collaboration projects** to date involving **250,000+ phones**.

Supported by certified pre-sales specialists and services delivery teams, the Cobb County and OMNIA Partner's dedicated CDW•G account team will guide Cobb County and OMNIA Partners through the complex process of evaluating, selecting, and deploying a Unified Communications (UC) solution. Our Master Collaboration Partner Specialization uniquely qualifies us to deliver Cisco Collaboration assessment, planning, design, implementation, and managed services in each of the following UC solution areas:



- Telephony & VoIP
- Conferencing & Collaboration
- Messaging & Presence
- Contact Center

CDW•G has deep expertise in providing high-quality Cisco Unified Contact Center (UCC) solutions. We are a Cisco Advanced Technology Partner for UCC Enterprise and **one of the few Cisco Partners that can sell and service the entire Cisco Contact Center portfolio**. Products span the spectrum from pure IP solutions such as the Unified Contact Center Express to IP and TDM integrations with the Intelligent Contact Manager (ICM), which provide the advantages of a virtual agent pool while leveraging existing investments. Most importantly, our Contact Center analysts know the business of contact centers as well as the technology.

Cobb County and OMNIA Partners can benefit from our team of highly trained engineers who specialize in implementing Cisco Contact Center solutions. About half focus on Unified Contact Center Enterprise (UCCE), and the remainder focus on Unified Contact Center Express (UCCX). Our team has a great deal of experience implementing screen pops, developing self-service applications, implementing outbound dialing campaigns, implementing Quality

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Management and Workforce Management solutions, and developing custom reports. **CDW•G has implemented over 500 Cisco contact centers with over 10,000 agents.**

Cloud

Cloud solutions for scalable computing and storage capacity and rapid self-provisioning computing capabilities. This may include, but is not limited to, Cloud Infrastructure as a Service (IaaS), Cloud Software as a Service (SaaS) and Cloud Platform as a Service (PaaS).

As the move to cloud computing continues to accelerate, so does the need for cloud expertise. Identifying the best options, maximizing potential cost savings, migrating workloads, modernizing applications, and managing it all securely and effectively can challenge every organization and even the most seasoned IT professionals. At CDW, we offer the expertise and experience you need to design, orchestrate and manage a hybrid environment that's ideally suited to your unique needs — one that's productive, agile and secure, with governance in place to provide oversight to ensure you don't overspend.

The CDW•G Approach

Optimizing and expanding your cloud portfolio, including taking advantage of the benefits of multicloud, requires a partner with technology acumen and access. At CDW, we have the scale, experience, and integration with a variety of cloud partners to offer solutions and services that work best, both in the cloud and on-premises. And, as a full-stack partner, we listen, advise, design, implement and manage holistic, hybrid solutions that propel your organization forward. Our full-stack engineering services team focuses on digital transformation — from code and applications to cloud, data and security — to help you accelerate innovation.

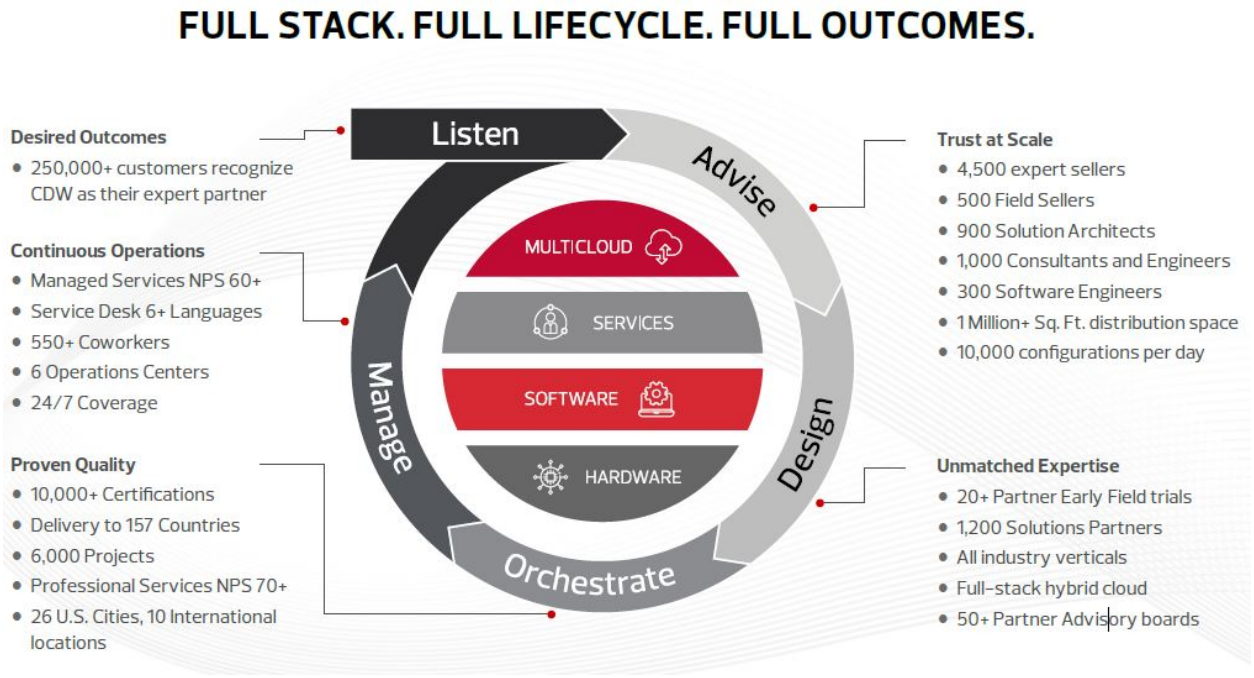


Figure 3: CDW•G Full Stack Depiction

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Whether you're looking to build a secure hybrid environment, migrate more workloads to the cloud or optimize your costs, we can help you achieve your cloud computing goals. CDW works with more than 250,000 organizations of all sizes in all verticals, providing comprehensive advice, customized planning and scalable solutions.

Our large U.S. operational footprint has offices located in every region and two strategically located state-of-the-art distribution centers, providing the fastest possible deliveries to our 250,000+ customers. No matter where you are, you can count on our experienced cloud specialists to deliver personalized support every step of the way.

With 30 years of experience working with more than 250,000 customers, CDW provides you with an advanced level of IT partnership. We carefully listen to your needs and then help you achieve your desired outcomes. We also take a thoughtful approach to assisting you wherever you may be in your technology journey.

Infrastructure

Infrastructure solutions such as data center management, network modernization and migration, desktop virtualization, risk and vulnerability management, and IT service management.

Amplify the agility, scalability and performance of infrastructure

Today's users require access to more and more data at faster and faster speeds. Applications must scale rapidly. To meet current business needs — and prepare for changes well before they happen — a strategic approach to planning and execution is a must-have. To answer current demands of complexity, speed and scale — to stay prepared for future developments — on-premises products, solutions and services are essential to delivering the full-on cloud experience. Organizations are turning to hybrid multicloud infrastructures to leverage the power of on-premises workloads, cloud-native builds and the vast possibilities of cloud vendor offerings.

It's an approach that comes with its own set of challenges, however. The adoption of rapidly evolving technologies requires companies to think long term even as they address their short-term needs. Solutions can prove costly, confusing and complex. Yet a partner's ability to apply comprehensive, long-view knowledge and experience can actually amplify the impact of the customer's investment. This is where CDW Amplified™ Infrastructure Services become indispensable.

How We Approach Amplified Infrastructure Services At CDW•G

Whether your customer's environment is on-premises, a hybrid configuration or in the process of migrating to the cloud, CDW Amplified Infrastructure Services employ our smart, flexible portfolio to build a fully automated and managed infrastructure across the entire network.

Tapping the experience of more than 300 certified engineers, we apply comprehensive knowledge and a long-term view of the organization's needs and goals to design, orchestrate and manage the customer's infrastructure — a strategy-based ecosystem that scales, future proofs and amplifies the effectiveness of the data center architecture.

Success Story: Fostering an Innovative Transition from On-Prem to the Cloud

This customer was looking for a company that would be able to come in and migrate their locally hosted servers to the cloud. Our team worked with them to create a plan that was cost-effective but focused on moving their company forward in its IT goals. Working with CDW•G, the customer ended up moving forward with Microsoft Azure to migrate their servers to the cloud. Utilizing our Microsoft team, we were able to outline for the customer what the process would like and ultimately build out the reservations for the customer. The

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customer had a grant fund check that needed to be invoiced before a specific date or lose the money altogether, which turned out to be another challenge.

The customer wanted to work with a knowledgeable partner and find a solution that would not break the bank.

Engagement

We were able to work with the customer and our Microsoft partners to migrate the servers to the cloud as well as work internally with our accounting department to make sure there were no issues in getting the grant check invoiced.

Solution

We were able to provide the customer with a Microsoft Azure Cloud Solution.

Outcome

They were able to migrate their data center to the cloud, mitigating the challenges of managing locally hosted servers, while utilizing in-house services to facilitate the migration.

CDW•G believes that application modernization transforms decision and IT strategy choices for the present enterprise. Strategies often are customized by application requirements of maturity readiness of development. By evaluating legacy applications, new development platforms, and infrastructure, we choose the best application modernization strategy to support new functionality and business value.

CDW•G offers the following application modernization strategies:

- Replatforming
- Rehosting
- Recoding
- Rearchitecting
- Reengineering
- Interoperability
- Replacement
- Retirement

Depending on critical mission applications, our modernization engagement may start with a re-hosting strategy as a first phase and progress to the second phase of rearchitecting and re-engineering process. Most of our evaluations revolve around monolithic design, applications often hosted on-premises and following the waterfall model of Software Delivery Life Cycle (SDLC). Our expertise is in re-architecting customers' legacy applications into microservices and deployment to public clouds and private clouds. Microservices architecture follows DevOps methodology and automated Continuous Integration/Continuous Delivery pipeline releases approach.

CDW•G's new application development focus is on the cloud model. It includes microservices as well as cloud-native and event-driven architectures. We understand the following explanation regarding developing and deploying new applications is quite technical. However, we believe it's important to include within our proposal to show Cobb County and OMNIA Partners our deep cloud expertise and knowledge. This knowledge will be passed along to OMNIA Partners to ensure the cloud solutions deployed are efficient, and more importantly, work for their organization's business goals.

Most of our first redesigns focus on migrating legacy monolithic applications to microservices. After evaluating customer legacy applications, the new cloud application development model for rearchitecting monolithic applications is recommended. Cloud-native architecture and event-

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driven serverless architecture are recommended for reengineering legacy applications and new application cloud development.

The core pattern at play is as follows:

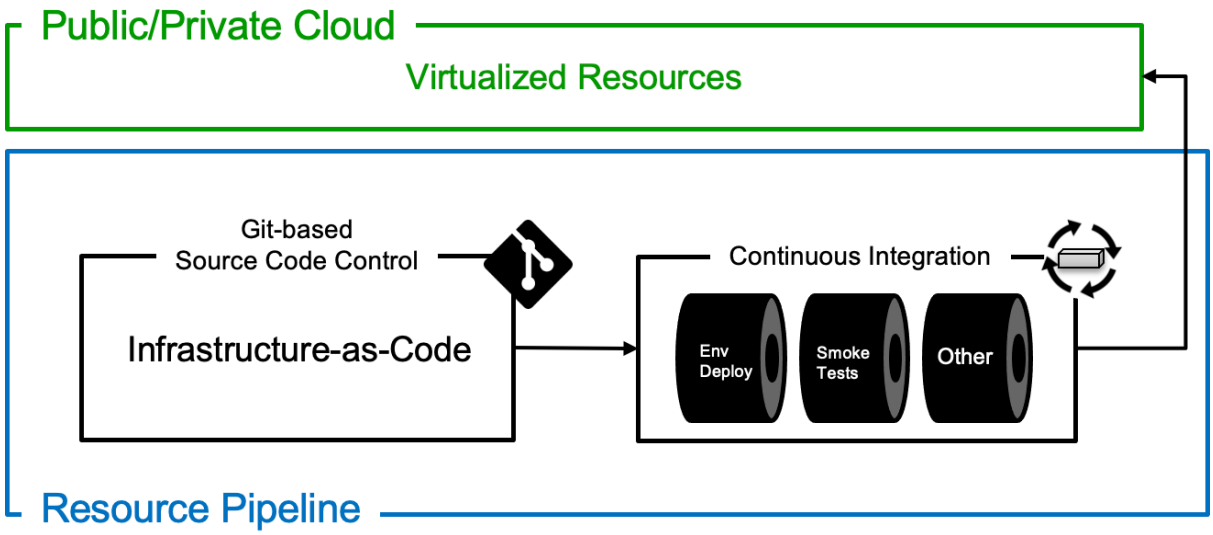


Figure 4. Private Cloud & Public Cloud Process

Modern IT operations organizations limit access to public and private consoles to eliminate the variability and human error that come with them. Instead, CDW•G advocates using tools like Hashicorp's Terraform or Red Hat's Ansible and code version control system (VCS) for continuous integration and continuous deployment (CI/CD) for Infrastructure-as-Code (IaC) and microservices. Namely, IaC and microservices image releases do not get run on individual local laptops but instead get checked into a Git-based source code repository such as GitHub, GitLab, or Bit Bucket. An automated (CI/CD) pipeline manages the IaC, and microservices code and microservices image build changes.

The combination of tools enables an IT organization to provide an accounting of IaC/ microservices changes in the source code control system by environment PROD and no-PRD. Code executions in the continuous integration environment, and the whole system works the same way regardless of the cloud target. The only difference between launching a new environment and application is cloud provided; AWS vs Azure vs GCP. The pipeline architecture is the same in either case. This approach allows for the Blue/ Green deployment of modernized applications with underlining infrastructure.

Traditional Automation

Traditional automation techniques required an individual to acquire two sets of expertise in addition to being an expert on a particular virtualization platform. An individual has to learn a programming language like Python, PowerShell, or Bash. They then have to learn the API for each platform they are already functional experts.

While this still allows for integrating products with AWS, Azure, and GCP, only when combining these three expertise categories could this approach to automation begin to show a return on investment.

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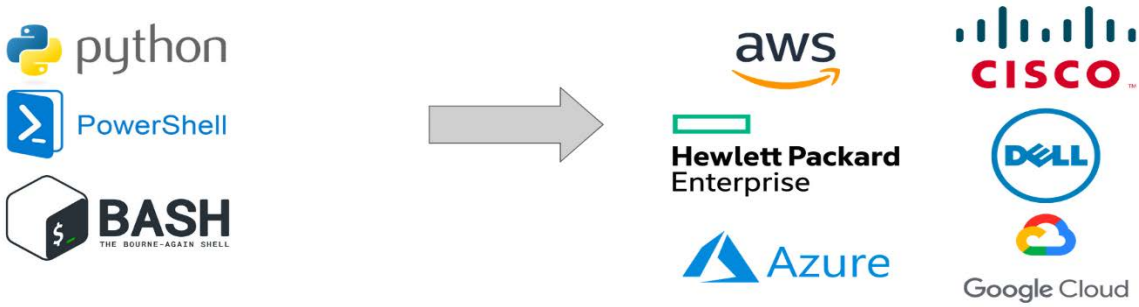


Figure 5: Traditional Automation

Innovation through Methods like Infrastructure as Code

Infrastructure as code (IaC) is the process of managing and provisioning computer data centers through machine-readable definition files, rather than physical hardware configuration or interactive configuration tools. IaC takes a different approach that significantly lowers the learning curve of cloud adoption and IaC is different in two key ways.

1. Instead of asking an individual to provide a prescriptive list of steps to create some virtualized resource, IaC uses a declarative model that simply asks an individual to describe what the end state should be. The specific of how that end state is achieved is a black box to the individual describing the end state. This black box is made possible by a community of experts that build abstractions called providers (Terraform) or modules (Ansible) that translate the details of a raw virtualization platform API.
2. Where IaC becomes more exciting is when a declaration is parametrized to create an organization-specific abstraction that can be reused over and over again. For example, network configurations are hardcoded and firewall rules are absent for the virtual machine that will get launched but imagine parametrizing both of those details and inviting a security team to participate in the creation of the reusable abstraction so that different policies are baked into the IaC.

With IaC, engineers can utilize something declarative like Ansible or Terraform which relies on a communication library of providers/modules for providing the API expertise.

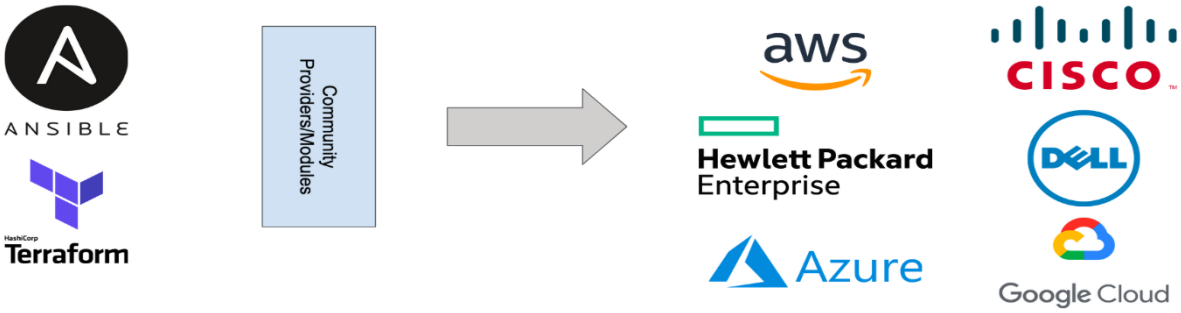


Figure 6: Infrastructure as Code

This is where the use of the source code control can enhance the base benefits of IaC. Experts on the virtualization platforms and security teams can jointly create these parametrized abstractions and check them into source code control. Non-experts can then check in files that set the parameters and reuse the organization-specific abstractions. Triggers can be set that when parametrized files get checked into source code control, it causes their execution in the continuous integration environment and subsequent creation of the virtualized resources in a cloud of choice.

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Organizations might choose to put checkpoints at the source code control step, not allowing individuals to check-in parameter files without a manual review by an expert. Or organizations might choose to put checkpoints at the continuous integration step, not allowing the newly checked-in parameter file to be executed without a manual review. That level of automation or manual inspection is up to the comfort level of a particular organization and might even be different for different individuals within that organization. The target of the resource, whether public or private cloud, almost doesn't matter. All that changes in this approach between clouds are the IaC that gets written. What is consistent across deployments regardless of their targets is the accounting that happens at multiple steps and the reuse of expertise, including security, in the organization-specific abstractions.

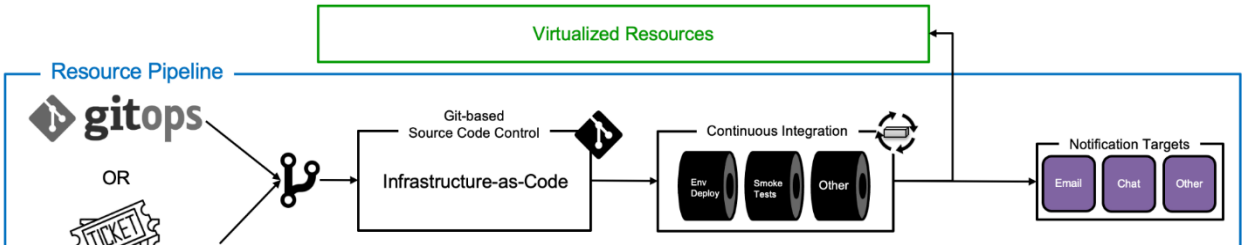


Figure 7: Virtualized Resource Pipeline

Some users may want to establish an environment built through the virtualization of resources without having to dig through the complexity of learning dense coding. In this scenario, we can establish a path to learning the details of source code control so that they can check in their parameter files.

Cobb County and OMNIA Partners should have the ability to choose how to consume their information where and when is best for them – and that they should be able to present it to whomever in their organization needs it in that same capacity. CDW•G's methodology includes an assessment, understanding, conceptualizing, and implementation approach that will help Cobb County and OMNIA Partners feel comfortable moving into the Cloud.

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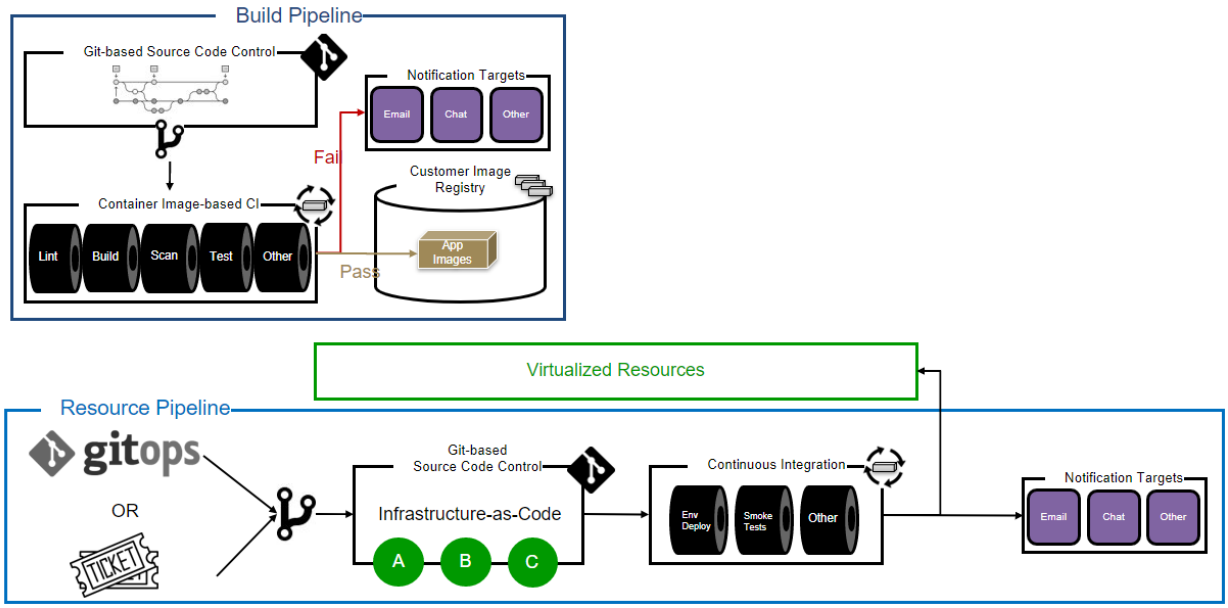


Figure 8: Virtual Patform & Cloud

While we understand Cloud is another person's data center, we also understand moving data anywhere that's not on-premises, may feel uncomfortable. Therefore, in addition to assessments and key conversations with technical leaders, we believe that a cultural conversation needs to be conducted inside an organization to help adopt the new solution.

When CDW•G works with a customer on a Cloud solution proposal, we have an initial conversation (generally started with a coworker from our sales team) and include our Solution Architects. We discuss what matters to that particular organization and conduct an assessment to determine the next best steps. This assessment includes determining which solutions can be migrated to the Cloud and which ones are better when left on-premises. Assessments include conversations, and assessing the physical environment, with the goal output being a clear and concise executive summary.

Following the assessment, our conversation with the customer continues to gain an understanding of their short-term and long-term goals. We create one, three, and five-year plans, taking into consideration many factors including the customer's culture.

Finally, we create a template for customers and build out Statements of Work (SoW) with a Bill of Materials (BoM). Service Level Agreements (SLAs) and best practices are discussed and mutually agreed upon. We understand customers may need additional support, so possible training for staff is discussed and determined.

CDW•G has a full-service capability when it comes to supporting organizations looking for private and public Cloud. From assessment, implementation, containerization, automation, and throughout the lifecycle of application modernization, we will support Cobb County and OMNIA Partners every step of the way.

Local Focus and National Presence

Our customers are the center of all we do at CDW•G and the fuel behind our initiatives, solutions, and services. Part of our dedication to our customers is a sales and service force best suited to the needs of our State and Local Education customers. With a local presence and national reach throughout the US, our team is ready to continue serving Cobb County and

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OMNIA Partners. As you may be aware, we have coworkers in offices and remote locations in or near every major city in the US.

OMNIA Experience

Our success on OMNIA contracts noted below will be material to our performance on the proposed contract. We can utilize our proven marketing skills and trusted account manager and other expert coworker networks to continue the contract's growth.

Supplier	Contract Title	Contract Renewed Until	Potential Final Expiration	Lead Agency
CDW•G PEOPLE WHO GET IT	Total Cloud Solutions	09/30/2022	09/30/2022	Region 4 ESC - TX
CDW•G PEOPLE WHO GET IT	Information Technology Solutions & Services	02/28/2023	02/28/2025	City of Mesa, AZ

Figure 9. Our Current OMNIA Contracts

Research and Development

CDW•G has over 20 years of experience in delivering IT services for our public sector and education customers. During that time, we have made a substantial investment in training our service personnel, maintaining our OEM certifications, and developing new services. Our Services Offerings are supported by over 130 coworkers in our Research and Development division. This division works closely with customers, OEM partners, and our sales team to maintain the relevance of our current offerings while developing the next generation of services the market expects from a leading provider. As technology is constantly changing, CDW•G is refreshing and adding new services.

Excellence in Delivering Cloud Solutions

When it comes to Cloud, four factors set CDW•G apart from the competition.

1. CDW•G is customer-focused and vendor-neutral.
    - When it comes to solving our customer's problems, our sales and technology solutioning team is concerned about providing a Cloud solution that is comprehensive, coherent, and cohesive.
    - These solutions solve our customers' current issues while taking into account future initiatives and goals for growth.
2. CDW•G is a one-stop-shop.
    - We offer a coordinated, thorough process that covers everything from designing to orchestrating to managing. Communication is at the heart of our process.
    - One specific way we ensure thorough communication with our customers is in our design and implementation of services. One Technical Solution Architect is responsible for all SOWs on a project. This maintains project-wide integrity and ensures that one active participant maintains high-quality historical customer knowledge.
3. CDW•G structures sales teams to ensure that each one has segment-specific knowledge.
    - If the member is a local school district, their sales team specializes in school districts.

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- If the member is a state or local government, their sales team specializes in this area.
- Our sales teams are deeply connected to their customers, with the average Account Manager having a decade of experience in their role.

4. CDW•G is a leader in the industry growing organically and through strategic acquisitions. In the last several years, we have acquired a number of companies that focus on Cloud solutions and professional and managed services.
    - We are constantly evaluating which emerging technologies our organization needs to best serve the ever-evolving needs of our customers

Additionally, while many vendors provide "managed services," very few offer the full lifecycle of services from assessment to design and implementation. Our managed services offerings are staffed and supported by our own badge offered engineers using tools and intellectual property developed in our innovation labs.

Data Management

Data management solution which uses technologies such as thin provisioning, de-duplication and automated storage tiering to improve storage utilization.

Data Center Management and CDW•G

We know the data center better than just about anyone CDW brings a team of experts to every data center project. Our solution architects and data center specialists evaluate each customer's specific environment to create a custom solution to meet their goals. Our data center engineers apply decades of technical expertise to building the actual solution and offer ongoing support to keep it running at its best.

Our data center offerings include:

Hyperconverged infrastructure

Hyperconverged infrastructure combines servers, data storage, networking equipment and software into a single, unified computing system, allowing IT teams to manage their data center centrally.

Next-gen storage and backup

Data is growing at an unprecedented rate. A cohesive storage strategy helps your customers minimize costs, increase data security and maximize their data center solution. CDW's

hardware and software knowledge and nationwide expertise maximize customers' next-generation backup solutions by designing and implementing an integrated solution that makes business sense in every choice.

Virtualization

Virtualization improves data center performance, reduces costs and makes backups and redeployments easier.

Power and cooling

CDW's modular, scalable power and cooling solutions help keep data center energy costs low and prevent downtime caused by overheating and power outages.

Managed services

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Managing a new data center is a big project. CDW can make it much easier. CDW Managed Services and CDW Aggregation Services save customers more than 20 percent on average — compared with an internal IT-managed infrastructure — and improve the overall quality of support.

Professional services

Handling a data center can be a tough and time consuming task for an IT department. CDW can shoulder the burden of data center implementation, migration, integration, staff training and continued management so IT teams can contribute to more business-critical initiatives.

Configuration services

CDW's certified configuration centers can provide a custom preconfigured data center solution that minimizes customer downtime and disruption.

Visual Communications

Visual communications that integrate audio, video, voice and presentation capabilities.

We Get Professional A/V

From complex video wall solutions supporting mission critical operations centers, to training rooms and live broadcast systems, CDW•G's design services, leading partner portfolio, project management and integration services are committed to providing top quality Professional Audio-Visual (Pro A/V) services to State and Local Government customers.

From Blueprint to Design, CDW•G will deliver your Pro A/V solutions into a new state of readiness. CDW•G designs promote a collaborative and collegial atmosphere as well as better decision-making. Pro/AV is more than just a matrix of inputs and outputs. Discerning users require a new level of collaboration and integration. CDW•G delivers Pro A/V solutions supporting:

- Video Walls
- Digital Display and Projection Room
- Controls
- IPTV and Video Streaming
- Production and Media Management
- Broadcast Solutions
- Digital Signage
- Video Distribution Systems

Below is an example of a video wall designed for one of our emergency response clients.

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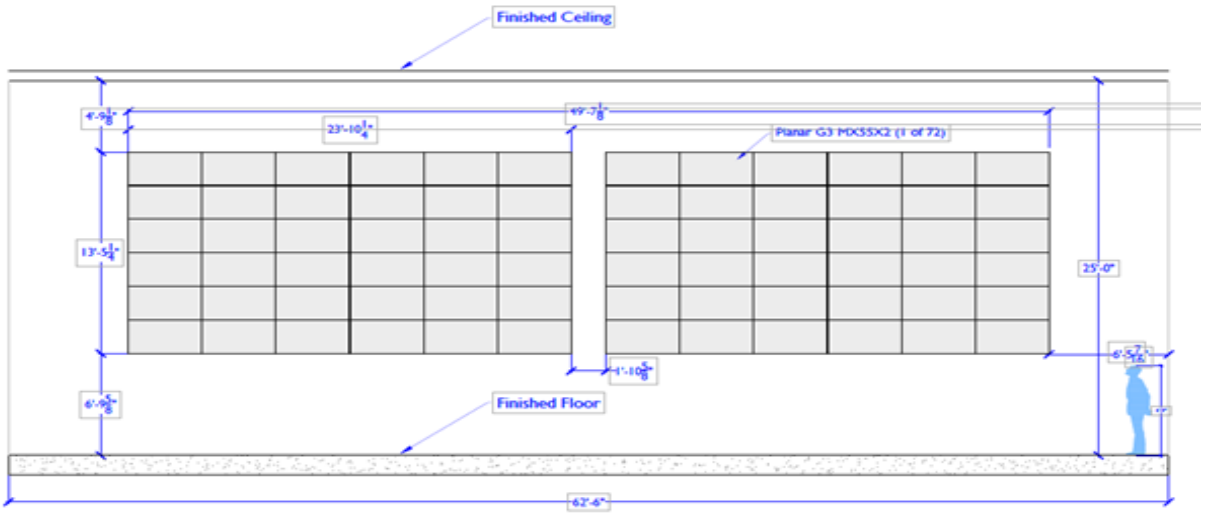


Figure 10: CDW•G Video Wall Design for Public Safety

Top partners include:

CINEMASSIVE exterity SAMSUNG PLANAR CHRISTIE Hiperwall NEC

Support for Video & AV Projects

CDW•G in conjunction with Exertis Broadcast can fulfill all your audio, video, voice and presentation capabilities. We offer, Pre-Sales Engineering, Installation Services, Programming Services and Fulfillment and Logistics Services.

Our process to fulfil your requirements involve the following steps

- Needs analysis
- Engineering
- BOM
- preSOW /Services Quote
- Installation
- Programming
- Commissioning
- Training

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Success Story: Walmart Custom Video Distribution Solution

CDW reached out to Exertis Broadcast's Team CDW looking for video distribution solution for Walmart's TV display walls.

Engagement

After reviewing the needs with Walmart, we realized a product did not exist in production with all the features Walmart required. Exertis Broadcast then worked directly with our partner Gefen to build them a HDMI splitter to Walmart's exact specifications. The custom splitter was built, and a proto-type hand delivered to Walmart within 4 weeks to meet tight testing deadlines.

Walmart tested and moved forward with deploying in all 4000+ stores. The Walmart TV display wall have never looked better and can all be managed remotely.

The customer wanted to work with a knowledgeable partner and find a solution that would not break the bank.

Solution

We were able to provide the customer with a custom video distribution solution.

Outcome

Custom AV and Video products built to client specifications. The Exertis Broadcast team can work with our manufacture partners to design and build hardware specific to CDW customer needs.

For more information on CDW•G and Exertis capabilities, please see the following sections under UCC (Unified Communications and Collaboration) and Broadcast Studio

UCC (Unified Communications and Collaboration)

UCC video teleconferencing solutions that provide for critical infrastructure, emergency operations centers, command rooms, fusion centers, training rooms, and classrooms.

CDW•G offers on-premises, cloud-based and hybrid business communication solutions to help you create a flexible, scalable environment. No matter the environment – emergency operations centers, command rooms, fusion centers, training rooms, and/or classrooms, our vast video teleconferencing solutions help Cobb County and OMNIA Partners meet their business-critical needs. We have provided more detailed information regarding emergency operations centers and command rooms in our response to the Law Enforcement section. The needs for these types of rooms are so unique we have a dedicated Public Safety team built to address these types of engagements.

Video Communication

We can help you equip, set up and manage immersive telepresence rooms as well as formal and informal videoconferencing hubs, including cloud video bridges — all from leading partners.

CDW partners with Cisco to help you radically improve the way you keep your business moving to the cloud and help keep innovation within your grasp. With our deep expertise in Cisco solutions and a team of experienced collaboration experts, we help you understand your opportunities to move to the cloud environment while maintaining the needed CUCM on-premises requirements and providing extended support.

For organizations that are ready to move to the cloud, Dedicated Instance is an add-on service within Webex Calling that provides a bridge allowing for a cloud experience that also supports requirements such as CUCM on-premises support. CDW will provide you with support to implement this service, ensuring you are set up to meet both cloud and on-premises requirements. CDW is the partner to help from day one implementation to extended support.

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Managed Collaboration Anywhere Powered by Cisco Webex Calling with Dedicated Instance can help you achieve:

- Operational Efficiencies
- Agility
- Increased Performance

Orchestrating the Right Solution

Moving calling to the cloud can be challenging for UCM customers. The cost and burden of replacing older endpoints, rebuilding complex dial plans and integrations can be greater than any savings that can be realized by moving to the cloud. Managed Collaboration Anywhere Powered by Cisco Webex Calling with Dedicated Instance provides UCM customers a non-disruptive, low-impact migration path to the cloud. With Webex Calling you have the flexibility to distribute users across multi-tenant and dedicated instance call control, and to adjust them over time as needed to address their cloud calling business requirements.

CDW helps you integrate your organization to the cloud, allowing both cloud and CUCM functionality to work together as one platform. CDW isn't just here for implementation; we partner with you to ensure a consistent experience you can expect by providing updates and changes with our extended support. CDW is here to help 24x7x365 through our customer portal, phone or email.

Services Overview

The following services are included in Managed Collaboration Anywhere Powered by Cisco Webex Calling with Dedicated Instance Professional and Managed Services:

Table 1: Managed Collaboration Anywhere Services

Service Offered	Premium	Essential	Basic
Common Device	50%	50%	0%
CDW Services Portal	Included	Included	Included
Managed Services Customer Success Manager	Included	Included	Included
Incident/Problem Management	Included	Included	Included
PSTN Provider Incident Management	Included	Included	Included
Upgrade Management	Included	Included	Included
Firmware Management	Included	Included	T&M
Dial Plan Configuration Management	Included	Included	T&M
MACD Service	Unlimited	200 hrs/yr	T&M
Service Hours	100 hrs/yr	50 hrs/yr	25 hrs/yr

CDW•G has 20 years of managed services experience, 225 managed services analysts and engineers, and 1,000 global engineers.

Traditionally, IT organizations have been good at installing a new piece of technology but commonly fail at realizing the user adoption goals and potential of new tools. This can mean a huge financial investment goes down the drain. More importantly, the added user confusion and loss of productivity from a failed change is a huge risk. The problem hasn't consistently been one simple problem like business buy-in, technical issues, end-user training, or support staff being ready to troubleshoot problems. Instead, it has been because of a lack of targeted and coordinated planning, enablement, marketing, and communications. Our Adoption Services cover all of these aspects and bring them under a single plan and execution.

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End-user enablement is about ensuring the end-user is ready to use Cisco Webex Meetings and Collaboration Meeting Rooms (CMR). This effort includes:

- End-user training
- Training guides

As part of the Adoption Management Planning for end-user enablement, CDW•G will validate and plan the following training sessions all to be delivered via Webex with up to 20 participants per session:

- For Cisco Webex Meetings General End-User, conduct up to one (1) 90-minute training session(s) for Webex Meetings (including Collaboration Meeting Rooms (CMR)), Webex Meetings Desktop App, and iOS/Android Mobile App
- For Cisco Webex Meetings Power End-User, conduct up to one (1) 120-minute training session(s) for Webex Meetings (including Collaboration Meeting Rooms (CMR)), Webex Meetings Desktop App, and iOS/Android Mobile App
- For Cisco Webex Meetings General End-User with Video Device training, conduct up to one (1) 90-minute training session(s) for Webex Meetings (including Collaboration Meeting Rooms (CMR)), Webex Meetings Desktop App, and iOS/Android Mobile App and Cisco Video Device

For this project, CDW•G defines a **General Cisco Webex End-User** as an individual who requires training to support normal tasks for scheduling and hosting Webex meetings. The following topics are included:

- Attending meetings
- Meeting controls
- Scheduling meetings
- Hosting meetings
- Sharing content
- Joining from desktop
- Joining from mobile
- Joining from video rooms

For this contract, CDW•G defines a **Power Cisco Webex End-User** as an individual who requires an advanced level of Cisco Webex to support additional tasks such as scheduling for others in the company (i.e., Administrative Assistant leveraging alternate host) or will be a department point of contact for Webex questions. During the end-user training for Power Users, advanced topics will be covered such as:

- Alternate hosts
- Uploading/sharing files
- Meeting recording
- Whiteboarding
- Hosting from desktop
- Hosting from mobile
- Hosting from video rooms
- Permissions and panels
- Engagement tools (chats/polls)

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For this contract, CDW•G defines a **General Webex End-User with Video Device** as an individual who requires training to support normal tasks for scheduling and hosting of Webex Meetings as well as joining from video devices. The following topics are included:

- Attending meetings
- Meeting controls
- Scheduling meetings
- Hosting meetings
- Joining from desktop
- Joining from mobile
- Using Touch 10 controller
- On-screen controls/terms
- Managing single/dual self-views
- Single/dual views during calls
- Managing calls
- Contact profiles
- Layout adjustment
- Sharing content
- Attending scheduled meetings

Modernizing Today's Classrooms

At CDW•G, one of our dedicated verticals is the education sector, both K-12 and Higher Education. We understand the unique needs of the education sector, and have specialized resources dedicated to modernizing today's classrooms to provide educators and students alike access to top quality immersive and integrative technologies to bolster their learning. CDW Blueprint to Design® is an ideal tool to help districts, schools and teachers reimagine their classrooms and building space to ensure they're maximizing learning outcomes. The program was created in 2017 and helps educators navigate the addition of classroom IT products and technology and create collaborative learning environments. And since then, more than 900 K-12 schools and universities have participated in the program, including the Rochester City School District, where CDW helped design a truly modern classroom.

Our K12 Strategist, teamed with the depth of our CDW Solution Architects and Account Team, work together to helps educators figure out the best classroom design for their space, ensuring that each area has a purpose and takes advantage of the entire room. Since CDW•G is vendor neutral, and have a wide offering of different teleconferencing software, we recommend the best vendor for that given classroom, school, or district.

Broadcast Studio

Broadcast studio solutions for staff that oversee communications and public broadcast efforts which provide integration (system design engineering), fabrication, budgeting, scheduling, engineering, architectural planning (technical grounding, power distribution and facility load requirements), and equipment specification (video, audio, network and storage technologies).

CDW•G has broad capabilities across the broadcast space. While we have direct relationship with a number of top-of-the-line products in various AV categories, we have found the largest

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benefit to our customers when we utilize our trusted partner Exertis Broadcast. While this is not an exhaustive list of what CDW•G can provide in this space, we felt it was a good encapsulation of our abilities.

One of the benefits CDW•G brings to Cobb County and OMNIA Partners is our ability to orchestrate a complete solution from video to audio to networking to storage. We work with a wide array of storage providers from Nutanix to Pure, and our architects are specially equipped with an understanding of all product lines to be able to provide the best solution. We like to think of our solution architect as puzzle masters – finding all the different pieces from various manufacturers and putting them together into a masterpiece for our customers.

Further outlined below in the Law Enforcement section, CDW•G's design services, leading partner portfolio, project management and integration services are committed to providing top quality Professional Audio-Visual (Pro A/V) services to State and Local Government customers.

From Blueprint to Design, CDW•G will deliver your Pro A/V solutions into a new state of readiness. CDW•G designs promote a collaborative and collegial atmosphere as well as better decision-making. Pro A/V is more than just a matrix of inputs and outputs. Discerning users require a new level of collaboration and integration. CDW•G delivers Pro A/V solutions supporting:

- Video Walls
- Digital Display and Projection Room
- Controls
- IPTV and Video Streaming
- Production and Media Management
- Broadcast Solutions
- Digital Signage
- Video Distribution Systems

Top partners include:



Through leveraging Exertis, we ensure our customers are receiving the most up to date knowledge and emerging technologies in the broadcast studio space. Like any engagement where we work with partners, the customer, in this case Cobb County and OMNIA Partners, will continue to have their single point of contact with their CDW•G Account Manager. The Account

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Manager will bring together the customer and Exertis to full scope out the requirements of the project and ensuring alignment with the end goal.

Exertis Broadcast is CDW's Video and Pro AV expert. Exertis Broadcast is staffed by industry experts who provide CDW with complete sales support and AV video workflow solutions including system design, needs analysis, demos, proof-of-concept, and on-site client consultation.

Exertis Broadcast has a team of sales, engineering, marketing and support staff dedicated to CDW. They work with CDW Account Managers, Business Development, Partner and Product Management, Solution Architects and Consultants daily to specify AV and video projects for their end users. Exertis Broadcast meets with the CDW end user for project needs analysis, providing a complete design of their video workflow.

Pre-sales engineers will also provide product demonstrations, assist with setting up and supporting proofs of concept, and consult with you to establish AV and video technology standards across the organization.

The Exertis Broadcast team provides post-sales support and training once the project is commissioned. They provide a full turnkey solution for many of our solutions including installation, commissioning, maintenance and training services.

Exertis Broadcast provides technical support for CDW's Field Solution Architects and Inside Solution Architects for system review and design verification with their video and AV solutions. Exertis Broadcast can go onsite with or without CDW to support the project, provide needs analysis, presales support and consultation.

The Exertis Broadcast team works daily to grow CDW's video and AV practice with the addition of new partners. We have added several partners over the past year to augment CDW capabilities.

New partners added in the last 12 months include:

Table 2: Video and AV Partners

New Partners			
Allen & Heath	Atomos	Birddog	CADAudio
Castus	ClearCom	Clevertouch	Epiphan
Focusrite	Lume Cube	Mackie	Panopto
PrompterPeople	Vitect		

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Law Enforcement

Public safety solutions such as in-car video, body worn cameras, license plate recognition, mobile computing, city surveillance, and digital evidence management.

Technology has come a long way from being merely a convenience to being a must-have for public safety. Today's offerings can raise operational efficiency, ease the constraints of distance, speed critical communication and heighten safety for everyone. But transformation can be difficult. Between technology's rapid-fire changes and public safety's inherent rules, needs and challenges, you need a special kind of knowledge to make IT perform — without having to be an expert.

CDW•G for Public Safety: Expertise That Works

Your mission is safeguarding the public. Ours is helping you do it. We are a specialized practice devoted to public safety issues, with more than 10 years and hundreds of engagements to our credit. Our team of dedicated account managers will guide you to the most impactful choices, address all the requirements, policies and strategies you face every day, and show you how the pieces fit together.

First responders save lives and protect property every day. Technology challenges involving mobility, data interoperability and information sharing may hinder those efforts. But where does an agency start? What are their options? How do agencies obtain tech that works for wherever, whenever? The answers to these questions are the purpose of the CDW•G Public Safety Team.

At CDW•G, we collaborate with fire, police, emergency medical services, emergency management and other agencies to help them understand their options. A little guidance goes a long way, and our knowledge and expertise in deploying technology will support decision-makers in choosing public safety solutions.

Modern-day emergency management and first response requires fast and always-available access to information. Without it, police officers, first responders, and emergency personnel are at a disadvantage against criminals and natural disasters alike. Innovative digital solutions provide new, engaging approaches to fulfilling missions and keeping communities safe. Things are constantly changing but one constant that has remained throughout the last two decades is that Major Events Drive Digital Trends. Highlights in recent American History prove the axiom. Examples include;

- The 9/11 Attacks — Recommendations were brought forth from the 9/11 Commission Report but the standout topic in technology was Radio Interoperability
- Hurricane Katrina — Demonstrated the need for more resilient data and radio communications capabilities as well as more robust disaster recovery plans
- The active shooter at Virginia Tech University — Ushered in a mad dash to acquire citizen alert and notification systems
- The Boston Marathon Bombing — Revealed gaps in the ability to perform analytics on video and image big data
- Officer involved shootings and in-custody deaths in Ferguson, Mo., New York, Baltimore and Charlotte — Drove federal involvement resulting in proliferation of body worn camera deployments

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- COVID 19-Pandemic and Civil Unrest — We are only beginning to comprehend the impact

Covering the Spectrum of Capabilities

Video

Cut travel time. Reduce resource allocations. Raise situational awareness and speed response. Do remotely what was once possible only in person.

- In-vehicle video, capture and management
- Body-worn cameras
- Interview room monitoring
- Fixed security
- Surveillance
- Analytics
- Collaboration and telepresence
- Case management
- Cloud solutions

Mobility

Accelerate collaboration and communication from anywhere.

- Mobile data laptops and tablets
- Data collection and scanners
- Mobile printing
- GPS and automatic vehicle location
- Mobile access routers
- Wi-Fi solutions
- Advanced authentication
- Virtual private network mobile software
- Cloud solutions

Data Center

Support growing data loads. Ensure enough bandwidth for increasingly complex communication. Keep it all secure.

- Servers and storage area networks
- Hyperconverged infrastructure
- Backup and recovery
- Virtualization
- Cybersecurity
- Unified communications
- Enterprise wireless
- Alert and mass notification systems
- Power and cooling
- Cloud solutions

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Digital Workspaces: Creating a better user experience while streamlining device management and improving access to information

- Handheld and Mobile Data Terminals
- High Performance Workstations
- Mobile Gateways and Routers
- Virtual Desktop and Application Delivery

Mission Effectiveness: Digital Transformation yielding force multiplication, force protection, and delivering more rapid positive outcomes

- Cyber and Physical Security
- Collaboration, Data Center, and Cloud Strategies
- Communications Infrastructure, ESINet, Radio Backhaul
- Surveillance, Recognition, and Evidence Management

Command, Control & Intelligence

- Mission Critical Operations Centers
- Data Visualization & Analytics
- Situational Awareness Planforms
- Mobile & Deployable Solutions

Major Public Safety Events Drive Digital Trends. CDW•G's Next Generation Public Safety approach addresses not only those trends from the past but aids agencies in preparing for whatever is next. Next Generation Public Safety is best described as a process of efforts towards Digital Transformation in Government and is a continual, phase-based effort from Assess & Envision through Planning & Design culminating in Implementation & Optimization. The achievable goals of Digital Transformation include:

- Decreased maintenance and improved operational efficiencies may relieve technology staff of mundane systems management tasks allowing for greater resource effort applied to evaluation, innovation and adoption activities.
- Long-term cost savings can be applied to new investments in deep learning and artificial intelligence. Elevating the safety and security posture and improving compliance adherence offers unquantifiable rewards and helps in eliminating distractions.

The overarching goal of Next Generation Public Safety Transformation is the development of a State-of-Readiness that provides the flexibility to adapt to future innovation. Rapidly absorbing those technologies today that are considered novel is a lofty goal. In the transformational era of tomorrow this capability becomes a general requirement. Nothing should be able to disrupt the digitally transformed agency.

It is today's technology challenges that propel our CDW•G Public Safety Team forward. Since 2005, the CDW•G Public Safety Team has been delivering technology solutions supporting mission critical environments in Emergency Management, Fire & Rescue, Emergency Medical, Law Enforcement as well as the Critical Infrastructure protection. Our focus has changed over the years to keep pace with the challenges of the day. The one thing has remained the same is that Public Safety agencies large and small turn to CDW•G to assist in developing solutions supporting Mission Critical operations.

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Figure 11: CDW•G Public Safety Service Timeline

Public safety begins with an experienced and well-briefed sales team who comprise the primary point of contact for all of our customers. The sales teams are supported by a host of solution architects from a variety of disciplines and Public Safety Strategists that provide customers, CDW•G personnel and partners with subject matter expertise. Our comprehensive approach includes:

Supply: We have a large inventory of technology items you use every day

Design/Build: Our Solution Architects can help you through the myriad of choices with respect to designing the solutions necessary to develop the next generation of public safety tools

Contracting: Reduce the administrative cost, required span of control and headaches in your next project with a single agreement and responsible party delivering what you ask for

Strategy Development/Envisioning: Moving into real time policing, developing a new emergency operations center, security center or tactical operations center. Our Senior Strategist can help you develop and document a plan of action.

We Get Mission Critical Operations

Historically, Mission Critical Operations in Public Safety Work have included emergency operations centers, dispatch or communication centers, fusion centers, and the standard agency data center. The last decade has given rise to a new breed of operation center including those supporting real time crime fighting, joint task force collaboration, cyber intelligence and excellence as well as network operations. Regardless, these centers are where people and advanced technologies intersect.

Enhanced situational awareness, data correlation and decision support systems combine to aid in visualizing a common operating picture in the next generation of Operation Centers. The end-game to this is force protection, force multiplication and the rapid delivery of positive outcomes. At the end of the day, next generation technologies widen the view of operations by integrating advanced data analytics with video surveillance systems, sensors and other technologies that gain better situational awareness.



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CDW•G and its powerful partners expand the value of these technologies delivering hindsight, insight and foresight to Public Safety.

In preparing for the demands of tomorrow, a Next Generation approach is required to address the priorities of today. These must include future challenges. Solutions must also always work. It will not do for a critical solution to fail during a major response. The CDW•G and Partner designs keep that thought at the forefront.

CDW•G provides Technology Design/Build & Prime Contracting Services for the completion or rehabilitation of Mission Critical Operation Centers. We understand the importance of recognizing the unique needs of Law Enforcement, Emergency Management and Fire/Rescue. CDW•G provides solution sets which give our customers a near future-proof platform for placing critical information into the decision-making process.

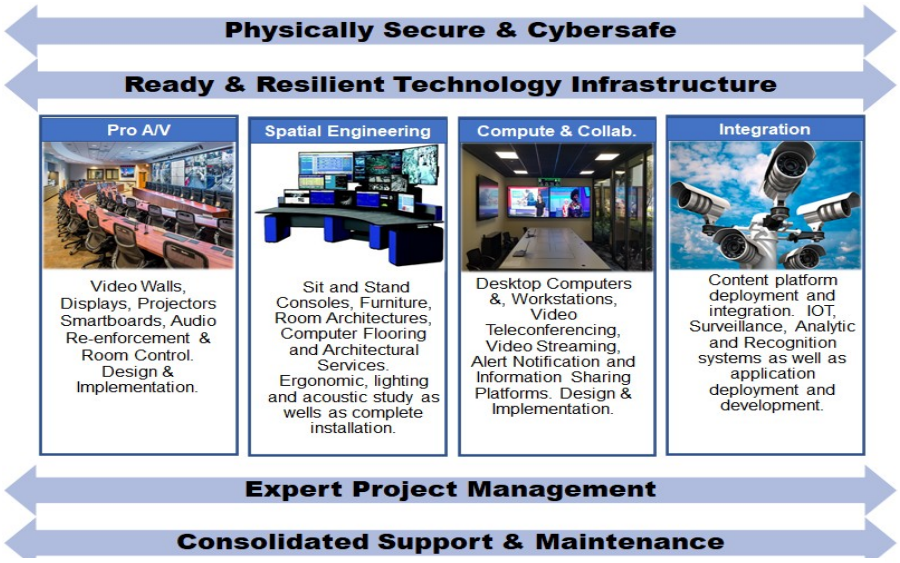


Figure 12: CDW•G Public Safety Offerings

We Get Spatial Engineering

Our spatial design strategies consider how people are routed throughout your work center daily and during times of crisis to maximize optimal communication between operators and key stakeholders. When you choose to employ our experienced team of spatial engineering partners, we will work together determine the configuration that best supports your organization's communication and collaboration objectives, ensuring continuity of operations and minimizing the impact of the upset condition. Our public safety console environment solutions are designed with the operator in mind.

An operator's comfort is paramount to their productivity and overall health. Our ergonomically designed control room solutions encompass a variety of self-adjustable components and accessories, which are designed to be an extension of an individual's day-to-day operations.

Our partner solutions enable greater environmental controls such as temperature and fan controls, height adjustments, lighting, and other elements to mitigate fatigue and improve operator alertness. Our situational lighting solutions enhance communication, awareness, and coordination, which support effective incident deployment strategies amid emergencies.

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CDW•G and its partners provide ergonomic solutions and spatial engineering services to transform your next center into a state-of-the-art facility. We lead the overall center design/build efforts, in conjunction with industry leading partners. Partners we work with often include:



Figure 13: CDW•G Spatial Engineering Sample

We Get Situational Awareness

CDW•G partners with leading software companies to provide for a myriad of solutions to help our customers solve their problems. Workflow management, citizen portals, asset and inventory management, dispatch, records management, and situational awareness platforms can all be implemented by CDW•G and its partners. A common operation picture (COP) is a continuously updated overview of an incident compiled throughout an incident's life cycle from data shared between integrated communication, information management, and intelligence and information sharing systems. The goal of a COP is real-time situational awareness across all levels of incident management and across jurisdictions. The objective of a COP for support in a coalition environment is to decrease the Decision Cycle Time (OODA loop - Observe, Orient, Decide, Act). Cobb County and OMNIA Partner Law Enforcement Agencies need their agents, analysts, first responders, and officers to be able to make decision quickly and efficiently, with accurate information. CDW•G understands this need and our applications help to orient data , create the Common Operating picture, and allow life-saving decisions to be made.

The needed data often exists in multiple legacy solutions, on the web and in an unstructured form. Making sense of the data and achieving the ability to turn data into actionable intelligence in real-time takes a great deal of integration.

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CDW•G and its partners provide the platforms to get started quickly as well as the integration, development and orchestration expertise to move forward ahead of the pace of change. CDW•G has a long history of developing Microsoft-based solutions into usable applications for emergency management and law enforcement. Our recent acquisitions of IGNW, Aptris, and Aeritae are evidence of CDW's continued commitment to providing world-class software development, integration and orchestration services.

CDW•G works with industry leading partners within the situation awareness platform, including:

We Get Surveillance

Video surveillance capabilities have come a long way over the years. Legacy systems, made up of cameras and digital video recorders, primarily captured and replayed past events, limiting organizations to a reactionary security approach. Enhanced by analytics software, today's video surveillance solutions give organizations the tools they need to take proactive safety and security measures. The benefits now include utilizing surveillance to ease road congestion or monitor high pedestrian traffic areas, enhanced video surveillance enables digital transformation across every agency type, and more.

By integrating advanced data analytics software and Internet of Things (IOT) sensors with IP-based cameras and video management systems, CDW•G expands the value of surveillance technology. That means Cobb County benefits from not just hindsight, but also insight and foresight.

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HINDSIGHT:

WHAT HAPPENED?

With traditional, forensics-based applications for video, you can investigate a recorded event, identify a bad actor, monitor facilities, analyze a complete process in a system or validate that a system worked as planned.

INSIGHT:

WHAT'S HAPPENING NOW?

Video analytics can elevate your security team's situational awareness and enable you to identify and react to events in real time. Analytics can unlock operational value by monitoring the flow of people, goods, or processes and triggering a response based on predetermined criteria.

FORESIGHT:

WHAT WILL HAPPEN NEXT?

With predictive analytics, you can leverage video data to identify trends and forecast events, giving your team foresight into the next threat and helping operations pinpoint future process flaws to improve decision-making.

Some of the leading manufacturers CDW•G partners within this space include:

Mobility

Mobility services to keep users connected, responsive and secure such as email protection, download prevention, containerize content on devices, self-destructing content, and content linked back to the user.

Procuring, configuring and refreshing mobile devices across different operating systems and carriers can be a challenge. From smartphones, tablets and notebooks to routers and point of sale systems, we can help you integrate your software and services to get the most out of your devices.

Configuration and Activation

CDW's configuration experts work with your IT staff and your carriers to ensure your enterprise mobile devices are automatically activated, enrolled and ready to use right out of the box. We

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offer software configuration and imaging services for Windows, iOS or Android, and our tagging, tracking and laser etching services help you streamline asset management.

Procure and Provision

Our Mobility Management Portal simplifies administration of devices, including selection, deployment, expense management and help desk services. Employees can order from a predefined catalog, perform upgrades or make changes to existing services — all in accordance with your internal mobile device policies.

Device as a Service (DaaS)

DaaS gives your organization fully supported, customized devices for a monthly subscription fee, allowing you to shift procurement costs to an operating expense. We'll take care of managing technology refreshes, securing your devices, procuring management software, providing help desk services and recycling devices.

Why CDW•G

Unmatched Expertise

Our mobility experts have helped thousands of customers craft BYOD and mobile device policies from the ground up.

Flexible Financing Options

We will work with you to determine the best financing method for your organization, be it a traditional purchase, lease or through a monthly subscription.

Industry-Leading Partnerships

Our partnerships with the industry's top mobile providers give you access to the widest selection of devices, mobile OS and carriers — with top-notch customer service to boot.

Mobile App Development and Strategy

Mobile apps are both an opportunity and a challenge for organizations looking to improve worker productivity and customer experiences. A solid mobile application strategy, from procurement to management to development, will put you ahead of the competition.

Our Enterprise Mobility Management (EMM) and workspace collaboration solutions can help you manage and secure your mobile environment across multiple devices and platforms.

Our Mobile and Productivity App Services

The ubiquity of smartphones and tablets has changed the way organizations deliver information. We can help mobilize your operations to streamline workflows, boost productivity and reduce expenses. **App Strategy**

Before your organization selects off-the-shelf or customized apps, we'll help you develop a strategic view of your mobile app initiatives. We'll help you map deployment and development decisions based on your needs, budgetary constraints and IT infrastructure. Your custom app strategy will serve as a critical roadmap as you migrate to a more mobile environment.

Mobile Application Development

Mobile app development allows your organization to meet stringent requirements around performance, functionality and user experience. Our partner network of tier 1 developers provides native, HTML5 or hybrid apps based on your needs. Additionally, we offer Mobile

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Application Development Platforms (MADP) for organizations that want the tools to quickly create, deploy and maintain apps in house.

Your Custom App Store

Give your employees a central point of access for the apps and tools they need to be productive. Your centrally managed and custom-branded app store can include both IT-approved, off-the-shelf apps and custom-developed mobile apps.

Content Sharing & Management

The right file-sharing and online collaboration tools can help you tap into vital knowledge instantly and share it throughout your organization. Our cloud-based software as a service (SaaS) solutions can help encourage innovation and build relevant communities while maintaining the security of your corporate data. Choose from top partners such as Box, Google Workspace and Office 365.

Office Productivity Apps

How can you get more from your employees and your budget? For many organizations, it means getting a little creative. It means embracing innovation. It means moving software to the cloud with SaaS productivity apps. We can help you select the right productivity app and design a customized, scalable solution that grows with your business.

Enterprise Portals

Enterprise portals give your organization a single, secure place to store, organize, share and access information from almost any device. Web-based SaaS portals enable online collaboration — anywhere, anytime. We'll help you customize an enterprise portal that fits your needs, budget and business goals.

Strategies Designed for Growth

Our collaborative approach to enterprise mobile apps prioritizes your objectives, budget and timeline. We'll help you design a comprehensive mobile app strategy with simple management tools, robust security and scalable features that evolve with new technologies.

Cross-Industry Expertise

We have specialized teams across a number of industries — including retail, healthcare, energy and utilities, and K-12 and Higher Education. Our experts can help you mobilize existing workflows and unlock new strategies that transform the way your team works.

End to End Services and Support

Our planning services and assessments ensure your productivity strategy is aligned with your business goals. We also offer full implementation, training and adoption services to help your employees mobilize faster, giving you a better return on your investment.

Mobility Management, Collaboration, and Security

We provide a full range of proven mobile device management and collaboration tools as well as end-to-end security from the industry's leading providers. We help you simplify mobility management and mitigate risks so you can spend less time on tasks and more time on projects.

Enterprise Mobility Management (EMM)

EMM takes the burden of day-to-day mobile management off IT's hands and empowers workers with uninterrupted access to the tools they need. Our mobility management and security

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services include mobile device management, mobile application management, mobile content management, custom app stores and mobile device policy definition.

Mobile Workspaces

Many clients are turning to mobile workspaces for secure mobility. We offer leading workspace solutions including desktop virtualization, application virtualization, EMM and file sharing, all supported by our professional services to ease selection and deployment.

Procurement and Expense Management

In addition to simplified procurement of devices, our Mobility Management Portal provides help desk services — including phone, online chat and self-service support — as well as expense management services with custom reporting to ease the burden on your IT staff.

End-to-End Security

With more than 15 years of experience with security solutions, our mobility and security teams work together to provide risk mitigation advice, including network and mobile security, data loss prevention and advanced threat protection technologies.

Streamlined Productivity

Our custom solutions give you device management, app store and sign-on options, as well as the option to grant users access to legacy applications without the cost of mobile app development.

Simple Payments and Cost Controls

With Mobile Expense Management, you can automate the tedious review, approval and payment process. You can also get insight into cost-saving opportunities and alerts about compliance issues.

Industry-Leading Partnerships

We work with the industry's leading brands, giving you unmatched choice and expertise in selecting the best mobility management, collaboration and security solutions.

Work From Home (WFH)

Work from home productivity involves more than just a functioning laptop. Networks need enough capacity and secure endpoints for workers to access their files and applications from anywhere, and employees need access to cloud applications to take full advantage of the collaboration tools available to them. CDW can help you build or expand your WFH strategy so employees can accomplish more in more places.

An example of a tool to work from home is Zoom

Together, Zoom and CDW bring you the communications technology your business needs to evolve.

Business Communications

CDW can help you develop a flexible collaboration solution based around your Zoom platform, to fit your user needs and goals.

Digital Workspace Consultation

Available free of cost, CDW's collaboration workshop lets you explore your full Zoom capabilities and develop a customized communications strategy.

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Digital Workspace Services

Whether your communications are in the cloud, on-premises or a hybrid solution, CDW Amplified™ Workspace services meet you where you are, with comprehensive support.

Asset Management

Asset management solutions to identify and manage installed software, hardware and license entitlements.

We Understand IT Asset Management

IT Asset Management (ITAM) is a set of processes and tools that enables organizations to manage their IT assets on an ongoing basis, so that they can establish controls, gain visibility into their environment, optimize costs, and maintain license compliance.

At CDW, our wide range of IT Asset Management solutions is customized to assist Cobb County in maturing your own Asset Management practice, while always aligning to Cobb County's specific business goals.

These are the Elements of Successful Asset Management



Figure 14: Elements of Successful Asset Management

Our IT Asset Management Strategy Focuses on Four Solution Types:

Project Based Engagement

Gain Visibility Into Your License Position.

This customized engagement helps ensure that you gain control of your software environment, by providing an Effective License Position (ELP). Great for True-Up and Renewal time!

Maturity & Risk

Start Planning Your ITAM Strategy And Understand Your Risk

Identify the stakeholders, policies and inventory processes at the heart of your ITAM practice.

Technology Platforms

Using Industry-Leading Platforms for Successful Asset Management.

Having access to accurate, real-time inventory data empowers better decision-making and drives business outcomes

Ongoing Solutions

Our Ongoing Services Are Tailored to Your Business Needs – Increasing ROI

Customized engagements that ensure consistent visibility into assets and drive continuous improvement

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ITAM Maturity Assessment

With such a large portion of their IT budgets dedicated to software, organizations need a way to manage hardware and software assets on an ongoing basis. CDW's IT Asset Management (ITAM) practice offers a focused approach to tracking the location and configuration of IT assets, helping organizations not only optimize costs but also maintain license compliance, streamline contract negotiations, support mission-critical technology rollouts and prepare for digital transformation

CDW's Asset Management Maturity Assessment combined with our proven engagement framework allows us to help our customers:

- Define a vision for a successful practice
- Document recommendations on policy/process/procedures
- Build a roadmap for implementing your Asset Management practice
- Improve service levels
- Provide the ability to optimize costs and utilization of assets
- Ensure supply meets the demands of the business and that IT assets directly support specific business productivity requirements in the most efficient and reliable way possible
- Mitigate risks associated with governance practices, compliance requirements, and business continuity
- Provide the ability for true cost allocation

Building Long-term Capability Through Technology

CDW recommends using an industry-leading Asset Management technology platform to manage and discover your environment. Our goal is to align the appropriate technology to help meet your business goals and drive IT initiatives. Our strategy includes:

- Understanding your existing investments in asset management
- If no asset management technology is in place, we can then assist in making technology recommendations, aligning resources for product demonstrations, and working with the vendor to set up proof of concept.
- Working with Cobb County to understand short and long-term business goals
- We can help Cobb County assess if your current investments are able to achieve these goals.
- Assessing additional applications
- We can help evaluate whether integration with specific business applications and/or systems are required to support you.

Empowering Your Practice

Continuous improvement and internal communication are key in a successful ongoing Asset Management program. With an IT platform as the foundation, CDW can provide customized, ongoing consulting that can positively impact a customer's ROI.

Ensure Proper Communication

With our partners at Universal Management Solutions (UMS), we can work with Cobb County to design an ongoing IT Asset Management (ITAM) strategy and support services- so you can focus on more strategic IT efforts.

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Ensure All Cobb County's Publishers Are Listed

We can ensure that Cobb County is spared the ongoing process of publisher contract management, or we can focus on just a short list of concerns. We can be flexible to accommodate Cobb County.

With visibility gained into the entire publisher environment, CDW will identify the redundant products in your environment, allowing for rightsizing your licensing investments

Software Management and CDW

With assessments, technology validations, deployments, ongoing management and experts on-hand. CDW can help with every phase of the software solution. Our services and specialists include:

- **Test Assessment and Roadmap:** We develop a three-year roadmap for your customer's software environment with assessment and envisioning sessions, proofs of concept, health checks, product and licensing program comparisons, contract negotiation and image processing services.
- **Onsite Software Deployment:** Our experts install and configure Cobb County's on-premises software for desktops, notebooks, tablets, smartphones, servers and routers.
- **CDW Software Asset Management:** Hosted by CDW and powered by Snow Software, our license management service gives customers a clear view of the software being used across their devices.
- **Software Asset Management (SAM) Specialists:** Our certified SAM specialists analyze customers' licenses and provide reconciliation services to help them understand where gaps exist between entitled and employed licenses.
- **Licensing Account Executives:** Experts perform onsite reviews of the software environment. We use this information to recommend the best products and licensing programs for your budget, and help manage those assets throughout the contract.
- **Partner and Technical Specialists:** During initial consultation, our presales systems engineers answer any in-depth software, licensing and technical questions.

Data Protection

Data protection to protect, backup, recover and archive data and applications.

Data is your organization's most precious asset, but storing and protecting that data can be a challenge. Your IT team must contend with a laundry list of internal and external threats while also managing increasingly complex hybrid storage environments. Those tasks are made even more difficult when you consider the growing number of data-intensive applications your users depend on every day. Overcoming data protection and storage hurdles requires solutions and services that suit your needs and environment, as well as a trusted partner like CDW that can help you navigate your options.

Investing in storage through CDW can help address:

- Risk
- Agility
- Cost

Partnering with CDW for data protection and storage can help you achieve other key organizational and IT objectives, including:

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- Mitigating risk
- Managing storage resources productively
- Supporting diverse user requirements
- Maintaining cost controls

Why You Should Partner with CDW

Because every dollar counts, your organization needs to maximize the value of its data storage and protection investments. CDW's tenured and certified solution architects can build a customized plan that ensures you unlock the storage performance and resilience you need within your preferred budget and spending model. We also deliver:

- Vendor-agnostic expertise driven by our industry-leading partnerships
- A full-stack approach that supports you at every stage of your journey
- Dedicated support from a team that's worked with organizations of all sizes

Energy and Water Conservation

Energy and water conservation solutions to deploy advanced metering infrastructure (AMI) systems designed to measure, collect, analyze and monitor usage real time. Examples of projects include automated meter projects, SCADA (Supervisory Control and Data Acquisition) projects, and security projects.

CDW has long been conscious of our impact on the environment especially regarding our energy consumption, and we have taken significant steps to effectively manage our consumption of resources and lessen our environmental impact.

ISO 14001:2015 Certification

Our environmental policy and Environmental Management System (EMS) define the structure, practices and procedures for our environmental program. As part of our commitment to continuous improvement, we regularly evaluate the efficiency of our use of natural resources. We seek to identify and address opportunities to improve by reducing waste to landfill through enterprise-wide recycling initiatives, implementing innovative packaging solutions, and integrating principles of environmental responsibility throughout our business.

All CDW distribution centers and two of our U.K. offices hold ISO 14001 certification, the international standard for Environmental Management. These certifications ensure consistency and effectiveness in our EMS and demonstrate our long-established commitment to managing our business responsibly.



Figure 15: ISO 1400 Certification

Energy Management – Carbon Emissions

At CDW, we look for opportunities to make meaningful reductions in our carbon footprint. Given the non-manufacturing nature of our operations, our facilities do not represent our greatest source of emissions. Rather, shipping and logistics functions present an opportunity for us to focus on carbon emission reductions through our relationships with value chain partners. Approximately 98% of our US shipments are delivered by carriers enrolled in the US EPA SmartWay Transport Partnership, which helps companies advance supply chain sustainability by measuring, benchmarking and improving freight transportation efficiency.

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We also have programs aimed at consolidating freight volume and reducing the number of shipments and vehicles needed to complete a delivery, which enables our carrier partners to reduce carbon emissions.

beGreen Program

CDW implemented a formal beGreen program to foster a culture of environmental responsibility that encourages coworkers to reduce, reuse and recycle. Our beGreen initiative provides coworkers with the platform to share ideas and take collective action to improve our environment. Areas of focus include:

- Coworker education
- Community awareness
- Recycling
- Resource conservation

Figure 16: CDW•G's beGreen Initiative

Our beGreen program continues to provide coworkers with a platform to share ideas and take collective action to protect our environment. The program is managed by a cross-functional team of coworkers from multiple CDW locations, and participation continues to be strong since its inception 13 years ago.

Reducing and eliminating waste through recycling, wherever possible, is ingrained throughout our organization. Our coworkers develop and lead efforts to help reduce waste to landfill from personal consumption and business use. Our dedicated beGreen staff continually looks for more ways to be environmentally responsible.

Financial Services

Financing options such as lease, lease to own, lease with option to own, and IT as a Service.

CDW•G's Financing Solutions Team helps members navigate through all the available payment solution options (leasing, financing, subscriptions, etc.) CDW's Financial Partners provide to select the best option to fit the customer's needs. For members with a Master Lease Agreement established, we more than likely have a partnership in place with their provider, or can establish one, to extend their existing agreement to incorporate purchases from CDW•G. We are a recognized force with many of our Financing Partners, such as our 2017 HP PartnerOne Financial Services Partner of the Year Award and the 2019 Cisco Capital Central Partner of the Year Award. Often, we leverage relationships with our partners to offer more advantageous rates, terms, and structures. For members that have diversity requirements to meet, we can recommend WBE certified partners.

At CDW•G, we focus on providing the best solutions in the industry—not simply the latest solutions from a single provider. CDW•G can facilitate an agreement between Cobb County and a variety of leading financing companies that can help you obtain the payment terms that best fit your unique needs and budget requirements. Cobb County can secure a payment solution structure with maximized options and terms. Our Premier Financing Partners include:

- Arrow Capital Solutions
- Cisco Capital
- Dell Financial Services

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- HPE Financial Services
- Lenovo Financial Services
- LEAF Commercial Capital, Inc.

Success Story: IT as a Service

United States Census Program



The Decennial Census is a once-a-decade activity that takes years of planning to carry-out the largest peacetime workforce mobilization in the US. CDW•G began developing and planning our technical and operational solution in 2015, well in advance of the 2017 contract award date. The US Census Decennial program mission is a Constitutionally mandated program established to accurately count each person in the US and count them only once. This is accomplished over a series of Census Field operations carried out across the USA and its territories with the final objective to provide the complete Census report to the US President by end of year.

Since 2017 DW•G has been providing the US Census Bureau mobile technology under a large **Device-as-a-Service** prime contract. This contract includes full life-cycle technology management from leveraging CDW•G's ISO accredited secure supply chain practices to acquire, configure, test, ship and recover/disposition over 650,000 mobile devices. In addition to cellular assignment and activation, CDW•G also provides device security via Mobile Device Management with active tracking, monitoring and managing of the very large fleet of deployed devices. CDW•G also offers Program Management, Technical solution architecture (Win10 and iOS), Asset Management, Contract and Subcontract management, consolidated shipping and reverse logistics, and Tier 2/3 Help Desk support.

CDW/CDW•G have maintained performance throughout the COVID 19 pandemic and have shared with our Census customer our best practices utilized to ensure that there is no disruption in our services. We proposed 7 Small Business/Diverse suppliers and have subcontracted more than 20% of the program total to SB entities.

Other Services and Solutions

Services and solutions not listed above that may be proposed by Offeror.

As organizations face limited time, budgets and talent to tackle the ever-growing list of challenges running their day-to-day operations, IT leaders need a way to handle priority projects without overtaxing internal staff. CDW Staff Augmentation and Ad Hoc Support Services help meet the demands of your organization in unique ways. We provide skilled staff to augment your team with expertise in a wide range of technologies, offering an objective view of IT that ensures you'll always receive the right solution to your problems — not just the one that's convenient.

CDW AMPLIFIED™ Services Portfolio

Cobb County and Omnia Partners will benefit from accessing a comprehensive set of services that offer an unparalleled breadth of services. Our portfolio of services includes data center, networking, hybrid cloud, end user workspace and collaboration, application development, data analytics, and technical support and service desk services. Our services are purpose-built, with pre-defined service descriptions, statements of work, deliverables, service level objectives, and

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pricing. The benefit for your members is the ease they can transact with CDW•G from solution planning to service startup.

A summary of our entire Services portfolio is presented below.

CDW AMPLIFIED™ Infrastructure Services provide the expertise, tools, and resources to scale and future-proof Members' critical data center and network architecture. For example, our service engineering can help scale and optimize an existing on-premise data center to meet increasing application workload or design and implement a solution for migrating applications and infrastructure to a hybrid cloud solution. With the acquisition of Aptris, CDW now provides ServiceNow services for the design, orchestration, and management of customer's ServiceNow applications, including ITSM, ITOM, SecOps, CSM, and HR Management. Our entire Infrastructure Services portfolio includes:

- Networks: Enterprise Data Center Networking, Software Defined Networks (SDN), Wireless Networking
- Hybrid Cloud: Hyperconverged/Private Cloud Deployments and Public Cloud solutions for Azure and AWS Services
- Operating System (OS): Management administration of virtual/physical server and OS, Infrastructure Application support, Database Services, and ServiceNow Services.
- Data Center: Power/Cooling, Storage, Compute, Data Protection, Virtualization, Software-defined Data Center and Networking

CDW AMPLIFIED™ Workspace Services provide a comprehensive approach for end users, educators, and students to work from anywhere, on any device, at any time. Our two configuration centers can support complex deployments, including staging, imaging, integration, kitting, and deploying up to 10,000 devices per day. Workspace Services also provides integrated solutions for managing the security risks to endpoint devices to remain productive and secure. Workspace Services includes:

- Collaboration: Voice, Video, Messaging, Conferencing, Contact Center, Productivity Applications, and Content Management.
- Endpoint Services: End User Compute, Mobility, Unified Endpoint Management & Security, and Managed Print Services

CDW AMPLIFIED™ Security Services help customers with ever-evolving security threats and maintains compliance with their industry and regulatory standards. Cybersecurity risks are higher than ever, and organizations require continuous defense, detection, and dynamic responses against evolving threats while maintaining industry compliance. CDW Amplified™ Security services provide independent evaluations of a customer's security posture and help fortify against identified weaknesses. Our security engineers can design comprehensive strategies and solutions for protecting critical IT resources and data. Our security engineers hold certifications in CISSP, CISA, CISM, CIPP, Ethical Hacking, ISO Auditing, and ITIL.

Our Professional Services can orchestrate advanced network defense techniques such as next-generation firewalls, advanced endpoint protection, content security, and access management. Security Services includes:

- Information Security: Risk and compliance assessment, penetration testing, and comprehensive security assessments, vCISO advisory services
- Detect and Respond: Security Incident Response services, Log aggregation and Correlation, Security Incident and Event Management (SIEM)
- Physical Security: Physical access controls, Video Surveillance, Environmental Sensors

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- Secure Platform: Managed Next-Generation Firewall (NGDW), Intrusion Protection System (IPS), Identity and Access Management (IAM), and Network and Managed Zero-Day Endpoint Protection
- Managed Cloud SIEM with vulnerability and threat intelligence, advanced analytics, prioritized alerting and reporting, and end-to-end incident response

CDW AMPLIFIED™ Development Services help customers address their growing technical debt in their legacy application stacks and software delivery processes. Development Services provides modern, cloud-native technologies and industry-leading best practices to allow customers to develop applications that revolutionize their infrastructure and solve business issues. CDW Amplified™ Development Services help our customers modernize and streamline their application delivery with the following services:

- Software Engineering: Custom Software Design and Consulting, Application Architecture, Agile Development using DevOps, and software engineering utilizing Continuous Integration/Continuous Development (CI/CD) methodologies.
- Application Modernization: Refactoring legacy applications to modern application principles using containers, microservices, and event-based architectures.

CDW AMPLIFIED™ Data Services help customers make data-driven decisions by leveraging the benefits of a modernized data warehouse. Data Services also provides Artificial Intelligence (AI) and Machine Learning (ML) services for clients to develop actionable insights and realize the full benefit of their data warehouse. Data Services includes:

- Data Modernization: Builds solutions to modernize Data Warehousing applications using multiple vendor platforms
- Data Analytics: Creates advanced data visualizations and analytics solutions utilizing vendor platforms from Microsoft, AWS, Google, Splunk, and Tableau
- AI and ML: Builds and deploys AI/ML solutions for operationalizing customer data that can help predict and proactively respond to emerging market trends and demand

CDW AMPLIFIED™ Support Services deliver custom warranty, maintenance, and technical support services that augment a customer's IT staff so they can focus on maximizing business outcomes. Support Services includes:

- CDW Technology Support Service (CTS): Provides a 7x24 single point of contact support for technical and maintenance support on Cisco, Microsoft, and Palo Alto Networking products. Our expertise provides faster response times and more cost-effective solutions when compared to OEM branded technical support.
- E-Learning Technical Support: Our IT and AV support professionals provide a highly responsive Level 1 service desk for Educational institutions that rely on hybrid or remote learning for their student's educational needs.

Staff Augmentation Services:

Many managed service providers offer IT staff augmentation as part of their service offerings. What differentiates CDW•G's Technical Resourcing is our 20+ years of experience providing IT services and solutions and our sole focus on Information Technology and Engineering resourcing. As an IT engineering company that provides advanced Application Services, DevOps, Cybersecurity, Cloud Architecture, and Big Data, we understand the skill sets and experience a member needs. Members can be confident in CDW•G's ability to identify candidates that meet the technical requirements of the role. This level of technical acumen uniquely positions us to help Members fill their most challenging IT staffing requirements seamlessly and expediently.

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We use the same recruiting team to attract candidates for internal postings and customer positions. This provides us a competitive edge compared to other staffing firms that do not have the domain knowledge or bench of proven candidates. Our strength and value lies in providing a white-glove experience compared to other staffing MSPs. Our recruiters do not just gather and forward resumes from job postings. Instead, each recruiter discusses the role with the hiring manager to understand both the client culture and the soft and hard skills needed for a successful placement. Our goal is to respond with one to two quality candidates within a week of meeting the hiring manager. Our experience is we can fill 81% of the openings with one or two candidates, cutting down on time spent in multiple interviews .

Project Management Services

CDW•G's Project Management Office's (PMO) mission is to drive excellence and leadership in Project and Program Management for all of our customers. We leverage a proven methodology based on the Project Management Institute's (PMI) standards and best practices while tailoring projects to meet business outcomes and requirements. Our PMO is an active member of the PMI Global Executive Council whose role is to lead and direct the future of the project management profession and ensure its continued growth and success. We have over 160 customer-facing Project and Program Managers, with over 70 being PMP Certified.

Our project methodology is scalable to any project size, customer-value driven, and flexible enough to integrate with your member's methods as needed. By being PMI aligned, we focus on communication, quality management, and continual improvement during all phases of the project. More information on these phases is described below.

- Project Initiation confirms the initial contract, the scope of work, resource requirements, prepares the kickoff meeting.
- Planning focuses on discovering and understanding requirements and stakeholders, communication plans, and delivers the project plan.
- Execution manages the design, implementation, testing, and migration of services, coordinating CDW engineers and the member's project resources.
- Closure finalizes the handoff to operational support, project closure documentation, and final project closure meetings. The closeout meeting is also the opportunity to review the customer's perspective of success and lessons learned during the project.
- Monitor and Control occur throughout the project's lifecycle to ensure that the project status, budget, and milestones are monitored and reported on a timely basis.

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Experience [RFP 5.4]

Include a list of the five (5) most relevant or comparable contracts completed by your firm during the past five (5) years with a public entity. For each contract, provide the following information.

a. Scope of services/contract description.

b. Dollar value of contract.

c. Assigned project personnel.

d. The contracting entity's contact person, current phone number, and current e-mail address as reference information.

Reference 1	**Client Name:**	Collier County, FL
Scope of Services/Contract Description		
Collier County utilizes the OMNIA Partners contract (formerly National IPA) for all goods and services that CDW is able to source for them. Typical manufacturers include, but are not limited to, Cisco, Vmware, CrowdStrike, NetApp, APC, Microsoft, and Dell.		
Dollar Value of Contract	$4.3M Annually	
Assigned Project Personnel		
Name	Anson Hira, Advanced Technology Account Executive	
Name	Kyle Johnson, Executive Account Manager	
Name	AJ Lucci, Regional Manager	
POC		
Name	Mark Fowski	
Telephone	239-252-8322	
Email	mark.fowski@colliercountyfl.gov	

Reference 2	**Client Name:**	Orange County, FL
Scope of Services/Contract Description		
Orange County utilizes the Sourcewell contract for all goods and services that CDW•G is able to provide or source. CDW•G has provided professional services of advanced technology solutions including, but not limited to: MS Exchange, MS Active Directory, M365, VMware, Nutanix, Juniper, PeopleSoft, Security managed services, and Staff Aug personnel.		
Dollar Value of Contract	$10.1M	
Assigned Project Personnel		
Name	Anson Hira, Advanced Technology Account Executive	
Name	Kyle Johnson, Executive Account Manager	
Name	AJ Lucci, Regional Manager	
POC		
Name	Mack RiCharde	
Telephone	407-836-5200	
Email	mack.richarde@ocfl.net	

Reference 3	**Client Name:**	Nashville Electric Service Board, TN
Scope of Services/Contract Description		
NES has approved the NIPA Corporative contract for all CDW•G purchases. They have been utilizing this contract since 2015. CDW•G has performed the following services for NES:		

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ServiceNOW Integration, Splunk Installation and Data Migration, Nutanix install and configuration and Wireless Site Survey.	
Dollar Value of Contract	$1.5M
Assigned Project Personnel	
Name	Robert Sullivan, Executive Account Manager
Name	Griffin Curcio, Executive Account Manager
Name	Austin Hudson, Nashville Advanced Technology Account Executive
POC	
Name	Matt Dodd
Telephone	615-747-3199
Email	hdodd@nespower.com0

Reference 4	**Client Name:**	City of Boca Raton
Scope of Services/Contract Description		
City of Boca Raton has leveraged the OMNIA Technology Contract through CDW•G for 90% of their IT Hardware and Software needs for more than 7 years. In addition, the city has utilized our Affiliate, Sirius, a CDW company, for nearly the same tenure as their primary IT professional services provider.		
Dollar Value of Contract	$2.7M Annually	
Assigned Project Personnel		
Name	Ray Clyne, Advanced Technology Account Executive	
Name	Roger Heroux, Executive Account Manager	
Name	AJ Lucci, Regional Manager	
POC		
Name	Jolyn Avery	
Telephone	561-367-7062	
Email	javery@myboca.us	

Reference 5	**Client Name:**	City of Atlanta
Scope of Services/Contract Description		
The City of Atlanta has awarded CDW•G their hardware/software sourcing contract over the course of the past 14 years for four, consecutive contract cycles. CDW•G was the sole-awardee for two of the four contract awards, including the flagship contract. In addition to the Hardware/Software sourcing contract, CDW•G provides professional IT services for the city, including all agencies in the “General Fund”, as well as Atlanta Department of Watershed management and Atlanta Department of Aviation, Hartsfield Jackson International Airport.		
Dollar Value of Contract	$14.2M Annually	
Assigned Project Personnel		
Name	Dan Gallagher, Advanced Technology Account Executive	
Name	Mike Zorica, Executive Account Manager	
Name	AJ Lucci, Regional Manager	
POC		
Name	Errika Stewart	
Telephone	404-330-6204	
Email	estewart@atlantaga.gov	

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Product Information/Service Capability [RFP 5.5]

a. Provide detailed information on service capability and the availability of service centers for maintenance and repairs on a national level. Indicate how many authorized service centers will be available for each state. Will pick up and delivery services be available for service of large equipment items?

For today's State, Local, and Education leaders, the speed of digital priorities is critical to success. Yet, technical complexities can slow progress. Our full-stack engineering services team focuses on digital transformation — from code and applications to cloud, data and security — to help our SLED customers accelerate innovation, enhance citizen experiences and optimize collaboration, all while delivering agility and cost efficiencies. We maintain a working ecosystem of coworkers and partners to address the myriad service requirements of our customers.

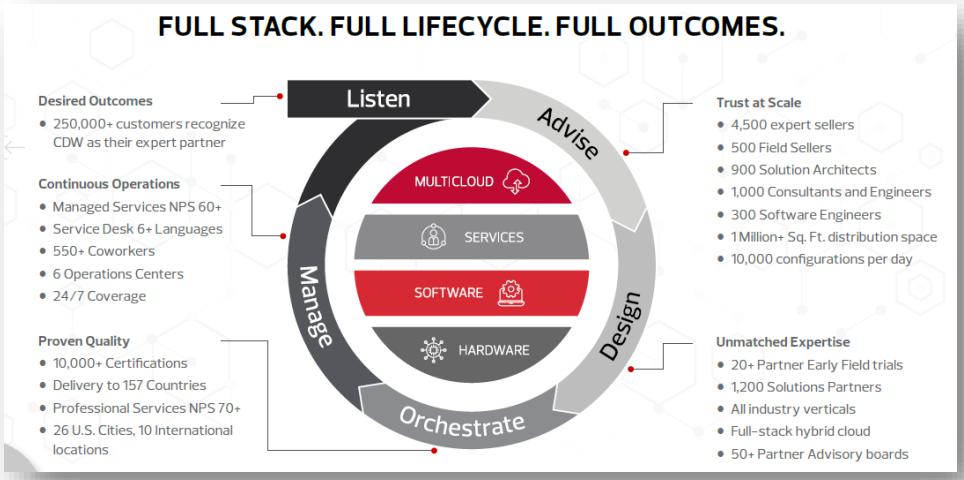


Figure 17: Full Stack Lifecycle

Service Centers

Our operational footprint is abundantly national, with offices located in every region and two state-of-the-art distribution centers strategically located for the fastest possible service. In addition to our local branches, we have over 1,100 services professionals and a fast-growing network of trusted service and solutions partners.

The number of authorized service centers depends on many factors so we cannot give a definite number at this point. However, we can explicitly confirm we have authorized service centers available for any agency who wishes to purchase off this contract.

Break-Fix

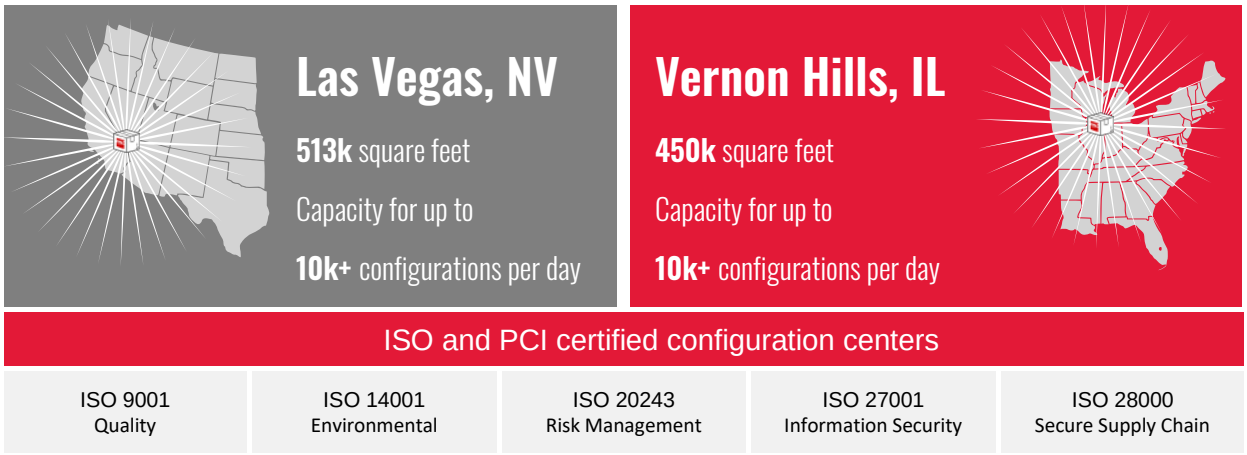
We typically provide break/fix services through our partner network, though we can do that through a managed service as well. The choice of partner network depends on a multitude of factors including location in the United States, brand of product, budget, turnaround time, etc. Our team is happy to discuss in further detail regarding a particular instance.

Config. Centers

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OMNIA Partners Members can rely on CDW•G to preconfigure their technology solutions and provide custom turnkey solutions for plug and play deployment. We offer a wide array of services to address the various tasks involved in configuration projects including hardware and software installation and configuration, domain integration, branding, labeling, asset management, delivery & distribution.

Two State-of-the-Art Configuration Centers



CDW•G operates redundant, environmentally controlled ISO and PCI certified centers in Vernon Hills, IL, and North Las Vegas, NV to provide faster delivery and reduced shipping expense. Our Distribution and Integration Centers have a combined one million sq. ft. including 75,000 sq. ft. dedicated to configuration and another 50,000 sq. ft. dedicated to staging. CDW can scale to meet your needs.

Local Branches

CDW is headquartered just outside of Chicago, Ill., and we have 28-plus local branch offices throughout the United States and Canada. So, chances are, we're within driving distance of your office. And even if a customer is located in an area without a local branch, our network of trusted service providers — all trained to follow the same consistent approach, processes, methodologies and professional manner of CDW badged engineers — ensure that your organization will still get the full attention and resources it deserves.

Depending on the location and particulars of the system or product that needs servicing, costs can vary. Due to this complexity, our team will work with each agency as needs arise to provide a custom State of Work that includes costs to the customer.

Pick-Up & Delivery

We can facilitate pickup and delivery services for an additional cost. Regarding delivery of large equipment, we maintain our own inventory and relationships with the top delivery providers to ensure timely and safe delivery. We also have direct relationships with major manufacturers where we can leverage their dropship channels for delivery.

In our experience, the type of pick-up services that our customers require vary. As a result, we require more details to document our process. However, we will work with all customers to accommodate requested pick-up services and their unique specifications.

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Configuration Services Overview

Cobb County and OMNIA Partners can rely on CDW•G to preconfigure their technology solutions and provide custom turnkey solutions for plug and play deployment. We offer a wide array of services to address the various tasks involved in configuration projects including hardware and software installation and configuration, domain integration, branding, labeling, asset management, delivery & distribution. Our Configuration Centers roll out 2,600,000 products every year - more than 10,000 custom units a day.

Capabilities Overview

Our configuration team can provide many services, including:

- Hardware Integration: Including installation of memory, hard drives, NIC cards, video cards and a variety of other components.
- Software Configuration: Your computers, mobile devices and servers will come with OSs and apps pre-installed. We offer White Glove Service to prep and provision Chromebooks.
- Custom Imaging: Including image creation, maintenance and deployment, we can host a secondary server to connect to your SCCM or other image deployment server via VPN. Customizable options include pre- and post-imaging tasks like domain join and security upgrades.
- Rack Configuration: We mount and configure your network and security devices, rack-mount servers, chassis blade servers, storage, KVMs, UPSs and PDUs into a rack structure, then cable and label before shipping.
- Mobility Services: We configure and activate your tablets, phones, handhelds and Wi-Fi hotspots. Additionally, services that include MDM enrollment, App installations, IOS and Android updates are also available.
- Custom Laser Engraving: Your logos and other important information can be engraved onto notebooks, mobile devices and other equipment. We can laser engrave static content and/ or one field of dynamic content, such as the device serial number.
- Asset Tagging and Reporting: You have the option to use CDW/CDW•G-branded labels, customer-provided labels, or our team can build custom labels that we print on-demand, including UID/IUID identification labels for U.S. Government applications. Extensive information on your devices is available via the Order Reporting and Hardware Asset Management functions on your CDW Account Center.
- Network and Security Device Configuration: We configure firewalls, routers, switches, access points and IP phones for all the largest manufacturers. These services include system software/firmware upgrade or downgrade; uploading master configuration files; configuration of IP address, subnet mask and default gateway. All customization is based on your organization’s unique specifications.
- Burn-in Services: We run your devices for 12 hours or more to ensure all components are working properly.
- Custom Packaging: This includes kitting, palletization, inserts and welcome letters and box labeling.
- Buy and Hold Services: This allows you to purchase products and have them held in a secure location anywhere from three months up to a year. CDW handles the configurations, customizations, logistics and shipping requirements to ensure your pre-defined deployment schedule is met.

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Configuration Services Project Management

CDW•G offers Configuration Services Project Management which works to ensure the success of projects and ongoing programs. Here are some of the key PM activities.

- Serve as the main point of contact (POC) for overall project communication, including escalations
- Communicates expectations and holds Internal CDW Services team accountable for meeting project timelines
- Establish and manage project schedule and expectations
    - The schedule is based on the customer's expected delivery and deployment dates and well as approved SLA and configuration volume commitment from the CDW Services Team
    - Schedules are subject to change. Schedule crashing may result in higher cost to meet increasing demand and/or it may not be feasible to meet requested deadlines due to insufficient planning and limited resource availability
- Manage rollout/delivery schedule
- Assign roles and responsibilities to members of the project team
- Conduct regular cadence calls with stakeholders (internal and/or external)
- Actively track and report status for open Configuration Services orders in the project
    - Order and status reports on an agreed to schedule
    - Format of reports can vary based on customer requirements and needs of the project
- Track and manage product availability for CDW Configuration Services to meet deployment schedule
- Manages escalated orders and changes in the schedule
- Escalate issues to management as needed

Quality Assurance

All Configuration Center workers are trained on CDW•G's best practice quality assurance procedures that include a comprehensive check of each system we touch. First, we verify the compatibility of all components to be installed. Second, we verify that each component is installed properly, and the hardware installation is complete. Finally, we ensure that all hardware and software are functioning according to manufacturer specifications. Each step is completed by a qualified technician and verified by a QC technician. CDW is ISO 9001:2008 compliant and the names of the primary technician and QC technician are recorded for all orders. All team members are held accountable for adhering to our quality assurance procedures. If any issues are encountered, CDW•G will contact you immediately to resolve the issue.

CDW•G also offers a Burn-in Service (available in 12 hour increments) which includes running a diagnostic program (where applicable) to test basic functionality. This service is designed to reduce the number of items that fail after a short period of use.

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Any defective or damaged devices that are discovered during the configuration or warehousing process will be removed from stock and replaced with new, functional devices. The damaged or defective devices will be returned to the manufacturer on CDW•G's behalf. This process will not require the customer's involvement and should happen transparently to the customer.

Additional notes for Imaging and Software configurations:

CDW•G has a team of engineers, technicians and team leaders trained to work on image and software deployments. Customer specific deployment instructions are strictly followed to ensure your devices are imaged and configured your way.

Managed Services - Service Levels

CDW's Managed Services offerings allow Cobb County and OMNIA Partners to contract for support of your networks, systems, databases, and select applications. Our modular approach to IT management allows you to select services that best support your individual organization goals and current capabilities.

CDW•G provides three levels of managed services:

- Advanced Monitoring
- Proactive Maintenance
- Availability Management

Each of the levels encompasses the previous levels (i.e. Silver includes Bronze). There is no loss in service when moving to a more comprehensive level, meaning that no operational tasks are lost when moving between levels.

Advanced Monitoring (Bronze)

Advanced Monitoring includes comprehensive monitoring and alerting for supported technologies. In addition to basic availability monitoring of devices and services, CDW also provides error/exception monitoring, threshold monitoring and performance utilization monitoring. All monitoring data is available through a web-based reporting engine.

Proactive Maintenance (Silver)

Proactive Maintenance includes patching services. CDW proactively monitors vendor patch availability, analyzes patch necessity and priority, and applies recommended patches to your system.

Availability Management (Gold)

Availability Management includes break/fix engineering support and an SLA for device availability. CDW's SLA for all Gold level modules is a 99.9% monthly services uptime guarantee.

Additional details for all three service levels are outlined in the table on the following page.

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Table 3: Service Levels

	GOLD	SILVER	BRONZE
24/7/365Operations	•	•	•
Engineers on T&M Basis	•	•	•
Critical Service and Event Monitoring	•	•	•
SNMP Variables	•	•	•
Performance Thresholds	•	•	•
System Events	•	•	•
Client Alert Notifications	•	•	•
Performance Reporting	•	•	•
Proactive System Patching	•	•	
Hot Fixes	•	•	
Service Packs	•	•	
Firmware Updates	•	•	
Break/Fix Support	•		
Change Control	•		
Engineering Support	•		
99.9% Uptime SLA	•		
Life Cycle Management	•		
Predictable Monthly Fee	•		

b. Provide available payment terms and payment methods – purchase order, credit card (procurement card), etc. If credit cards are accepted, may credit card payment(s) be made online?

CDW•G accepts payment through:

- Credit Cards* (American Express, Discover, MasterCard, Visa)
- Checks
- EDI
- EFT (Electronic Funds Transfer)
- Procurement Cards

With a credit card order, CDW•G requires the credit card information at the time you place the order. Please note that we do not accept credit cards for term accounts.

CDW•G's standard payment terms are net 30 days from the date the invoice is issued.

While CDW•G appreciates prompt payment, we do not offer discounts for early payment. Prompt payment ensures that CDW•G is able to continue offering low prices while managing our costs.

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Payments can be made to the following addresses:

CDW Government
75 Remittance Drive
Suite 1515
Chicago, IL 60675-1515

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Pricing [RFP 5.6]

a. Suppliers shall provide pricing based on a discount from a manufacturer's price list or catalog. Prices listed will be used to establish the extent of a manufacturer's product lines, services, warranties, etc. that are available from Supplier and the pricing per item. Multiple percentage discounts are acceptable, if where different percentage discounts apply, different percentages are specified. Additional pricing and/or discounts may be included.

• Include an electronic copy of the catalog from which discount is calculated. Electronic price lists must contain the following: (if applicable) –

- Manufacturer part #

- Supplier's Part # (if different from manufacturer part #)

- Description

- Manufacturer's Suggested List Price and Net Price

- Net price to Cobb County, GA (net price shall include freight and any additional fees that may be charged such as credit card processing, administrative fees, etc.)

Media submitted for pricing must include the Supplier's company name, solicitation name and bid #, and the bid opening date on a Flash Drive.

b. Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods programs, total annual spend, etc. (if offered).

c. If used, trade-ins, leasing/financing, or other offerings are available, provide applicable pricing and discounts.

Catalog Pricing

Cobb County		
Category	**Description**	**Discount % from CDW•G Advertised***
A	Accessories (A)	6.75%
B	Power, Cooling & Racks (B)	5.00%
C	Desktop Computers (C)	3.00%
C/DT	PC Compatible Desktop Computer (DT)	2.10%
C/DM	Apple Desktops (DM)	0.50%
D	Data Storage/Drives (D)	5.50%
E	Enterprise Storage (E)	5.00%
F	Point of Sale/Data Capture (F)	4.25%
H	Servers & Server Management (H)	4.00%
J**	Services (CDW Delivered) (J)	0.00%
L	Notebook/Mobile Devices (L)	2.50%
L/NM	Apple Notebooks (NM)	0.50%
L/NB	Notebook Computers (NB)	2.10%
L/NB/CBK	Chromebooks (CBK)	0.00%
L/RD	Tablets (RD)	2.25%
N	NetComm Products (N)	5.50%
O	Carts and Furniture (O)	5.00%
P	Printing & Document Scanning (P)	3.00%
Q**	Services (Partner Delivered) (Q)	3.00%

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Cobb County		
R	Client Configure-to-Order (R)	2.50%
S	Software (S)	4.00%
T	Collaboration Hardware (T)	4.25%
V	Video & Audio (V)	3.50%
W	Cables (W)	15.00%

CDW•G will provide Customer with a discount as a percentage off of CDW•G's Nationally Advertised Price (NAP) for the CDW•G defined Product Categories listed above, provided that Customer references this Agreement when placing an order with CDW•G.

Prices include lowest ground freight within the 48 contiguous United States when referencing this Agreement. All orders are subject to CDW•G's standard shipping policies in effect at the time of order placement. In those instances that call for express or overnight delivery, shipping costs will be pre-paid by CDW•G and added to the customer invoice.

We reserve the right to amend our price offering to accommodate the negotiated and mutually agreed upon Administrative Fees.

Clarifications

* "Advertised Price" or "Nationally Advertised Price" or "NAP", refers to CDW-G's List Price, a publicly available and verifiable price at cdwg.com

** These are services tied to CDW•G internal taxonomy J and Q, which includes subset of offerings such as configurations, warranty, and specific installation services, and are not subject to a Statement of Work. These do not include the services broken out in the individual tabs, including other professional services, which require a mutually executed Statement of Work between CDW•G and Customer.

Infrastructure as a Service	
Cloud Service Providers	
Provider	**Discount off MSRP**
Amazon Web Services	0%
Google Cloud Platform	0%
Microsoft Azure	0%

Our Infrastructure as a Service portfolio of AWS, GCP, and Azure is offered in conjunction with our Managed Cloud as a Service.

ServiceNow Solutions PaaS Offering	
Option	**Discount off MSRP**
ServiceNow IT Service Management Professional – Unrestricted User 2	0% (5% off CDW•G NAP)
ServiceNow Integrated Risk Management Professional – IRM User	0% (5% off CDW•G NAP)

If there is a CDW•G Nationally Advertised Price (NAP) available for above offerings, OMNIA Members will receive a discount of 2% off CDW•G NAP. The NAP is publicly available

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pricing for hundreds of thousands of offerings available 24/7, which is competitively benchmarked with competitive market conditions and adjusted frequently to provide a transparent public auditable index.

If NAP doesn't exist, then CDW•G will rely on MSRP pricing available to CDW•G or based on CDW•G quoted price.

Digital Velocity Solutions	
Role	**Hourly Rate**
DVS F-CTO	$350.00
DVS Digital Strategy Consultant	$305.00
DVS Digital Product Strategist	$270.00
DVS Principal Engineer / Tech. Lead	$350.00
DVS Architect	$300.00
DVS Senior Engineer	$250.00
DVS Engineer	$225.00
DVS Associate Engineer	$200.00
DVS Program Manager	$245.00
DVS Sr. Technical Project Manager	$230.00
DVS Technical Project Manager	$205.00
DVS Project Coordinator	$165.00

CDW•G's full-stack engineering services team, a part of a specialized group identified as Digital Velocity Solutions (DVS), focuses on digital transformation from code to cloud, and data center to database. The roles listed below are for the skilled engineers that make up this practice.

For this proposal, we are offering the following DVS roles:

- DVS F-CTO
- DVS Digital Strategy Consultant
- DVS Digital Product Strategist
- DVS Principal Engineer / Tech. Lead
- DVS Architect
- DVS Senior Engineer
- DVS Engineer
- DVS Associate Engineer
- DVS Program Manager
- DVS Sr. Technical Project Manager
- DVS Technical Project Manager
- DVS Project Coordinator

The responsibilities of each role are dependent on the statement of work breakdown in the specifics of the project. All of these roles work within the Digital Velocity Solutions team and uphold the go-to-market strategy of DVS.

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Managed Services	
Managed Service Basic / Essential / Premium Support for AWS, GCP, and AZURE	**Monthly Price*** Fees are based on a percentage of the customer's actual consumption of AWS, GCP, Azure services.
Basic Service - $0K to $10K	As Invoiced
Basic Service - $10K to $250K	As Invoiced
Basic Service - $250K+	As Invoiced
Essential Service - $0K to $35K	As Invoiced
Essential Service - $35K to $75K	As Invoiced
Essential Service - $75K+	As Invoiced
Premium Service - $0K to $100K	As Invoiced
Premium Service - $100K to $250K	As Invoiced
Premium Service - $250K+	As Invoiced
* If CDW•G is billing the customer for Basic consumption, no pricing uplift is applied.	



ServiceNow Solutions	
Role	**Hourly Rate**
ServiceNow Associate Project Manager	$165
ServiceNow Associate Consulting Engineer	$170

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ServiceNow Engagement Manager	$235
ServiceNow Business Process Consultant	$255
ServiceNow Principal Consultant	$275
ServiceNow Organizational Change Management Consultant	$275
ServiceNow Integration Expert	$250
ServiceNow Quality Assurance Expert	$200
ServiceNow Solution Architect	$255
ServiceNow Technical Consultant / Developer	$220
ServiceNow Trainer	$235

A continuation of our ServiceNow solutions practice as listed above in our managed services category, this section of ServiceNow solutions related services pricing encompasses several roles that Cobb County and OMNIA Partners can successfully utilize in the creation and implementation of ServiceNow solutions initiatives and projects.

Amplified IT SaaS Offerings*	
Option	**Discount off MSRP**
Gopher products	2%
Little SIS	2%
Amplified Services	
Google for Education (GFE)	
Option	**Discount off MSRP**
GFE Audit - K-12	2%
GFE Audit - Higher Ed	2%
GFE KickStart Package	2%
GFE Support - Support Hours	2%
GFE Support - 20 Support Hours	2%
GFE Support - 40 Support Hours	2%
GFE Support - Adhoc Support Hours	2%
North American GFE Technical Collaborative	2%
GFE Training/Consultancy - Full Day Onsite	2%
GFE Chrome Checkup	2%
Amplified IT Training	
Option	**Discount off MSRP**
Amplified IT Admin Level 1 Certification Training - Self-Paced	2%
Amplified IT Admin Level 2 Certification Training - Self-Paced	2%
Amplified IT Admin Security Specialist Certification Training - Self-Paced	2%
Amplified IT Admin Security Bundle	2%

These services are available to education entities only.

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Staff Augmentation			
Role	Standard	Mid-Level	Senior
Infrastructure Architects	$170.00	$180.00	$195.00
Solutions Architects	$175.00	$195.00	$215.00
Site Reliability Engineers	$185.00	$195.00	$205.00
Network Administrators	$100.00	$115.00	$125.00
Network Engineers	$135.00	$150.00	$165.00
Network BAs/BSAs	$130.00	$135.00	$140.00
Systems Administrators	$115.00	$130.00	$145.00
Systems Engineers	$140.00	$155.00	$170.00
Systems BAs/BSAs	$135.00	$145.00	$155.00
Storage Engineers	$165.00	$160.00	$195.00
Virtualization Engineers	$135.00	$155.00	$180.00
Salesforce Administrators	$125.00	$155.00	$185.00
Salesforce Engineers	$175.00	$195.00	$215.00
Salesforce Developers	$165.00	$175.00	$185.00
ServiceNow Administrators	$155.00	$165.00	$175.00
ServiceNow Engineers	$165.00	$180.00	$195.00
ServiceNow Developers	$150.00	$165.00	$180.00
SolarWinds Engineers	$165.00	$180.00	$205.00
AWS Engineers	$185.00	$205.00	$225.00
AWS Developers	$170.00	$175.00	$180.00
Azure Engineers	$180.00	$195.00	$215.00
Azure Developers	$135.00	$145.00	$160.00
GCP Engineers	$200.00	$235.00	$265.00
GCP Developers	$200.00	$235.00	$265.00
Front-end Developers	$165.00	$170.00	$175.00
Back-end Developers	$170.00	$180.00	$185.00
Scala Developers	$200.00	$215.00	$225.00
Project Managers	$135.00	$150.00	$165.00
Scrum Masters	$165.00	$180.00	$195.00
DevOps Engineers	$165.00	$175.00	$190.00
Software Development Engineer in Test	$170.00	$180.00	$195.00
InfoSec Analysts	$145.00	$160.00	$175.00
Quality Assurance Analysts	$140.00	$150.00	$160.00
Quality Assurance Engineers	$140.00	$150.00	$160.00

The market for qualified resources is more competitive than ever and finding reliable talent can be difficult. CDW•G's Staff Augmentation services take the hassle out of resourcing. We maintain relationships with thousands of qualified resources and provide organizations with the best candidates the first time around. Whether Cobb County and OMNIA Partners need a resource for just a few weeks, several months, semi-permanent, or permanently, our critical

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TTM (Time to Market) solutions will help Cobb County and OMNIA Partners scale up or down rapidly depending on where they are in the project lifecycle.

Managed Services Application	
Item	**Rate**
Microsoft System Center Configuration Manager (SCCM) - Gold	$517.50
Microsoft Active Directory - Small Environment 2-10 DCs - Gold	$545.10
DHCP Support add to MS AD above	$155.94
Microsoft Active Directory - Medium Environment 11-20 DCs - Gold	$828.00
Microsoft Active Directory - Large Environment 21+ DCs - Gold	$1,587.00
Microsoft Active Directory Federation Services (ADFS) - Gold	$745.20
Mimix/iTERA for iSeries - Gold (Priced PER "a" and "b" side)	$207.00
Managed Services Backup	
Item	**Rate**
IBM Tivoli Storage Manager Gold	$2,070.00
Commvault RMS Backup Environment SM: 1-250 VMs - Gold	$1,138.50
Cohesity RMS SM: 1-250 VMs - Gold	$1,138.50
Commvault RMS Backup Environment Med: 251-600 VMs - Gold	$1,656.00
Commvault RMS Backup Environment Large: 601-1000 VMs - Gold	$2,070.00
Commvault RMS Backup Environment XL: 1000+ VMs - Gold	$2,622.00
Veeam RMS SM: 1-250 VMs - Gold	$1,138.50
Veeam RMS Med: 251-600 VMs - Gold	$1,656.00
Veeam RMS Lrg: 601-1000 VMs - Gold	$2,070.00
Veeam RMS XL: 1000+ VMs - Gold	$2,622.00
EMC Avamar RMS SM: 1-250 VMs - Gold	$1,138.50
EMC Avamar RMS Med: 251-600 VMs - Gold	$1,656.00
EMC Avamar RMS Lrg: 601-1000 VMs - Gold	$2,070.00
EMC Avamar RMS XL: 1000 VMs - Gold	$2,622.00
EMC Data Domain - Gold	$2,070.00
Microsoft System Center DPM - SM <100 - Gold	$1,656.00
Microsoft System Center DPM - Med 100 - 500 - Gold	$2,070.00
Microsoft System Center DPM - Lrg >500 Gold	$2,622.00
Microsoft System Center DPM - XL - Gold	$3,312.00
Managed Services OS	
Item	**Rate**
Windows O/S - Gold	$77.63
Linux O/S (Red Hat/ SUSE) - Gold	$155.94
AIX O/S - Gold	$295.32
IBM System I - Gold	$1,242.00
Managed Services Security	
Item	**Rate**
Cisco ASA - Gold	$560.28
Cisco Firepower Services (Per Sensor) - Gold	$313.26
Cisco Firepower Threat Defense - Gold	$614.10
Palo Alto Firewall wo Panorama - Gold	$523.02

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Palo Alto Firewall w Panorama - Gold	$523.02
Palo Alto Panorama - Gold	$253.92
Cisco Identity Services Engine (ISE) - Gold	$513.87
Fortinet Firewall wo FortiManager – Gold	$523.02
Fortinet Firewall w FortiManager – Gold	$523.02
Fortinet FortiManager – Gold	$253.92
Fortinet FortiAnalyzer – Gold	$77.28
Cisco Umbrella - Gold (Per User)	$0.84
Managed Services Virtualization	
Item	**Rate**
VMware ESXi - Gold	$200.10
Nutanix AHV - Gold	$200.10
Microsoft Hyper-V - Gold	$200.10
Managed Services Storage	
Item	**Rate**
Controller: IBM Storage Virtualization (priced per controller) - Gold	$1,035.00
Storage: Disk per 1 TB Raw [For first 100 TB] - Gold	$16.56
Storage: Disk per 1 TB Raw [For TBs over 100 TB] - Gold	$2.21
SAN Switch - Gold	$227.70
Controller: NetApp (Priced per controller) - Gold	$1,035.00
Controller: EMC (Priced per controller) - Gold	$1,035.00
Controller: IBM (Priced per controller) - Gold	$1,035.00
Managed Services UC	
Item	**Rate**
Call Control: Cisco Analog Voice Gateway- Gold	$18.63
Call Control: Cisco CUCM/IM&P Server - Gold	$517.50
Call Control: Cisco Unity Connection (UCONN) - Gold	$379.50
Call Control: Cisco Voice Gateway - Gold	$69.00
Call Control: Cisco Business Edition 6000 Lifeline - Gold	$772.39
Call Control: Cisco Attendant Console (CUxAC) - Gold	$517.50
Call Control: VistaPoint Attendant Console - Gold	$517.50
Call Control: Cisco Call Manager Express - Gold	$172.50
Call Control: Cisco Unified Border Element (CUBE) - Gold	$172.50
Call Control: Cisco Prime License Manager (ELM/PLM) - Gold	$138.00
Call Control: Cisco Prime Collaboration Deployment - Gold	$138.00
911: Cisco Emergency Responder (CER) - Gold	$379.50
Voice Mail: Cisco Unity Express - Gold	$172.50
Notification: InformaCast from Singlewire - Gold	$379.50
Call Experience Testing - 2CPH - Gold	$472.10
Managed Services Contact Center	
Item	**Rate**
Contact Center: Exony Virtual Integration Manager (VIM) - Gold	$450.00
Contact Center: Unified Contact Center Enterprise Server (UCCE) - Gold	$434.70

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(Includes: CVP Call Server, CVP Reporting Server, CVP VXML Server, Call Server, Data Server. Administration Server (AW-HDS-DDS), Historical Data Server (HDS), Client Administrative WorkStation (Client AW), Central Controller, Dialer, Logger, CUIC, Rogger, and Peripheral Gateway (PG).)	
Contact Center: Cisco / Calabrio Quality Management (QM) - Gold	$434.70
Contact Center: Cisco / Calabrio Workforce Management (WFM) - Gold	$386.40
Contact Center: Virtualized Voice Browser (VVB) - Gold	$103.50
Contact Center: UCC Express (UCCX) / Finesse - Gold (Contact Center Express, Cisco Finesse, or IPIVR/VRU)	$434.70
Contact Center: Cisco Unified Intelligence Center - Gold	$432.54
Contact Center: SocialMiner - Gold	$434.70
Contact Center: 2Ring Dashboards and Wallboards - Gold	$434.70
Contact Center: Email Interaction Manager (EIM/WIM/CIM) - Gold	$434.70
Contact Center: Enterprise Chat and Email (ECE) - Gold	$434.70
Contact Center: eGain Analytics - Gold	$386.40
Contact Center: ESNA Cloudlink - Gold	$138.00
CVP: CVP Operations Console - Gold	$386.40
CVP: SIP Proxy (CUSP) - Gold	$193.10
CVP: Ingress Gateway - Gold	$103.50
CVP: VXML Gateway - Gold	$103.50
Bucher and Suter (Connector for Salesforce.com) - Gold	$138.00
Managed Services UC Video	
Item	**Rate**
Cisco WebEx Meetings Server (CWMS) - Gold	$379.50
Cisco WebEx Cloud Connected Audio - Gold	$424.81
Cisco Meeting Place Express - Gold	$379.50
UC Video: Cisco Meeting Server (CMS) - Gold	$207.00
UC Video: Cisco Meeting Manager (CMM) - Gold	$207.00
UC Video: Cisco Telepresence Content Server - Gold	$379.50
UC Video: Expressway-C / Expressway-E - Gold	$207.00
UC Video: Telepresense Management Suite (TMS) - Gold	$517.50
Cisco Webex Hybrid Directory Connector - Gold	$207.00
UC Video: PEXIP Infinity / Infinity Connect Management Node - Gold	$207.00
UC Video: PEXIP Infinity / Infinity Connect Conferencing Node - Gold	$207.00
UC Video: MSE Chassis - Gold	$138.00
UC Video: MCU MSE Blade - Gold	$103.50
UC Video: Gateway (GW) MSE Blade - Gold	$103.50
UC Video: Endpoint Management - Gold	$69.00
UC Video: Telepresense Server Blade - Gold	$103.50
UC Video: Telepresense MCU - Gold	$103.50
Managed Additional Services	
Item	**Rate**
Managed Services Engineering and Consulting	$240.00

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These rates are subject to re-evaluation after the initial 3-year contract term.

Time and materials support - out of scope services

Hourly price is $240

Recurring services are subject to monthly minimum fees and time and materials support is subject to additional terms

Unscheduled after hours support is 2x hourly rate with a 2 hour minimum requirement Managed Services Application requires a specific Statement of Work executed between the customer and CDW•G. Managed cloud services operate in conjunction with a consumption-based model and are calculated on a solution-specific basis.

Other Professional Services	
Role	**Hourly Rate**
Associate Consulting Engineer	$175.00
Consulting Engineer	$215.00
Senior Consulting Engineer	$225.00
Technical Lead / Principal Consulting Engineer	$255.00
Enterprise Consulting Architect	$255.00
Business Consulting Analyst	$245.00
Project Administrator	$165.00
Project Manager	$210.00
Senior Project Manager	$215.00
Enterprise Project Manager, PMO Lead	$230.00
Program Manager	$230.00
Technical Architect	$350.00
Incident Responder/Forensic Analyst	$350.00

Our project managers and consultants work directly with you to design and implement every facet of Cobb County and OMNIA Partners solutions. After assessing the current environment and business objectives, we'll produce a detailed project blueprint. Partnering with existing staff, CDW•G will oversee the full implementation of the solution. We will conduct a quality assurance methodology and troubleshoot as necessary. An in-depth closeout meeting to make sure Cobb County and OMNIA Partners are ready to take the reins. Our end-to-end support ensures that the solution can improve customer experience, increase efficiency, and free up your team to focus on what matters.

CDW•G services offer you an unusual combination of the close relationship and easy access of a local provider who understands Cobb County and OMNIA Partners environment inside and out, and the scale, efficiency, and resources of a multinational provider.

Our deep expertise across a full range of integrated technology solutions backed by deep industry specialization allows us to provide flexible, end-to-end services to our customers. Our on-demand resources assist and scale your IT team's needs, freeing them up to focus on delivering bottom-line value and innovation. CDW•G understands each solution is unique and For all hourly rates proposed by CDW•G in this pricing file and contained within our proposal, our offer is contingent on a 5% year over year escalation, on the contract's annual anniversary date, which will act as a not to exceed rate.

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CDW•G has been very successful in managing labor rates during unstable market conditions including taking advantage of our vast in-house, in-market resources and certified, approved subcontract pool while also leveraging remote services, where practical and applicable. During the contract term, CDW•G reserves the right to propose changes to labor rate categories to reflect extraordinary market conditions which might impact labor rates and present to Cobb County and OMNIA Partners for review and approval. Cobb County and OMNIA Partners will review and approve such rates through a mutually agreed upon amendment no later than 30 calendar days upon presentation.

Services requiring a specific Statement of Work (SoW) must be mutually executed between the customer and CDW•G before work begins. We have provided a sample SoW in Appendix A.

OMNIA and its members/participating entities acknowledge that CDW•G is not the provider of the Cloud Services and in purchasing the Cloud Services, Cobb County, OMNIA, and its members/participating entities rely only on the Cloud Service Provider's service descriptions and the terms and conditions set forth in the Cloud Provider's Services Terms and Conditions. Accordingly, Cobb County and OMNIA Partners shall consider the Cloud Service Provider to be the party responsible for providing the Cloud Services and Cobb County, OMNIA Partners, and its members/participating entities, may be required to execute additional agreements, prior to provisioning/purchase of certain cloud offering."

For any service engagement, if there are applicable Travel and Expenses (T&E) charges, they will be agreed and mutually executed upon in a comprehensive Statement of Work. However, CDW•G will utilize its national footprint of service providers and in-market engineers. We also utilize remote technologies and services where applicable to mitigate such expenses.

For all non-cloud consumption-based offerings, our price list can be found at the following link:

CDW Premium Page - Cobb County Purchasing Department (cdwg.com)

CDW•G is excited by the prospect of supporting Cobb County and OMNIA Partners in their mission to create a relevant yet flexible contract solution to provide IT solutions among public sector entities. To this effect, we've developed this page to fulfill the request for electronic price lists (where applicable) as outlined in the RFP.

On this landing page, evaluators can access solution information (Manufacturer Part #, CDW•G part #, Description, Nationally Advertised Price, and Price to Cobb County) by clicking on the "Contracts" page, then clicking the available link, and then selecting the category of interest for relevant solutions.

This price list includes, where applicable, manufacturer part number, offeror part number, description, manufacturers suggested list price and net price, and net price to OMNIA Partners.

Cloud offerings are constantly evolving and increasingly complex, with a range of subscription and consumption-based offerings, SaaS, IaaS, PaaS, among others. CDW•G's pricing is based on publisher list price (MSRP), where available to CDW•G. In cases, where MSRP pricing is not available and/or the offering is unique, pricing will be based on CDW•G quoted price. This structure provides the necessary flexibility, to enable OMNIA Members/participating entities to make purchases offerings, as cloud offerings evolve, through life of our contract.

AWS, Azure, and GCP utilize price calculators for typical engagements and other variables to determine price specific to customer's needs.

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For more information directly from each manufacturer, please visit the following links for more information:

- Azure
- AWS
- GCP

SaaS Pricing for Gopher Products and Additional SaaS for Amplified IT

The offered pricing discount above applies to a la carte and bundle packages of Gopher applications.

SaaS items are priced at a 2% Discount off MSRP. Amplified IT MSRP can be found at the following link: https://www.amplifiedit.com/msrp/

b. Subject to applicable law, Supplier represents that under this Agreement it will make reasonable commercial efforts to offer prices that are competitive with the prices Supplier offers to other similarly situated customers purchasing a comparable volume of the same products at the same time and under the same terms and conditions. When possible, our account teams will work with manufacturers to provide even deeper discounts to the competitive offering we are proposing. As we are leveraging our purchasing power in the marketplace, we are not at this time offering discounts on volume orders for this contract. This purchasing power allows us the ability to provide great prices, no matter if you purchase 1 item or 1,000 items.

c. We do not plan to include leasing or financing options at this time, though if Cobb County and/or OMNIA Partners is interested in learning more, we have an entire team and partner network who can provide financing options.

Financial Statements [RFP 5.7]

Proposers shall submit a recent history of financial solvency and provide the following:

a. Financial Statement: Include the most recent, independently certified financial statement. Financial statements must include a balance sheet and income statement.

b. Name and address of firm preparing the attached financial statement including a letter stating the independent audit or review has been performed by the firm.

c. State whether the Proposer has ever had a bankruptcy petition filed in its name, voluntarily or involuntarily. If yes, specify all relevant details.

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CDW•G cannot supply a Dun & Bradstreet report as it violates our contract with Dun & Bradstreet. Cobb County and OMNIA Partners can obtain a report for CDW•G from Dun & Bradstreet.

CDW Government LLC's Dun & Bradstreet number is: 02-615-7235.

Our parent company, CDW Corporation, has a 5A3 D&B rating. CDW Corporation's Dun & Bradstreet number is: 80-806-8253

As a publicly owned company, our financial statements are publicly available. A link to our 10k report can be found here. https://s23.q4cdn.com/113947819/files/doc_financials/2020/ar/CDW-2020-Annual-Report-Form-10K.pdf

Quarterly report link https://investor.cdw.com/financials/quarterly-results/default.aspx

CDW•G has not had a bankruptcy petition filed in its name, voluntarily or involuntarily.

As required with this RFP, we have included our Financial Ratio Evaluation Template, in which we scored a 3 on the Flash Drive. This document is titled *CDWG Response to Cobb County OMNIA_RFP 23-6692_Financial Ratio Evaluation Template.*

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National Contract [RFP 5.8]

a. Include a detailed response to Attachment A, Exhibit A, OMNIA Partners Response for National Cooperative Contract. Responses shall highlight experience, demonstrate a strong national presence, describe how Supplier will educate its national sales force about the contract, describe how products and services will be distributed nationwide, include a plan for marketing the products and services nationwide, and describe how volume will be tracked and report to OMNIA Partners.

b. The successful Supplier will be required to sign Attachment A, Exhibit B, OMNIA Partners Administration Agreement, Suppliers shall have any reviews required to sign the document prior to submitting a response. Supplier's response shall include any proposed exceptions to the OMNIA Partners Administration Agreement.

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a) We have included a detailed response to Attachment A, Exhibit A, OMNIA Partners Response for National Cooperative contract in the following section Supplier Response and included all applicable required forms in Appendix B: Required Forms. These sections thoroughly explain our experience, our strong national presence, how we will educate our national sales force, how products and services will be distributed nationwide, our marketing plan and how volume will be tracked.

b) We understand we will be required to sign Attachment A, Exhibit B, OMNIA Partners Administration Agreement, Suppliers shall have any reviews required to sign the document prior to submitting a response. We have provided our proposed exceptions in Appendix E: Exceptions. We look forward to negotiating in good faith with Cobb County and OMNIA Partners.

Supplier Response [RFP 3.0]

Supplier must supply the following information for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through OMNIA Partners.

Company [RFP 3.1]

A. Brief history and description of Supplier to include experience providing similar products and services.

Founded in 1984, CDW LLC (CDW) is a leading provider of technology solutions to over 250,000 customers composed of small-, medium-, and large-sized public and private entities. CDW Government LLC (CDW•G) is a wholly owned subsidiary of CDW, incorporated in 1998 to address the specific needs of our government, education, and healthcare customers. Our unique company structure provides our customers products and services only a large national reseller can provide, combined with a local presence typical of a small business. We have a large manufacturer presence in our offices across the country and are blanketed in the field with our field account executives. To provide each customer with one contact who is knowledgeable of every nuance of their organization Account Teams are further segmented by agency type, Education (K12/High Ed) or Government. This allows us to provide each customer with one contact who is knowledgeable of every nuance of their organization.

CDW•G is one of the largest direct marketing resellers in the US, currently carrying more than 100,000 name-brand technology products from over 1,100 leading IT manufacturers. CDW•G

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delivers more than just products; we deliver IT solutions and services in a manner consistent with procurement guidelines and customer preferences. We offer flexibility in how customers engage with and buy from us. We have the subject matter experts to advise on the right IT solutions and the purchasing avenues to accommodate efficient and seamless procurement. We pride ourselves on our innovation and ceaseless desire to deliver an excellent customer experience.

B. Total number and location of salespersons employed by Supplier.

CDW•G currently employs more than 6,000 coworkers, part of our larger organization of 13,900 coworkers nationwide and in Canada, with more than 28 different locations. Located across the US, CDW•G has more than 1,225 Account Managers and 60 Advanced Technology Account Executives forming Account Teams segmented into five verticals: Higher Education, K-12 Education, Healthcare, Federal Government, and State & Local Government.

At CDW•G, we connect our customers to their technology and unlock additional value that goes beyond the business challenges they need to solve. As IT solutions have evolved, we recognize that their utilization now means different things across the nation. Whether it's State Agencies, Local Governments, Universities, or K-12 classrooms, we have adapted along with SLED customers' changing needs to help them maximize their investments and identify new ways to make the IT products and related services truly work for them.

Our sales force acts as the core of this effort. Employing an iterative approach to identifying, deploying, and adjusting IT solutions, our sellers and supporting teams ensure that customers have dynamic solutions addressing current and anticipated needs.

Our Account Teams are organized geographically enhancing their knowledge of the local landscape including key partnerships and local practices for contracting. Supporting our Account Teams are technology specialists and engineers, including segment-specific experts, like our K-12 Classroom Strategists. All of these coworkers will act as an extension of our Account Teams in support of Cobb County and OMNIA Partners.

Through their expertise in specific solution sets, our subject matter experts advise customers on the technology to make informed decisions in support of mission-critical objectives. Wherever Cobb County and OMNIA partners are located, CDW•G will meet these customers' needs.

Account Managers per segment:

- State and Local Government: ~225
- Higher Education: ~200
- K-12 Education: ~350
- Healthcare: ~250
- Federal Government: ~200

C. Number and location of support centers (if applicable) and location of corporate office.

CDW•G Headquarters is located at 230 N. Milwaukee Ave., Vernon Hills, IL 60061. At CDW•G, our sales strategy is based on being a locally-focused organization with a national presence. We want OMNIA Partners to understand the breadth and depth of our organization. Our sales offices are widespread throughout the US., allowing our sales teams to be where OMNIA Partners are located.

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CDW•G has two warehouses and more than 25 US sales offices, including a state-of-the-art 5,000 sq ft office in the Nashville area. Our office locations include:

Table 4: CDW•G Office Locations

Office Locations				
Chandler, AZ	Glendale, CA	Shelton, CT	Tampa, FL	Chicago, IL
Lincolnshire, IL	Vernon Hills, IL	Evansville, IN	Indianapolis, IN	Detroit, MI
Grand Rapids, MI	Minneapolis, MN	Las Vegas, NV	Cherry Hill, NJ	Eatontown, NJ
Cincinnati, OH	Cleveland, OH	Nashville, TN	Dallas, TX	Reston, VA
Bellevue, WA	Appleton, WI	Madison, WI	Milwaukee, WI	Wausau, WI
New York City, NY				

D. Annual sales for the three previous fiscal years.

CDW•G is a wholly-owned subsidiary of CDW LLC. CDW•G has a consistent history of demonstrating continued revenue growth, as shown in the table below. OMNIA Partners should take note of that CDW•G itself is financially stable, and has the ability to leverage additional financial stability through CDW LLC.

Net sales for the past three years have been the following

Table 5: Annual Revenue

CDW and CDW•G Annual Revenue		
Fiscal Year	**CDW Total Revenue**	**CDW•G Revenue Contribution**
2021	$20.82 Billion	$8.18 Billion
2020	$18.47 Billion	$8.13 Billion
2019	$18.03 Billion	$6.9 Billion

a. Submit FEIN and Dunn & Bradstreet report.

FEIN

CDW•G FEIN: 36-4230110

Dunn & Bradstreet Number:

We appreciate the Cobb County's request for our most recent Dunn & Bradstreet Business Report; however, providing copies of CDW•G's Dunn & Bradstreet Business Report creates a breach of contract with Dunn & Bradstreet, and as such, Cobb County can choose to directly obtain a copy of the report using CDW•G's Dunn & Bradstreet Number 02-615-7235.

E. Describe any green or environmental initiatives or policies.

CDW•G has long been conscious of our impact on the environment, especially regarding our energy consumption, and we have taken significant steps to effectively manage our consumption of resources and lessen our environmental impact.

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CDW•G recognizes the need for responsible environmental management and conservation of resources and has demonstrated its commitment to environmental management and principles of sustainable development through its beGreen™ program. The beGreen™ program provides coworkers a platform to reduce, reuse and recycle to make CDW•G's operations leaner, more efficient and more environmentally responsible. Since the program's inception, we have seen overwhelming coworker participation in beGreen™. CDW•G has a cross-functional team of coworkers who contribute to program management and work to ensure the consistency and integrity of the beGreen™ program standards. CDW•G has recycling programs for paper, aluminum, glass, plastic, corrugate, batteries, and wooden pallets. Our dedicated beGreen™ staff continually looks for more ways to be environmentally responsible. beGreen™ focuses on several key areas:

Coworker education

- Community awareness recycling
- Resource conservation
- ISO14001

Figure 18: CDW•G beGreen Initiative

ISO 14001:2015 Certification

CDW•G has achieved the ISO 14001:2015 Environmental Management System (EMS) standard certification. The certification has been awarded to CDW•G's Vernon Hills, IL and North Las Vegas, NV distribution centers and attached offices. CDW•G's distribution centers use 100% recyclable packing material and shipping containers that also provide maximum protection for your IT assets. As part of our EMS, we conduct in-depth internal audits and self-assessments to support continual improvement. We review our significant environmental impacts each year and set targets to reduce them.

EPA Green Power Partnerships

CDW•G participates in the United States Environmental Protection Agency's (EPA) Green Power Partnership program. In 2008, we began purchasing 100% green power for our two data centers in the Madison, Wisconsin area through the Madison Gas and Electric (MGE) Green Power Tomorrow program. We purchase almost 12 million kilowatt-hours per year of renewable energy, making CDW•G the largest private buyer in MGE's Green Power Tomorrow program.

F. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program. If there are any diversity programs, provide a list of diversity alliances and a copy of their certifications.

OMNIA Partners promote diversity and local business initiatives through their procurement requirements. There are many types of diverse supplier requirements, including minority- and women-owned businesses, small businesses, veteran owned businesses, and LGBT-owned businesses. OMNIA Partners' ideal vendor on this contract will empower and work with all types of diverse suppliers in the marketplace, not just one or two.

CDW•G does not hold small or diverse business certifications. Our focus is creating a meaningful sourcing plan with minority, small, local, veteran-owned, and other diverse suppliers. We have the privilege, opportunity, and responsibility to partner with diverse suppliers and bring them with us to Cobb County and OMNIA Partners opportunities. In our experience, customer diversity initiatives are not always met by one or two specific certifications.

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In our experience, customer diversity initiatives are not always met by one or two specific certifications. CDW•G is an ideal partner because our diverse supplier network contains partners with the following certifications, among others:

- Minority Business Enterprise (MBE)
- Historically Underutilized Business (HUB)
- Women Business Enterprise (WBE)
- Lesbian Gay Bisexual Transsexual Business Enterprise (LGBTBE)
- Veteran Business Enterprise (VBE)
- US Business Leadership Network Disability Supplier Diversity Program (USBLN DSDP)
- Women-Owned Small Business (WOSB)
- Small Disadvantaged Business (SDB)
- Service-Disabled Veteran-Owned Small Business (SDVOSB)
- Small Business
- HUBZone

Supplier Diversity Program

CDW•G's Supplier Diversity program goal aims increase procurement opportunities for direct and indirect spending with diverse businesses across the country. The CDW•G philosophy on diversity extends beyond our coworkers, the customers we serve, and the communities we live in to include our valued supplier partnerships. Our commitment to strategically partner with qualified businesses enables CDW•G to provide the best customer experience while contributing to economic growth in diverse communities.



One of our greatest points of pride at CDW•G is that in 2019, our diversity efforts were recognized and CDW•G was formally inducted into the Billion Dollar Roundtable. This is an exclusive group of U.S.-based companies that procure more than $1 billion annually from minority- and women-owned businesses. To read more about this group, please see https://www.billiondollarroundtable.org/.

Our 2021 annual spend with small and diverse businesses via our Business Diversity Program grew to a record $3.4 billion. These diverse businesses profited from increased revenue through CDW's creation of 29,254 jobs and more than $1.7 billion paid in wages. Since launching our Supplier Diversity Program, total spending with small and diverse businesses is above $20 billion.

Our Director of Business Diversity, Kristin Malek, was named one of DiversityPlus Magazine's Top 25 Women in Power Impacting Diversity 2021. Other accolades of diversity excellence in 2021 include:

- US Veterans Magazine Best of the Best Supplier Diversity Program
- Professional Women's Magazine Best of the Best Supplier Diversity Program
- Black EOE Journal Best of the Best Supplier Diversity Program
- HISPANIC Network Magazine Best of the Best Supplier Diversity Program
- Supplier Diversity Program Best of the Decade by MBN Diversity

One more important aspect of the CDW•G Business Diversity program is our support and participation in various organizations and events focused on developing relationships and business opportunities within diverse communities. CDW•G is a National Corporate Member of

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the National Minority Supplier Development Council, Inc. and The Women's Business Enterprise National Council. We also support other organizations with a supplier diversity focus, such as the Chicago Minority Business Development Council, Inc., the Women's Business Development Center of Chicago, the Minority Business Development Agency of Chicago, and the National Veteran-Owned Business Association, and the National Gay & Lesbian Chamber of Commerce.

CDW•G contributes financially to these organizations and engages in advisory councils, attends and hosts events, and provides resources to support these organizations' focus on continued growth and success.

In addition, 50% of our Executive Council (our C-Suite executive board; i.e. CEO, COO, CFO, CIO, etc.) members are women.

Using CDW•G Diversity Partners

CDW•G is continuously developing other diverse partnerships to meet our customers' needs. These relationships include, but are not limited to, product manufacturers, distributors, and service providers nationwide who support direct (Tier 1) and indirect (Tier 2) fulfillment through presales and service engagements. We recruit diverse and disadvantaged partners locally and regionally since customer spending goals are typically tied to local laws and require the partner to be certified within their city or state.

These various engagement models allow Participating Agencies the choice to engage with the diverse partner that suits their technology needs and where the diverse partner's business is best suited to provide support in the sales cycle.

We realize that each customer has unique targets that require a thoughtful and dynamic approach to strategic sourcing. Our Business Diversity program offers a broad and robust partner network.

The following are a few ways that CDW•G can support Participating Public Agencies in meeting their diverse supplier goals:

- Educate users on CDW•G's business diversity program and how to initiate a planning session
- Conduct customer-focused planning sessions with CDW•G Account Manager and supplier diversity program representative
- Utilize information gathered from planning sessions to develop custom plans to achieve customer goals around supplier diversity
- Perform ongoing engagement to adjust plans as necessary

More details on our Tier I and Tier II Programs can be found below.

Tier I Program

CDW•G is continuously developing other diverse partnerships to meet customers' Tier I needs, which is where customer spending goes directly to the diverse firm. We offer an online registration tool where businesses can register for future opportunities with CDW•G. Our growing list of suppliers means that Cobb County and OMNIA Partners can count on CDW•G to deliver against their diversity spending targets. CDW•G has also partnered with diverse leasing companies to support Cobb County and OMNIA Partners Tier I spend requirements.

Tier II Program

To foster even more opportunities for small, diverse businesses, we a Tier II Supplier Diversity Program in 2009 for its key manufacturing, distribution, and logistics partners. The program's

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goal is simple: to further opportunities for competitive diverse companies to supply goods and services. In this model, CDW•G purchases the products from diverse suppliers and delivers them to our customers. CDW•G can provide Tier II reporting to customers that track their spending (typically for tax incentives), ensuring that suppliers meet contract compliance and obligations.

G. Indicate if supplier holds any of the below certifications in any classified areas and include proof of such certification in the response:

CDW•G does not meet any of the below certifications in any classified areas. Though not a woman-owned company, it is important to note that since January 1, 2019, CDW has been led by a woman executive—CEO Christine Leahy. Leahy has been with the company for 17 years, previously served as the company's chief revenue officer, and was the company's first general counsel.

Women comprise over half the U.S. population but remain underrepresented in leadership positions. Less than 10% of the top executives in Fortune 100 companies are women while only 6.6% of Fortune 500 CEOs are women.

Considering these statistics, along with a general underrepresentation of women in IT, CDW•G is setting the pace with Leahy as the second female CEO of a Fortune 500 company in Illinois, and with female leaders making up 40% of our executive leadership. Fairygodboss recognized CDW (and thus CDW•G), ranked 2nd, as one of the best places for women to work. At CDW•G, we aim for equity from the inside out, and our executives are leading by example.

CDW•G does not hold any certifications in any of the classified areas listed below.

Table 6: Minority Certifications

Category	Response
a. .Minority Women Business Enterprise	No
b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)	No
c. Historically Underutilized Business (HUB)	No
d. Historically Underutilized Business Zone Enterprise (HUBZone)	No
e. Other recognized diversity certificate holder	No

H. List any relationships with subcontractors or affiliates intended to be used when providing services and identify if subcontractors meet minority-owned standards. If any, list which certifications subcontractors hold and certifying agency.

As needed throughout the contract, CDW•G may look to bring on additional vendors. CDW•G has partnerships with more than 1,000 diverse organizations all across the US.

The way that CDW•G categorizes our subcontractors and affiliates is unique. CDW•G sometimes contracts with third parties to deliver services when there are constraints on our resources. Our Partner Services group manages these companies. These incorporate in-depth processes for determining who we work with. Our Partner Services team is comprised of Professional Service Managers and billable project managers who oversee partner management and project oversight. These service managers work directly and collaboratively with our operations team which is comprised of billing administrators and project coordinators that are engaged at the deal level. Each partner receives a review throughout the year ranging from quarterly to yearly depending on their level of engagement with CDW•G along with

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engagement level surveys to manage and control quality. Partners are held to a minimum survey score to continue performing work for CDW•G.

Depending on the unique needs of each opportunity, the CDW•G Account Teams will work with OMNIA Partners to develop a solution that is both comprehensive and strategic to the specific partner. The partner chosen will be specialized based on the work and needs of the customer. Details of the chosen partner will be provided to the interested party during scoping. Many of our partners include certifications as defined in our Diversity Programs section above, and listed additionally below:

- Minority Business Enterprise (MBE)
- Historically Underutilized Business (HUB)
- Women Business Enterprise (WBE)
- Lesbian Gay Bisexual Transsexual Business Enterprise (LGBTBE)
- Veteran Business Enterprise (VBE)
- US Business Leadership Network Disability Supplier Diversity Program (USBLN DSDP)
- Women-Owned Small Business (WOSB)
- Small Disadvantaged Business (SDB)
- Service-Disabled Veteran Owned Small Business (SDVOSB)
- Small Business
- HUBZone

Post-scoping, our services projects follow our Project Management Engagement Methodology which includes a heavy emphasis on communication among the parties to the contract, especially between CDW•G and the customer. These communication points include regular meetings and reports to monitor status, risks, issues, and plans.

Our manufacturing partners (such as Cisco, HP, and Microsoft) are considered subcontractors when they perform services engagements with us. We work very closely with our manufacturing partners and have many of their badged workers in our locations working with our engineering teams and brand managers. In this way, our CDW•G teams stay current with our vendor partner offerings as well as plans for product end-of-life and new product introductions. Our sales teams meet with our manufacturing partners quarterly and participate in sales training regularly to stay up to date on their latest offerings and offer you the peace of mind that you have a knowledgeable sales staff supporting you.

l. Describe how supplier differentiates itself from its competitors.

Technology requires more than fulfilment – it warrants a vendor who provides quality products and customer experience. A significant priority in SLED IT initiatives is flexible, adaptive technology that can securely promote user needs. It's not enough to provide customers with access to products they want quickly and efficiently. Procurement officers need to understand their options, and SLED agencies need to know their products are securely sourced.

Our position as a leading technology solutions provider with extensive experience working with OMNIA Partners, a mature public sector practice, robust relationships with SLED customers across the nation, mature logistics capabilities, secure and responsible sourcing processes, a fully developed contract management department, and an in-depth marketing approach all combine to create a procurement solution that no other vendor can offer.

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OMNIA Partnership & Contract Experience

Not only is our sales force well-versed in growing contracts but they are experienced in promoting OMNIA Partners contracts, specifically. We believe the contract structure that Cobb County and OMNIA Partners offer combined with our expertise in promoting dynamic procurement solutions with our broad customer ecosystem offer a unique opportunity to optimize contract adoption and growth. Collectively, we can remove the complexity of procurement and technology that our customers often encounter.

Additionally, CDW•G's program management department is singularly devoted to managing contracts. Its responsibilities are separate from those held by account managers. Members of the program management department work full-time to maintain contract compliance and administer contract procedures, including contract launch. CDW•G invests in these resources based on our understanding that contracts are complex sets of commitments. As depicted, we continuously evolve to support our key strategic relationship with OMNIA Partners. We look forward to the possibility of working with Cobb County to apply best practices and lessons learned from our OMNIA relationship to further this evolution.

Public Sector Expertise

We have over 30 years of extensive experience in providing solutions to public sector customers across segments (federal, education, state and local). Our parent company, CDW LLC, was established in 1984, and CDW•G was established in 1998 in order to better serve our government, state & local, and education customers. CDW•G is now among the largest K-12 technology solutions providers as a trusted IT partner to more than 15,000 K-12 schools, as well as approximately 3,000 colleges and universities. Public sector business comprised roughly 40% of our total annual revenue in 2021. We maintain over 1,000 contracts in order to serve these customers efficiently and compliantly. Our portfolio demonstrates widespread adoption and relevance with customers actively transacting across all 50 states.

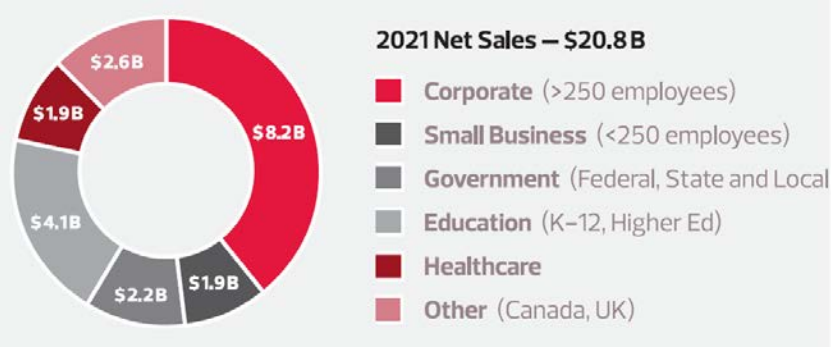


Figure 19: Distribution of 2021 Net Sales

Blended Distribution Model

A significant advantage that differentiates CDW•G in the marketplace is our ability to deliver the right products, at the right value, right when you need them. Many of our competitors rely on what we refer to as "virtual warehouses." This occurs when a reseller is entirely reliant on their distribution and OEM partners for packaging and shipping customer solutions. This introduces extended lead times and uncertainty in sourcing and supply chain security. At CDW•G, we have blended the best of our OEM's and distribution partners' fulfilment capabilities with our own distribution centers to optimize quick and accurate fulfilment.

Onsite Inventories

In fact, many technology manufacturers choose CDW•G as their primary reseller because of our vast large, on-hand inventories and effective inventory management procedures. CDW•G has two large strategically located distribution centers controlled by a Warehouse Management

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System (WMS) that ensures speed and accuracy throughout the order fulfilment and distribution processes. CDW•G's marketing and purchasing departments continuously monitor trends within the IT industry to ensure that we are stocking the latest technology for immediate shipment. With our secure supply chain, we also take proactive measures to reduce the risk of obsolescence and other inventory discrepancies that contribute to increased costs.

Strong Manufacturer and Distribution Partnerships

Our delivery model combines manufacturers, distribution channel partners and leading carriers to facilitate quick product turnaround. As one of the largest direct market resellers, CDW•G has established very good working relationships with the major manufacturers in the technology industry. Our buying power attracts the industry's top manufacturers-and their best prices and rebates.

To supplement our direct purchasing model, CDW•G has strong affiliations with principal channel distributors. We have partnered with numerous distributors to supplement our direct purchasing model. Such partners include Tech Data, Ingram Micro, SYNNNEX, Avnet, Arrow Electronics, and D&H Distributing Company. They send us daily Electronic Data Interchange (EDI) downloads which provides visibility to inventory items and pricing broken down by local or remote facilities. Furthermore, our top three distribution partners provide real time inventory information which is subsequently available to members through our online catalog.

In-Depth Marketing Approach

We also differentiate ourselves from our competitors through our in-depth marketing approach. We utilize an in-house marketing process based on strategy and we keep customer business outcomes in mind while we utilize our deeply rooted customer network as a function of our account management relationships. CDW•G will utilize a number of proven activities to publicize and promote this new Agreement. Our live touch approach includes a proactive communication program, as well as both inside and field sales teams meeting with eligible users.

Our customers rely on their account manager as an expert resource; this includes leveraging contracts. Most often, when a customer purchases from a specific contract, it is because of a direct suggestion from their account manager. CDW•G's sales and marketing plan combines past CDW•G marketing successes with a strategy to effectively capture net new business. We leverage our reporting capabilities to determine potential target customers. After determining targets, CDW•G can then educate them on the benefits of the new contract and grow net-new business. Through this method, the Cobb County, OMNIA Partners and CDW•G will gain traction with users faster than a supplier that does not have these existing relationships in place.

Contract Management

Touched upon earlier, CDW•G is extremely dedicated to the quality and reliability of our procurement management process. Some vendors, even large suppliers, do not have a team dedicated to managing their contracts. Instead, these companies rely on the sales team to manage compliance issues and reporting. We can imagine that this results in delayed responses, unreliable support, and in worst cases, inaccurate reporting. A differentiator for CDW•G is our Program Management Department, a group of more than 100 coworkers devoted to the full scope of contractual sales, including managing contracts. Keeping our contract management within one group makes oversight and structured processes easy to implement. In turn, this eases oversight responsibilities to one central group and allows CDW•G to standardize our contract management processes and share best practices – in turn reducing risks and improving efficiencies. With an average of over ten years of industry experience and active participation in National Contract Management Association, CDW•G program managers are qualified to advise and serve our customers at all stages of the contract process.

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J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.

As of the date of submission, there are no known present or past litigation, bankruptcy, or reorganization involving CDW•G.

K. Felony Conviction Notice: Indicate if the supplier

a. is a publicly held corporation and this reporting requirement is not applicable;

b. is not owned or operated by anyone who has been convicted of a felony; or

c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.

CDW•G is a publicly held company and this reporting requirement is not applicable.

L. Describe any debarment or suspension actions taken against supplier

As of the date of submission, there are no known debarment or suspension actions taken against CDW•G.

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Distribution, Logistics [RFP 3.2]

A. Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line. Describe the full line of products and services offered by supplier.

For this response, CDW•G is pleased to offer all of the providers and services CDW•G offers Our line of products and services can be found at www.cdwg.com.

B. Describe how supplier proposes to distribute the products/service nationwide. Include any states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.

CDW•G provides nationwide delivery for our hardware products and has a robust system in place to secure timely delivery. A full description of our distribution centers can be found in the Description of Facilities section below.

Many of our top manufacturers and software publishers' representatives are onsite at CDW•G's sales offices to facilitate requests for information and assist with designing the best possible solutions.

- We receive detailed insight into supply chain availability, manufacturing delays, distribution shortages, and overstocks, as well as other disruptions related to supply and demand variability
- We often secure additional inventory to offset any known supply issues
- CDW•G works closely with our vendor partners to train and certify our account managers and technical staff and to deploy and manage technologies in customer environments
- CDW•G has received awards and recognition from our partners for developing and delivering exceptional solutions

Products and services will be offered to all states under the Master Agreement, including US Territories and Outlying Areas where allowable and applicable by local government regulations, CDW•G contractual limitations, and our relationships with the respective manufacturers.

Additionally, due to the relationships which CDW•G has with both OEM partners and shipping carriers, we ensure the traceability of products regardless of their origin. If products are shipped directly from a manufacturer location, our logistics and drop ship team maintain active communication with the manufacturer and the preferred carrier to not only ensure that the correct number and model of products are being shipped but that shipment schedules are being met.

We do not procure from gray market vendors and only work directly with manufacturers and their authorized sources. Our supply chain complies with industry standards to support the IT needs of public sector customers. Our catalog contains a vast range of manufacturers, so customers can expect transparency since we do not manufacture products ourselves. The Government Industry Data Exchange Program provides a report of counterfeit or suspected counterfeit products weekly. We cross-reference this list with our inventory and sales. To date, none (0%) of the products we've carried or sold have been classified as counterfeit. All of CDW•G's shipping and quality processes are based on the ISO 9001:2015 certification standards, of which we are certified.

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C. Describe how Participating Agencies are ensured they will receive the Master Agreement pricing; include all distribution channels such as direct ordering, retail or in-store locations, through distributors, etc. Describe how Participating Agencies verify and audit pricing to ensure its compliance with the Master Agreement.

As with all of our contracts, this contract will be assigned a Program Management team led by a Program Manager who will ensure contract deliverables are met as well as ensure the correct contract price is maintained. The Program Manager regularly conducts self-audits to ensure pricing compliance and takes corrective action when needed.

Compliance

Immediately upon award of a contract, the Program Manager reviews and disseminates the contract documents and all related proposal documents, recording all items that CDW•G will need to manage. The Program Manager is responsible for ensuring that CDW•G observes all legal statutes included in the contract as well as all business commitments. For example, if CDW•G commits to a pricing structure based on a certain discount from advertised pricing, it is the Program Manager's responsibility to record the pricing in the contract management software, which then locks the structure for purchases made under the contract. Since the Program Manager is often the person most familiar with the contract, they will also make recommendations for improvements and efficiencies based upon their constant analysis of the contract's provisions and trends with Cobb County and OMNIA Partners' use of the contract.

Automated Contract Management System

Upon award, we will load the contract structure into our internal contract editor system which will then create a customer premium page with a distinct URL that will reflect the contracted price. Once the structure is loaded, no additional manual intervention is needed to maintain it. End users will be able to view and verify the contracted pricing through this unique URL without the need to log in with a password.

Distribution Channels

CDW•G offers various distribution methods for our customers. It is of the utmost importance that our customers can purchase from us however is easiest from them. CDW•G works with several other companies to help to process, handle, and/or ship hardware products to customers. In addition to the manufacturer and distributor partners we work with, we have built strong relationships with industry well-known carriers such as FedEx Parcel, UPS Parcel, UPS Freight, FedEx Air Freight, CEVA LTL services (less than truckload), and local messenger services.
We will provide Cobb County a Premium Page in which they can quickly and efficiently place and track the status of their orders.
As one of the largest direct market resellers, CDW•G has established very good working relationships with the major manufacturers in the technology industry. Our buying power attracts the industry's top manufacturers-and their best prices and rebates. Most manufacturers send us daily Electronic Data Interchange (EDI) downloads with pricing and product availability information. Also, we receive timely notification regarding product changes and lifecycles.
To supplement our direct purchasing model, CDW•G has developed strong affiliations with principal channel distributors. They send us daily EDI downloads which allows us visibility to inventory items and pricing broken down by local or remote facilities. Furthermore, our top three distribution partners provide real time inventory information.
Our two distribution centers are located in close proximity to principal distributors; this enables us to obtain competitively priced, non-stocked items relatively quickly. CDW•G can secure non-of-stock product(s) from our local distribution network normally within 24 hours with a few more

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obscure products taking up to 48 hours, depending on your requirements. The value-added benefits of our highly automated state-of-the-art distribution systems are that Cobb County and OMNIA Partners will receive the right products quickly, configured correctly and ready to use; this will enable your employees to maintain a high level of productivity and to better serve your customers.
Customers at any time can reach out to their dedicated Account Manager to place an order via phone or fax is that is the preferred method.

D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

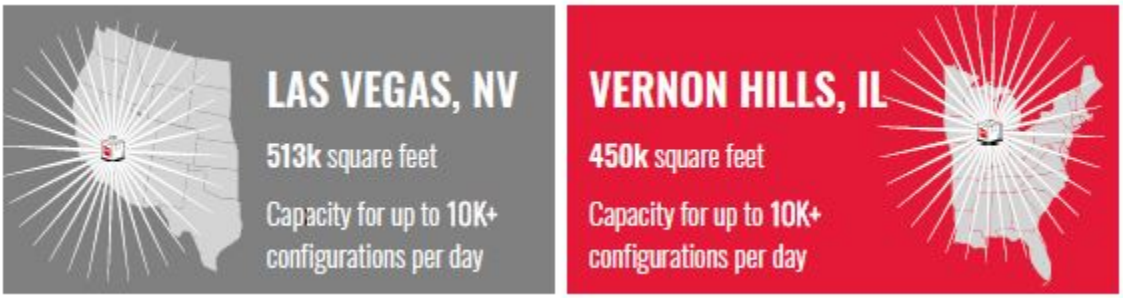
We work with several, authorized, channel partners to deliver solutions to OMNIA Partners. These include OEMs, Publishers, Cloud Solution Providers, and Distribution Partners.

CDW•G works with several other companies to help to process, handle, and/or ship hardware products to customers. In addition to the manufacturer and distributor partners we work with, we have built strong relationships with industry well-known carriers such as FedEx Parcel, UPS Parcel, UPS Freight, FedEx Air Freight, CEVA LTL services (less than truckload), and local messenger services.

Depending on the unique needs of each opportunity, CDW•G will work with these resources in conjunction with Cobb County and OMNIA Partners to choose additional vendors that best fit based on the work and needs of the customer. Details of the chosen vendor will be provided to the interested party during scoping.

E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.

Unlike many solutions integrators, CDW•G operates physical warehouses as opposed to the virtual warehouse methodology. We have two large, strategically located distribution centers controlled by a state-of-the-art Warehouse Management System (WMS) that ensures speed and accuracy throughout the order fulfillment and distribution processes. We have a 450,000-square-foot distribution center located at our headquarters in Vernon Hills, IL, and a 513,000-square-foot distribution center located in North Las Vegas, NV. These locations facilitate quick distribution of products to our growing customer base throughout the country. The Vernon Hills distribution center focuses on distributing products to customers east of the Mississippi River while the Las Vegas distribution center primarily serves the western part of the United States.



Our Configuration Centers are PCI Certified and Hold Several Iso Certifications:				
ISO 9001	**ISO 14001**	**ISO 20243**	**ISO 27001**	**ISO 28000**

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Quality	Environmental	Risk Management	Information Security	Secure Supply Chain

We hold more than $500M of inventory in our two in-house distribution centers that total almost one million square feet. Our ISO 9001-, 14001-, and 28000-certified, strategically located distribution centers provide speed, accuracy, and excellent geographic coverage across the US. Our product lineup includes desktops, notebooks, servers, peripherals, networking and communications equipment, software, accessories, plotters, network printers, desktop printers, and print supplies.

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Marketing and Sales [RFP 3.3]

A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:

CDW•G has a long-standing relationship with OMNIA Partners (and previously with affiliates of OMNIA including NIPA and US Communities GPA). CDW•G is vendor agnostic. This is not our primary go to market strategy. We continue to lead and facilitate our growth strategy with numerous public entities which utilize the multiple OMNIA contracts CDW•G has been named to. CDW•G will continue to partner with OMNIA Partners through this contract, if awarded, and other contracts to identify additional members under this solicitation. CDWG must abide with various regulations and requirements in multiple jurisdictions including some with mandatory use requirements, exclusions, or preference of public entities on utilization of specific contracts. We have included a cohesive marketing plan and pledge to continue focusing on the growth of this contract's awareness and success.

Beginning with the date a contract is executed, the CDW•G Team, in conjunction with our Executive Leadership, will work to implement the Master Agreement within our computer system and communicate it to the sales team. We will provide Cobb County and OMNIA Partners with specific dates of implementation upon award and with a firm understanding of the contract terms.

We maintain an ecosystem of coworkers committed to successfully managing all aspects of a contract through its entire lifecycle. From our Executive Leadership to the Contract Management group, our team of coworkers will collaborate to customize a detailed and effective plan to launch and grow this contract.

CDW•G has a successful contract launch history where we focus on five areas of the contract which are:



Figure 20: Contract Launch Progression

This methodology allows our coworkers to efficiently get brought up to speed about this new agreement and begin contract growth with Cobb County and OMNIA Partners.

Our process is as follows:

1. The Program Manager receives the executed Master Agreement and other relevant signed documents and saves CDW•G's contract library
2. The Program Manager sets up the pricing in our Contract Management System
3. The Program Manager works with our in-house eProcurement team to create a homepage specific for Cobb County and OMNIA Partners. ensuring contract-compliant pricing, as well as the various logins and security settings for OMNIA Partners.

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4. The Program Manager oversees training for our sales teams supporting Cobb County and OMNIA Partners on the contract terms and deliverables.
5. The Program Manager will provide Cobb County and OMNIA Partners reports as required by the contract language and analyze the success of the program, making recommendations for improvements throughout the contract's duration.

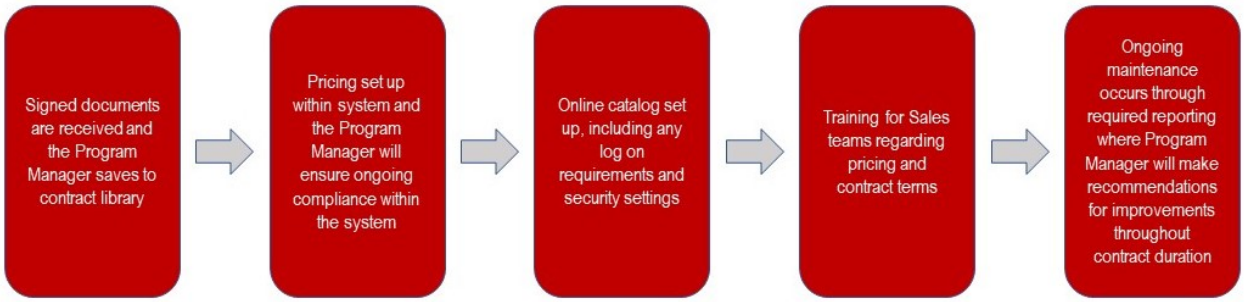


Figure 21: Program Management Growth Methodology

We are excited to bring this proven growth methodology, also displayed in the depiction above, to the contract in partnership with Cobb County and OMNIA Partners.

i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days

We maintain an ecosystem of coworkers committed to successfully managing all aspects of a contract through its entire lifecycle. From our executive leadership to contract management, our coworkers will collaborate to customize a detailed yet effective plan to launch and grow this contract. CDW•G has a successful contract launch history where we focus on five areas of the contract which are: Intake, Set-Up & Compliance, Education, Measure and Growth. By focusing on these areas specifically, we launch contracts to the CDW•G teams with the most powerful and applicable details to optimize the success of this new Agreement.

We bring leaders from across our public sector teams together with OMNIA Partners multiple times a year to review contract initiatives, joint goals, and customer feedback. Our ongoing effort in specific target accounts help increase contract utilization and drive contract adoption amongst nonparticipating agencies. We meet monthly to review the current state of the business and execution of our growth and marketing strategies.

CDW•G's leadership team is securely behind the growth and strategy of this program for both Cobb County, GA and nationwide. CDW•G executive leadership commits to endorse and sponsor the award within the first 10 days of the contract.

ii. Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days

CDW•G's program management department is singularly devoted to managing contracts. Its responsibilities are separate from those held by account managers. Members of the program management department work full-time to maintain contract compliance and administer contract

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procedures, including contract launch. CDW•G invests in these resources based on our understanding that contracts are complex sets of commitments.

CDW•G's Program Manager, Francie Gribble, has in-depth working knowledge of OMNIA Partners including the former cooperatives, National IPA and TCPN. She collaborates with CDW•G's marketing department to create awareness and training campaigns to enable our national sales force.

Over the first 90 days, in partnership with the OMNIA Partners team, Francie and other key members of the CDW•G executive leadership team will outline their strategy to implement this contract within our portfolio. With our experience on both OMNIA and other cooperative contracts, our robust implementation plan ensures we are able to bring our national sales force up to speed quickly,

Gribble will work directly with our sales leadership, Cobb County, and OMNIA Partners to develop and execute a training program for our sales force swiftly following contract signature. Training content will cover contract scope and operations, growth strategy endorsed by executive leadership, and the contract benefits. We expect this to happen within the first 30-45 days of contract signature.

The documentation Gribble compiles in conjunction with our marketing department will be customized depending on the needs and the region of the seller to ensure our messaging matches the customers within that geography.

Our sellers will then be equipped with relevant collateral to communicate with customers the benefits and strength of this contract. Curriculum development, trainings, and collateral creation will be completed within 90 days of contract award. However, CDW•G doesn't stop at 90 days. We have continuous, ongoing training with our national sales force for the life of the contract.

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:

Just as our contract management team leads contract launch and maintenance requirements, our sales force upholds strategic relationships with current and potential OMNIA customers. These relationships uniquely position us to develop and deliver an awareness and growth campaigns to members through a trusted advisor network. Our account teams have long-standing customer relationships in which they often become an extension of their customers' IT and purchasing teams. Our account managers speak with their customers weekly, if not daily. As a result, our customers turn to their account managers for purchasing recommendations, including which contracts to leverage. Within 90 days of contract award, we will leverage this trusted advisor network and our marketing capabilities (e.g., customer-facing collateral, email campaigns, call campaigns, social media, etc.) to quickly and effectively alert registered and potential customers of the new contract and its benefits.

i. Creation and distribution of a co-branded press release to trade publications

To successfully implement a marketing plan, marketers must first know their audience and how to access them. CDW•G partners with various trade publications to access our target customers.

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Within 90 days of contract launch, our marketing team will work with OMNIA Partners to develop content to disseminate to customers. Below, we have outlined potential avenues in which we can access target customers.

Publications. CDW•G partners with industry experts to publish sector-specific online and hardcopy magazines for State (StateTech) – shown in the graphic on the right, K-12 (EdTech Focus on K-12) and Higher Education (EdTech Focus on Higher Education). To successfully implement a marketing plan, marketers must first know their audience and how to access them, and these publications help access our target customers. All of the aforementioned publications deliver relevant content via print, blog, video case studies, and e-newsletters on topics including classroom, cloud, data center, hardware, software, security and services.



Figure 22: State Tech Sample

Additional publications include:

- CoSN
- EdTech Magazine: Focus on Higher Ed
- EdTech Magazine: Focus on K-12 Education
- EDUCAUSE
- GovExec
- GovTech
- NASCIO
- NASTD
- State Tech Magazine

Advertisements and Cobranding.

CDW•G works with internal and external marketing teams to profile CDW•G and partner delivered technology productions, solutions and services on customized flyers that are easily accessed electronically or printed to hand out.

Custom flyers are created for all CDW•G contracts. The example below is for a statewide hardware contract with the State of Utah for PC Stores and following CDW•G guidelines was designed to bring value to those new to CDW•G as well as long-time agency users and partners, with information that includes:

- Quantified examples of CDW•G's experience and approach to serving the State;
- Samplings of our breadth and depth of industry partnerships
- Contract specifics where customers can find CDW•G delivered solutions and services; a
- Contact details for Account Managers and Field Account Executives

We are able to do the same thing for Cobb County on this contract and other OMNIA Partners, should you want to.

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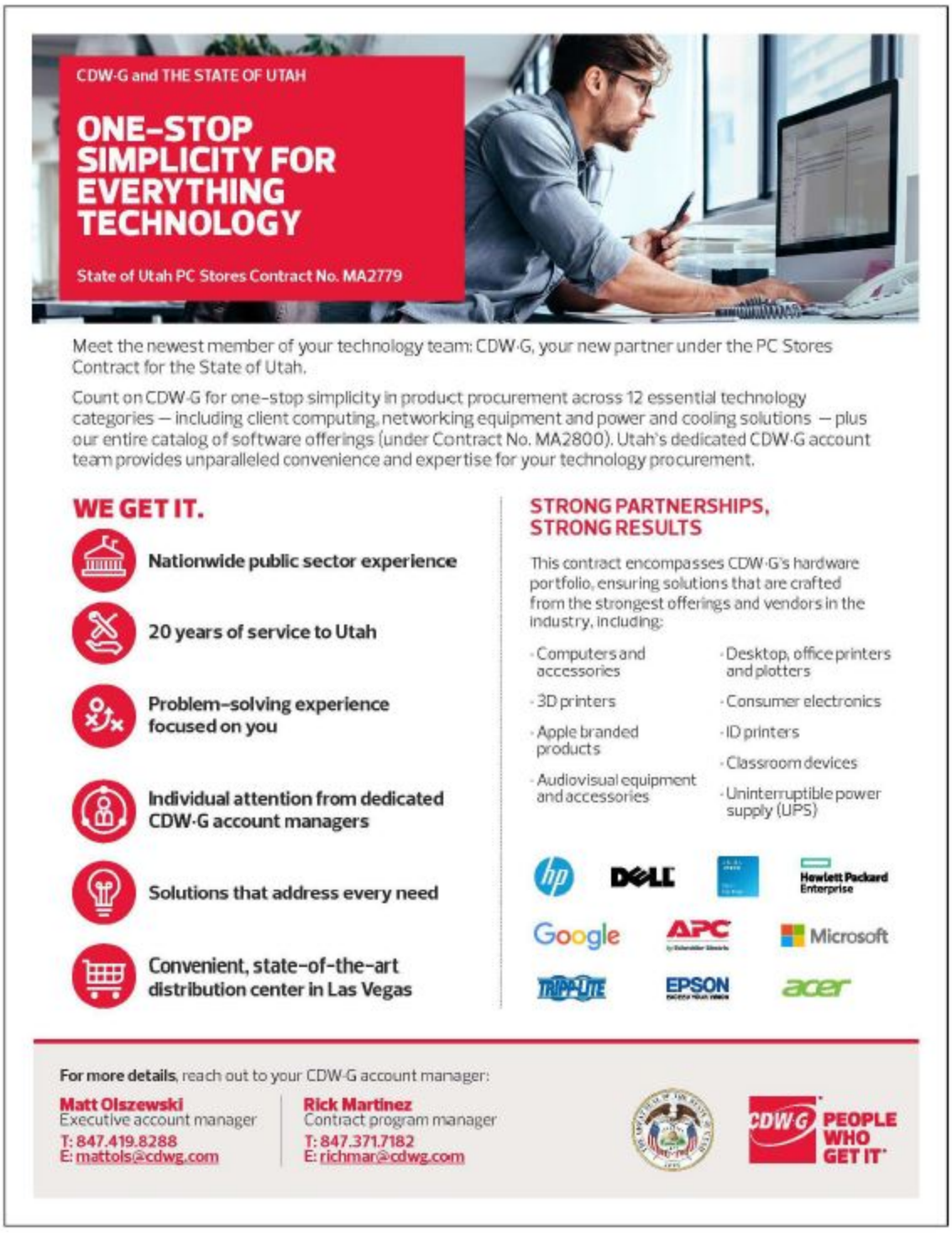


Figure 23: CDW•G Custom Flyers

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Social Media

CDW•G meets our customers where they are on today's technology horizon. The CDW Social Squad are employees educated on and active in social media. This Social Squadpushes customized content to and through social media outlets including relevant articles, emerging technology news, information on available contracts and upcoming events in customer-specific markets. We can customize this content to be relevant to Cobb County and OMNIA Partners.

With over 1,700 entries and counting across topics including Cloud, Data Center, Digital Workspace, Networking, Security, and Software, CDW's Solutions Blog delivers evocative and relevant content. Authored by our own subject matter experts, articles are written to help our customers navigate and digest the overwhelming amount of data that comes at them every day as they work to make better decisions for more effective and efficient solutions that meet their individual goals.

ii. Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days

We will create a customized tab on our OMNIA Partners Premium Page so customers can easily shop for featured products. It will be active on the first day the contract goes live and feature co-branded material with your organization's logo and message. This website will include up-to-date pricing on all eligible products. Authorized users and administrators access the information they need when they need it and benefit from real-time updates to inventory and price.

iii. Design, publication and distribution of co-branded marketing materials within first 90 days

Our standard contract launch process includes developing collateral to promote contract awareness and education among internal and external stakeholders. Content will focus on the administrative and strategic value of utilizing this new Agreement. Specifically, we will highlight the convenience of the online marketplaces, as well as the cost and time savings associated with consolidating transactional procurement needs by leveraging the new Agreement.

Possible outlets to disseminate content include our internal Corporate Communications, our Public Sector Publications (State Tech & Ed Tech), a sale- led communications campaign, and Social Media. We use Twitter, Facebook, and LinkedIn as avenues for marketing, education, updates and general communication with customers. Active social media helps customers stay informed with links, posts and articles of interest in the way that they choose to receive information. We also maintain an internal group that is focused on submitting and curating social media content called the Social Squad. It even has its own app available for Android. Social Squad members are encouraged to submit content on a number of topics, including industry news, products and deals, emerging technologies, product launches, featured partners, and more.

We are able and willing to participate in co-branding marketing opportunities with Cobb County and OMNIA Partners. For instance, a combined OMNIA and vendor branding logo can be created to include in social media advertisements, the Agreement's customized Premium Page, customer-facing digital and print one-pagers, and customer-facing emails.

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Upon contract award, intend to conduct a collaborative kick-off meeting dedicated to developing our go-to-market strategy including the development and distribution of co-branded marketing materials within the first 90 days.

iv. Commitment to attendance and participation with OMNIA Partners at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement

v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.

CDW•G has enjoyed participating in the NIGP Annual Forum in past years and will continue to do so with commercially reasonable efforts. We believe in the mission to "develop, support and promote public procurement" and look forward to sharing our best practices with other non-competing OMNIA Partners vendors.

vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement

CDW•G will advertise the contract in our own highly viewed publications and our contract specific email campaign. We will continue to promote the contract via avenues such as our EdTech and State Tech publication sites.

vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)

CDW•G will market and promote the contract, through various avenues such as announcements in our publications, email campaigns, as well as on the contract's CDW•G premium page. We look forward to working with OMNIA Partners to develop our marketing strategies even further and propose a marketing strategy meeting to discuss a refreshed approached and specific goals/targets for the new contract. Below is a sample of the ongoing email campaign we currently conduct for our OMNIA agreement.

viii. Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:

- OMNIA Partners standard logo;
- Copy of original Request for Proposal;
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to OMNIA Partners' website including the online registration page;
- A dedicated toll-free number and email address for OMNIA Partners

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CDW•G currently hosts a dedicated web-page for our OMNIA agreements www.cdwg.com/omniapartners including all contract documentation, marketing materials, products and pricing and relevant links. Upon award we will create a dedicated tab on this premium page.

The updated Premium Page will include the following:

- Cobb County and/or OMNIA Partners standard logo
- Copy of original Request for Proposal
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier
- Summary of products and pricing
- Marketing materials
- An electronic link to OMNIA Partners' website including the online registration page
- A dedicated toll-free number and email address for Cobb County and/or OMNIA Partners
- Our team will review the tailoring of our current Premium Page with the OMNIA Partners team to ensure that the dedicated webpage meets all of the Participating Entities' needs.

C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

As Cobb County and OMNIA Partners may know, CDW•G currently holds a significant number of cooperative purchasing contracts including OMNIA Partners, Public Sector (fkna NIPA), Association of Educational Purchasing Agencies (AEPA), and Sourcewell (fkna NJPA). CDW•G is solutions-focused, vendor agnostic and provides consultation to assist our customers to select the contract best suited for their specific procurement needs. For all of our national contracts, we have maintained the transparency of our contract portfolio to our customer and negotiated the removal of language such as "most favored customer" and requirements such as this. CDW•G continues to prove without a doubt that we can keep our commitment to making this contract prosperous amongst our portfolio of offerings. We have transitioned a number of customers and their solicitation opportunities to OMNIA Partners contracts, in the form of participating agreements. Moving forward, we will continue to loop new members into the contract and sustain the growth.

CDW•G currently holds a significant number of cooperative purchasing contracts including Omnia Partners/National Intergovernmental Purchasing Agency (National IPA), Association of Educational Purchasing Agencies (AEPA), and Sourcewell. CDW•G is solutions-focused and provides consultation to assist our customers to select the best contract vehicle suited for their specific procurement needs. We continue to maintain transparency of our contract portfolio to our customers and will work with customers upon their request to transition customers to ensure it is in the best interests of purchasing entities, CDW•G, OMNIA Partners, and customers.

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D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.

CDW•G acknowledges and agrees to provide its logo(s) to OMNIA Partners, Public Sector and agrees to provide permission for reproduction of such logo in marketing communications and promotions. We additionally acknowledge that use of OMNIA Partners, Public Sector logo requires permission for reproduction, as well.

The core component of CDW•G's brand identity is its corporate logo; therefore, we ask that you carefully consider the following guidelines when using it.

When using the CDW•G logo, you agree to the following:

1. You may use the logo(s) only in the exact form provided by CDW•G and only to accurately and actively link from a website that is under your control to the home page of CDW.com (or another address provided by CDW•G) and for no other purpose.
2. You may not incorporate the logo(s) into any other logo or design.
3. You may not to use the logo(s) in a way that suggests that you or your company or products are affiliated with CDW•G or its products or services in any way.
4. You may not display the logo(s) on any website that disparages CDW•G or its products or services, infringes any CDW•G intellectual property or other rights, or violates any law or regulation.
5. No other logo or design element should appear within 0.5 inches of the CDW•G logo.
6. You may not frame or alter the CDW•G website in any way.
7. At CDW•G's direction, you will immediately remove the logo(s).
8. Your limited right to use the logo(s) does not constitute a grant of any other right or license. All other rights are reserved by CDW•G.
9. CDW•G disclaims all warranties, express and implied, regarding the logo(s), including warranties against infringement. You agree to indemnify CDW•G from and against any and all claims and liabilities arising out of your use of the logo(s).

E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:

i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency

ii. Best government pricing

iii. No cost to participate

iv. Non-exclusive

CDW•G confirms we will be proactive in direct sales to Public Agencies nationwide and our initiatives will, at a minimum, communicate points i-iv stated above.

I. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency

II. Best government pricing

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III. No cost to participate
IV. Non-exclusive

We are happy to create a contract announcement flyer with the new contract information. A sample from an existing agreement is included below. We would like to further discuss the inclusion of II and IV, and will revise our marketing pieces to include a mutually agreeable message that best represents the value of the contract.

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Figure 24: OMNIA Partners and CDW•G

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F. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:

i. Key features of Master Agreement

ii. Working knowledge of the solicitation process

iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners

iv. Knowledge of benefits of the use of cooperative contracts

---

CDW•G acknowledges and complies with the above requirement. CDW•G's Program Manager, Francie Gribble will work directly with our sales leadership, Cobb County, and OMNIA Parnters to develop and execute a training program for our sales force. Training content will address all of these elements. Our sellers will then be equipped with relevant collateral to communicate with customers. Curriculum development, trainings, and collateral creation will be completed within 90 days of contract award.

At a minimum, training will include the following topics:

I. Key features of Master Agreement
II. Working knowledge of the solicitation process
III. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners

G. Provide the name, title, email and phone number for the person(s), who will be responsible for:

i. Executive Support

- Name: David Hutchins
- Title: VP, Strategic Programs and Sales Enablement
- Email: David.hutchins@cdwg.com
- Phone: 847-968-9782

ii. Marketing

- Name: Lauren Bull
- Title: Manager – Public Sector Field Marketing
- Email: lbull@cdw.com
- Phone: 847-968-0257

iii. Sales

- Name: AJ Lucci
- Title: Sales Manager
- Email: ajlucci@cdwg.com
- Phone: 312-705-9355

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iv. Sales Support

- Name: Rob Sullivan
- Title: Executive Account Manager
- Email: robesul@cdwg.com
- Phone: 312-705-9505

v. Financial Reporting

- Name: Francie Gribble
- Title: Program Manager
- Email: frances.gribble@cdwg.com
- Phone: 629-208-8229

vi. Accounts Payable

- Name: **we assign Accounts Payable personnel for each manufacturer, not per customer or per contract, contact details can be shared post award for a particular manufacturer if necessary
- Title:
- Email:
- Phone:

vii. Contracts

- Name: Francie Gribble
- Title: Program Manager
- Email: frances.gribble@cdwg.com
- Phone: 629-208-8229

H. Describe in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

The CDW•G customer support models starts with our account managers. As part of the CDW Experience, we organize our sales force differently from other companies in order to best serve our customers. First, our account managers are trained to become experts within the public sector segment they support – K-12, Higher Education, State & Local government, Federal government and Healthcare. The advantage is that they can address the very specific needs of their unique customers. To further equip our account managers to support their customers, CDW•G divides the salesforce into distinct geographic regions to ensure that sellers are prepared to support the local landscape in a way that is unmatched by other vendors, both small local and national companies.

Each member has a dedicated account manager who maintains overall responsibility for coordinating all CDW•G resources to achieve the highest standards of customer service. They are the first line of contact for orders, questions, and marketing implementation.

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CDW•G account managers, their supporting product specialists, and their sales managers understand the current technology trends and are specialized to only work with public-sector customers. This is one of the great benefits of partnering with CDW•G. OMNIA Partners members will have access to much more than a single resource; members will also have access to an entire sales and support team ready to address any member's need. CDW•G, from the executive level down to your account manager, is focused on ensuring that OMNIA Partner's members' needs are consistently and satisfactorily met.

To simplify the customer service process, we recommend OMNIA members bring any issues or inquiries to the attention of their dedicated account manager. Members' CDW•G account managers are the center of their customer service and support experience. CDW•G account managers' first step is always to listen. Then they evaluate and determine the best next steps. If the account manager cannot correct the issue, they will escalate it to their sales manager. If the sales manager cannot correct the issue, they will escalate it to the director. Escalation continues all the way up to the executive leader who oversees this contract, our Vice President of Government and Strategic Programs, Ben Bourbon and David Hutchins, respectively, until we provide a suitable solution to the performance issue. While this type of escalation is rare, we always work to sufficiently and expeditiously resolve any escalations. Usually, resolution is as simple as walking a few desks over to explain the situation.



Figure 25: CDW•G's Escalation Process

The beauty of this approach is that the customer does not have to manage the process, hunt down contacts or explain their issue many times over. They are kept in the loop on progress of the resolution, while their CDW•G team takes care of the rest. Because we designate an actual person and not a faceless inbox, they can reach out to their account manager whenever they feel necessary.

For mission critical issues, we follow the same path with expedited timelines. If problem resolution is specific to a coworker, such as performance of an account manager, the customer is encouraged to reach out to the coworker's manager, who will then take the appropriate steps to address. Contact information for your account manager, sales manager and customer relations can all be found easily in your cdw.com account center.

A follow-up step in our incident escalation process involves taking the incident resolution process one step further. Our sales teams work hand-in-hand with our Program Management team to ensure that for issues requiring significant escalation, we determine proactive measures

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to prevent the problem from recurring. We want to understand why it happened to make sure it doesn't happen again. This is one of the reasons we are consistently lauded for outstanding customer service.

Beware of proposed incident escalation paths that go no further than issue resolution. Vendors that correct the problem but acknowledge it no further than incident escalation/resolution will be able to offer only temporary fixes. They won't understand the causes of where they failed to meet member expectations.

Cobb County and OMNIA Partners can be confident in this contract's level of Executive Sponsorship within CDW•G, as well. AJ Lucci, Sales Manager; Don McCarthy. Director SLG East, Ben Bourbon, Vice President of Government Sales; and Chris Webb, Director, Capture are all high-level, accessible, points of contact focused on the success of this Agreement.

Contact information for the highest level of the executive sales team is:

- Name: Don McCarthy
- Title: Director, Area Sales
- Email: Donamcc@cdw.com
- Phone: 847-419-6317

l. Explain in detail how the sales teams will work with the OMNIA Partners team to implement, grow and service the national program.

An OMNIA member's first point of contact with CDW•G is their dedicated account manager. As such, we understand how critical it is for our account managers understand the scope and benefits of the OMNIA agreement. In conjunction with the technical trainings offered to our CDW•G account teams, our Program Management team will train our sales teams regarding the OMNIA agreement with CDW•G. The diverse nature of our training program gives each account team confidence to support OMNIA members through the entire sales cycle from project inception, purchase, solution deployment, and post-sale support. Our account teams clearly and concisely deliver the value of the OMNIA agreement to non-members helping to drive increased adoption and contract growth.

Public sector customers are seeking a digital platform for quick and simple procurement of transactional items. Our account managers, across all segments and regions nationwide, will be poised and prepared to guide and educate members on this new procurement option.

Tenured CDW•G account managers are actively marketing the current City of Mesa OMNIA agreement to customers and are very familiar with its benefits, including product categories, administrative fee structure, and flexibility. While there will be subsequent trainings upon award, the Online Marketplace contract will easily be added to our account manager's repertoire to become an arrow in their OMNIA quiver. The ramp up time for our account managers will be far quicker than account managers who lack such familiarity with OMNIA agreements.

In addition to our Account Managers, our Business Development team is actively engaged with OMNIA Regional Managers and leaders in Partner Development and Strategic Accounts to review the state of our joint business, develop growth goals and strategies and execute prescriptively to drive business the OMNIA Partners portfolio. This new contract will fit seamlessly into the overall program allowing us to quickly develop and expand contract usage utilizing a proven model.

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I. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.

As with all of our contracts, the Online Marketplace contract will be assigned a Program Management team led by a Program Manager (PM) who will ensure c contract compliance and administer contract procedures, including contract launch. The Program Manager regularly conducts self-audits to ensure pricing compliance and takes corrective action when needed.

Upon award, CDW•G's Program Manager, Francie Gribble, will work directly with Cobb County and OMNIA Partners to stand-up all aspects of the new Agreement within our system (e.g., member lists, pricing, reporting, fee schedules, and other compliance requirements). We will load the contract structure into our internal contract editor system which will then create a customer premium page with a distinct URL that will reflect the contracted price. Once the structure is loaded, no additional manual intervention is needed to maintain it (this non- manual process only applies to catalog contract using CDW•G categories).

We also have processes in place to ensure that the contract prices proposed are maintained throughout the life of the contract. CDW•G will use automated internal systems as well as Program Management personnel to manage the proposed price structure.

After contract launch, the Program Management team is responsible for adding new members to the contract by linking their account to the new contract. Contract stand-up also includes creation of internal and external resources to aid our customers and sales teams in transitioning to the new Agreement.

Our ongoing marketing efforts will include the previously discussed topics – i.e., training, publications, attendance at events – to ensure this contract is continually being marketed from contract launch through completion.

J. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

Due to confidentiality reasons CDW•G does not release the financial information of Our customers. Should this contract be accepted, CDW•G can solicit each customer individually to determine whether their financial information may be shared.

The following are our 2021 top Public Agency OMNIA Customers:

Table 7: CDW•G Top 10 Public Agency Customers

Customer Name
NYC Dept Of Info Tech & Telecom
NYC Cyber Command
New York City Department of Education
NYPD
NYC HRA
MTA Headquarters
Kern County High School District
NYC Dept Of Health & Mental Hygiene
NYC Department of Education
NYPD

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K. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

eCommerce Platform – Web based

Your customizable CDW•G web portal is available to authorized users 24 hours per day, provides real-time information, and facilitates researching, ordering and tracking purchases. Whether you are a first time shopper or an existing customer of CDW•G, we can ensure your order routes to the appropriate account management team that supports the shoppers entity, based on the contract being used.

eProcurement Platform – Punch Out Catalog

As a company, CDW•G is highly experienced in implementing B2B solutions. Since 2001, we have integrated with over 9,000 entities (13,000 customers) and work with over 80 different marketplaces, ERPs and SRMs. Our in-house staff of over 200 IT personnel are dedicated solely to our web, internal, and e-commerce IT systems. Our mature e-procurement practice also means Cobb County won't have long to wait to begin using their system. By integrating quicker than our competitors, CDW•G simplifies procurement for eProcurement customers by allowing them to buy IT the way they need based on their specific requirements. CDW•G's punch out offers the shopper dynamic price offerings, product information and availability while providing industry standard information back into our customers e-procurement platform, such as UNSPSC and contract information. CDW•G can support customers who wish to utilize Cobb County award(s) through an eProcurement platform.

Application Programming Interface (API)

CDW•G can review customer specific requests where order process automation is needed, but further customization is required. This process may include technologies such as JSON or SFTP, but may be accommodated based upon the scope of the project.

L. Provide the Contract Sales (as defined in Section 12 of the OMNIA Partners Administration Agreement) that Supplier will guarantee each year under the Master Agreement for the initial three years of the Master Agreement ("Guaranteed Contract Sales").

$_____.00 in year one

$_____.00 in year two

$_____.00 in year three

To the extent Supplier guarantees minimum Contract Sales, the Administrative Fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

While we cannot provide guaranteed minimum contract sales, CDW•G has a proven record of winning and growing OMNIA agreements, and the resources needed to do so. OMNIA Partners has our commitment to do the same here.

M. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

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i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).

ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.

iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).

iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail Supplier's strategies under these options when responding to a solicitation.

As an impartial solutions provider, our first and primary goal is to serve the needs of the customer from a technology and procurement perspective. We act in a consultative, objective manner to aid customers in developing the procurement strategy to best fit their needs. In honoring this commitment, we have maintained the transparency of our contract portfolio to our customers and negotiated the removal of language such as "most favored customer" and other requirements.

We commend Cobb County and OMNIA Partners for creating a contract vehicle to facilitate easy transactional buying at competitive pricing for its users. We certainly see the strategic fit this contract demonstrates within the SLED space and we will position this agreement when it best suits their procurement needs.

When responding to a solicitation that directly disclaims the terms and conditions of this Master Agreement, we will comply with all appropriate contractual terms. Subject to applicable law, we represent that under this Agreement we will make reasonable commercial efforts to offer prices that are competitive with the prices offered to other similarly situated customers purchasing a comparable volume of the same products at the same time and under the same terms and conditions.

Subject to applicable law, Supplier represents that under this Agreement it will make reasonable commercial efforts to offer prices that are competitive with the prices Supplier offers to other similarly situated customers purchasing a comparable volume of the same products at the same time and under the same terms and conditions.

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Appendix A: Sample SOW

See following pages for a Sample SoW that would need to be mutually agreed upon for all Service engagments.

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STATEMENT OF WORK

Project Name:		**Seller Representative:**
Customer Name:		
CDW Affiliate:		
		Solution Architect:
SOW Created Date:		
Version:		**Drafted By**

This statement of work ("**Statement of Work**" or "**SOW**") is made and entered into on the last date that this SOW is fully executed as set forth below ("**SOW Effective Date**") by and between the undersigned, [CDW Affiliate] ("**Provider**," and "**Seller**,") and [Customer Name] ("**Customer**," and "**Client**,").

This SOW shall be governed by that certain [Governing Agreement Name] between [CDW Affiliate] and [Customer Name], dated [Governing Agreement Date] (the "**Agreement**"). If there is a conflict between this SOW and the Agreement, then the Agreement will control, except as expressly amended in this SOW by specific reference to the Agreement. References in the Agreement to a SOW or a Work Order apply to this SOW.

PROJECT SCOPE

SERVICE DESCRIPTION

GENERAL RESPONSIBILITIES AND ASSUMPTIONS

- Customer is responsible for providing all access that is reasonably necessary to assist and accommodate Seller's performance of the Services.
- Customer will provide in advance and in writing, and Seller will follow, all applicable Customer's facility's safety and security rules and procedures.
- Customer is responsible for security at all Customer-Designated Locations; Seller is not responsible for lost or stolen equipment, other than solely as a result of Seller's gross negligence and willful misconduct.
- This SOW can be terminated by either party without cause upon at least fourteen (14) days' advance written notice.

CONTACT PERSONS

Each Party will appoint a person to act as that Party's point of contact ("**Contact Person**") as the time for performance nears and will communicate that person's name and information to the other Party's Contact Person.

Customer Contact Person is authorized to approve materials and Services provided by Seller, and Seller may rely on the decisions and approvals made by the Customer Contact Person (except that Seller understands that Customer may require a different person to sign any Change Orders amending this SOW). The Customer Contact Person will manage all communications with Seller, and when Services are performed at a Customer-Designated Location, the Customer Contact Person will be present or available. The Parties' Contact Persons shall be authorized to approve changes in personnel and associated rates for Services under this SOW.

CHANGE MANAGEMENT

This SOW may be modified or amended only in a writing signed by both Customer and Seller, generally in the form provided by Seller ("**Change Order**"). Services not specified in this SOW are considered out of scope and will be addressed with a separate SOW or Change Order.

In the event of a conflict between the terms and conditions set forth in a fully executed Change Order and those set forth in this SOW or a prior fully executed Change Order, the terms and conditions of the most recent fully executed Change Order shall prevail.

PROJECT SCHEDULING

Customer and Seller, who will jointly manage this project, will together develop timelines for an anticipated schedule ("**Anticipated Schedule**") based on Seller's project management methodology. Any dates, deadlines, timelines or schedules contained in the Anticipated Schedule, in this SOW or otherwise, are estimates only, and the Parties will not rely on them for purposes other than initial planning.

TOTAL FEES

The total fees due and payable under this SOW ("**Total Fees**") include both fees for Seller's performance of work ("**Services Fees**") and any other related costs and fees specified in the Expenses section ("**Expenses**").

SERVICES FEES

EXPENSES

CUSTOMER DESIGNATED LOCATIONS

Seller will provide Services benefiting the locations specified on the attached Exhibit ("**Customer-Designated Locations**").

PROJECT SPECIFIC TERMS

SIGNATURES

In acknowledgement that the parties below have read and understood this Statement of Work and agree to be bound by it, each party has caused this Statement of Work to be signed and transferred by its respective authorized representative.

This SOW and any Change Order may be signed in separate counterparts, each of which shall be deemed an original and all of which together will be deemed to be one original. Electronic signatures on this SOW or on any Change Order (or copies of signatures sent via electronic means) are the equivalent of handwritten signatures.

[CDW Affiliate Name]

By:_____

Name:_____

Title:_____

Date: _____

Mailing Address:

[Affiliate Address line 1]

[Affiliate Address line 2]

[Customer Name]

By:_____

Name:_____

Title:_____

Date: _____

Mailing Address:

Street:_____

City/ST/ZIP: _____

EXHIBIT _

CUSTOMER-DESIGNATED LOCATIONS

Seller will provide Services benefiting the following locations ("**Customer-Designated Locations**").

Location(s)

Appendix B: Required Forms

See following pages for our signed forms required with this submission.

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BID SUBMITTAL FORM

SUBMIT BID/PROPOSAL TO:
Cobb County Purchasing Department
122 Waddell Street NE
Marietta, GA 30060

BID/PROJECT NUMBER: 23-6692
Request for Proposals
Technology Product Solutions and Related Services
Cobb County Purchasing Department

DELIVERY DEADLINE: OCTOBER 13, 2022 BEFORE 12:00 (NOON) EST
(NO BIDS/PROPOSALS WILL BE ACCEPTED AFTER THIS DEADLINE).

Bid Opening Date: October 13, 2022 @ 2:00 P.M. in the Cobb County Purchasing Department, 122 Waddell Street NE, Marietta, Georgia, 30060.

BUSINESS NAME AND ADDRESS INFORMATION:

Company name: CDW Government LLC

Contact name: Eric Moore

Company address: 230 N Milwaukee Ave, Vernon Hills, IL 60061

E-mail address: eric.moore@cdwg.com

Phone number: 765-749-9981 **Fax number:** 847-465-6800

NAME AND OFFICIAL TITLE OF OFFICER GUARANTEEING THIS QUOTATION:

David Hutchins (PLEASE PRINT/TYPE) NAME — VP Strategic Programs TITLE

SIGNATURE OF OFFICER ABOVE: David C Hutchins (SIGNATURE)

TELEPHONE: 847-968-9782 FAX: 847.465.6800

BIDDER WILL INDICATE TIME PAYMENT DISCOUNT: CDW•G does not offer Time Payment Discounts

BIDDER SHALL INDICATE MAXIMUM DELIVERY DATE (UNLESS OTHERWISE SPECIFIED IN BID SPECIFICATIONS)
N/A

Bids received after the date and time indicated will not be considered. Cobb County reserves the right to reject any and all bids, to waive informalities, to reject portions of the bid, to waive technicalities and to award contracts in a manner consistent with the county and the laws governing the state of Georgia.

The enclosed (or attached) bid is in response to Bid Number **23-6692**; is a firm offer, **as defined by section O.C.G.A. (s) 11-2-205 of the code of Georgia (Georgia laws 1962 pages 156-178),** by the undersigned bidder. This offer shall remain open for acceptance for a period of 90 calendar days from the bid opening date, as set forth in this invitation to bid unless otherwise specified in the bid documents.

Cobb County...Expect the Best!

REQUEST FOR PROPOSALS

Sealed Bid # 23-6692
Technology Product Solutions and Related Services
Cobb County Purchasing Department

Bid Opening Date: October 13, 2022

Pre-Proposal Meeting via WebEx: September 14, 2022 at 3:00 PM Eastern
Join from meeting link
https://cobbcounty.webex.com/cobbcounty/j.php?MTID=m6334e0c9e0f46364cc2157383bc375a6
Meeting number (access code): 2317 292 4027
Meeting password: fxZKmmi3p93
Join by phone
+1-415-655-0004 US Toll

Proposals Are Received in the Cobb County Purchasing Department
122 Waddell Street NE
Marietta, GA 30060

Before 12:00 (Noon) By the Bid Opening Date

Proposal Will Be Opened in the Cobb County Purchasing Department at 2:00 pm
122 Waddell Street NE
Marietta, GA 30060

VENDORS ARE REQUIRED TO SUBMIT THE ORIGINAL, TWO (2) COPIES & TEN (10) FLASH DRIVES OF BID
(UNLESS OTHERWISE SPECIFIED IN BID SPECIFICATIONS)

NAME: CDW Government LLC

ADDRESS: 230 N Milwaukee Ave, Vernon Hills, IL 60061

REPRESENTATIVE: David Hutchins

PHONE: 847-968-9782 FAX: 847.465.6800

E-MAIL david.hutchins@cdwg.com

NOTE: The Cobb County Purchasing Department will not be responsible for the accuracy or completeness of the content of any Cobb County Invitation to Bid or Request for Proposal or subsequent addenda thereto received from a source other than the Cobb County Purchasing Department.

CONTRACTOR AFFIDAVIT & AGREEMENT
(EXHIBIT A)

This affidavit must be signed, notarized and submitted with any bid requiring the performance of physical services. If the affidavit is not submitted at the time of the bid, the bid will be determined non-responsive and will be disqualified.

By executing this affidavit, the undersigned contractor verifies compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is contracting with Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the contractor or subcontractor will:

(1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);

(2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on the attached Subcontractor Affidavit (EXHIBIT A-1) prior to the commencement of any work under the contract/agreement;

(3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;

(4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;

(5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and

(6) Maintain such records for a period of five (5) years.

731442
EEV (E-Verify) Program Number

03/26/2008
EEV Program Date of Authorization

David C Hutchins
BY: Authorized Officer or Agent
[Contractor Name]

CDW Government LLC
Contractor Business Name

David Hutchins
Printed Name

10/11/2022
Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE 11th DAY OF October 2022

Notary Public Commission Expires: May 31, 2026

ELIZABETH HILTS
NOTARY PUBLIC
My Commission Expires May 31, 2026



Effective 09-20-2013

SUBCONTRACTOR AFFIDAVIT & AGREEMENT
(EXHIBIT A-1)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the undersigned subcontractor will:

(1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
(2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on this Subcontractor Affidavit form (EXHIBIT A-1) prior to the commencement of any work under the contract/agreement;
(3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;
(4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
(5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
(6) Maintain such records for a period of five (5) years.

N/A
_____ _____
EEV (E-Verify) Program Number EEV Program Date of Authorization

_____ _____
BY: Authorized Officer or Agent Subcontractor Business Name
[Subcontractor Name]

_____ _____
Printed Name Date

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE ____ DAY OF _____, 202_

_____

Notary Public Commission Expires: _____

Effective 09-20-2013

IMMIGRATION COMPLIANCE CERTIFICATION
(Required to be completed by Contractors and all Subcontractors)
(EXHIBIT A-2)

I certify to the Cobb County Board of Commissioners that the following employees will be assigned to:

Cobb County/OMNIA Technology Product Solutions and Related Services
(Project Name/Description)

AJ Lucci	Dan Gallagher	Heather Kohls
Don McCarthy	Keshun Morgan	Francie Gribble
Rob Sullivan	Anup Sreedharan	

I further certify to Cobb County, Georgia the following:

- The E-Verify program was used to verify the employment eligibility of each of the above-listed employees hired after the effective date of our contract to use the program;
- We have not received a Final Nonconfirmation response from E-Verify for any of the employees listed.
- If we receive a Final Nonconfirmation response from E-Verify for any of the employees listed above, we will immediately terminate that employee's involvement with the project.
- I have confirmed that we have an I-9 on file for every employee listed above and that to the best of my knowledge all the I-9s are accurate.
- To the best of my knowledge and belief, all of the employees on the above list are legally authorized to work in the United States.
- If any other employee is assigned to this Cobb County project, a certification will be provided for said employee prior to the employee commencing work on the project.

To the best of my knowledge and belief, the above certification is true, accurate and complete.

Sworn to by:

David C Hutchins
Signature of Officer

David Hutchins, VP Strategic Programs P

Date 10/11/2022

Employer Name & Address:

CDW Government LLC

230 N Milwaukee Ave

Vernon Hills, IL 60061

SWORN AND SUBSCRIBED BEFORE ME
ON THIS THE 11th DAY OF October, 2022

Notary Public
Commission Expires: May 31, 2026

ELIZABETH HILTS
NOTARY PUBLIC
My Commission Expires May 31, 2026

Effective 09-20-2013

Attachment A

Requirements for National Cooperative Contract To Be Administered by OMNIA Partners

The following documents are used in evaluating and administering national cooperative contracts and are included for Supplier's review and response.

Exhibit A – Response for National Cooperative Contract

Exhibit B – Administration Agreement, Example

Exhibit C – Master Intergovernmental Cooperative Purchasing Agreement, Example

Exhibit D – Principal Procurement Agency Certificate, Example

Exhibit E – Contract Sales Reporting Template

Exhibit F – Federal Funds Certifications

Exhibit G – New Jersey Business Compliance

Exhibit H – Advertising Compliance Requirement

1.0 Scope of National Cooperative Contract

Capitalized terms not otherwise defined herein shall have the meanings given to them in the Master Agreement or in the Administration Agreement between Supplier and OMNIA Partners.

1.1 Requirement

The Cobb County, GA (hereinafter defined and referred to as "Principal Procurement Agency"), on behalf of itself and the National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector ("OMNIA Partners"), is requesting proposals for Technology Product Solutions and Related Services. The intent of this Request for Proposal is any contract between Principal Procurement Agency and Supplier resulting from this Request for Proposal ("Master Agreement") be made available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' cooperative purchasing program. The Principal Procurement Agency has executed a Principal Procurement Agency Certificate with OMNIA Partners, an example of which is included as Exhibit D, and has agreed to pursue the Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners as a Participating Public Agency in OMNIA Partners' cooperative purchasing program. Registration with OMNIA Partners as a Participating Public Agency is accomplished by Public Agencies entering into a Master Intergovernmental Cooperative Purchasing Agreement, an example of which is attached as Exhibit C, and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of the Master Intergovernmental Purchasing Cooperative Agreement or as otherwise agreed to. The terms and pricing established in the resulting Master Agreement between the Supplier and the Principal Procurement Agency will be the same as that available to Participating Public Agencies through OMNIA Partners.

All transactions, purchase orders, invoices, payments etc., will occur directly between the Supplier and each Participating Public Agency individually, and neither OMNIA Partners, any Principal Procurement Agency nor any Participating Public Agency, including their respective agents, directors, employees or representatives, shall be liable to Supplier for any acts, liabilities, damages, etc., incurred by any other Participating Public Agency. Supplier is responsible for knowing the tax laws in each state.

This Exhibit A defines the expectations for qualifying Suppliers based on OMNIA Partners' requirements to market the resulting Master Agreement nationally to Public Agencies. Each section in this Exhibit A refers to the capabilities, requirements, obligations, and prohibitions of competing Suppliers on a national level in order to serve Participating Public Agencies through OMNIA Partners.

These requirements are incorporated into and are considered an integral part of this RFP. OMNIA Partners reserves the right to determine whether to make the Master Agreement awarded by the Principal Procurement Agency available to Participating Public Agencies, in its sole and absolute discretion, and any party submitting a response to this RFP acknowledges that any award by the Principal Procurement Agency does not obligate OMNIA Partners to make the Master Agreement available to Participating Procurement Agencies.

1.2 Marketing, Sales and Administrative Support

During the term of the Master Agreement OMNIA Partners intends to provide marketing, sales, partnership development and administrative support for Supplier pursuant to this section that directly promotes the Supplier's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis.

OMNIA Partners will assign the Supplier a Director of Partner Development who will serve as the main point of contact for the Supplier and will be responsible for managing the overall relationship between the Supplier and OMNIA Partners. The Director of Partner Development will work with the Supplier to develop a comprehensive strategy to promote the Master Agreement and will connect the Supplier with appropriate stakeholders within OMNIA Partners including, Sales, Marketing, Contracting, Training, and Operations & Support.

The OMNIA Partners marketing team will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through channels that may include:

A. Marketing collateral (print, electronic, email, presentations)

B. Website

C. Trade shows/conferences/meetings

D. Advertising

E. Social Media

The OMNIA Partners sales teams will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through initiatives that may include:

A. Individual sales calls

B. Joint sales calls

C. Communications/customer service

D. Training sessions for Public Agency teams

E. Training sessions for Supplier teams

The OMNIA Partners contracting teams will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through:

A. Serving as the subject matter expert for questions regarding joint powers authority and state statutes and regulations for cooperative purchasing
B. Training sessions for Public Agency teams
C. Training sessions for Supplier teams
D. Regular business reviews to monitor program success
E. General contract administration

Suppliers are required to pay an Administrative Fee of 3% of the greater of the Contract Sales under the Master Agreement and Guaranteed Contract Sales under this Request for Proposal. Supplier will be required to execute the OMNIA Partners Administration Agreement (Exhibit B).

1.3 Estimated Volume

The dollar volume purchased under the Master Agreement is estimated to be approximately $20 million annually. While no minimum volume is guaranteed to Supplier, the estimated annual volume is projected based on the current annual volumes among the Principal Procurement Agency, other Participating Public Agencies that are anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between Supplier and OMNIA Partners.

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will, at OMNIA Partners' option, be the basis of award on a national level through OMNIA Partners. If multiple Suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same Suppliers will be required to extend the Master Agreement to Participating Public Agencies through OMNIA Partners. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency (e.g., governing law) are subject to modification for each Participating Public Agency as Supplier and such Participating Public Agency may agree without being in conflict with the Master Agreement as a condition of the Participating Agency's purchase and not a modification of the Master Agreement applicable to all Participating Agencies. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (e.g., governing law, invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, etc.) ("Supplemental Agreement"). It shall be the

responsibility of the Supplier to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the Participating Agency. It shall further be the responsibility of the Supplier to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of the Master Agreement and adjust wage rates accordingly. In instances where supplemental terms and conditions create additional risk and cost for Supplier, Supplier and Participating Public Agency may negotiate additional pricing above and beyond the stated contract not-to-exceed pricing so long as the added price is commensurate with the additional cost incurred by the Supplier. Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and the Supplier (Contract Sales are reported to OMNIA Partners).

All signed Supplemental Agreements and purchase orders issued and accepted by the Supplier may survive expiration or termination of the Master Agreement. Participating Agencies' purchase orders may exceed the term of the Master Agreement if the purchase order is issued prior to the expiration of the Master Agreement. Supplier is responsible for reporting all sales and paying the applicable Administrative Fee for sales that use the Master Agreement as the basis for the purchase order, even though Master Agreement may have expired.

1.5 Objectives of Cooperative Program

This RFP is intended to achieve the following objectives regarding availability through OMNIA Partners' cooperative program:

A. Provide a comprehensive competitively solicited and awarded national agreement offering the Products covered by this solicitation to Participating Public Agencies;

B. Establish the Master Agreement as the Supplier's primary go to market strategy to Public Agencies nationwide;

C. Achieve cost savings for Supplier and Public Agencies through a single solicitation process that will reduce the Supplier's need to respond to multiple solicitations and Public Agencies need to conduct their own solicitation process;

D. Combine the aggregate purchasing volumes of Participating Public Agencies to achieve cost effective pricing.

2.0 REPRESENTATIONS AND COVENANTS

As a condition to Supplier entering into the Master Agreement, which would be available to all Public Agencies, Supplier must make certain representations, warranties and covenants to both the Principal Procurement Agency and OMNIA Partners designed to ensure the success of the Master Agreement for all Participating Public Agencies as well as the Supplier.

2.1 Corporate Commitment

Supplier commits that (1) the Master Agreement has received all necessary corporate authorizations and support of the Supplier's executive management, (2) the Master Agreement is Supplier's primary "go to market" strategy for Public Agencies, (3) the

Master Agreement will be promoted to all Public Agencies, including any existing customers, and Supplier will transition existing customers, upon their request, to the Master Agreement, and (4) that the Supplier has read and agrees to the terms and conditions of the Administration Agreement with OMNIA Partners and will execute such agreement concurrent with and as a condition of its execution of the Master Agreement with the Principal Procurement Agency. Supplier will identify an executive corporate sponsor and a separate national account manager within the RFP response that will be responsible for the overall management of the Master Agreement.

2.2 Pricing Commitment

Supplier commits the not-to-exceed pricing provided under the Master Agreement pricing is its lowest available (net to buyer) to Public Agencies nationwide and further commits that if a Participating Public Agency is eligible for lower pricing through a national, state, regional or local or cooperative contract, the Supplier will match such lower pricing to that Participating Public Agency under the Master Agreement.

2.3 Sales Commitment

Supplier commits to aggressively market the Master Agreement as its go to market strategy in this defined sector and that its sales force will be trained, engaged and committed to offering the Master Agreement to Public Agencies through OMNIA Partners nationwide. Supplier commits that all Master Agreement sales will be accurately and timely reported to OMNIA Partners in accordance with the OMNIA Partners Administration Agreement. Supplier also commits its sales force will be compensated, including sales incentives, for sales to Public Agencies under the Master Agreement in a consistent or better manner compared to sales to Public Agencies if the Supplier were not awarded the Master Agreement.

3.0 SUPPLIER RESPONSE

Supplier must supply the following information for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through OMNIA Partners.

3.1 Company

A. Brief history and description of Supplier to include experience providing similar products and services.

B. Total number and location of salespersons employed by Supplier.

C. Number and location of support centers (if applicable) and location of corporate office.

D. Annual sales for the three previous fiscal years.

    a. Submit FEIN and Dunn & Bradstreet report.

E. Describe any green or environmental initiatives or policies.

F. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program. If there are any diversity programs, provide a list of diversity alliances and a copy of their certifications.

G. Indicate if supplier holds any of the below certifications in any classified areas and include proof of such certification in the response:

a. Minority Women Business Enterprise

☐ Yes ☒ No

If yes, list certifying agency: _____

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

☐ Yes ☒ No

If yes, list certifying agency: _____

c. Historically Underutilized Business (HUB)

☐ Yes ☒ No

If yes, list certifying agency: _____

d. Historically Underutilized Business Zone Enterprise (HUBZone)

☐ Yes ☒ No

If yes, list certifying agency: _____

e. Other recognized diversity certificate holder

☐ Yes ☒ No

If yes, list certifying agency: _____

H. List any relationships with subcontractors or affiliates intended to be used when providing services and identify if subcontractors meet minority-owned standards. If any, list which certifications subcontractors hold and certifying agency.

I. Describe how supplier differentiates itself from its competitors.

J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.

K. Felony Conviction Notice: Indicate if the supplier

a. is a publicly held corporation and this reporting requirement is not applicable;

b. is not owned or operated by anyone who has been convicted of a felony; or

c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.

L. Describe any debarment or suspension actions taken against supplier

3.2 Distribution, Logistics

A. Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line. Describe the full line of products and services offered by supplier.

B. Describe how supplier proposes to distribute the products/service nationwide. Include any states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.

C. Describe how Participating Agencies are ensured they will receive the Master Agreement pricing; include all distribution channels such as direct ordering, retail or in-store locations, through distributors, etc. Describe how Participating Agencies verify and audit pricing to ensure its compliance with the Master Agreement.

D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.

3.3 Marketing and Sales

A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:

   i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days

   ii. Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:

   i. Creation and distribution of a co-branded press release to trade publications

   ii. Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days

   iii. Design, publication and distribution of co-branded marketing materials within first 90 days

iv. Commitment to attendance and participation with OMNIA Partners at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement

v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.

vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement

vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)

viii. Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:

- OMNIA Partners standard logo;
- Copy of original Request for Proposal;
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to OMNIA Partners' website including the online registration page;
- A dedicated toll-free number and email address for OMNIA Partners

C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.

E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:

i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency

ii. Best government pricing
iii. No cost to participate
iv. Non-exclusive

F. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:

i. Key features of Master Agreement
ii. Working knowledge of the solicitation process
iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners
iv. Knowledge of benefits of the use of cooperative contracts

G. Provide the name, title, email and phone number for the person(s), who will be responsible for:

i. Executive Support
ii. Marketing
iii. Sales
iv. Sales Support
v. Financial Reporting
vi. Accounts Payable
vii. Contracts

H. Describe in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

I. Explain in detail how the sales teams will work with the OMNIA Partners team to implement, grow and service the national program.

I. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.

J. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

K. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

L. Provide the Contract Sales (as defined in Section 12 of the OMNIA Partners Administration Agreement) that Supplier will guarantee each year under the Master Agreement for the initial three years of the Master Agreement ("Guaranteed Contract Sales").

$_____.00 in year one
$_____.00 in year two
$_____.00 in year three

To the extent Supplier guarantees minimum Contract Sales, the Administrative Fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

M. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).

ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.

iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).

iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail Supplier's strategies under these options when responding to a solicitation.

Exhibit C
Master Intergovernmental Cooperative Purchasing Agreement, Example

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MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This Master Intergovernmental Cooperative Purchasing Agreement (this "**Agreement**") is entered into by and between those certain government agencies that execute a Principal Procurement Agency Certificate ("**Principal Procurement Agencies**") with National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector and/or Communities Program Management, LLC, a California limited liability company d/b/a U.S. Communities (collectively, "**OMNIA Partners**"), in its capacity as the cooperative administrator, to be appended and made a part hereof and such other public agencies ("**Participating Public Agencies**") who register to participate in the cooperative purchasing programs administered by OMNIA Partners and its affiliates and subsidiaries (collectively, the "**OMNIA Partners Parties**") by either registering on the OMNIA Partners website (www.omniapartners.com/publicsector or any successor website), or by executing a copy of this Agreement.

RECITALS

WHEREAS, after a competitive solicitation and selection process by Principal Procurement Agencies, in compliance with their own policies, procedures, rules and regulations, a number of suppliers have entered into "**Master Agreements**" (herein so called) to provide a variety of goods, products and services ("**Products**") to the applicable Principal Procurement Agency and the Participating Public Agencies;

WHEREAS, Master Agreements are made available by Principal Procurement Agencies through the OMNIA Partners Parties and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Principal Procurement Agency, subject to any applicable federal and/or local purchasing ordinances and the laws of the State of purchase; and

WHEREAS, in addition to Master Agreements, the OMNIA Partners Parties may from time to time offer Participating Public Agencies the opportunity to acquire Products through other group purchasing agreements.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and of the mutual benefits to result, the parties hereby agree as follows:

1. Each party will facilitate the cooperative procurement of Products.

2. The Participating Public Agencies shall procure Products in accordance with and subject to the relevant federal, state and local statutes, ordinances, rules and regulations that govern Participating Public Agency's procurement practices. The Participating Public Agencies hereby acknowledge and agree that it is the intent of the parties that all provisions of this Agreement and that Principal Procurement Agencies' participation in the program described herein comply with all applicable laws, including but not limited to the requirements of 42 C.F.R. § 1001.952(j), as may be amended from time to time. The Participating Public Agencies further acknowledge and agree that they are solely responsible for their compliance with all applicable "safe harbor" regulations, including but not limited to any and all obligations to fully and accurately report discounts and incentives.

3. The Participating Public Agency represents and warrants that the Participating Public Agency is not a hospital or other healthcare provider and is not purchasing Products on behalf of a hospital or healthcare provider; provided that the foregoing shall not prohibit Participating Public Agency from furnishing health care services so long as the furnishing of healthcare services is not in furtherance of a primary purpose of the Participating Public Agency.

4. The cooperative use of Master Agreements shall be in accordance with the terms and conditions of the Master Agreements, except as modification of those terms and conditions is otherwise required by applicable federal, state or local law, policies or procedures.

5. The Principal Procurement Agencies will make available, upon reasonable request, Master Agreement information which may assist in improving the procurement of Products by the Participating Public Agencies.

6. The Participating Public Agency agrees the OMNIA Partners Parties may provide access to group purchasing organization ("**GPO**") agreements directly or indirectly by enrolling the Participating Public Agency in another GPO's purchasing program, provided that the purchase of Products through the OMNIA Partners Parties or any other GPO shall be at the Participating Public Agency's sole discretion.

7. The Participating Public Agencies (each a "**Procuring Party**") that procure Products through any Master Agreement or GPO Product supply agreement (each a "**GPO Contract**") will make timely payments to the distributor, manufacturer or other vendor (collectively, "**Supplier**") for Products received in accordance with the terms and conditions of the Master Agreement or GPO Contract, as applicable. Payment for Products and inspections and acceptance of Products ordered by the Procuring Party shall be the exclusive obligation of such Procuring Party. Disputes between Procuring Party and any Supplier shall be resolved in accordance with the law and venue rules of the State of purchase unless otherwise agreed to by the Procuring Party and Supplier.

8. The Procuring Party shall not use this Agreement as a method for obtaining additional concessions or reduced prices for purchase of similar products or services outside of the Master Agreement. Master Agreements may be structured with not-to-exceed pricing, in which cases the Supplier may offer the Procuring Party and the Procuring Party may accept lower pricing or additional concessions for purchase of Products through a Master Agreement.

9. The Procuring Party shall be responsible for the ordering of Products under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a Procuring Party, and, to the extent permitted by applicable law, the Procuring Party shall hold non-procuring party harmless from any liability that may arise from the acts or omissions of the Procuring Party.

10. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE OMNIA PARTNERS PARTIES EXPRESSLY DISCLAIM ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES REGARDING ANY PRODUCT, MASTER AGREEMENT AND GPO CONTRACT. THE OMNIA PARTNERS PARTIES SHALL NOT BE LIABLE IN ANY WAY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR RELIANCE DAMAGES, EVEN IF THE OMNIA PARTNERS PARTIES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, THE PROCURING PARTY ACKNOWLEDGES AND AGREES THAT THE OMNIA PARTNERS PARTIES SHALL HAVE NO LIABILITY FOR ANY ACT OR OMISSION BY A SUPPLIER OR OTHER PARTY UNDER A MASTER AGREEMENT OR GPO CONTRACT.

11. This Agreement shall remain in effect until termination by either party giving thirty (30) days' written notice to the other party. The provisions of Paragraphs 6 - 10 hereof shall survive any such termination.

12. This Agreement shall take effect upon (i) execution of the Principal Procurement Agency Certificate, or (ii) registration on the OMNIA Partners website or the execution of this Agreement by a Participating Public Agency, as applicable.

Participating Public Agency:	**OMNIA Partners, as the cooperative administrator on behalf of Principal Procurement Agencies:**
Signature will be provided upon contract negotiation agreement	**NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY COMMUNITIES PROGRAM MANAGEMENT, LLC**
Authorized Signature	Signature Sarah E. Vavra
Name	Name Sr. Vice President, Public Sector Contracting
Title and Agency Name	Title
Date	Date

Exhibit F
Federal Funds Certifications

FEDERAL CERTIFICATIONS
ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

DEFINITIONS

Contract means a legal instrument by which a non–Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non–Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

Contractor means an entity that receives a contract as defined in Contract.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non–Federal entity that, consistent with 31 U.S.C. 6302–6305:

(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non–Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;

(b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non–Federal entity in carrying out the activity contemplated by the Federal award.

(c) The term does not include:

(1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or

(2) An agreement that provides only:

(i) Direct United States Government cash assistance to an individual;

(ii) A subsidy;

(iii) A loan;

(iv) A loan guarantee; or

(v) Insurance.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non–Federal entity

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

(a)(1) The Federal financial assistance that a non–Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or

(2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non–Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.

(b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).

(d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Non–Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

(a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(b) Is not organized primarily for profit; and

(c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations means, when used in connection with a non–Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non–Federal entity during the same or a future period.

Pass-through entity means a non–Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non–Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold means the dollar amount below which a non–Federal entity may purchase property or services using small purchase methods. Non–Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is $250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non–Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Per FAR 52.204-24 and FAR 52.204-25, solicitations and resultant contracts shall contain the following provisions.

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

(a) *Definitions.* As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition*.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It □ will, ☒ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It □ does, ☒ does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer.

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means–

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means–

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (*e.g.*, voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition*.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at https://dibnet.dod.mil. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at https://dibnet.dod.mil.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of

Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of $10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(**C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."**

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES DH Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non - Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any

federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

(l) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (l) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

(1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES DH Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICAN PROVISIONS

Unless Supplier is exempt *(See FAR 25.103*), when authorized by statute or explicitly indicated by Participating Public Agency, Buy American requirements will apply where only unmanufactured construction material mined or produced in the United States shall be used *(see Subpart 25.6 – American Recovery and Reinvestment Act-Buy American statute for additional details).*

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES DH Initials of Authorized Representative of offeror

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name: CDW Government LLC

Address, City, State, and Zip Code: 230 N Milwaukee Ave, Vernon Hills, IL 60061

Phone Number: 847-968-9782 Fax Number: 847.465.6800

Printed Name and Title of Authorized Representative: David Hutchins, VP Strategic Programs

Email Address: david.hutchins@cdwg.com

Signature of Authorized Representative: David C Hutchins Date: 10/11/2022

Version August 19, 2022

FEMA SPECIAL CONDITIONS

Awarded Supplier(s) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA Special Conditions required by the Federal Emergency Management Agency (FEMA).

"Contract" in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as the "Master Agreement".

"Contractor" in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as "Supplier" or "Awarded Supplier".

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a "financial interest" to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an "apparent" conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency ("NFE") must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE's may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE's written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE's employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended, as described in and subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension), must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

a. Equal opportunity and nondiscrimination laws

b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7

c. Applicable prevailing wage laws, regulations, and executive orders

Affirmative Steps

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Prevailing Wage Requirements

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

1. CONTRACT REMEDIES

Contracts for more than the federal simplified acquisition threshold (SAT), the dollar amount below which an NFE may purchase property or services using small purchase methods, currently set at $250,000 for procurements made on or after June 20, 2018,4 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and must provide for sanctions and penalties as appropriate.

1.1 Applicability

This contract provision is required for contracts over the SAT, currently set at $250,000 for procurements made on or after June 20, 2018. Although not required for contracts at or below the SAT, FEMA suggests including a remedies provision.

1.2 Additional Considerations

For FEMA's Assistance to Firefighters Grant (AFG) Program, recipients must include a penalty clause in all contracts for any AFG-funded vehicle, regardless of dollar amount. In that situation, the contract must include a clause addressing that non-delivery by the contract's specified date or other vendor nonperformance will require a penalty of no less than $100 per day until such time that the vehicle, compliant with the terms of the contract, has been accepted by the recipient. This penalty clause should, however, account for force majeure or acts of God. AFG recipients should refer to the applicable year's Notice of Funding Opportunity (NOFO) for additional information, which can be accessed at FEMA.gov.

2. TERMINATION FOR CAUSE AND CONVENIENCE

a. Standard. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B).

b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. EQUAL EMPLOYMENT OPPORTUNITY

When applicable:

a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246**,** *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).

b. Key Definitions.

i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines "construction work" as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

d. Required Language. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or

purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. DAVIS-BACON ACT

a. Standard. All prime construction contracts in excess of $2,000 awarded by non- Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

b. Applicability. The Davis-Bacon Act applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant

Program.

c. Requirements. If applicable, the non-federal entity must do the following:

i. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti- Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

iii. Include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

c. Additionally, contractors are required to pay wages not less than once a week.

5. COPELAND ANTI-KICKBACK ACT

a. Standard. Recipient and subrecipient contracts must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

b. Applicability. This requirement applies to all contracts for construction or repair work above $2,000 in situations where the Davis-Bacon Act also applies. It DOES NOT apply to the FEMA Public Assistance Program.

c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA. Additionally, in accordance with the regulation, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland "Anti-Kickback" Act.

a. Contractor. The contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12."

6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

a. Standard. Where applicable (see 40 U.S.C. §§ 3701-3708), all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.

b. Applicability. This requirement applies to all FEMA contracts awarded by the non- federal entity in excess of $100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of

intelligence.

c. Suggested Language. The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

Compliance with the Contract Work Hours and Safety Standards Act.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of
$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The Federal agency or loan/grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

a. Standard. If the FEMA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non- Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any

implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).

b. Applicability. This requirement applies to "*funding agreements*," but it DOES NOT apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."

c. Funding Agreements Definition. The regulation at 37 C.F.R. § 401.2(a) defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

a. Standard. If applicable, contracts must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).

b. Applicability. This requirement applies to contracts awarded by a non-federal entity of amounts in excess of $150,000 under a federal grant.

c. Suggested Language. The following provides a sample contract clause.

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as

amended, 33 U.S.C. 1251 et seq.

2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. DEBARMENT AND SUSPENSION

a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension).

b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

c. Requirements.

i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.

ii. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any non-procurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipients.

iii. Specifically, a covered transaction includes the following contracts for goods or services:

1. The contract is awarded by a recipient or subrecipient in the amount of at least $25,000.

2. The contract requires the approval of FEMA, regardless of amount.

3. The contract is for federally-required audit services.

4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of $25,000.

d. Suggested Language. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the Participating Public Agency. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Participating Public Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

a. Standard. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Federal awarding agency.

b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of $100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

c. Suggested Language.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

d. Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor, CDW Government LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

David C Hutchins

Signature of Contractor's Authorized Official

David Hutchins, VP Strategic Programs

Name and Title of Contractor's Authorized Official

10/11/2022

Date

11. PROCUREMENT OF RECOVERED MATERIALS

a. Standard. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. §200.322.

b. Applicability. This requirement applies to all contracts awarded by a non- federal entity under FEMA grant and cooperative agreement programs.

c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

d. Suggested Language.

i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

12. **DOMESTIC PREFERENCES FOR PROCUREMENTS**

As appropriate, and to the extent consistent with law, CONTRACTOR should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

Applicability For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.

Domestic Preference for Procurements As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber."

13. **ACCESS TO RECORDS**

a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.

Access to Records. The following access to records requirements apply to this contract:

i. The Contractor agrees to provide Participating Public Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

iii. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

iv. In compliance with the Disaster Recovery Act of 2018, the Participating Public Agency and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

14. CHANGES

a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.

b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

15. DHS SEAL, LOGO, AND FLAGS

a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).

b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

c. "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

16. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.

b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

c. "This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

17. NO OBLIGATION BY FEDERAL GOVERNMENT

a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.

b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

c. "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

18. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

c. "The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract."

Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.

Offeror's Name: CDW Government LLC

Address, City, State, and Zip Code:
230 N Milwaukee Ave, Vernon Hills, IL 60061

Phone Number: 847-968-9782 Fax Number: 847-465-6800

Printed Name and Title of Authorized Representative:
David Hutchins, VP Strategic Programs

Email Address: david.hutchins@CDWG.com

Signature of Authorized Representative: David C Hutchins

Date 10/11/2022

NEW JERSEY BUSINESS COMPLIANCE

Suppliers intending to do business in the State of New Jersey must comply with policies and procedures required under New Jersey statues. All offerors submitting proposals must complete the following forms specific to the State of New Jersey. Completed forms should be submitted with the offeror's response to the RFP. Failure to complete the New Jersey packet will impact OMNIA Partners' ability to promote the Master Agreement in the State of New Jersey.

DOC #1	Ownership Disclosure Form
DOC #2	Non-Collusion Affidavit
DOC #3	Affirmative Action Affidavit
DOC #4	Political Contribution Disclosure Form
DOC #5	Stockholder Disclosure Certification
DOC #6	Certification of Non-Involvement in Prohibited Activities in Iran
DOC #7	New Jersey Business Registration Certificate
DOC #8	EEOAA Evidence
DOC #9	MacBride Principals Form

New Jersey suppliers are required to comply with the following New Jersey statutes when applicable:

- all anti-discrimination laws, including those contained in N.J.S.A. 10:2-1 through N.J.S.A. 10:2-14, N.J.S.A. 10:5-1, and N.J.S.A. 10:5-31 through 10:5-38;
- Prevailing Wage Act, N.J.S.A. 34:11-56.26, for all contracts within the contemplation of the Act;
- Public Works Contractor Registration Act, N.J.S.A. 34:11-56.26; and
- Bid and Performance Security, as required by the applicable municipal or state statutes.

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: CDW Government LLC

Organization Address: 230 N Milwaukee Ave, Vernon Hills, IL 60061

Part I Check the box that represents the type of business organization:

☐ Sole Proprietorship (skip Parts II and III, execute certification in Part IV)

☐ Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)

☐ For-Profit Corporation (any type) ☒ Limited Liability Company (LLC)

☐ Partnership ☐ Limited Partnership ☐ Limited Liability Partnership (LLP)

☐ Other (be specific): _____

Part II

☐ The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. (**COMPLETE THE LIST BELOW IN THIS SECTION**)

OR

☒ No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. (**SKIP TO PART IV**)

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed**.

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above**. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address
N/A	

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the ***<name of contracting unit>*** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with ***<type of contracting unit>*** to notify the ***<type of contracting unit>*** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the ***<type of contracting unit>*** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):	David Hutchins	Title:	VP Strategic Programs
Signature:	David C Hutchins	Date:	10/11/2002

DOC #2

NON-COLLUSION AFFIDAVIT

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-H
Name of Form:	**NON-COLLUSION AFFIDAVIT**
Statutory Reference:	No specific statutory reference State Statutory Reference N.J.S.A. 52:34-15
Instructions Reference:	Statutory and Other Requirements VII-H
Description:	The Owner's use of this form is optional. It is used to ensure that the bidder has not participated in any collusion with any other bidder or Owner representative or otherwise taken any action in restraint of free and competitive bidding.

NON-COLLUSION AFFIDAVIT

State of Illinois
County of Lake ss:

I, David Hutchins (name of affiant) residing in Lincolnshire (name of municipality) in the County of Lake and State of Illinois of full age, being duly sworn according to law on my oath depose and say that:

I am VP Strategic Programs (title or position) of the firm of CDW Government LLC (name of firm)

_____ the bidder making this Proposal for the bid entitled Technology Product Solutions and Related Services (title of bid proposal), and that I executed the said proposal with full authority to do so that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the Cobb County and OMNIA Partners (name of contracting unit) relies upon the truth of the statements contained in said Proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by CDW Government LLC.

Subscribed and sworn to

before me this day

October 11, 2022

David C Hutchins
Signature

David Hutchins
(Type or print name of affiant under signature)

Elizabeth Hilts
Notary public of Connecticut

My Commission expires May 31, 2026

(Seal)



ELIZABETH HILTS
NOTARY PUBLIC
My Commission Expires May 31, 2026

AFFIRMATIVE ACTION AFFIDAVIT
(P.L. 1975, C.127)

Company Name: CDW Government LLC

Street: 230 N Milwaukee Ave

City, State, Zip Code: Vernon Hills, IL 60061

Proposal Certification:

Indicate below company's compliance with New Jersey Affirmative Action regulations. Company's proposal will be accepted even if company is not in compliance at this time. No contract and/or purchase order may be issued, however, until all Affirmative Action requirements are met.

Required Affirmative Action Evidence:

Procurement, Professional & Service Contracts (Exhibit A)

Vendors must submit with proposal:

1. A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);

   OR

2. A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;

   OR

3. A photocopy of an Employee Information Report (Form AA302) provided by the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

Public Work – Over $50,000 Total Project Cost:

A. No approved Federal or New Jersey Affirmative Action Plan. We will complete Report Form AA201. A project contract ID number will be assigned to your firm upon receipt of the completed Initial Project Workforce Report (AA201) for this contract.

B. Approved Federal or New Jersey Plan – certificate enclosed

I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.

10/11/2022
Date

David C Hutchins VP Strategic Programs
Authorized Signature and Title

Certification 26158

CERTIFICATE OF EMPLOYEE INFORMATION REPORT

RENEWAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-MAR-2020 to 15-MAR-2023

CDW GOVERNMENT, LLC
200 N. MILWAUKEE AVENUE
VERNON HILLS IL 60061

ELIZABETH MAHER MUOIO
State Treasurer

P.L. 1995, c. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers trade consistent with the applicable county employment goal prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of it testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the state of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and lay-off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

_____

Signature of Procurement Agent

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Public Agency Instructions

This page provides guidance to public agencies entering into contracts with business entities that are required to file Political Contribution Disclosure forms with the agency. **It is not intended to be provided to contractors.** What follows are instructions on the use of form local units can provide to contractors that are required to disclose political contributions pursuant to N.J.S.A. 19:44A-20.26 (P.L. 2005, c. 271, s.2). Additional information on the process is available in Local Finance Notice 2006-1 (http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). Please refer back to these instructions for the appropriate links, as the Local Finance Notices include links that are no longer operational.

1. The disclosure is required for all contracts in excess of $17,500 that are **not awarded** pursuant to a "fair and open" process (N.J.S.A. 19:44A-20.7).

2. Due to the potential length of some contractor submissions, the public agency should consider allowing data to be submitted in electronic form (i.e., spreadsheet, pdf file, etc.). Submissions must be kept with the contract documents or in an appropriate computer file and be available for public access. **The form is worded to accept this alternate submission.** The text should be amended if electronic submission will not be allowed.

3. The submission must be **received from the contractor and** on file at least 10 days prior to award of the contract. Resolutions of award should reflect that the disclosure has been received and is on file.

4. The contractor must disclose contributions made to candidate and party committees covering a wide range of public agencies, including all public agencies that have elected officials in the county of the public agency, state legislative positions, and various state entities. The Division of Local Government Services recommends that contractors be provided a list of the affected agencies. This will assist contractors in determining the campaign and political committees of the officials and candidates affected by the disclosure.

    a. The Division has prepared model disclosure forms for each county. They can be downloaded from the "County PCD Forms" link on the Pay-to-Play web site at http://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html#12. They will be updated from time-to-time as necessary.
    b. A public agency using these forms **should edit them to properly reflect the correct legislative district**(s). As the forms are county-based, **they list all legislative districts** in each county. **Districts that do not represent the public agency should be removed from the lists.**
    c. Some contractors may find it easier to provide a single list that covers all contributions, regardless of the county. These submissions are appropriate and should be accepted.
    d. The form may be used "as-is", subject to edits as described herein.
    e. The "Contractor Instructions" sheet is intended to be provided with the form. It is recommended that the Instructions and the form be printed on the same piece of paper. The form notes that the Instructions are printed on the back of the form; where that is not the case, the text should be edited accordingly.
    f. The form is a Word document and can be edited to meet local needs, and posted for download on web sites, used as an e-mail attachment, or provided as a printed document.

5. It is recommended that the contractor also complete a "Stockholder Disclosure Certification." This will assist the local unit in its obligation to ensure that contractor did not make any prohibited contributions to the committees listed on the Business Entity Disclosure Certification in the 12 months prior to the contract (See Local Finance Notice 2006-7 for additional information on this obligation at http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). A sample Certification form is part of this package and the instruction to complete it is included in the Contractor Instructions. NOTE: This section is not applicable to Boards of Education.

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a "fair and open" process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s.2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee*
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
    - of the public entity awarding the contract
    - of that county in which that public entity is located
    - of another public entity within that county
    - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed $300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an "interest" ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs).

When the business entity is a natural person, "a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity." [N.J.S.A. 19:44A-20.26(b)] The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor's responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed cover sheet) may be used as the contractor's submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

* N.J.S.A. 19:44A-3(s): "The term "legislative leadership committee" means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c.65 (C.19:44A-10.1) for the purpose of receiving contributions and making expenditures."

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Required Pursuant to N.J.S.A. 19:44A-20.26

This form or its permitted facsimile must be submitted to the local unit no later than 10 days prior to the award of the contract.

Part I – Vendor Information

Vendor Name:	CDW Government LLC		
Address:	230 N Milwaukee Ave		
City:	Vernon Hills	State: IL	Zip: 60061

The undersigned being authorized to certify, hereby certifies that the submission provided herein represents compliance with the provisions of N.J.S.A. 19:44A-20.26 and as represented by the Instructions accompanying this form.

David C Hutchins — Signature
David Hutchins — Printed Name
VP Strategic Programs — Title

Part II – Contribution Disclosure

Disclosure requirement: Pursuant to N.J.S.A. 19:44A-20.26 this disclosure must include all reportable political contributions (more than $300 per election cycle) over the 12 months prior to submission to the committees of the government entities listed on the form provided by the local unit.

☐ Check here if disclosure is provided in electronic form

Contributor Name	Recipient Name	Date	Dollar Amount
			$

☐ Check here if the information is continued on subsequent page(s)

List of Agencies with Elected Officials Required for Political Contribution Disclosure
N.J.S.A. 19:44A-20.26

County Name:
State: Governor, and Legislative Leadership Committees
Legislative District #s:
State Senator and two members of the General Assembly per district.

County:

Freeholders	County Clerk	Sheriff
{County Executive}	Surrogate	

Municipalities (Mayor and members of governing body, regardless of title):

USERS SHOULD CREATE THEIR OWN FORM, OR DOWNLOAD FROM THE PAY TO PLAY SECTION OF THE DLGS WEBSITE A COUNTY-BASED, CUSTOMIZABLE FORM.

STOCKHOLDER DISCLOSURE CERTIFICATION

Name of Business:

☐ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

☒ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

☐ Partnership ☐ Corporation ☐ Sole Proprietorship

☐ Limited Partnership ☒ Limited Liability Corporation ☐ Limited Liability Partnership

☐ Subchapter S Corporation

Sign and notarize the form below, and, if necessary, complete the stockholder list below.

Stockholders:

Name: Home Address:	Name: Home Address:
Name: Home Address:	Name: Home Address:
Name: Home Address:	Name: Home Address:

Subscribed and sworn before me this 11th day of October, 2_2.

(Notary Public)

ELIZABETH HILTS
NOTARY PUBLIC
My Commission Expires May 31, 2026

My Commission expires: May 31, 2026

David C Hutchins
(Affiant)

David Hutchins, VP Strategic Programs
(Print name & title of affiant)

(Corporate Seal)

Certification of Non-Involvement in Prohibited Activities in Iran

Pursuant to N.J.S.A. 52:32-58, Offerors must certify that neither the Offeror, nor any of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32 – 56(e) (3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither is involved in any of the investment activities set forth in N.J.S.A. 52:32 – 56(f).

Offerors wishing to do business in New Jersey through this contract must fill out the Certification of Non-Involvement in Prohibited Activities in Iran here: http://www.state.nj.us/humanservices/dfd/info/standard/fdc/disclosure_investmentact.pdf.

Offerors should submit the above form completed with their proposal.

This link does not work. CDW•G complies with this request and have included below an image from a recently submitted OMNIA proposal. We will readily fill out the correct form when the link is fixed.



STATE OF NEW JERSEY -- DIVISION OF PURCHASE AND PROPERTY
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Quote Number: _____ Bidder /Offeror: _____

PART 1: CERTIFICATION
BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.
FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf. Bidders **must** review this list prior to completing the below certification. **Failure to complete the certification will render a bidder's proposal non-responsive.** If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party

PLEASE CHECK THE APPROPRIATE BOX:

☒ **I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed** on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. **I will skip Part 2 and sign and complete the Certification below.**

OR

☐ **I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below.** Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN
You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name _____ Relationship to Bidder/Offeror _____
Description of Activities _____
Duration of Engagement _____ Anticipated Cessation Date _____
Bidder/Offeror Contact Name _____ Contact Phone Number _____

ADD AN ADDITIONAL ACTIVITIES ENTRY

Certification: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers of information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): David Hutchins Signature: David C Hutchins
Title: VP, Strategic Programs Date: 4/29/2022

DPP Standard Forms Packet 11/2013

DOC #7

NEW JERSEY BUSINESS REGISTRATION CERTIFICATE
(N.J.S.A. 52:32-44)

Offerors wishing to do business in New Jersey must submit their State Division of Revenue issued Business Registration Certificate with their proposal here. Failure to do so will disqualify the Offeror from offering products or services in New Jersey through any resulting contract.

https://www.njportal.com/DOR/BusinessRegistration/

N.J. Department of Treasury - Division of Revenue, On-Line Inquiry

STATE OF NEW JERSEY
BUSINESS REGISTRATION CERTIFICATE

Taxpayer Name:	CDW GOVERNMENT LLC
Trade Name:	
Address:	200 N MILWAUKEE AVE VERNON HILLS, IL 60061-1577
Certificate Number:	1561883
Effective Date:	May 10, 2010
Date of Issuance:	March 24, 2021

For Office Use Only:

20210324152645869

DOC #8

EEOAA EVIDENCE

Equal Employment Opportunity/Affirmative Action
Goods, Professional Services & General Service Projects

EEO/AA Evidence

Vendors are required to submit evidence of compliance with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 in order to be considered a responsible vendor.

One of the following must be included with submission:

- Copy of Letter of Federal Approval
- Certificate of Employee Information Report
- Fully Executed Form AA302
- Fully Executed EEO-1 Report

See the guidelines at:
https://www.state.nj.us/treasury/contract_compliance/documents/pdf/guidelines/pa.pdf
for further information.

I certify that my bid package includes the required evidence per the above list and State website.

Name: David Hutchins Title: VP Strategic Programs

Signature David C Hutchins Date 10/11/2022

Certification 26158

CERTIFICATE OF EMPLOYEE INFORMATION REPORT

RENEWAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-MAR-2020 to 15-MAR-2023

CDW GOVERNMENT, LLC
200 N. MILWAUKEE AVENUE
VERNON HILLS IL 60061

ELIZABETH MAHER MUOIO
State Treasurer

DOC #9

MACBRIDE-PRINCIPLES

STATE OF NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY

33 WEST STATE STREET, P.O. BOX 230
TRENTON, NEW JERSEY 08625-0230

MACBRIDE PRINCIPALS FORM

BID SOLICITATION #: 23-6692 **VENDOR/BIDDER:** CDW Government LLC

VENDOR'S/BIDDER'S REQUIREMENT
TO PROVIDE A CERTIFICATION IN COMPLIANCE WITH THE MACBRIDE PRINCIPALS AND NORTHERN IRELAND ACT OF 1989

Pursuant to Public Law 1995, c. 134, a responsible Vendor/Bidder selected, after public bidding, by the Director of the Division of Purchase and Property, pursuant to N.J.S.A. 52:34-12, must complete the certification below by checking one of the two options listed below and signing where indicated. If a Vendor/Bidder that would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Director may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another Vendor/Bidder that has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Director finds contractors to be in violation of the principals that are the subject of this law, he/she shall take such action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, on behalf the Vendor/Bidder, certify pursuant to N.J.S.A. 52:34-12.2 that:

CHECK THE APPROPRIATE BOX

[X] The Vendor/Bidder has no business operations in Northern Ireland; or

OR

[ ] The Vendor/Bidder will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principals of nondiscrimination in employment as set forth in section 2 of P.L. 1987, c. 177 (N.J.S.A. 52:18A-89.5) and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of its compliance with those principals.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor/Bidder, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor/Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of **my** agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification to be void and unenforceable.

David C Hutchins — Signature

10/11/2022 — Date

David Hutchins, VP Strategic Programs — Print Name and Title

Version August 19, 2022

Appendix C: Addendums

See following pages for our signed Addendums

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To the extent allowable, all information and documents hereby submitted in response to the Request for Proposal/Quote (“RFP/RFQ”) furnished by Cobb County Purchasing are the Proprietary and Confidential property of CDW Government LLC (“CDW•G”).

COBB COUNTY
Purchasing Department
122 Waddell Street NE
Marietta, Georgia 30060
(770) 528-8400• fax: (770) 528-8428
purchasing@cobbcounty.org

Roger Ball
Purchasing Director

ADDENDUM No. 1

Sealed Bid # 23-6692
Request for Proposals
Technology Product Solutions and Related Services
Cobb County Purchasing Department

Date: September 19, 2022

The following addendum hereby amends and/or modifies the Proposal Documents and specifications as originally issued for this project. All proposers are subject to the provisions of this Addendum.

This Addendum consists of:

- **Minutes, Questions and Clarifications from Pre-Proposal Meeting held via Webex on September 14, 2022**
- **Sign-In Sheet(s) from Pre-Proposal Meeting**
- **Questions Submitted in Writing**
- **Attachment - Financial Ratio Evaluation Excel Spreadsheet**

Receipt of addendum MUST be acknowledged in the submitted proposal. It is the Proposer's ultimate responsibility to ensure that they have all applicable addenda prior to bid submittal.

This acknowledgment form must be signed, dated, and included with your submitted proposal

CDW Government LLC
Company Name

10/11/2022
Date

David C Hutchins
Signature

David Hutchins
Please Print Name

All bids must be received before 12:00 (noon) by the Bid Opening date. Bids shall be delivered to Cobb County Purchasing Department, 122 Waddell Street NE, Marietta, GA 30060.

COBB COUNTY
Purchasing Department
122 Waddell Street NE
Marietta, Georgia 30060
(770) 528-8400• fax: (770) 528-8428
purchasing@cobbcounty.org

Roger Ball
Purchasing Director

ADDENDUM No. 2

Sealed Bid # 23-6692
Request for Proposals
Technology Product Solutions and Related Services
Cobb County Purchasing Department

Date: September 30, 2022

The following addendum hereby amends and/or modifies the Proposal Documents and specifications as originally issued for this project. All proposers are subject to the provisions of this Addendum.

This Addendum consists of:

- **Questions Submitted in Writing**

Receipt of addendum MUST be acknowledged in the submitted proposal. It is the Proposer's ultimate responsibility to ensure that they have all applicable addenda prior to bid submittal.

This acknowledgment form must be signed, dated, and included with your submitted proposal

CDW Government LLC
Company Name

10/11/2022
Date

David C Hutchins
Signature

David Hutchins
Please Print Name

All bids must be received before 12:00 (noon) by the Bid Opening date. Bids shall be delivered to Cobb County Purchasing Department, 122 Waddell Street NE, Marietta, GA 30060.

COBB COUNTY
Purchasing Department
122 Waddell Street NE
Marietta, Georgia 30060
(770) 528-8400• fax: (770) 528-8428
purchasing@cobbcounty.org

Roger Ball
Purchasing Director

ADDENDUM No. 3

Sealed Bid # 23-6692
Request for Proposals
Technology Product Solutions and Related Services
Cobb County Purchasing Department

Date: October 5, 2022

The following addendum hereby amends and/or modifies the Proposal Documents and specifications as originally issued for this project. All proposers are subject to the provisions of this Addendum.

This Addendum consists of:

- **Questions Submitted in Writing**

Receipt of addendum MUST be acknowledged in the submitted proposal. It is the Proposer's ultimate responsibility to ensure that they have all applicable addenda prior to bid submittal.

This acknowledgment form must be signed, dated, and included with your submitted proposal

CDW Government LLC
Company Name

10/11/2022
Date

David C Hutchins
Signature

David Hutchins
Please Print Name

All bids must be received before 12:00 (noon) by the Bid Opening date. Bids shall be delivered to Cobb County Purchasing Department, 122 Waddell Street NE, Marietta, GA 30060.

Cobb County Purchasing Department

Sealed Bid # 23-6692
Request for Proposals
Technology Product Solutions and Related Services

Proposed Language for Negotiation
191

Appendix D: Exceptions

I. Introductory Comment

CDW-G's proposed edits have been driven by the nuances between manufacturers and non-manufacturer resellers of hardware and service offerings such as CDW-G.

The below clauses and associated rationale attempt to convey those challenges and the inherent risks which are potentially subject to price contemplation in resulting offers. Thank you for the opportunity to provide the below feedback and potential future discussion on the below proposals. CDW-G appreciates the partnership with the County and the opportunity to earn additional business.

II. OVERVIEW

Section – ADDITIONAL AGREEMENTS

End User License Agreement(s) or EULA(s) or Term of Service "TOS" are standard contract documents or terms or conditions governing a Participating Agency's access to, use of, or deployment of certain software, Cloud solutions, or services the awarded vendor supplies hereunder, directly, or indirectly, and that a Participating Agency may be required to execute or agree to in connection with its use of the same. Participating Agencies may negotiate EULAs or TOSs with the applicable awarded vendor, Cloud solutions provider, or OEM software provider/publisher and/or service provider even if this solicitation is awarded to a distributor.

III. Cobb County General Instructions for Proposers, Terms and Conditions

VII. Patent Indemnity

The contractor guarantees to hold the County, its agents, officers or employees harmless from liability of any nature or kind for use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, for which the contractor is ~~not~~ the patentee, assignee or licensee.

IX.G.i Notice Requirement

Each insurance policy required by this Contract ~~shall be endorsed to state that coverage~~ shall notify Owner in the event it is ~~be~~ suspended, voided, canceled, reduced in coverage or in limits ~~except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to Owner, in care of the Cobb County [insert department name and address]~~. Owner reserves the right to accept alternate notice terms and provisions provided they meet the minimum requirements under Georgia law.

XIII. Contract – CDW-G notes that the RFP did not contain a Cobb County Sample Contract. Any proposed items for negotiation are therefore reserved for post-award review.

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To the extent allowable, all information and documents hereby submitted in response to the Request for Proposal/Quote ("RFP/RFQ") furnished by Cobb County Purchasing are the Proprietary and Confidential property of CDW Government LLC ("CDW•G").

XIV. Delivery Failures

Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the Purchasing Director, or failure to make replacements of rejected articles/services when so requested, immediately or as directed by the Purchasing Director, shall constitute authority for the Purchasing Director to purchase in the open market or rebid for articles/services of comparable grade to replace the articles/services rejected or not delivered. ~~On all such purchases, the contractor shall reimburse the County within a reasonable time specified by the Purchasing Director for any expense incurred in excess of contract prices, or the County shall have the right to deduct such an amount from monies owed the defaulting contractor. Alternatively, the County may penalize the contractor one percent (1%) per day for a period of up to ten (10) days for each day that delivery or replacement is late.~~ Should public necessity demand it, the County reserves the right to use or consume articles/services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Director.

XVII. Default

The contract may be cancelled or annulled by the Purchasing Director in whole or in part by written notice of default to the contractor upon non-performance or violation of any contract term. An award may be made to the next highest rated responsive and responsible proposer, or articles specified may be purchased on the open market similar to those terminated or the County may issue a new Request for Proposal. In any event, the defaulting contractor ~~(or his surety) shall be liable to the County for costs to the County in excess of the defaulted contract prices; provided, however, that the contractor~~ shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on its proposal, unless extended in writing by the Purchasing Director, shall constitute contract default.

XXVII. Indemnification

By submitting a Proposal, the Proposer hereby agrees to indemnify, defend and hold harmless the County, its departments, employees and the Board of Commissioners from and against any and all finally adjudicated claims, demands, liabilities, losses, costs or expenses, including attorneys' fees, due to liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and tangible personal property damage~~, including but not limited to intellectual property claims,~~ arising directly ~~or indirectly~~ from the submission of the Proposal hereunder, but only to the extent such claims are caused by the negligence, recklessness or intentionally wrongful conduct of the Proposer or its agents, employees, associates, subcontractors or others working at the direction of Proposer. This indemnification obligation survives beyond the submission date of the Proposal and the dissolution or, to the extent allowed by law, the bankruptcy of the Proposer.

XXVIII. Indemnification/Hold Harmless

The Contractor covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. ~~The Contractor shall bear all losses and damages directly or indirectly resulting to it on account of the performance or character of the Work rendered pursuant to this Agreement.~~ To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the County and the County's elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents and volunteers (individually an "Indemnified Party" and collectively the "Indemnified Parties") from and against any and all third party claims, suits, actions, judgments, injuries, damages, losses, expenses, and liability of any

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To the extent allowable, all information and documents hereby submitted in response to the Request for Proposal/Quote ("RFP/RFQ") furnished by Cobb County Purchasing are the Proprietary and Confidential property of CDW Government LLC ("CDW•G").

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1215

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Peter Nierengarten, Environmental Director

FROM: Daryl Brigman, Financial Analyst - RTC

DATE: October 19, 2023

SUBJECT: **A resolution to approve an agreement between the City of Fayetteville, Arkansas and LRS South, LLC to haul and dispose of solid waste in the City of Fayetteville**

RECOMMENDATION:
Staff recommends City Council approval of a resolution with LRS South, LLC for the hauling and disposal of solid waste in the City of Fayetteville.

BACKGROUND:
City Code 50. 29 - Private Collectors; Contract with City Required
No person, except a duly authorized agent or employee of the city, shall empty garbage or trash receptacles, or convey or transport garbage or trash on the streets or public thoroughfares of the city, without a written contract with the city. (Code 1965, § 10- 46; Ord. No. 1194, 4- 6- 59; Code 1991, § 50. 29)
In accordance with this City Code, LRS South, LLC has submitted a request for contract to haul solid waste within the city limits of Fayetteville.

There are currently 15 approved franchise haulers operating in the city of Fayetteville. Attached is a list of these haulers and the materials they are approved to haul.

DISCUSSION:
The hauling contract will permit LRS South, LLC to collect and haul Class 1 and Class 4 solid waste using open-top roll-off style containers with capacities of 20 cubic yards or greater, or roll-off style compactors with capacities of 20 cubic yards or greater. No unseparated recyclables, with the exception of construction/demolition waste, shall be hauled from any customer within the corporate limits of the City of Fayetteville.

The agreement requires LRS South, LLC to pay a monthly fee to the City of Fayetteville of 10% of the gross revenue received for providing solid waste hauling services.
The term of the agreement will be 2 years with automatic renewals for 2 additional 2- year terms. Staff proposes approval for LRS South, LLC to haul and dispose of solid waste within the City of Fayetteville per the terms of the attached agreement.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS: SRF (#3), 2023 Haul and Disposal Agreement -LRS South, LLC (#4)

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

File #: 2023-1215

A resolution to approve an agreement between the City of Fayetteville, Arkansas and LRS South, LLC to haul and dispose of solid waste in the City of Fayetteville

A RESOLUTION TO APPROVE AN AGREEMENT WITH LRS SOUTH, LLC FOR THE HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF FAYETTEVILLE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with LRS South, LLC, a copy of which is attached to this Resolution, for the hauling and disposal of solid waste and recyclable materials in the City of Fayetteville.

City of Fayetteville Staff Review Form

2023-1215

Item ID

11/7/2023

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

Daryl Brigman	10/19/2023	RECYCLING/TRASH COLLECTION (750)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

A resolution to approve an agreement between the City of Fayetteville, Arkansas and LRS South, LLC to haul and dispose of solid waste in the City of Fayetteville

Budget Impact:

Account Number		Fund	
Project Number		Project Title	

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this _____ day of _____ 2023, between the **City of Fayetteville, Arkansas,** a municipal corporation (the "City"), and **LRS South, LLC** (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for two (2) years, with automatic renewals for two (2) additional two (2) year terms, unless otherwise terminated pursuant to the terms hereof. Notice of non-renewal by either City or Hauler shall be given at least thirty days prior to the end of the current term.

2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.

3. Hauler agrees and understands that it may only collect and haul Class 1 and Class 4 Solid Waste and/or Recyclables using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables, with the exception of construction/demolition waste, shall be hauled from any customer within the corporate limits of the City of Fayetteville. All hauled waste and/or recyclables shall be suitably enclosed or covered as to prevent roadside littering.

4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of: ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services and five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of recyclables or construction/demolition waste to a permitted construction and demolition waste sorting facility. Any construction/demolition waste that is not hauled to and accepted by a permitted construction and demolition waste sorting facility or any recyclables not accepted by a recycling facility or recycling broker shall be subject to the 10% Solid Waste Fee.

5. Hauler agrees and understands that it shall deliver all Class 1 waste to a properly licensed landfill facility and all Class 4 waste to a properly licensed landfill facility or a properly licensed construction and demolition waste sorting facility. Hauler shall pay all tip fees to the construction and demolition waste sorting facility operator, transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.

6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor generated report, on or before the 15th of each calendar month for the immediately preceding calendar month.

Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all recycling; (ii) volumes of construction and demolition waste delivered to permitted construction and demolition waste sorting facility and percentage of material recovered. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction determines that said requested information is disclosable or otherwise is not exempt from disclosure under the

Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.

10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required in the Agreement.

11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.

12. Hauler agrees that it shall provide by June 30th on an annual basis copies of valid and current hauling and disposal permits from the Arkansas Department of Environmental Quality, the Solid Waste District with jurisdiction, and any local permitting agency.

13. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.

14. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.

15. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.

16. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

17. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.

18. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Environmental Director. The Point of Contact for the Hauler shall be **Robert Heath**. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

19. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.

20. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:

a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.

b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.

c) City will be added as an additional insured on General Liability and Auto Liability policies.

d) The types of coverage and limits of liability of all insurance required herein shall be a follows:

COVERAGE	LIMITS OF LIABILITY
Worker's Compensation	Statutory
Employer's Liability	$500,000
Bodily Injury Liability except Automobile	$1,000,000 each occurrence
Property Damage Liability Except Automobile	$1,000,000 each aggregate
Automobile Bodily Injury	$1,000,000 each person
Comprehensive General Liability	$1,000,000 each occurrence
Automobile Property Damage Liability	$1,000,000 each occurrence
Excess Umbrella Liability	$1,000,000 each occurrence

21. Termination:

a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement no sooner than thirty (30) days after the date of written notice of such breach or default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.

b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.

c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

22. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract by electronic mail, return receipt requested, and by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville	LRS South, LLC
Environmental Director	Attn: Robert Heath
113 West Mountain Street	848 Highway 264 E
Fayetteville, AR 72701	Bethel Heights, AR 72764

23. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.

24. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.

25. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.

26. Each paragraph of the Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

27. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.

28. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

29. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in

applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.

30. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN, Mayor

By: _____
ROBERT HEATH, General Manager

ATTEST:

By: _____
KARA PAXTON, City Clerk/Treasurer

WITNESS:

By: _____
Dayme Land

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1055

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Peter Nierengarten, Environmental Director

FROM: Daryl Brigman, Financial Analyst - RTC

DATE: October 11, 2023

SUBJECT: **A resolution to approve an agreement between the City of Fayetteville, Arkansas and Hamilton Alliance to haul and dispose of solid waste in the City of Fayetteville**

RECOMMENDATION:
Staff recommends City Council approval of a resolution with Hamilton Alliance for the hauling and disposal of solid waste in the City of Fayetteville.

BACKGROUND:
City Code 50. 29 - Private Collectors; Contract with City Required
No person, except a duly authorized agent or employee of the city, shall empty garbage or trash receptacles, or convey or transport garbage or trash on the streets or public thoroughfares of the city, without a written contract with the city. (Code 1965, § 10- 46; Ord. No. 1194, 4- 6- 59; Code 1991, § 50. 29)
In accordance with this City Code, Hamilton Alliance has submitted a request for a contract to haul solid waste within the city limits of Fayetteville.
There are currently 15 approved franchise haulers operating in the city of Fayetteville. Attached is a list of these haulers and the materials they are approved to haul.

DISCUSSION:
The hauling contract will permit Hamilton Alliance to collect and haul Class 1 and Class 4 solid waste using open-top roll-off style containers with capacities of 20 cubic yards or greater, or rolloff style compactors with capacities of 20 cubic yards or greater. No unseparated recyclables, with the exception of construction/demolition waste, shall be hauled from any customer within the corporate limits of the City of Fayetteville. The agreement requires Hamilton Alliance to pay a monthly fee to the City of Fayetteville of 10% of the gross revenue received for providing solid waste hauling services. The term of the agreement will be 2 years with automatic renewals for 2 additional 2- year terms. Staff proposes approval for Hamilton Alliance to haul and dispose of solid waste within the City of Fayetteville per the terms of the attached agreement.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS: SRF (#3), 2023 Haul and Disposal Agreement - Hamilton Alliance (#4)

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

File #: 2023-1055

A resolution to approve an agreement between the City of Fayetteville, Arkansas and Hamilton Alliance to haul and dispose of solid waste in the City of Fayetteville

A RESOLUTION TO APPROVE AN AGREEMENT WITH HAMILTON ALLIANCE, INC. FOR THE HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIAL IN THE CITY OF FAYETTEVILLE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with Hamilton Alliance, Inc., a copy of which is attached to this Resolution, for the hauling and disposal of solid waste and recyclable material in the City of Fayetteville.

City of Fayetteville Staff Review Form

2023-1055

Item ID

11/7/2023

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

Daryl Brigman	10/5/2023	RECYCLING/TRASH COLLECTION (750)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

A resolution to approve an agreement between the City of Fayetteville, Arkansas and Hamilton Alliance to haul and dispose of solid waste in the City of Fayetteville

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this 4th day of October 2023, between the **City of Fayetteville, Arkansas,** a municipal corporation (the "City"), and Hamilton Alliance, Inc. (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for two (2) years, with automatic renewals for two (2) additional two (2) year terms, unless otherwise terminated pursuant to the terms hereof. Notice of non-renewal by either City or Hauler shall be given at least thirty days prior to the end of the current term.

2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.

3. Hauler agrees and understands that it may only collect and haul Class 1 and Class 4 Solid Waste and/or Recyclables using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables, with the exception of construction/demolition waste, shall be hauled from any customer within the corporate limits of the City of Fayetteville. All hauled waste and/or recyclables shall be suitably enclosed or covered as to prevent roadside littering.

4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of: ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services and five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of recyclables or construction/demolition waste to a permitted construction and demolition waste sorting facility. Any construction/demolition waste that is not hauled to and accepted by a permitted construction and demolition waste sorting facility or any recyclables not accepted by a recycling facility or recycling broker shall be subject to the 10% Solid Waste Fee.

5. Hauler agrees and understands that it shall deliver all Class 1 waste to a properly licensed landfill facility and all Class 4 waste to a properly licensed landfill facility or a properly licensed construction and demolition waste sorting facility. Hauler shall pay all tip fees to the construction and demolition waste sorting facility operator, transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.

6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor generated report, on or before the 15th of each calendar month for the immediately preceding calendar month.

Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all recycling; (ii) volumes of construction and demolition waste delivered to permitted construction and demolition waste sorting facility and percentage of material recovered. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction determines that said requested information is disclosable or otherwise is not exempt from disclosure under the

Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.

10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required in the Agreement.

11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.

12. Hauler agrees that it shall provide by June 30th on an annual basis copies of valid and current hauling and disposal permits from the Arkansas Department of Environmental Quality, the Solid Waste District with jurisdiction, and any local permitting agency.

13. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.

14. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.

15. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.

16. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

17. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.

18. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Environmental Director. The Point of Contact for the Hauler shall be _Ana Farrah_. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

19. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.

20. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:

a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.

b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.

c) City will be added as an additional insured on General Liability and Auto Liability policies.

d) The types of coverage and limits of liability of all insurance required herein shall be a follows:

COVERAGE	LIMITS OF LIABILITY
Worker's Compensation	Statutory
Employer's Liability	$500,000
Bodily Injury Liability except Automobile	$1,000,000 each occurrence
Property Damage Liability Except Automobile	$1,000,000 each aggregate
Automobile Bodily Injury	$1,000,000 each person
Comprehensive General Liability	$1,000,000 each occurrence
Automobile Property Damage Liability	$1,000,000 each occurrence
Excess Umbrella Liability	$1,000,000 each occurrence

21. Termination:

a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement no sooner than thirty (30) days after the date of written notice of such breach or default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.

b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.

c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

22. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract by electronic mail, return receipt requested, and by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville	Hamilton Alliance, Inc.
Environmental Director	Attn: _Ana Farrah____
113 West Mountain Street	PO Box 797
Fayetteville, AR 72701	Cicero IN 46034

23. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.

24. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.

25. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.

26. Each paragraph of the Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

27. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.

28. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

29. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in

applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.

30. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE	**Hamilton Alliance, Inc.**
By: _____	By: _____ _____
LIONELD JORDAN, Mayor	**James Edwards**, CEO
ATTEST:	**WITNESS:**
By: _____	By: _____
KARA PAXTON, City Clerk/Treasurer	_____

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1088

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Peter Nierengarten, Environmental Director

FROM: Daryl Brigman, Financial Analyst - RTC

DATE: October 18, 2023

SUBJECT: **A resolution to approve an agreement between the City of Fayetteville, Arkansas and Outbound Waste LLC to haul and dispose of solid waste in the City of Fayetteville**

RECOMMENDATION:
Staff recommends City Council approval of a resolution with Outbound Waste LLC for the hauling and disposal of solid waste in the City of
Fayetteville.

BACKGROUND:
City Code 50. 29 - Private Collectors; Contract with City Required
No person, except a duly authorized agent or employee of the city, shall empty garbage or trash receptacles, or convey or transport garbage or trash on the streets or public thoroughfares of the city, without a written contract with the city. (Code 1965, § 10- 46; Ord. No. 1194, 4- 6- 59; Code 1991, § 50. 29)

DISCUSSION:
The hauling contract will permit Outbound Waste LLC to collect and haul Class 1 and Class 4 solid waste using open-top roll-off style containers with capacities of 20 cubic yards or greater, or roll-off style compactors with capacities of 20 cubic yards or greater. No unseparated recyclables, with the exception of construction/demolition waste, shall be hauled from any customer within the corporate limits of the City of Fayetteville.

The agreement requires Outbound Waste LLC to pay a monthly fee to the City of Fayetteville of 10% of the gross revenue received for providing solid waste hauling services. The term of the agreement will be 2 years with automatic renewals for 2 additional 2- year terms. Staff proposes approval for Outbound Waste LLC to haul and dispose of solid waste within the City of Fayetteville per the terms of the attached agreement.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS: SRF (#3), 2023 Haul and Disposal Agreement - Outbound Waste LLC (#4)

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

File #: 2023-1088

A resolution to approve an agreement between the City of Fayetteville, Arkansas and Outbound Waste LLC to haul and dispose of solid waste in the City of Fayetteville

A RESOLUTION TO APPROVE AN AGREEMENT WITH OUTBOUND WASTE, LLC FOR THE HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLES IN THE CITY OF FAYETTEVILLE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with Outbound Waste, LLC, a copy of which is attached to this Resolution, for the hauling and disposal of solid waste and recyclables in the City of Fayetteville.

City of Fayetteville Staff Review Form

2023-1088

Item ID

11/7/2023

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

Daryl Brigman	10/18/2023	RECYCLING/TRASH COLLECTION (750)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

A resolution to approve an agreement between the City of Fayetteville, Arkansas and Outbound Waste LLC to haul and dispose of solid waste in the City of Fayetteville

Budget Impact:

Account Number			Fund	
Project Number			Project Title	
Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this ___ day of ___ 2023, between the **City of Fayetteville, Arkansas,** a municipal corporation (the "City"), and Outboard Waste LLC (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for two (2) years, with automatic renewals for two (2) additional two (2) year terms, unless otherwise terminated pursuant to the terms hereof. Notice of non-renewal by either City or Hauler shall be given at least thirty days prior to the end of the current term.

2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.

3. Hauler agrees and understands that it may only collect and haul Class 1 and Class 4 Solid Waste and/or Recyclables using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables, with the exception of construction/demolition waste, shall be hauled from any customer within the corporate limits of the City of Fayetteville. All hauled waste and/or recyclables shall be suitably enclosed or covered as to prevent roadside littering.

4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of: ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services and five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of recyclables or construction/demolition waste to a permitted construction and demolition waste sorting facility. Any construction/demolition waste that is not hauled to and accepted by a permitted construction and demolition waste sorting facility or any recyclables not accepted by a recycling facility or recycling broker shall be subject to the 10% Solid Waste Fee.

5. Hauler agrees and understands that it shall deliver all Class 1 waste to a properly licensed landfill facility and all Class 4 waste to a properly licensed landfill facility or a properly licensed construction and demolition waste sorting facility. Hauler shall pay all tip fees to the construction and demolition waste sorting facility operator, transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.

6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor generated report, on or before the 15th of each calendar month for the immediately preceding calendar month.

Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all recycling; (ii) volumes of construction and demolition waste delivered to permitted construction and demolition waste sorting facility and percentage of material recovered. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors."

8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction

determines that said requested information is disclosable or otherwise is not exempt from disclosure under the Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.

10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required in the Agreement.

11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.

12. Hauler agrees that it shall provide by June 30th on an annual basis copies of valid and current hauling and disposal permits from the Arkansas Department of Environmental Quality, the Solid Waste District with jurisdiction, and any local permitting agency.

13. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.

14. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.

15. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.

16. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

17. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.

18. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Environmental Director. The Point of Contact for the Hauler shall be Kade Fields. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

19. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.

20. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:

a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.

b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.

c) City will be added as an additional insured on General Liability and Auto Liability policies.

d) The types of coverage and limits of liability of all insurance required herein shall be a follows:

COVERAGE	LIMITS OF LIABILITY
Worker's Compensation	Statutory
Employer's Liability	$500,000
Bodily Injury Liability except Automobile	$1,000,000 each occurrence
Property Damage Liability Except Automobile	$1,000,000 each aggregate
Automobile Bodily Injury	$1,000,000 each person
Comprehensive General Liability	$1,000,000 each occurrence
Automobile Property Damage Liability	$1,000,000 each occurrence
Excess Umbrella Liability	$1,000,000 each occurrence

21. Termination:

a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement no sooner than thirty (30) days after the date of written notice of such breach or

default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.

b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.

c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

22. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract by electronic mail, return receipt requested, and by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville
Environmental Director
113 West Mountain Street
Fayetteville, AR 72701

Outbound Waste LLC
Attn: Kade Fields
1302 NE 10th St
Bentonville AR 72712

23. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.

24. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.

25. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.

26. Each paragraph of the Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

27. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.

28. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

29. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.

30. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN, Mayor

_____

By: _____
~~**NAME**, Title~~
Bryan Seba, Owner

ATTEST:

By: _____
KARA PAXTON, City Clerk/Treasurer

WITNESS:

By: _____
_____

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1211

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: October 18, 2023

SUBJECT: **Budget Adjustment for Clabber Creek 48-Inch Sewer Main Repair**

RECOMMENDATION:
Staff recommends approval of a budget adjustment in the amount of $344,960.00 to fund the repair of a 48-inch sewer main in the Clabber Creek area, to be completed by City crews.

BACKGROUND:
This section of the 48-in pipeline was televised in July of 2021 and did not show signs of failure. After a report of Clabber Creek disappearing in July of 2023 the line was again televised. This inspection revealed a major failure in the original Hobas pipe allowing water to enter the sewer line. In September 2023 Water/Sewer excavated to repair the failed section of line. During this excavation it was determined the scope of the repair would need to be much more extensive. Given this, only a temporary repair was completed in September.

DISCUSSION:
The Water & Sewer department has determined that replacing the existing Hobas pipe with new 48-inch PVC pipe would be the best solution at this location. Considerations included availability of 48-inch PVC pipe, the depth of the line, and the ability to install utilizing Water/Sewer staff. It is recommended this repair be completed as quickly as possible due to the high probability of failure and high cost of failure.

This repair is estimated to cost $344,960.00 in parts, rental equipment, fuel, and a project contingency as detailed below:

$190,000.00 – 48-in PVC pipe and material
$81,500.00 – Sewer pump around
$22,500.00 – Rental equipment
$15,000.00 – Fuel
$2,400.00 – Trench safety
$2,200.00 – Sewer plugs
$31,360.00 - Contingency

Repairs will be made utilizing Water/Sewer crews. The sewer pump around system must be staffed 24/7.

BUDGET/STAFF IMPACT:
A budget adjustment is attached to move funds from the Lake Sequoyah Dredging account to the Water &

Sewer operations budget to fund the emergency repair.

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

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

File #: 2023-1211

Budget Adjustment for Clabber Creek 48-Inch Sewer Main Repair

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $344,960.00 TO FUND THE REPAIR OF A 48-INCH SEWER MAIN IN THE CLABBER CREEK AREA

WHEREAS, a section of 48-inch pipeline near Clabber Creek was televised in July of 2021 and did not show signs of failure; and

WHEREAS, in July 2023, the line was televised again and revealed a major failure in the original Hobas pipe allowing water to enter the sewer line; and

WHEREAS, during the excavation, it was determined the scope of the repair would need to be much more extensive, so only a temporary repair was completed at that time.

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 a budget adjustment, a copy of which is attached to this Resolution, in the amount of $344,960.00 to fund the repair of a 48-inch water main in the Clabber Creek area.

City of Fayetteville Staff Review Form

2023-1211

Item ID

11/7/2023

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

Tim Nyander	10/18/2023	WATER SEWER (720)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of a budget adjustment in the amount of $344,960.00 to fund the repair of a 48-inch sewer main in the Clabber Creek area, to be completed by City crews.

Budget Impact:

5400.720.4410-5216.00/5400.720.4410-5308.03/5400.720.4410-5213.04	Water and Sewer
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	358,907.00
		Expenses (Actual+Encum)	$	193,272.16
		Available Budget	$	165,634.84
Does item have a direct cost?	Yes	Item Cost	$	344,960.00
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	344,960.00
		Remaining Budget	$	165,634.84

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	WATER SEWER (720)	
	Requestor: Cheryl Partain	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

A budget adjustment is needed in the water/sewer operational budget to fund the repair of a 48-Inch sewer main in the Clabber Creek area. City Crews will complete the work. Budgeted funds will be moved from the Lake Sequoyah Sediment Removal/Dredging Project. The project is closed and the available remaining budget is being moved to fund the repair costs.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1211**

Holly Black
10/19/2023 7:11 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.2023109

Account Number	Increase / (Decrease) Expense	Revenue	Project.Sub# Project	Sub.Detl	AT	Account Name
TOTAL	-	-				
5400.720.4410-5216.00	190,000	-			EX	Construction Materials
5400.720.4410-5308.03	139,960	-			EX	Rental - Equipment
5400.720.4410-5213.04	15,000	-			EX	Fuel - Unleaded/Diesel
5400.720.5600-5808.00	(344,960)	-	17004	1	EX	Improvements - Water Line
	-	-				
	-	-				
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CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1212

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: October 18, 2023

SUBJECT: **City of Farmington - 2023 Contract for Sanitary Sewer Service**

RECOMMENDATION:
Staff recommends the approval of a Contract for Sanitary Sewer Service between the Cities of Farmington, Arkansas and Fayetteville, Arkansas.

BACKGROUND:
The City of Farmington owns and operates its own complete wastewater collection system. This includes all of its gravity sewer mains, force sewer mains, manholes, and other appurtenances, Sewer Lift Station #12, and any other sewer lift station currently within the corporate boundaries of Farmington and owned by the City of Farmington.

DISCUSSION:
The City of Fayetteville has long accepted and treated wastewater from City of Farmington customers pursuant to Fayetteville/Farmington sewer contracts. Farmington has long abided by and properly performed its obligations pursuant to those previous sewer contracts.

It is in mutual best interests of the citizens and cities of Fayetteville and Farmington to enter into this new sewer contract. The contract addresses matters related to billing, collections, and payment, sewer service rates, impact fees, rate surcharges, compliance with regulations, operations and maintenance of the sewer system, industrial pretreatment, and contract renewal terms.

This contract will remain effective until December 31, 2032 unless either party terminates the contract per the contract terms.

BUDGET/STAFF IMPACT:
No budget impact.

ATTACHMENTS: SRF (#3), 2023 Farmington Sewer Contract (#4)

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

File #: 2023-1212

City of Farmington - 2023 Contract for Sanitary Sewer Service

A RESOLUTION TO APPROVE A CONTRACT FOR SANITARY SEWER SERVICE BETWEEN THE CITIES OF FARMINGTON AND FAYETTEVILLE IN WHICH FAYETTEVILLE WILL ACCEPT AND TREAT SEWERAGE FROM FARMINGTON IN FAYETTEVILLE'S WASTEWATER TREATMENT FACILITY THROUGH DECEMBER 31, 2032

WHEREAS, Farmington owns and operates its own complete wastewater collection system; and

WHEREAS, Fayetteville has long accepted and treated wastewater from City of Farmington customers pursuant to Fayetteville/Farmington sewer contracts and Farmington has long abided by and properly performed its obligations pursuant to those previous sewer contracts; and

WHEREAS, it is in mutual best interests of the residents and cities of Fayetteville and Farmington to enter into this new sewer contract, which addresses matters related to billing, collections and payment, sewer service rates, impact fees, rate surcharges, compliance with regulations, operations and maintenance of the sewer system, industrial pretreatment, and contract renewal terms; and

WHEREAS, Fayetteville agrees to accept for treatment the sanitary sewage delivered by Farmington to the Fayetteville system and to process such wastes in the same manner as wastes from Fayetteville are treated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign the attached contract for sanitary sewer service between the cities of Farmington and Fayetteville in which Fayetteville will accept and treat sewerage from Farmington in Fayetteville's Wastewater Treatment Facility through December 31, 2032.

City of Fayetteville Staff Review Form

2023-1212

Item ID

11/7/2023

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

Tim Nyander	10/16/2023	WATER SEWER (720)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends the approval of a Contract for Sanitary Sewer Service between the Cities of Farmington, Arkansas and Fayetteville, Arkansas.

Budget Impact:

N/A	N/A
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

FAYETTEVILLE AND FARMINGTON SEWER CONTRACT OF 2023

Comes now the City of Fayetteville and the City of Farmington and mutually agree to this Sewer Contract for the period from its approval by both cities until December 31, 2032.

The City of Fayetteville and the City of Farmington hereby mutually agree as follows:

WHEREAS, the City of Fayetteville owns its unified Fayetteville Wastewater Collection and Treatment System for the collection, transportation, treatment, reclamation and disposal of wastewater including all sewer lift or pumping stations, force sewer mains, gravity sewer mains, manholes, and other appurtenances within the City of Fayetteville or otherwise owned and subject to be replaced if necessary by the City of Fayetteville. Also included within the unified Fayetteville Wastewater Collection and Treatment System are both Wastewater Treatment Facilities, the Biosolids Management Site, all facilities, equipment, and vehicles used for, related to, or associated with the Wastewater Treatment Facilities, lift stations, sewer mains, electrical generation facilities, and the treatment and disposal of effluent and sludge from the Wastewater Treatment Facilities; and

WHEREAS, the City of Farmington owns its Farmington Wastewater Collection System which includes all of its gravity sewer mains, force sewer mains, manholes, and other appurtenances, Sewer Lift Station #12, and any other sewer lift station currently within the corporate boundaries of Farmington and owned by the City of Farmington; and

WHEREAS, the City of Fayetteville has long accepted and treated wastewater from City of Farmington customers pursuant to Fayetteville/Farmington sewer contracts; and

WHEREAS, the City of Farmington has long abided by and properly performed its obligations pursuant to those previous sewer contracts with the City of Fayetteville; and

WHEREAS, it is in mutual best interests of the citizens and cities of Fayetteville and Farmington to enter into this new sewer contract.

Now Therefore, The City of Fayetteville and the City of Farmington mutually promise, agree and covenant to fully perform and obey all of the terms, requirements and conditions shown below:

1. FAYETTEVILLE WILL ACCEPT AND TREAT FARMINGTON SEWERAGE: Fayetteville agrees that it will continue to operate and maintain the Farmington sewer system and shall treat all wastewater collected within the Farmington city limits pursuant to the terms and conditions of this contract. However, sewer service to Farmington residents not having Fayetteville water service may only continue to be furnished as long as the billing to and payment by such customers remain satisfactory to the City of Fayetteville.

2. FARMINGTON CUSTOMERS WILL PAY FAYETTEVILLE TO ACCEPT AND TREAT SEWERAGE: Farmington agrees that it will require all its citizens receiving water service to purchase sewer service from Fayetteville under the same sewer availability criteria as required of Fayetteville citizens. Farmington agrees that its citizens receiving wastewater or sewer service from Fayetteville will be subject to and must pay wastewater or sewer rates on a reasonable cost-of-service basis pursuant to the sewer service rates adopted or later amended by the Fayetteville City Council (§51.137 of the *Code of Fayetteville* and any amendments thereto).

3. FAYETTEVILLE WILL COMPLY WITH A.C.A §14-235-223 WHEN CHANGING OR MODIFYING SEWER RATES: When changing or modifying existing wastewater/sewer rates, Fayetteville agrees to retain a reputable consultant such as Black & Veatch to conduct a rate study to determine just and equitable rates for all users of the unified Fayetteville Wastewater Collection and Treatment System and to apply to these rates a fair and reasonable rate of return (to include a risk of loss component) for Fayetteville's net investment into the unified Fayetteville Wastewater Collection and Treatment System.

4. NEW FARMINGTON CUSTOMERS SHALL PAY IMPACT FEES TO FAYETTEVILLE: Pursuant to Farmington ordinances, Farmington customers receiving new sewer service from Fayetteville shall continue to pay sewer impact fees to Fayetteville in the same amount as new development in Fayetteville pays pursuant to the current ordinance and any amendments to §159.02 **Water and Wastewater Impact Fees** of the *Unified Development Code of Fayetteville*.

5. FARMINGTON IMPACT FEE AND RATE SURCHARGE: New Farmington sewer customers shall pay for the benefit of Farmington's increasing sewer capacity improvements an impact fee which is consistent with and in accordance with A.C.A. § 14-56-103. All Farmington customers shall also continue to pay a rate surcharge for its debt service requirements for the construction of Lift Station #12, its force main and necessary easements until that bonded debt is paid in full.

6. FAYETTEVILLE'S COLLECTION OF FARMINGTON'S IMPACT FEE AND DEBT SERVICE SURCHARGE: Farmington's debt service surcharge based upon billed volume of water/sewer and Farmington's Impact Fee shall be collected by Fayetteville. Fayetteville will administer and collect Farmington's debt service surcharge and collect Farmington's Sewer Impact Fee for an administrative service fee of four percent (4%) of the amount collected for both charges. After deducting the four percent (4%) administrative fee, Fayetteville shall remit the remainder to Farmington monthly. Fayetteville will also submit monthly statements to Farmington showing the number of Farmington residents who paid Farmington's debt service surcharge and the amount collected for such surcharges from these Farmington residents during that month.

7. BILLING, COLLECTIONS AND PAYMENT: Fayetteville shall issue billing and collect all bills in accordance with ordinances of the City of Fayetteville and the rules and regulations of the Water and Wastewater Department of Fayetteville as now exist or hereafter are adopted, and if any customer fails or refuses to pay said billing, Fayetteville shall have the right to discontinue water and sewer service to such customer in accordance with said ordinances, rules and regulations.

8. CHARGES AND REQUIREMENTS FOR SEWER SERVICE CONNECTIONS: The charges for making individual connections to the Farmington System shall be as established by the Fayetteville City Council and as adjusted from time to time. A Plumbing Permit must be obtained from the City of Fayetteville before a connection order can be issued by Fayetteville.

9. COMPLIANCE WITH WASTEWATER RULES AND REGULATIONS: The City of Farmington and all sewer customers shall comply with the wastewater ordinances, rules and regulations of the City of Fayetteville which may now exist or may hereafter be promulgated. Failure or refusal of any customer to comply with such ordinances, rules or regulations will subject the customer to immediate discontinuance of water and sewer service. Neither Fayetteville nor Farmington shall in any way be liable for any damages or expenses which may result from such discontinuance.

(A) Each customer for a new or larger water or sewer connection shall first obtain a Plumbing Permit at no cost (except for applicable impact fees) from the City of Fayetteville. The customer shall then provide this Fayetteville Plumbing Permit to Farmington which may then issue its own Plumbing Permit and charge a fee for such issuance. Farmington shall require that all necessary plumbing shall be installed in accordance with its most recently adopted Arkansas Plumbing Code and conduct inspections to ensure compliance with such Arkansas Plumbing Code.

(B) Farmington will adopt and maintain in force any necessary ordinance or ordinances providing for the discontinuance of water and sewer service in the event of failure or refusal of a customer to timely pay their bill in full or to comply with the provisions of this contract.

10. OWNERSHIP OF SYSTEM: It is understood that the Farmington System, including all of its sewer mains and pipes, sewage lift stations, force mains, and appurtenances thereto are and remain the property of the City of Farmington.

11. OPERATION AND MAINTENANCE: Fayetteville shall operate and maintain all of the existing Farmington System and all facilities which may be constructed as authorized by this contract and become a part of the Farmington System in the future pursuant the below conditions. Operation and Maintenance shall include:

(A) Pump Stations: Fayetteville shall provide the maintenance made necessary by the normal wear and tear encountered by the system. It does not include the replacement or enlargement of any lift station made necessary either by the increase in normal domestic flows or by an increase in the infiltration and inflow within the Farmington System. Neither does it include repair of extraordinary damages resulting from Acts of God.

(B) Gravity Sewers and Force Mains: Operation and maintenance of the gravity sewers and force mains shall mean the demand maintenance required as a result of a reported gravity sewer or force main blockage, the preventive rodding and cleaning of gravity sewer mains or force mains, and in-house sewer rehabilitation activities. In-house sewer rehabilitation shall include smoke testing, televising of lines, manhole lining and repairs, chemical grouting, point repairs, and line replacements not exceeding 15 feet. Fayetteville agrees that it shall utilize the same criteria to determine the extent and degree of in-house sewer rehabilitation to be done within the Farmington System as we do for the Fayetteville sewerage system. Farmington shall be responsible for and pay for any sewer line or main replacements greater than 15 feet in length.

12. CONSTUCTION OF NEW FACILITIES: New gravity sewers, force mains, pump stations, sewerage appurtenances, or enlargement thereof shall be constructed without cost to Fayetteville. This includes enlarging, replacing, moving, relocating, lowering, or adjusting to grade of any of the facilities of the system should they become overloaded or for the purpose of permitting construction of other facilities. To the extent that these or similar activities are undertaken, they shall be undertaken without cost to Fayetteville. Pump station replacements or improvements, sewer line replacements, construction of relief sewers, force main replacements and improvements, Sewer System Evaluation Studies intended to define excessive stormwater infiltration and inflow into the Farmington System, and subsequent construction to eliminate such excessive infiltration and inflow are Farmington's responsibility and must be accomplished without cost to Fayetteville. The need for a Sewer System Evaluation Study would be jointly determined by Farmington and Fayetteville.

Plans and specifications for any new construction as described above must be approved by the Fayetteville City Engineer and the Arkansas State Department of Health prior to the execution of any construction contract. Pipe size for any facilities shall be in keeping with prospects for future growth. Pipe and other materials used in such construction shall be in accordance with the standard construction practices of the Sewer Department of Fayetteville at the time such work is done. The design and specifications for any sewer facilities shall be in keeping with acceptable engineering practices at the time of construction. All such construction shall be planned and supervised by a Registered Professional engineer licensed to practice in the State of Arkansas. Farmington shall not extend any sewer lines beyond the Farmington City Limits to serve non Farmington customers.

Fayetteville shall be furnished two copies of the "As-Built" plans of all work, with a certification from the Engineer that all work was constructed in accordance with the approved plans and specifications. Fayetteville shall have the right to inspect and test the system within a reasonable time prior to accepting and placing the system into service.

13. EXTENSIONS BY FAYETTEVILLE: Fayetteville shall have the right to make extensions from Farmington's sewer lines to serve adjacent areas inside or outside the present limits of Fayetteville so long as Fayetteville does not serve customers in the present city limits of Farmington without Farmington's express written approval. The cost of replacement or enlargement of Farmington's lines or pumping facilities required by loads imposed by Fayetteville shall be borne by Fayetteville.

14. EASEMENTS: When easements are necessary in connection with maintenance and/or construction activities needed to exclusively serve Farmington residents or customers as provided for in this Contract, those easements shall be acquired by and at the expense of Farmington. Easements outside the city limits of Farmington which are not needed to serve Farmington residents or customers shall be the obtained by the City of Fayetteville at Fayetteville's expense. Easements that are needed to serve both Farmington and Fayetteville customers shall be obtained and apportioned equitably between Farmington and Fayetteville considering the number of customers likely to be served in the near future by the easement, estimated sewer flow likely to be generated in the near future within and outside Farmington, and other appropriate factors. All easements shall be of adequate width for construction, installation and maintenance of the sewer lines and appurtenances. Fayetteville shall be afforded the free right to full use of all such easements. The form of such easements, together with the provisions contained therein, shall be the same as used by Fayetteville at the time such easements are obtained. All easements within or serving exclusively Farmington and its residents and customers, whether acquired by condemnation proceedings or otherwise, shall be obtained without cost to Fayetteville.

15. ORDINANCES AND REGULATIONS TO FACILITATE PERFORMANCE OF CONTRACT: Farmington and Fayetteville will maintain, enact, adopt or execute ordinances, motions, resolutions, rules, regulations or supplemental agreements which may be necessary to carry out the terms of this agreement. All ordinances newly required to be enacted by Farmington under this contract shall be enacted within 90 days of the contract execution date unless specifically stated otherwise in the contract.

16. PROSECUTION FOR TAMPERING: Farmington agrees to enact and enforce an ordinance or ordinances with provisions substantially as follows:

> "It shall be unlawful for any person other than a person authorized by the Water and Wastewater Director of the City of Fayetteville, Arkansas, to make connection with the sewer collection system in this City or to tamper with any manhole or any appurtenance to the sewer collection system in this City. Nothing in this ordinance shall be so constructed as to prevent any person when acting under the authority of the Director of the Water and Wastewater Department of the City of Fayetteville, Arkansas, from changing, altering or otherwise working with any portion of the sewer system located in this city."

Violation of said ordinance or ordinances shall be prosecuted within the fullest limits of the law. Farmington agrees that it will investigate and prosecute or refer for prosecution all offenders.

17. INDUSTRIAL PRETREATMENT:

a) Farmington Ordinance: Farmington agrees to adopt or to maintain the effectiveness of its sewer use ordinance which is no less stringent and is as broad in scope as the sewer use ordinance as adopted by Fayetteville. Whenever Fayetteville amends its sewer use ordinance, it will forward a copy of such amendment within 30 business days of enactment thereof. Farmington will enact amendments at least as stringent of those adopted by Fayetteville within 30 business days of receipt thereof. The Parties will periodically review their respective sewer use ordinance and jointly draft and adopt amendments (which are equivalent in scope and stringency) to their respective sewer use ordinance when deemed necessary for the effective administration and operation of the

pretreatment program. This review will be conducted no less than once every 2 years. However, either party and the City of Greenland may request a joint review whenever such party believes that a review is necessary.

A request for such joint review must be forwarded by the requesting party to all three cities, stating the reason for the request and the date on which the review is requested to take place. Within 10 days of receipt of the request, the receiving parties must respond to the request stating that the proposed date is satisfactory or proposing an alternate date(s) for the review. In any case, the joint review will take place within 30 business days of the request.

b) Local Limits: Farmington will adopt and diligently enforce local limits which address at least the same pollutant parameters and are at least as stringent as the local limits enacted by Fayetteville. If any revisions or additions are made to Fayetteville's local limits, Fayetteville will forward to Farmington a copy of any such revisions or additions to the local limits within 10 business days of enactment thereof. Farmington agrees to adopt any revisions or additions made to Fayetteville's local limits within 30 business days.

c) Implementation of Farmington Ordinance: Farmington designates Fayetteville as the agent of Farmington for the purposes of implementation and enforcement of Farmington's sewer use ordinance against users connected to the Farmington System.

Fayetteville, on behalf of and as an agent for Farmington will perform technical and administrative duties necessary to implement and enforce Farmington's sewer use ordinance. Fayetteville will: (1) update the industrial waste survey; (2) issue permits to all users required to obtain a permit; (3) conduct inspections, sampling, and analysis; (4) take all appropriate enforcement action as outlined in the enforcement response plan; and (5) perform any other technical or administrative duties the parties to this agreement deem appropriate.

Fayetteville may, as an agent of Farmington, take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination.

d) Pretreatment Program Costs: Fayetteville will be responsible for all costs (including labor, equipment, attorney's fees, etc.) incurred in implementing and enforcing Farmington's sewer use ordinance on behalf of Farmington. In the event of a lawsuit relating to the implementation or enforcement of the pretreatment program in Farmington, the City of Fayetteville shall be responsible for the defense of its interest only. The City of Farmington will be responsible for attorneys and other professional expertise that may be required to defend its interest.

Nothing in this paragraph should be construed to mean that Fayetteville will not work with Farmington in every way possible in the event of a lawsuit, nor does it prohibit the combining of legal forces by Fayetteville and Farmington in the defense of a lawsuit as long as the cost sharing of such a defense of a lawsuit is agreed upon beforehand.

e) Outside Farmington Dischargers: No industrial user outside the limits of the City of Farmington shall be allowed to tie on to the Farmington System.

f) Mediation of Disputes: Any disputes arising out of this Contract concerning pretreatment issues should be submitted to mediation if the parties cannot timely resolve any dispute themselves. Both parties retain all of their normal rights to seek judicial relief.

g) Review of Pretreatment Agreement: The portion of this Contract dealing with industrial pretreatment will be reviewed and revised to ensure compliance with the Federal Clean Water Act (42 U.S.C. para. 1251 et seq.) and all rules and regulations (see 40 CFR Part 403) issued thereunder as necessary, but at least every (2) years.

18. LIABILITY: Fayetteville shall not be responsible for damages resulting from acts of God, acts of war, insurrections or rebellions, acts of a public enemy, acts of any unauthorized persons, firms or corporations, or acts of Farmington or its agents or employees.

19. TAXES PROHIBITED: Farmington will not during the period of this contract or any renewal thereof levy any franchise tax, occupation tax, or any other tax of any form whatsoever, by whatever name it may be called, upon Fayetteville or the services rendered pursuant to this contract without consent of all the parties.

20. TERMINATION OF CONTRACT: This agreement may be terminated by either party upon breach by the other of any of the covenants or agreements contained herein, and the failure of the party in breach to remedy such breach, within six (6) months after receipt of written notice of the existence of such breach.

21. OPTION TO RENEW CONTRACT: Farmington shall have the option to seek renewal of this contract upon similar or amended terms and conditions contained herein for an additional period of years by giving proper written notice to the Mayor of Fayetteville of its intent to seek renewal no later than December 31, 2031.

22. NOTICES: The written notices provided for herein shall be sufficient if hand delivered or sent by certified mail, return receipt requested, postage prepaid, to the Mayor of the City of Fayetteville, Arkansas, or the Mayor of the City of Farmington, Arkansas at their respective official City Hall addresses.

23. SEVERABILITY: Should any term of this Agreement be held null and void or rescinded by a court of competent jurisdiction, the remaining terms of this Agreement will be unaffected and enforceable.

IN WITNESS WHEREOF, Fayetteville and Farmington have executed this Contract by their respective Mayors who have caused their signatures to be attested to by their City Clerk or City Recorder after having been properly authorized to do so by appropriate resolutions of their respective City Councils.

CITY OF FAYETTEVILLE

_____
Lioneld Jordan, Mayor

ATTEST: _____
Kara Paxton, City Clerk

Date signed: _____

CITY OF FARMINGTON



Ernie Penn, Mayor

ATTEST: Kelly S. Penn
Kelly Penn,
Recorder/Treasurer

Date signed: 10-10-2023

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1210

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: October 20, 2023

SUBJECT: **Garney Companies, Inc. - West Water Transmission Main**

RECOMMENDATION:
Staff recommends approval of a Construction Manager At-Risk (CMAR) Contract with Garney Companies, Inc. in the amount of $690,329.00 for the West Water Transmission Main Project, and approval of a budget adjustment.

BACKGROUND:
The City of Fayetteville owns and operates two parallel water transmission lines from Beaver Water District (BWD) in Lowell that enter from the northeast corner of the City. These lines are a 36-inch pipe installed in 1967 and a 42-inch pipe installed in 1993. BWD intends to build a western water distribution point near HWY-112 and the newly constructed Springdale Northern Bypass, HWY-612. This facility will supply a western water transmission feed to all four customer cities, helping with hydraulics, critical redundancy, and overall utility resiliency. Fayetteville's 11.3-mile connection to the proposed BWD facility is currently under engineering design and permitting.

On July 31, 2023, the City of Fayetteville conducted a formal Engineering Selection Committee meeting and interviewed three firms. Garney was selected to negotiate a CMAR contract for the delivery of the 48-inch West Transmission Water Main project (RFQ 23-05).

DISCUSSION:
Garney and City Staff have met multiple times to create a scope and contract for these CMAR services. The contract has been reviewed by the City Attorney's office as well as the project's state funding agency ANRD. The initial phase of this contract is the pre-construction and procurement professional services wherein Garney will join alongside McClelland Engineers to act as a constructability and value-engineering consultant partner. Meanwhile they will be creating procurement packages to expedite construction once all permits are in-place.

Future change orders will be added to this contract to incorporate material purchases and construction packages as the project progresses. Each of these will be brought forward to the Water/Sewer Committee and the City Council for approvals. This contract consists of $690,329.00 in pre-construction professional CMAR services.

BUDGET/STAFF IMPACT:
A budget adjustment is needed to transfer budgeted funds to the West Water Transmission Line Project for the

contract with Garney Companies, Inc for the pre-construction management for the West Corridor Water Transmission Line Project. Available budgeted funds from the multiple Water/Sewer and Wastewater Treatment Plant projects will be transferred to cover the cost of this project.

ATTACHMENTS: SRF (#3), BA (#4), RFQ 23-05, Final Vote (#5), Contract for Garney Companies, Inc. (#6)

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

File #: 2023-1210

Garney Companies, Inc. - West Water Transmission Main

A RESOLUTION TO AUTHORIZE A CONSTRUCTION MANAGER AT RISK CONTRACT WITH GARNEY COMPANIES, INC., PURSUANT TO RFQ 23-05, FOR THE WEST TRANSMISSION WATER MAIN PROJECT IN THE INITIAL AMOUNT OF $690,329.00, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville owns and operates two parallel water transmission lines from Beaver Water District in Lowell; and

WHEREAS, Beaver Water District intends to build a western water distribution point near Highway 112 and the newly constructed Springdale Northern Bypass, Highway 612 that will supply a western water transmission feed to all four customer cities, helping with hydraulics, critical redundancy, and overall utility resiliency; and

WHEREAS, on July 31, 2023, the City's Engineering Selection Committee selected Garney Companies, Inc. to negotiate a Construction Manager at Risk contract for the delivery of the 48-inch West Transmission Water Main Project; and

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a Construction Manager at Risk contract with Garney Companies, Inc. in the initial amount of $690,329.00, pursuant to RFQ 23-05, for the West Water Transmission Main Project.

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

City of Fayetteville Staff Review Form

2023-1210

Item ID

11/7/2023

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

Tim Nyander	10/18/2023	WATER SEWER (720)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of a contract with Garney Construction, Inc. in the amount of $690,329.00, pursuant to RFQ 23-05, for construction of the West Water Transmission Main, and approval of a budget adjustment.

Budget Impact:

5400.720.5600-5314.00	Water and Sewer
Account Number	Fund
18015.2201	West Water Transmission Line
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	3,949,642.00
		Expenses (Actual+Encum)	$	3,949,642.00
		Available Budget	$	-
Does item have a direct cost?	Yes	Item Cost	$	690,329.00
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	690,329.00
		Remaining Budget	$	-

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments: RFQ 23-05

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	WATER SEWER (720)	
	Requestor: Cheryl Partain	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

A budget adjustment is needed to transfer budgeted funds to the West Water Transmission Line Project for the contract with Garney Companies, Inc for the pre-construction management for the West Corridor Water Transmission Line Project. Available budgeted funds from the multiple Water/Sewer and Wastewater Treatment Plant projects will be transferred to cover the cost of this project.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1210**

Holly Black
10/20/2023 9:56 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.202398

	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
TOTAL	-	-				
5400.730.5800-5801.00	(230,000)	-	02032	1	EX	Fixed Assets
5400.730.5800-5801.00	(100,000)		02068	1	EX	Fixed Assets
5400.720.5600-5808.00	(94,329)	-	10006	1	EX	Improvements - Water Line
5400.730.5800-5818.00	(100,000)		13018	1	EX	Wastewater Treatment Plant - Improvemer
5400.720.5600-5808.00	(166,000)	-	14010	1	EX	Improvements - Water Line
5400.720.5600-5314.00	690,329	-	18015	2201	EX	Professional Services
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CITY OF FAYETTEVILLE ARKANSAS

SELECTION COMMITTEE - VOTING RESULTS

Selection Description: RFQ 23-05, CMAR - West Transmission Water Main

Selection Committee Date/Time: 07/31/2023 at 4:30 PM

Firms are listed alphabetical order.

Overall RANK	*1* Crossland Heavy Contractors	*2* Garney Construction	*3* S.J. Louis Construction, Inc.
1st		IIII	
2nd	IIII		
3rd			IIII

OVERALL RANK SUMMARY SCORING

1st ranked firm: Garney Construction

2nd ranked firm: Crossland Heavy Contractors

3rd ranked firm: S.J. Louis Construction, Inc.

Tallied by:

Les McGaugh, Purchasing Director

Date: 08 / 01 / 2023

Amanda Beilfuss, Sr. Purchasing Agent

Date: 08 / 01 / 2023

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/~~RFQ~~#: 23-05

Description: West Transmission Water Main - Int. #1 (Crossland Heavy)

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

Date: 7 / 31 / 2023 Time: 1:00 PM

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

	Name	Company	Title	Phone	Email
1	Les McGaugh	C of Fay	Purch Agent	479.575.8289	lmcgaugh@
2	Tim Nyander	COF	Utilities Dir	479 301 7273	tnyander@
3	Wade Abernathy	COF	Director Bond Constr.	479-575-8363	wabernathy@
4	Lyssie Koscheski	COF	Contracts + Grants	479-587-8241	lkoscheski@fayetteville-ar.gov
5	Corey Granderson	COF	Utilities Engineer	479-301-4801	cgranderson@fayetteville-ar.gov
6	TERESA TURK	COF	City Council	206-713-2265	Teresa.Turk@fayetteville-ar.gov
7	Jason Necessary	Crossland Heavy	Project Manager	479-282-6500	jnecessary@heavycontractors.com
8	Ryan Adler	Crossland Heavy	Pre-Con	479-721-5082	radler@heavycontractors.com
9	Kyle Bass	Belt Const	CEO	903-824-6692	kyle@beltinc.com
10	Dustin Coffman	Crossland Heavy	Superintendent	479-616-0452	dcoffman@heavycontractors.com
11	Dan Thompson	Crossland Heavy		479-366-1637	
12	Bill Geese	Belt		817-505-8213	
13	Ashley Hays	CHC	Area Super	479-530-3324	ahays@
14					
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Presentation Only, no Handouts.

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/~~RFQ~~ #: 23-05

Description: CMAR - West Transmission Water Main - Int #2: S.J. Louis Const.

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

Date: 7 / 31 / 2023 Time: 2:15

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

	Name	Company	Title	Phone	Email
1	Les McGaugh	Cof Fay	Purch Director	479.575.8265	lmcgaugh@
2	John Pennington	S.J. Louis Const	Chief Estimator	320-248-9393	johnp@sjlouis.com
3	Steve Knechle	S.J. Louis Construction	Estimator	320-~~248-9393~~ 425-2027	SteveK@SJLouis.com
4	Kim Gruber	S.J. Louis Construction	Est. & marketing	320-290-0691	kimg@sjlouis.com
5	Teresa Turk	COF	City Council Member	206-713-2265	teresa.turk@fayetteville-ar.gov
6	Corey Granderson	COF	Utilities Engineer	479-301-4801	cgranderson@fayetteville-ar.gov
7	Lyssie Koscheski	COF	Contracts & Grants	479-587-8241	lkoscheski@fayetteville-ar.gov
8	Wade Abernathy	COF	Director Bond Const.	~~575~~ -836	wabernathy@
9	tnyander	COF	Utilities Dir	479 301 7273	tnyander@fayetteville-ar.gov
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No Handout

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/(RFQ)#: 23-05

Description: CMAR - West Transmission Water Main - Int #3: Garney Const.

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

Date: 07 / 31 / 2023 Time: 3:30 PM - 10 minutes Early START

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

	Name	Company	Title	Phone	Email
1	Les McGaugh	Col Fay	Purch. Director	479-575-8289	lmcgaugh@
2	Chad Sharbono	Garney Construction	Regional Operations	(816) 935-9067	CSharbono@garney.com
3	Wade Pierpoint	Garney Construction	Sr Project Manager	(918) 779-8975	wpierpoint@garney.com
4	Bill Williams	Garney Construction	Vice Pres.	719 423 6200	bwilliams@garney.com
5	Sam Marston	Garney Construction	Project Manager	316 772 8957	smarston@garney.com
6	Scott Phillips	Garney Construction	B.D. Manager	816-401-0424	SPhillips@garney.com
7	Lyssie Koscheski	COF	Contracts Grants	479-587-8241	lkoscheski@fayetteville-ar.gov
8	Wade Abernathy	COF	Director Board Constr.	479-575-8363	wabernathy@
9	Thyander	COF	Utilities Director	479 301 7273	tnyander@fayetteville-ar.gov
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CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/RFQ #: 23-05

Description: CMAR - West Transmission Water Main

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

Date: 07 / 31 / 2023 Time: 4:30 PM

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

	Name	Company	Title	Phone	Email
1	Les McGaugh	Cof Fay	Purchasing Director	479-575-8259	lmcgaugh@
2	Lysete Koscheski	COF	Contracts Coordinator	479-587-8341	lkoscheski@fayetteville-ar.gov
3	Wade Abernathy	Cof F	Director Bond Proj.	479-575-8363	wabernathy@
4	Tim Nyander	COF	Utilities Director	479-575-8386	tnyander@fayetteville-ar.gov
5	Corey Granderson	COF	Utilities Engineer	479-301-4801	cgranderson@ "
6	TERESA TURK	COF	City Council	206-713-2265	teresa.turk@fayetteville-ar.gov
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THIS AGREEMENT is made this _____ day of _____, 2023, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and Garney Companies, Inc. (construction manager at risk, hereinafter called CMAR, Construction Manager, or Garney).

CITY OF FAYETTEVILLE from time to time requires professional CMAR services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and CMAR in consideration of their mutual covenants agree as follows:

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

1. Contracted parties and relationship:

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

CMAR Tax identification number (TIN) ending in 44-0658613

CMAR Arkansas Contractor License No. 0032110624

CMAR Secretary of State Filing No. 100060806

1.2. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

2.1. Appendices included under this agreement include the following:

Appendix A: Scope of Services

Appendix B: CMAR Fee Schedule

Appendix C: RFQ 23-05, Construction Manager at Risk for West Transmission Water Main

Appendix D: Garney's Response to RFQ 23-05

Appendix E: Garney's current Certificate of Insurance

Appendix F: Document 00700 – General Conditions, including supplemental conditions

Appendix G: Revolving Loan Fund (RLF) Supplemental General Conditions

Appendix H: Rider to RLF Supplemental General Conditions

Appendix I: SRF Contractor's Act of Assurance Form

Appendix J: Davis-Bacon Wage Rate Determination Number AR20230049

2.2. This agreement may be modified only by a duly executed written instrument signed by the CITY and CMAR.

2.3. ORDER OF PRECEDENCE: In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (1) Appendix H: Rider to RLF Supplemental General Conditions (2) Revolving Loan Fund (RLF) Supplemental General Conditions; (3) Change Orders and written amendments to this Agreement which are executed by all parties; (4) the Agreement; (5) CMAR's response to RFQ 23-05 (6) City's published RFQ 23-05 and associated Addenda.

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

3.1. City of Fayetteville: Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701

3.2. Garney Companies, Inc.: Attention: Bill Williams, 1700 Swift, Suite 200, Kansas City, MO 64116

4. General Provisions:

4.1. ETHICS: All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Subsubcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.

4.2. When the Construction Documents, Guaranteed Maximum Price (GMP), and other descriptive documents defining the work are complete, they shall be identified and included in this Agreement by mutually agreed upon amendment to this Agreement.

4.3. Workmanship: The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.

4.4. MATERIALS FURNISHED BY OWNER OR OTHERS: If the Work includes installation of materials or equipment furnished by City or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due Construction Manager. Any defects discovered in such materials or equipment shall be reported at once to the City and the City's contracted third-party Design Professional. Following receipt of written notice from Construction Manager of defects, City and Design Professional shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

4.5. WORKSITE VISIT: Construction Manager acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.

4.6. COMPLIANCE WITH LAWS: Construction Manager shall comply with all the Law at its own cost. Construction Manager shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.

The GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services shall be equitably adjusted for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.

4.7. COST OF CORRECTING DAMAGED OR DESTROYED WORK: With regard to damage or loss attributable to the acts or omissions of City or Others and not to Construction Manager, City may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue a Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may seek an equitable adjustment in the GMP, estimated Cost

of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement. Any equitable adjustment shall be approved by all parties.

4.8. Taxes and Permits: Construction Manager shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, taxes and renewals pertaining to the Work. Construction Manager shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.

4.9. DISCOUNTS: All discounts for prompt payment shall accrue to City. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work, or directly to the City after final payment.

4.10. JOINT DRAFTING: All Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.

4.11. ENTIRE AGREEMENT: This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

4.12. ASSIGNMENT: Except as to the assignment of proceeds, no Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon all Parties, their partners, successors, assigns, and legal representatives. No Party shall assign the Agreement without written consent of the other.

4.13. Where figures are given, they shall be preferred to scaled dimensions.

4.14. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both.
CMAR shall seek clarification from Design Professional for any discrepancies.

4.15. In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to City and Design Professional for clarification. Design Professional's clarifications are final and binding.

5. Definitions:

5.1. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
5.2. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.
5.3. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion.
5.4. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
5.5. "Cost of the Work" means the sum of all allowed direct and indirect costs necessarily and reasonably incurred and paid by CMAR in the performance of the Work including those set forth in the Phase 2 Guaranteed Maximum Price Amendment.
5.6. "Day" means a calendar day unless otherwise specified.

5.7. “Defective Work” is any portion of the Work that that does not conform with the requirements of the Contract Documents.

5.8. “Design Professional” means the licensed engineer and its subconsultants retained by the City and its subconsultants, to perform design services for the Project.

5.9. “Early Work Package” includes procurement or construction work that may be performed during Phase 1 or Phase 2 that benefit the City or the overall cost and schedule of the Project.

5.10. “Final Completion” occurs on the date when CMAR’s obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.

5.11. “Hazardous Material” is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

5.12. “Law” means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.

5.13. “Others” means City’s other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, subsubcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

5.14. “Overhead” means (a) payroll costs, burden, and other compensation of CMAR’s employees in CMAR’s principal and branch offices for work associated with this project.

5.15. “Owner” is the City of Fayetteville, Arkansas (City).

5.16. The “Parties” are collectively City and CMAR.

5.17. The “Project,” is the building, facility, or other improvements for which CMAR is to perform Work under this Agreement. It may also include construction by Owner or Others.

5.18. The “Schedule of the Work” is the document prepared by CMAR that specifies the dates on which CMAR plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.

5.19. “Subcontractor” is a person or entity retained by CMAR as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

5.20. “Substantial Completion” of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.

5.21. A “Subsubcontractor” is a person or entity who has an agreement with a Subcontractor or another subsubcontractor or Supplier to perform a portion of the Subcontractor’s Work or supply material or equipment.

5.22. A “Supplier” is a person or entity retained by CMAR to provide material or equipment for the Work.

5.23. “Terrorism” means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

5.24. “Work” means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

5.25. “Worksite” means the area of the Project where the Work is to be performed.

5.26. “Bi-monthly basis” means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

6.1. Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by the City and Design Professional that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work.

6.2. Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to the City and Design Professional. Following receipt of written notice from Construction Manager of defects, City shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defect.

6.3. Nothing in this section shall relieve CMAR of responsibility for its own errors, inconsistencies, or omissions.

6.4. COST REPORTING: Construction Manager shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Construction Manager shall maintain a complete set of all books and records prepared or used by Construction Manager with respect to the Project. City shall be afforded access to all of Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Construction Manager shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

7.1. Construction Manager warrants all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At City or Design Professional request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does **not include** remedies for defects or damages caused by normal wear and tear during normal usage beyond the warranty period, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the City or others, or abuse. Construction Manager's warranty shall commence on the Date of Final Completion of the Project.

7.2. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

7.3. Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Construction Manager shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

7.4. Correction of Work within One Year

7.4.1. If before Substantial Completion or within one-year after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Construction Manager in writing. Unless City provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period City discovers and

does not promptly notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, City waives Construction Manager's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work. CMAR shall provide City with an option to extend the warranty period by an additional one-year. If City wishes to exercise the option, the cost and any additional terms shall be set forth in a change order executed by both parties.

7.4.2. If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from City before final payment, City may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to City.

7.4.3. Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, City discovers any Work which City considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from City and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, City may have the Work corrected by itself or Others, and, if City intends to seek recovery of those costs from Construction Manager, City shall promptly provide Construction Manager with an accounting of the actual correction costs.

7.4.4. If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.

7.4.5. The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.

7.4.6. Before final payment, at City option and with Construction Manager's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work.

8. Safety of Persons and Property

8.1. SAFETY PROGRAMS: Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.

8.2. CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE: Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to City, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and injuries

occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to City.

8.3. Construction Manager shall provide City with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.

8.4. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Construction Manager's safety program, may require Construction Manager to stop performance of the Work, take corrective measures satisfactory to City. If Construction Manager does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Construction Manager's compliance with City's reasonable request.

9. Subcontracts:

9.1. BINDING OF SUBCONTRACTORS AND SUPPLIERS: Construction Manager agrees to bind every Subcontractor and Supplier, and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.

9.2. Construction Manager agrees not to subcontract construction manager at risk related services without prior written consent from the City.

10. Basic Services:

10.1. **Preconstruction Phase Services:** During the Preconstruction Phase of the Project, the Construction Manager shall perform the following services:

10.1.1. Provide preliminary evaluation of the Project budget requirements. With the Design Professional's assistance, prepare preliminary estimates of construction cost for early schematic designs based on area, volume or other standards. Assist the Owner and the Design Professional in achieving mutually agreed upon Project budget requirements and other design parameters. Provide cost evaluations of alternative materials and systems.

10.1.2. Review design during its development for constructability. Advise on site use and improvements, selection of materials, building systems and equipment and methods of Project delivery. Provide recommendations on relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to cost including, but not limited to, cost of alternative designs or materials, preliminary budgets and possible economies.

10.1.3. Provide for the Design Professional's and the Owner's review, and periodically update, a Project Schedule that coordinates and integrates the Construction Manager's services, the Design Professional's services and the Owner's responsibilities.

10.1.4. During preparation of Design Development and Construction Documents, prepare, as may be requested by the Owner or the Design Professional, detailed estimates of construction costs, and, if it appears that such costs may exceed the Project budget, make recommendations for corrective action.

10.1.5. Coordinate Contract Documents by consulting with the Owner and the Design Professional regarding drawings and specifications as they are being prepared, and recommend alternative solutions whenever design details affect construction feasibility, cost or schedules.

10.1.6. Provide recommendations and information to the Owner and the Design Professional regarding the assignment of responsibilities for safety precautions and programs. Provide information and recommendations regarding temporary Project facilities and equipment, materials, and services for common use of Subcontractors. Verify that these requirements and assignments of responsibilities are included in the proposed Contract Documents.

10.1.7. Advise on the separation of the Project into Trade Packages for various categories of the Work. Advise on the method to be used for selecting Subcontractors and awarding Trade Packages. Review the drawings and specifications and make recommendations as required to provide that (1) the Work of the separate Subcontractors is coordinated, (2) all requirements for the Project have been assigned to the appropriate separate Trade Contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

10.1.8. Develop a Project Construction Schedule providing for all major elements such as phasing of construction and times of commencement and completion required of each Subcontractor. Provide the Project Construction Schedule for each set of Bidding Documents.

10.1.9. Investigate and recommend a schedule for the Owner's purchase of materials and equipment requiring long lead time procurement and coordinate the schedule with the early preparation of portions of the Contract Documents by the Design Professional. Expedite and coordinate delivery of these purchases.

10.1.10. Provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical Phases. Make recommendations for actions designed to minimize adverse effects of labor shortages.

10.1.11. With the Design Professional's assistance, receive bids, prepare bid analyses and make recommendations to the Owner concerning the qualifications of Subcontractors or rejection of bids.

10.1.11.1. The Owner may allow the Construction Manager to submit a bid to self-perform construction services for any Trade Package in accordance with the requirements of Arkansas law and the City's purchasing policies. The Construction Manager must notify the Owner in writing of its intent to submit a bid proposal for a Trade Package.

10.1.11.2. The Construction Manager's bid must be submitted under the same conditions that apply to all other competing firms. The Owner will participate in and provide oversight of all bid analyses pertinent to the award of subcontracts or rejection of bids on any trade package for which the Construction Manager submits a bid to self-perform.

10.1.12. The Construction Manager shall submit an Affidavit of Compliance on the form provided by the City verifying its compliance with the requirements of Ark. Code Ann. § 14-58-1001 as well as all other applicable statutes, rules, and regulations for the Project.

10.1.13. With the Design Professional's assistance, conduct pre-award conferences with successful Bidders. Prepare Trade Packages in such form as the Owner may require and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Subcontractors.

10.1.14. The Construction Manager shall issue the Trade Packages which shall be between the Construction

Manager and the Subcontractors, and such contracts shall create no contractual relationship between the Owner and the Subcontractors. The Construction Manager shall not enter into a Trade Contract with a proposed Subcontractor with reference to whom the Owner has made reasonable and timely objection. All Trade Contracts shall afford the Construction Manager rights against the Subcontractor which correspond to those rights afforded to the Owner against the Construction Manager herein including those rights of termination as set forth herein.

10.1.15. Notwithstanding any other provision of the Contract Documents, the Design Professional and its consultants are responsible for the design of the Project and the Construction Manager shall not be liable for any error, omission, lack of coordination, or other defect in the Project's design. Prior to agreement on a GMP, the Construction Manager is not responsible for the design resulting in a Project within the Owner's budget or for the cost of any re-design or other corrective action needed to bring the Project within the Owner's budget.

10.2. **Construction Phase Services.** During the Construction Phase of the Project, the Construction Manager shall perform the following services:

10.2.1. Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the Construction Manager, in cooperation with the Design Professional, shall provide administration of the Trade Contracts for Construction as set forth below.

10.2.2. Schedule and coordinate the Work of the Subcontractors. Provide administrative, management and related services as required to coordinate Work of the Subcontractors with each other and with the activities and responsibilities of the Construction Manager, the Owner and the Design Professional to complete the Project in accordance with the Owner's objectives for cost, time and quality. Provide sufficient organization, personnel and management to carry out the requirements of this Agreement.

10.2.3. Schedule and conduct pre-construction, construction and progress meetings to discuss such matters as procedures, progress, problems and scheduling. Prepare and promptly distribute accurate minutes.

10.2.4. Consistent with the Schedule issued with the Bidding Documents, and utilizing the Subcontractors' Construction Schedules provided by the separate Subcontractors, update the Project Schedule incorporating the activities of Subcontractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long lead time procurement. Include the Owner's occupancy requirements showing portions of the Project having occupancy priority. Provide a progress update of the Project Construction Schedule on a monthly basis to show current conditions and revisions required by actual progress and experience. The furnishing by the Construction Manager of the updated Project Construction Schedule, and the required monthly updates, shall be a condition precedent to payment to the Construction Manager.

10.2.5. Coordinate construction to achieve proper performance from the Subcontractors. Take appropriate actions, including termination and re-letting of Trade Contracts where appropriate, when requirements of Trade Contracts are not being fulfilled and the non-performing party will not take satisfactory corrective action.

10.2.6. Provide regular monitoring of all construction costs showing actual costs for activities in progress and estimates for uncompleted tasks. Submit Project Construction Cost reports on a monthly basis.

10.2.7. Maintain cost accounting records on authorized Work performed under unit prices, additional Work performed on the basis of actual costs of labor and materials, or other Work requiring accounting records.

10.2.8. Recommend necessary or desirable changes to the Design Professional and the Owner, review requests for changes, assist in negotiating Subcontractors' change proposals, submit recommendations to the Design Professional and the Owner, and if they are accepted, prepare and sign Change Orders for the Design Professional's signature and the Owner's authorization.

10.2.9. Develop and implement procedures for the review and processing of applications by Subcontractors for progress and final payments. Review schedules of value and pay applications by Subcontractors to protect the Owner from frontloaded or imbalanced payment schedules to the Subcontractors.

10.2.10. Review the safety programs developed by each of the Subcontractors as required by the Trade Packages and coordinate the safety programs for the Project. Take reasonable and customary precautions to secure and protect the Project from loss or harm due to the elements, theft, vandalism, and other causes. Take reasonable steps to secure the Project at all times so as to prevent injury to or trespass thereon.

10.2.11. Assist in obtaining and pay for building permits and special permits for permanent improvements, excluding permits required to be obtained directly by the various Subcontractors, Engineers, and Owner. Verify that the Owner has paid applicable fees and assessments. Assist in obtaining approvals from authorities having jurisdiction over the Project. Obtain and pay for all certificates, inspections, and licenses necessary and ordinary for the performance of the Work and the occupancy of the Project. Comply with all lawful requirements applicable to the Project and give and maintain any and all notices required by applicable law pertaining to the Project. In the event the Owner is fined, penalized or assessed by any governmental entity as a result of any alleged or actual violation of law by the Construction Manager, or by any Subcontractor, the Construction Manager shall indemnify and hold Owner harmless from any such fine, penalty or assessment and any attorneys' fees or costs which result there from.

10.2.12. If required, assist the Owner in selecting and retaining the professional services of surveyors, special consultants and testing laboratories. Coordinate their services.

10.2.13. Determine that the Work of each Subcontractor is being performed in accordance with the requirements of the Contract Documents. Guard the Owner against defects and deficiencies in the Work. As appropriate, require special inspections or testing, or make recommendations to the Design Professional regarding inspections or testing, of Work not in accordance with the provisions of the Contract Documents whether or not such Work is then fabricated, installed or completed. Subject to review by the Design Professional, reject Work which does not conform to the requirements of the Contract Documents.

10.2.14. Consult with the Design Professional and the Owner if any Subcontractor requests interpretations of the meaning and intent of any of the Contract Documents and assist in the resolution of questions which may arise.

10.2.15. Receive and review for compliance with contract requirements Certificates of Insurance from the Subcontractors and forward them to the Owner with a copy to the Design Professional.

10.2.16. Receive from the Subcontractors and review all Shop Drawings, Product Data, Samples and other submittals to confirm that same comply with the requirements of the Contract Documents.

Coordinate them with information contained in related documents and transmit to the Design Professional those recommended for approval. In collaboration with the Design Professional, establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals.

10.2.17. Record the progress of the Project. Submit written progress reports to the Owner and the Design Professional including information on each Subcontractor and each Subcontractor's Work, as well as the entire Project, showing percentages of completion and the number and amounts of Change Orders. Keeps a daily log containing a record of weather, Subcontractors' Work on the site, number of workers, Work accomplished, problems encountered, and other similar relevant data as the Owner may require. Make the log available to the Owner and the Design Professional.

10.2.18. Maintain at the Project site, on a current basis; a record copy of all Trade Packages, drawings, specifications, addenda, Change Orders and other modifications, in good order and marked to record all changes made during construction; Shop Drawings; Product Data; Samples; submittals; purchase orders; material data; equipment documents; applicable handbooks; maintenance and operating manuals and instructions; other related documents and revisions which arise out of the Trade Contracts or Work. Maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. Make all records available to the Owner and the Design Professional. At the completion of the Project, deliver all such records to the Design Professional for the Owner.

10.2.19. Arrange for delivery, storage, protection and security for Owner-purchased materials, systems and equipment which are a part of the Project.

10.2.20. With the Design Professional and the Owner's maintenance personnel, observe the Subcontractors' checkout of utilities, operational systems and equipment for readiness and assist in their initial start-up and testing.

10.2.21. When the Construction Manager considers each Subcontractor's Work or a designated portion thereof Substantially Complete, the Construction Manager shall prepare for the Design Professional a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Design Professional in conducting inspections for Substantial and Final Completion. After the Design Professional certifies the Date of Substantial Completion of the Work, the Construction Manager shall coordinate the correction and completion of the Work and shall be fully responsible for same.

10.2.22. Following the issuance of a Certificate of Substantial Completion for the Project or designated portion thereof evaluates the completion of the Work of the Subcontractors and make recommendations to the Design Professional when Work is ready for final inspection. Assist the Design Professional in conducting final inspections. Secure and transmit to the Owner required guarantees, affidavits, releases, bonds and waivers. Deliver all keys, manuals, record drawings and maintenance stocks to the Owner.

11. Fees, Expenses, and Payments:

11.1. The maximum not-to-exceed amount authorized for this agreement is included in the breakdown shown below. Fees shall be paid to the CMAR as described in Appendix B.

11.2. **Phase 1: Pre-Construction Services**
The maximum not-to-exceed amount authorized for this phase is **$690,329.00**. Fees shall be paid to the CMAR from the City based Lump Sum basis as described in Appendix B.

11.3. **Early Work Packages.** If applicable, Early Work Packages commenced prior to mutual execution of a Phase 2 Guaranteed Maximum Price Change Order shall be performed and paid for pursuant to the terms of a Change Order executed prior to commencement of the Early Work but are otherwise subject to the terms, covenants, and conditions of this Agreement and other Contract Documents.

11.4. **Phase 2: Guaranteed Maximum Price (GMP) for the construction of the West Transmission Water Main.**

11.4.1. If this Agreement is executed before establishment of the Guaranteed Maximum Price and its acceptance by the City, then the GMP and its basis shall be set forth in a GMP Change Order.

11.4.2. The GMP proposal shall include the cost of the Work and the Construction Manager's Fee of 9%, the clarifications upon which it is based, but shall not include compensation for Preconstruction Services (Phase 1).

11.4.3. FAILURE TO ACCEPT THE GMP PROPOSAL: Unless the City accepts the GMP Proposal in writing the GMP Proposal shall not be effective. If City fails to accept the GMP Proposal, or rejects the GMP Proposal, City shall have the right to: a) suggest modifications to the GMP Proposal; or b) terminate the Agreement for convenience.

11.4.4. PRE-GMP WORK: Before City acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or by change order executed by the Parties.

11.4.5. GMP shall be itemized, including but not limited to:

11.4.5.1. Wages for labor directly employed by Construction Manager in the performance of the Scope of Services.

11.4.5.2. Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.

11.4.5.3. Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Construction Manager's standard personnel policy, insofar as such costs are paid to employees of Construction Manager who are included in the Cost of the Work.

11.4.5.4. Transportation, travel, hotel, and moving expenses of Construction Manager's personnel incurred in connection with the Work.

11.4.5.5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by City, transportation, storage, and handling.

11.4.5.6. Payments made by Construction Manager to Subcontractors for work performed under this Agreement.

11.4.5.7. Cost, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed

in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Construction Manager.

11.4.5.8. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Construction Manager or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs at competitive market rates.

11.4.5.9. Cost of the premiums for all insurance and surety, performance or payment bonds which Construction Manager is required to procure or deems necessary and approved by City including any additional premium incurred as a result of any increase in the GMP at fixed rates approved by the City.

11.4.5.10. Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.

11.4.5.11. Permits, taxes, fees, licenses, tests, royalties.

11.4.5.12. Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for the warranty period.

11.4.5.13. Costs associated with establishing, equipping, operating, maintaining, mobilizing and demobilizing the field office.

11.4.5.14. Water, power, and fuel costs necessary for the Work.

11.4.5.15. Cost of removal of all nonhazardous substances, debris, and waste materials.

11.4.5.16. Costs incurred due to an emergency affecting the safety of persons or property.

11.4.5.17. Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee, which are reasonably inferable from the Contract Documents.

11.5. Fees set for the construction of this project are intended to be executed upon agreement of all parties in a not to exceed form via change order. The parties agree payment to the CMAR shall be made as follows:

11.5.1. The City shall be responsible for a not to exceed cap.

11.5.2. Final amounts shall be identified with a Change Order, pursuant to agreement of all parties of a Guaranteed Maximum Price.

11.6. CMAR shall track, log and report expenses directly related to this Agreement along with invoice which shall include schedule of values for payment for each month. Invoices shall be itemized. Invoice and payment requests shall not exceed the percentage of work completed as defined.

11.7. Payment Terms: All invoices are payable upon approval and due within thirty (30) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise CMAR in writing of the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within 30 calendar days of date the invoice is approved.

11.8. STORED MATERIALS AND EQUIPMENT: Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and

suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to City to establish the proper valuation of the stored materials and equipment, City's title to such materials and equipment, and to otherwise protect City's interests therein, including transportation to the Worksite. Materials and equipment stored offsite shall be in a bonded and insured secure facility.

11.9. Monthly invoices for each calendar month shall be submitted to City or such parties as City may designate for professional services consistent with CMAR's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in accordance with a format to be developed by CMAR and approved by City. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.

11.9.1. Retainage in the amount of five percent (5%) will be withheld from each payment until project final completion.

11.9.2. Upon Substantial Completion, the City may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which City has accepted.

11.10. Final Payment: Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, CMAR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by CMAR to be set forth therein.

Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against CMAR or sureties under this Agreement.

12. Project Bonding: Performance and payment bonding. After execution of this contract by all parties, CMAR shall provide a 100% **separate** performance and payment bond from a bonding company, licensed to do business in the state of Arkansas, to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office. Bonds shall be provided within ten (10) calendar days after GMP change order has been executed and approved by all parties.

12.1. Construction contracts for the project shall not be entered into between the CMAR and sub-contractor without a 100% payment and performance bond in the amount of the contract and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties prior to the start of work.

12.2. A maintenance bond shall be provided for the duration of the entire warranty period.

12.3. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

13. Time:

13.1. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in a GMP Change Order to this Agreement (GMP) as a hard not to exceed date. If such dates are not established upon the execution of this Agreement, at such time as GMP is accepted a Date of Substantial Completion and Date of Final Completion of the Work shall be established in a GMP Change Order.

13.2. Time is of the essence with regard to the obligations of the Contract Documents.

13.3. Unless instructed by City in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance and bonds.

13.4. Schedule of Work: Before submitting its first application for payment, Construction Manager shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City. Except as otherwise directed by City, Construction Manager shall comply with the approved Schedule of the Work or Construction Manager.

13.4.1. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work.

13.4.2. Construction Manager shall update the Schedule of the Work on a bi-monthly basis or as mutually agreed by all Parties.

13.4.3. City may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. City may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by City or Others. If Construction Manager consequently incurs additional costs or is delayed, Construction Manager may seek equitable adjustment of the GMP or the Dates of Substantial or Final Completion, or both.

13.4.4. Notwithstanding anything other provision in this Agreement, if Contractor incurs or sustains any increase in the Contract Time or an impact to the GMP, or both, which was not caused by Contractor or under Contractor's control (including, but not limited to, an increase in or delay caused by substantial increases in the cost of materials, supplies or equipment, changed market conditions, or supply chain deficiencies), then Contractor shall be entitled to an equitable adjustment to the Contract Time or to the GMP, or both, which shall be authorized by Change Order. To the extent Contractor disputes the amount of any such adjustment, then Contractor shall be entitled to proceed with a Claim in accordance with the terms of this Agreement.

13.5. NOTICE OF DELAY CLAIMS: If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the GMP as a result of a delay described, Construction Manager shall give City written notice of the claim. If Construction Manager causes delay in the completion of the Work, City shall be entitled to recover its additional costs.

13.6. MONITORING PROGRESS AND COSTS: Following acceptance by City of the GMP, Construction Manager shall establish a process for monitoring actual costs against the GMP and actual progress against the Schedule of Work. Construction Manager shall provide written reports to City at intervals as agreed to by all Parties on the status of the Work, showing variances between actual costs and the GMP and actual progress as compared to the Schedule of Work, including estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met.

14. Substantial Completion:

14.1. Construction Manager shall notify City and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. City, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can

be occupied or used for its intended use by City without excessive interference in completing any remaining unfinished Work. If City determines the Work or designated portion has not reached Substantial Completion, City, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so City may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly and accurately complete all items on the list.

14.2. When Substantial Completion of the Work or a designated portion is achieved, Construction Manager shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Construction Manager to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.

14.3. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Construction Manager the remaining retainage held by City for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion, including all close outs. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe.

15. Final Completion:

15.1. Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

15.2. When the Work is complete, Construction Manager shall prepare for City's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.

15.3. Final payment of the balance of the GMP shall be made to Construction Manager within thirty (30) Days after Construction Manager has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.

15.4. Final payment shall be due on Construction Manager's submission of the following to the City:

15.4.1. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;

15.4.2. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;

15.4.3. release of any liens, conditioned on final payment being received;

15.4.4. consent of any surety; and

15.4.5. any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.

15.5. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager the City may pay the balance due for any portion of the

Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to City and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims.

15.6. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or a designated portion

15.7. ACCEPTANCE OF FINAL PAYMENT: Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

15.8. CMAR shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:

15.8.1. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (____name of surety____).'*

15.8.2. CMAR shall have each subcontractor, sub-subcontractor and material supplier execute a written receipt evidencing acknowledgment of this statement prior to commencement of the work of the subcontractor or material supplier.

16. Liquidated Damages: Liquidated damages based on the Substantial Completion date, to be determined in a GMP Change Order, shall apply.

City will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Construction Manager shall pay City two thousand five hundred dollars ($2,500 USD) per calendar day as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date.

Owners recovery of liquidated damages, if any, from Contractor shall be its sole and exclusive remedy for any delays to Substantial Completion caused by Contractor.

17. Notices: Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.

18. Jurisdiction: Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

19. Venue: Venue for all legal disputes shall be Washington County, Arkansas.

20. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the CMAR shall do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. seq.). Only legally authorized photo coping costs pursuant to the FOIA may be assessed for this compliance.

21. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

22. Insurance:

22.1. Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, pollution coverage, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Employers' Liability, Business Automobile Liability and CGL policies shall be written with at least the limits of liability presented in **Appendix E.**

22.2. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.

22.3. Construction Manager shall maintain in effect all insurance coverage required with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Construction Manager, or terminate this Agreement.

22.4. To the extent commercially available to Construction Manager from its current insurance company, insurance policies required shall contain a provision that the insurance company or its designee shall give City written notice transmitted in paper and electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish City with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give City prompt written notice upon actual or constructive knowledge of such condition.

22.5. Certificates of Insurance shall list the City as Additional Insured Parties.

22.6. PROPERTY INSURANCE:

22.6.1. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.

22.6.2. Unless otherwise directed in writing by City, before starting the Work, CMAR shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss. This insurance shall also (a) name Construction Manager, Subcontractors, Subsubcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:

22.6.2.1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;

22.6.2.2. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;

22.6.2.3. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

22.6.2.4. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

22.6.2.5. physical loss resulting from Terrorism.

22.6.3. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.

22.6.4. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Construction Manager before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.

22.6.5. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, subsubcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.

To the extent of the limits of Construction Manager's Commercial General Liability Insurance, Construction Manager shall indemnify and hold harmless City against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of City's existing adjacent property, including personal property, that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, Subsubcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

22.7. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.

22.8. ADDITIONAL GENERAL LIABILITY COVERAGE: City shall require Construction Manager to purchase and maintain additional liability coverage. Construction Manager shall provide:

22.8.1. Additional Insured. City shall be named as an additional insured on Construction Manager's Commercial General Liability (CGL) specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to

liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.

22.9. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by CMAR. Before commencing the Work, Construction Manager shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.

22.10. ROYALTIES, PATENTS, AND COPYRIGHTS: Construction Manager shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold City harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection.

22.11. PROFESSIONAL LIABILITY INSURANCE: To the extent Construction Manager is required to procure design services, Construction Manager shall require its design professionals to obtain a commercial professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, with a company reasonably satisfactory to City, including coverage for all professional liability caused by any consultants to Construction Manager's design professional, written for not less than one million US dollars ($1,000,000) per claim and in the aggregate. Construction Manager's design professional shall pay the deductible. The Professional Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by the Constructor's design professional for this Project. Coverage shall be continued in effect for the entire warranty period.

23. Professional Responsibility: CMAR will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to CMAR any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so CMAR can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of CMAR.

24. Responsibility of the City of Fayetteville: CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of CMAR:

24.1. Provide full information as to the requirements for the Project.

24.2. Assist CMAR by placing at CMAR's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

24.3. Assist CMAR in obtaining access to property reasonably necessary for CMAR to perform its services.

24.4. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by CMAR and render in writing decisions pertaining thereto.

24.5. Review all documents and provide written comments to CMAR in a timely manner.

24.6. The City of Fayetteville Utilities Director is the project representatives with respect to the services to be performed under this Agreement. The Utilities Director Representative shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

25. Cost Opinions and Projections: Cost opinions and projections prepared by the CMAR relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on CMAR's experience, qualifications, and judgment as a CMAR professional.

26. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. CMAR shall proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included with **Appendix B.**

27. Termination:

27.1. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

27.1.1. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

27.1.2. An opportunity for consultation with the terminating party prior to termination.

27.2. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that CMAR is given:

27.2.1. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

27.2.2. An opportunity for consultation with the terminating party prior to termination.

27.3. If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

27.3.1. No amount shall be allowed for anticipated profit on unperformed services or other work,

27.3.2. Any payment due to CMAR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of CMAR's default.

27.4. If termination for default is effected by CMAR, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to CMAR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by CMAR relating to commitments which had become firm prior to the termination.

27.5. Upon receipt of a termination action under Paragraphs above, CMAR shall:

27.5.1. Promptly discontinue all affected work (unless the notice directs otherwise),

27.5.2. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by CMAR in performing this Agreement, whether completed or in process.

27.6. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

27.7. If, after termination for failure of CMAR to fulfill contractual obligations, it is determined that CMAR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

28. Suspension

28.1. In the event the services of CMAR are suspended by CITY OF FAYETTEVILLE, or by other events beyond CMAR's reasonable control, CMAR shall be entitled to additional compensation and time for reasonable documented costs incurred by CMAR as a result of such suspension.

28.2. In the event the services are suspended by CMAR, and upon ten (10) calendar days' written notice from City and CMAR's subsequent failure to cure or commence and diligently proceed with the cure for such delays, CITY shall be entitled to compensation for reasonable costs incurred in temporarily closing down or delaying the Project.

29. Rights and Benefits. CMAR's services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

30. Dispute Resolution

30.1. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and CMAR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or CMAR in the performance of this Agreement, and disputes concerning payment.

30.2. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.

30.3. Notice of Dispute

30.3.1. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.

30.3.2. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give CMAR written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

30.3.3. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and CMAR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of CMAR, and the Mayor of CITY OF FAYETTEVILLE or his or her designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

31. Sufficient Funds: The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to CMAR for services rendered by CMAR. All parties agree if funding should become insufficient to complete the project, CMAR shall be notified in a timely manner.

32. Publications: Recognizing the importance of professional services on the part of CMAR's employees and the importance of CMAR's public relations, CMAR may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to CMAR's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to CMAR, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials

may be used in a variety of situations and do not require additional review or approval for each use. The cost of CMAR's activities pertaining to any such publication shall be for CMAR's account.

33. Indemnification. CMAR's obligations to indemnify, defend and hold harmless the CITY OF FAYETTEVILLE are set forth in Paragraph 18 of the Revolving Loan Fund (RLF) Supplemental General Conditions and the Rider attached thereto.

34. Ownership of Documents:

34.1. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. CMAR may retain reproduced copies of drawings and copies of other documents.

34.2. Engineering and other design documents, computer models, drawings, specifications and other hard copy or electronic media prepared by CMAR as part of the Services shall become the property of CITY OF FAYETTEVILLE when CMAR has been compensated for all Services rendered, provided, however, that CMAR shall have the unrestricted right to their use. CMAR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CMAR.

34.3. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. CMAR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

35. Additional Responsibilities of CMAR:

35.1. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve CMAR of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

35.2. CMAR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by CMAR's negligent performance, except beyond the CMAR's normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

35.3. CMAR's obligations under this clause are in addition to CMAR's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against CMAR for faulty materials, equipment, or work.

36. Audit and Access to Records:

36.1. CMAR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.

36.2. CMAR shall also maintain the financial information and data used by CMAR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. CMAR will provide proper facilities for such access and inspection.

36.3. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

36.4. This right of access clause (with respect to financial records) applies to:

36.4.1. Negotiated prime agreements

36.4.2. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement

36.4.3. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:

36.4.3.1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of CMAR;

36.4.3.2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;

36.4.3.3. If the sub agreement is terminated for default or for convenience.

37. Covenant Against Contingent Fees:

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

38. Gratuities:

38.1. If CITY OF FAYETTEVILLE finds after a notice and hearing that CMAR or any of CMAR agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to CMAR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

38.2. The CITY may pursue the same remedies against CMAR as it could pursue in the event of a breach of the Agreement by CMAR. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs CMAR incurs in providing any such gratuities to any such officer or employee.

39. Additional Federal Requirements. The parties shall comply with the following additional federal requirements as applicable to the project. The executed SRF Contractor's Act of Assurance is included as Appendix I.

39.1. Davis-Bacon Act.

39.1.1. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R.pt. 5 as may be applicable. The CMAR shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

39.1.2. CMARs are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. The prevailing wage determination for this project is included as Appendix J.

39.1.3. Additionally, CMARs are required to pay wages not less than once a week.

39.2. American Iron and Steel

39.2.1. The CMAR acknowledges that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States including iron and steel products provided by the CMAR pursuant to this Agreement. The CMAR hereby represents and warrants that (a) the CMAR has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the CMAR will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the City or the Arkansas Natural Resources Commission (the "Commission").

39.2.2. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the CMAR shall permit the City or Commission to recover as damages against the CMAR any loss, expense, or cost (including without limitation attorney's fees) incurred by the City or Commission resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Commission or any damages owed to the Commission by the City). While the CMAR has no direct contractual privity with the Commission, as a lender to the City for the funding of its project, the City and the CMAR agree that the Commission is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Commission. A copy of the EPA Memorandum implementing the American Iron and Steel requirement and its procedures is attached as Appendix D to the Revolving Loan Fund (RLF) Supplemental General Conditions.

39.3. Copeland "Anti-Kickback" Act.

39.3.1. CMAR. The CMAR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

39.3.2. Subcontracts. The CMAR or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The CMAR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

39.3.3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment U. S. Department of Homeland Security Headquarters 500 C St SW Washington, D.C. 20042 as a contractor and subcontractor as provided in 29 C.F.R. §5.12.

39.4. Equal Employment Opportunity. During the performance of this contract, the CMAR agrees as follows:

39.4.1. The CMAR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CMAR 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The CMAR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

39.4.2. The CMAR will, in all solicitations or advertisements for employees placed by or on behalf of the CMAR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

39.4.3. The CMAR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CMAR's legal duty to furnish information.

39.4.4. The CMAR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CMAR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

39.4.5. The CMAR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

39.4.6. The CMAR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

39.4.7. In the event of the CMAR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CMAR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

39.4.8. The CMAR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each CMAR or vendor. The CMAR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

39.5. DEBARMENT AND SUSPENSION**:** By execution of this agreement, CMAR certifies that to the best of its knowledge and belief that the CMAR and its principals:

39.5.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

39.5.2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of

embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

39.5.3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

39.5.4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

39.5.5. CMAR understands that a false statement on certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of $25,000.

39.5.6. Certifications for subcontracts or subsubcontracts executed under this agreement shall include all language in this section.

39.6. Byrd Anti-Lobbying Amendment. CMAR shall certify that it has not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. CMAR shall also ensure that any subcontractor or subsubcontractor submits the required certification.

IN WITNESS WHEREOF, **CITY OF FAYETTEVILLE, ARKANSAS** by and through its Mayor, and **GARNEY COMPANIES, INC.** by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By:_____
Lioneld Jordan, Mayor

ATTEST:

By:_____
Kara Paxton, City Clerk-Treasurer

Date Signed: _____

GARNEY COMPANIES, INC.

By:_____
Bill Williams, Executive Vice President

Date Signed: 10/20/23

END OF AGREEMENT FOR PROFESSIONAL CONSTRUCTION MANAGER AT RISK SERVICES

Appendix A

Scope of Services

1700 Swift, Suite 200, Kansas City, MO 64116
Phone: 816.741.4600
www.garney.com

CITY OF FAYETTEVILLE WEST TRANSMISSION MAIN
CONSTRUCTION MANAGER AT RISK (CMAR)
SCOPING LETTER

This Scoping Letter will serve as a basic description of the Construction Manager at Risk (CMAR) Professional Services for Pre-Construction/Procurement provided by Garney Construction to the City of Fayetteville for the 48" West Transmission Main project. This will also include a breakdown for the Pre-Construction cost. Per RFQ 23-05 as published by the City of Fayetteville, the following items are part of, and not limited to, the Professional Services of the Construction Manager at Risk.

- Ensure all Funds are spent in accordance with State of Arkansas Procurement laws.
- Guaranteed Maximum Price (GMP) Development
- Cost Estimating (30%, 60%, 90%, and 100%)
- Bidding and Procurement of Material Supply and Work scopes
- Schedule Control
- Cost Reduction and Control (VE)
- Project Coordination with Design Engineer and the City of Fayetteville
- Constructability Opinion Review

Garney will outline the Preconstruction Services as discussed and identified as Phase 1: Preconstruction Services in the RFQ. These services will include, but are not limited to:

Garney's Project Management

- Review & Comment on the CMAR Services Contract with the City of Fayetteville.
- Attend general progress review and coordination meetings with Owner and Engineer.
- Attend periodic design meetings to provide consultation on aspects of the design that will impact the budget, schedule, and quality of the completed Project.
  - Advise, assist, and provide recommendations on all aspects of the planning and design of the Work: Consult with the Engineer and Owner regarding Site use and improvements, and the selection of materials, building systems and equipment.
  - Provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets and

possible opportunities for savings.

- Provide recommendations on construction schedule for possible opportunities for time savings.

- Provide input to the Owner and Engineer regarding current construction market, bidding climate, status of key Subcontractor and Supplier markets, and other local economic conditions. Develop Subcontractor and Supplier interest in the Project, consistent with Laws and Regulations. Furnish Owner and Engineer a list of possible Subcontractors and Suppliers, from whom Bids will be requested for each principal portion of the Work. Identify preferred providers based on CMAR's previous experience for safety, quality of work, on time delivery and ability to complete work within bid amounts. Submission of this list is for information and discussion purposes only and not for prequalification. The review of this list will not require the Owner or Engineer to investigate the qualifications of proposed Subcontractors and Suppliers, nor shall it waive the right of the Owner or Engineer to later object to or reject any proposed Subcontractor or Supplier when Bids are considered.
- Recommend a schedule for procurement of long-lead time items and other Work required to meet the Project schedule to the Owner and Engineer. Determine if these items must be procured before execution of the GMP Amendment or if such procurement must occur before that time to meet the Project schedule. Assist the Owner and Engineer with the procurement by obtaining competitive bids for these items.
- Identify critical elements of the Work that may require special procurement processes, such as prequalification of Subcontractors or Suppliers who may have certain prior experience which is necessary for the Subcontractor or Supplier to be able to perform the Work, requirement of certified or pre-qualified installers or alternative contracting methods.
- In conjunction with the Owner and Engineer, identify the appropriate Bid packages from the Contract Documents for distribution to prospective Bidders for providing all elements of Work not included in the General Conditions. Appropriate Bid packages shall generally mean scopes of work that will maximize the competition for those Bid packages. Bid packages will also be identified with appropriate scopes of work should the Owner have any goals for involvement of the local and/or small contracting communities.

Document Review

- Review of the 30% documents provided by the City of Fayetteville. These documents include the following:
  - 11-2184 30% CMAR 08.04.23 – 30% Plans
  - Preliminary Geotechnical Report – August 2023 Update
  - Preliminary Geotechnical Report – June 2023
  - Technical Memorandums – August 2023
  - W-WW Aug2023 Geotechnical Investigation Status
  - W-WW Easement Acquisition Status Updated 8-3-2023.
  - W-WW June 2023 Considerations for Final Design
  - W-WW June 2023 Environmental Review Status

- Preliminary Constructability Review, including sequencing or coordination issues, to ensure Work to be completed with a minimum of RFI's:
    - Adequacy of details for construction.
    - Potential conflicts during construction.
    - Feasibility of construction.
    - Construction sequencing.
    - Ability to coordinate among Subcontractors and Suppliers.
    - Coordination between Contract Documents.
    - Elimination of ambiguities, conflicts, discrepancies, or lack of clarity in the Contract Documents.

Project Schedule

- Provide a preliminary master schedule including design and construction for the Project based on the design existing at the time of Agreement execution. If preliminary master schedule does not meet Owner's Contract Times, CMAR shall provide reasons why and recommendations on how to meet Contract Times. Update master schedule when preliminary design is completed and when design development documents have been completed. Incorporate the Engineer's schedule for design into the preliminary master schedule and include allowances provided by Engineer and Owner for reasonable periods required for the review and approval of items by the Engineer and the Owner and for approvals of governmental authorities having jurisdiction over the Project. Prepare the preliminary master schedule in a way that the detailed Progress Schedule can be incorporated into the master schedule as the Project becomes better defined. For any master schedule updates, if Owner's Contracts Times cannot be met, CMAR will provide recommendations on how to meet Contract Times.
- Identify critical design Milestones that must be met to keep the Project on schedule. Coordinate and integrate the preliminary master schedule with the activities of the Owner, Engineer, and CMAR. Update the preliminary master schedule as design progresses to indicate proposed activity sequences and durations, Milestone dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price Amendment(s) preparation and processing of Shop Drawings and Samples, delivery of materials or equipment requiring long-lead time procurement, and Owner's occupancy requirements.
- Make appropriate recommendations to the Owner and Engineer if preliminary master schedule updates indicate that previously approved schedules may not meet Contract Time requirements.
- Revise the master schedule after each Amendment and the Amendment when the Guaranteed Maximum Price for the entire Work is established.

Risk Management Plan:

- Analyze Project and construction risk to assess risk impact and develop appropriate risk management strategies to minimize associated costs and schedule impacts.
- Provide recommendations for appropriate allocation of Project and construction risks.

- Identify additional information that will assist with risk assessment and management.
- Suggest procurement strategies to minimize risk.

Preliminary Estimate and GMP Development

- Provide a preliminary evaluation based on the existing design as of the date of Agreement execution of the Owner's program and budget requirements to determine that CMAR will be able to construct the Project described in that program within the Owner's Budget using conceptual estimating techniques. Discuss this preliminary appraisal with the Engineer and Owner. If preliminary evaluation results in Owner's Budget being exceeded, the CMAR will describe the reasons why and identify the Owner's Budget cost categories or cost items that deviate from CMAR's evaluation. CMAR shall provide recommendations on how to meet Owner's Budget.
- Prepare a detailed estimate with supporting data for review by the Owner and Engineer when preliminary design has been completed and when design development documents have been completed by the Engineer and approved by the Owner. Update and refine this estimate at appropriate intervals agreed to by the Owner, Engineer, and CMAR during the preparation of the Construction Documents. If estimates do not meet Owner's Budget CMAR shall provide recommendations on how to meet Owner's Budget.
- Prepare a Pre-Bid line-item estimate to be used for comparison of Bids received at the Bid opening(s). Include a line item in the estimate for each anticipated Bid package, as well as line items for general conditions, contingencies and other cost that will be incorporated into the Guaranteed Maximum Price for the entire Work for Project.
- Make appropriate recommendations to the Owner and Engineer if any estimate exceeds previously approved Owner Budgets or if volatility in the cost of selected materials or equipment may drive cost above the Owner's Budget when Bids are received for Work. Identify areas where costs may be lower than original estimates and cost savings may be used to balance the budget. Report to the Owner the cost of various design and construction alternatives, including CMAR's assumptions in preparing its analysis, a variance analysis between budget and preliminary estimate, and recommendations for any adjustments to the budget. Consider costs relating to efficiency, usable life, maintenance, energy, and operation as part of the cost analysis.
- Revise the construction cost estimate to reflect actual cost as determined by Bid amounts. Use this revised estimate to establish the Schedule of Values used for periodic Applications for Payment.
- Notify the Owner and Engineer immediately if any construction cost estimate exceeds the Owner's Budget.
- Work with the Owner and Engineer at each stage in the design process to develop a GMP within the Owner's Budget and a master schedule within Owner's schedule.
- Value Engineering Workshops
    - During the design review, Garney will be developing Value Engineering (VE) ideas and tracking them on a VE Log that will present to the City of Fayetteville and McClelland Engineers at the 30%, 60%, 90%, and 100% design submittals.
    - VE items will be reviewed with the City of Fayetteville and McClelland Engineers to

determine whether or not the VE item shall be further pursued. If an item is selected by the team, Garney will investigate the VE item further and present the findings at the subsequent design workshop. The analysis will address public inconvenience, safety, environmental, cost savings, schedule savings and effects on pipe alignment, design, maintenance and permitting. The VE log will be maintained throughout pre-construction phase services to summarize the overall result of the VE process. During this time Garney will also be identifying items with long-lead times or procurement constraints that may affect the project schedule as well as any items that may be suitable for Owner direct purchase. Garney can work with the Team to procure material items early if needed to take advantage of long-lead times or pricing advantages that may be observed in the market during the pre-construction phase.

- GMP Preparation and Preparation of Early Procurement Packages
    - Upon receipt of the and NTP, Garney will within 30 days provide a construction cost estimate budget for 30% Design, as well as the Percentage for CMAR General Conditions. Garney will provide a preliminary Construction GMP based on the 30%, 60%, and 90% design deliverables for Segments 1 and 2 and lead a cost review workshop to discuss and understand design decisions and their impact on the estimated costs. The Construction GMP's will be updated and reviewed again at 90% design along with any VE items agreed to by the Team at 60%, after which the GMP will be negotiated for the project and presented to the City of Fayetteville for approval. Final GMP will be achieved at the 100% documents.
    - Between 30% and 60% design, Garney will begin engaging in market research to gauge interest in the available packages of work and help to establish an appropriate size and scope for packages to ensure they are enticing to qualified participants. During the solicitation phase, Garney shall log and route questions for consideration and subsequent clarifications between the interested participants and the appropriate consultants. With assistance from MCE, Garney will draft, finalize, and submit all addenda for distribution to bidders. Garney will receive bids and share with the City of Fayetteville, evaluate, and make recommendation for final consideration by the City of Fayetteville for each package and incorporate the final decision into the appropriate GMP.
    - Garney shall coordinate, schedule, all pre-bid meetings.
    - Each GMP submittal will include a listing of documents (plans and specifications), assumptions and clarifications used as a basis of developing the GMP, as well as identify a time limit for acceptance of the proposal to consider for City of Fayetteville and MCE to review and respond; as well as identify targeted board meeting approval, contract amendment execution, NTP, Substantial, and Final Completion milestones. The submittal will include a proposed schedule of values establishing design and construction components with sufficient detail to utilize for approximating progress billings per Segment.
    - Following the CMAR's review of the 30% design deliverable, and again following the 60% design deliverable CMAR review, Garney will begin identifying any potential early work packages and long-lead items for the project. Subcontractor and vendor scope packages will be developed for both specialty and scopes of work not self- performed by Garney. Anticipated scope packages may include:
        - Steel Pipe early release

- Valves package early release
- Other long-lead items
- Material Testing
- Construction Staking
- Trenchless Installations
- Clearing and Temporary Fencing
- Erosion Control
- Temporary Traffic Control
- Pavement Restoration
- Grassing Restoration

▪ Scope packages will be utilized to solicit pricing from subcontractors and vendors at estimate milestone dates to provide accurate pricing and feedback.

Procurement

- Assemble Appropriate Bid packages from the Contract Documents for distribution to prospective Bidders for providing all elements of Work not included in the General Conditions. Appropriate Bid packages shall generally mean scopes of work that will maximize the competition for those Bid packages.
- During the procurement states Garney will coordinate with the City of Fayetteville Purchasing Division to ensure procedures are meeting the state laws and City of Fayetteville Purchasing policies.
- Publicly advertise the Project soliciting Bids from Subcontractors and Suppliers for providing all elements of Work not included in the General Conditions in accordance with provisions for competitive bidding method or competitive sealed proposals method.
    - Newspaper advertisements.
    - Construction procurement websites and plan rooms.
    - Disadvantaged Business Enterprise-related associations.

▪ Include a notice in the advertisement for Bids that:

- Generally describe the Work in sufficient detail to allow potential Bidders to understand the nature and capabilities generally required to complete the work.
- States the location at which Bidding Documents, Drawings, Specifications, and other documents made available by the CMAR can be examined and obtained by all bidders.
- States the time and place for submitting Bids.
- States the time and place Bids will be opened.
- Denotes that “(sub)contract(s) is contingent upon release of funds from the City of Fayetteville Funding source.
- States that “any (sub)contract(s) awarded under this Invitation for Bids is/are subject to the American Iron and Steel (AIS) requirements.

- States that "(sub) contract is subject to the Environmental Protection Agency's (EPA) Disadvantaged Business Enterprise (DBE) Program.
- States that "Equal Opportunity in Employment is required condition of the (sub)contract(s).
- States any special requirements such as mandatory pre-bid conference.
- States that "Owner reserves the right to reject any and all bids."
- Davis-Bacon prevailing wage requirements apply to Contractors and Subcontractors performing on federally funded or assisted contracts.
- Publish the Invitation for Bid advertisement in a manner that meets the requirements placed on the Owner by Laws and Regulations.

▪ Maintain a list of all entities that have requested Bid documents for any portion of the Project (plan holders) until Bids are received.

▪ Encourage multiple Subcontractors and Suppliers to submit Bids on the Project so that a minimum of three Bids are received for each trade or Bid package.

▪ Maintain documentation pertaining to demonstration of good faith efforts to ensure DBE enterprises are aware of procurement opportunities.

o For all bid packages, conduct a pre-Bid conference with prospective Subcontractor and Suppliers to familiarize them with:

▪ Scope of work included in Bid opportunity(ies).

▪ Special requirements of the Contract Documents.

▪ Small, disadvantaged, minority and women-owned business requirements.

▪ Equal employment opportunity requirements.

▪ Prevailing wage requirements.

o Obtain responses from the Engineer to all questions at pre-Bid conferences which require a modification to the Contract Documents. Prepare a record of the discussions at the pre-Bid conference to assist the Engineer in preparing Addenda as appropriate. Review and comment on Addenda prepared by the Engineer to incorporate responses to questions raised during or as a result of the conference.

o Receive Addenda prepared by the Engineer. Review Addenda for clarity, consistency, and coordination. CMAR will answer, in whole or in part, any questions regarding schedule or coordination related items. CMAR is not acting in a manner to assume responsibility or liability, in whole or in part, for all or any part of the Project design or the content of the Contract Documents by performing these reviews. Distribute Addenda regarding any changes in the Bid process or Contract Documents to all plan holders. Require verification from plan holders that Addenda have been received.

Opening Bids

o Open bids submitted by Subcontractors and Suppliers for all elements of Work not included in the General Conditions at the time and location so indicated in the advertisement for Bid or as altered by addendum sent to all plan holders.

- Compare Bids received to the line-item budget prepared for the Project prior to the opening of Bids in accordance with Paragraph 2.03.D. Resolve discrepancies or overlaps in Bid packages to eliminate duplications or the omission of elements of the Work that are not included in the General Conditions. Discuss each Bid received with the Owner and Engineer and recommend which Bid received will provide best value for the Owner.
- Evaluate any substitutions or alternate Bids submitted by Bidders. Engineer will evaluate the substitute or alternate Bids to determine the technical merit and to determine that the modifications offered are consistent with the intent of the Contract Documents. The Engineer will determine if the substitution or alternate is acceptable. Substitutions will be evaluated in accordance with provisions of Section 01 33 00- Submittals.
- Fulfill the contract requirements of any Subcontractor or Supplier that defaults in the performance of the Work or fails to execute a contract after being selected. The Work of this Subcontractor or Supplier may be performed directly by the CMAR or through a replacement Subcontractor or Supplier at the discretion of the CMAR and Owner. The CMAR will not be required to advertise for this Work.

Options for GMP Proposals Exceeding the Project Budget

- Advise the Owner of market conditions, bid issues, design issues or other factors which may have an impact causing GMP Proposals to be higher than estimated in the Owner's Budget. Discuss opportunities for bringing the Project within Owner's Budget with the Owner and Engineer to assist with making a decision on how to proceed.
- Determine if restructuring Bid packages may lead to lower Bid prices. Re-Bid selected original bid packages or restructured Bid packages for portions of the Work identified as having the potential to reduce the overall cost of construction to the Owner's Budget if re-Bid. Advise the Owner and Engineer of impact to the schedule resulting from re-Bidding portions of the Project. Provide CMAR Services for re-Bidding these portions of the Project without additional compensation.
- Assist Engineer and Owner in studies to revise the scope of the Project to bring the Project cost within the Owner's Budget. Provide research and cost estimates to evaluate the potential cost savings of each proposed change in scope. Advise the Owner and Engineer of impact to the schedule resulting from re-Bidding portions of the Project and changes in Contract Time that will result from the changed scope of Work. Provide CMAR services for consultation in modifying the Project scope and rebidding these portions of the Project without additional compensation.
- Revise the Project master schedule incorporating delays caused by actions taken to return Project scope to within the Owner's Budget.

Compensation

- The lump sum for CMAR Pre-Construction services is shown on Table A below. A breakdown of the pre-construction fee for the work described herein is included as Exhibit A. Garney will

submit monthly invoices to the City of Fayetteville based on a percent complete each month.

Table A – Pricing Breakdown

Pricing Breakdown	See Appendix B for CMAR Fee Schedule
Preconstruction/Procurement Services Fee (fixed fee)	
Contractor's Fee (%*)	
General Conditions	

*Fee or markup defined as a % of the construction cost, developed at each GMP
*Pre-Construction / Procurement Cost based on a 10 Month period from NTP.

- PRE-CONSTRUCTION SERVICES FEE – The fee established for the CMAR's Pre-construction Phase Services, which includes all direct and indirect costs incurred by the CMAR Firm in the proper performance of the Pre-construction Services.
- CONTRACTOR'S FEE – The amount established in the contract for the CMAR's profit, per the GMP Amendment. This includes, but is not limited to:
  - Profit
  - Overhead and indirect costs such as G&A (general & administrative)
  - Business development costs
  - Principal management project reviews
  - Home office accounting and administration
  - Home office cost for buildings, utilities, furnishings as well as all cost that are not directly attributed to the work for the project.

- GENERAL CONDITIONS FEE – The overhead services for the construction phase exclusive of physical construction, will be expressed as a cost plus for the Project. This shall include, but is not limited to:
  - Onsite & Field Management Staff
  - Equipment for onsite Staff
    - Vehicles and Allowances
    - Cell Phones
    - Computers
  - Field office setup
    - Setup/Removal
    - Temporary fencing
    - Furnishings
  - Field office monthly expenses
    - Office rental
    - Yard/lot rental

- Security
- Signage
- Mail/Shipping
- Software licensing
- Utility connections and usage
- Office consumables
- Cleaning, trash, and sanitation

▪ Safety training

▪ Regular drug screening

- It is understood that the following additional construction phase cost items are not included in the Contractor's Fee nor General Conditions Fee:
  - Cost of the construction work
  - Project construction contingency
- Escalation shall be managed thru carrying a 1% Escalation Allowance and will be reduced accordingly as GMP's are approved and awarded.

Any additional services provided as part of the contract will be billed at the following unit rates. These rates are inclusive of all fringes, vehicle expenses, cell phones, computers, travel, and benefits:

2023 Garney Construction Regular Time Rates:

Sr. Project Manager	$231.00
Pre-Construction Manager	$231.00
CMAR Advisor	$231.00
Regional Manager	$277.00
Estimating	$191.00
Project Manager	$185.00
Asst. Project Manager	$166.00
Project Engineer	$140.00
Sr. Superintendent	$222.00
Superintendent	$197.00
Asst. Superintendent	$149.00
Field Engineer	$158.00
Field Clerk	$69.00
Project Coordinator	$85.00
Safety Manager	$149.00
QA/QC Support	$161.00
Foreman (Job Foreman)	$102.00
Carpenter	$94.00

Concrete Finisher	$93.00
Pipe Fitter	$96.00
Laborer	$88.00
Crane Operator	$120.00
Equipment Operator	$93.00
Intern / Co-Op	$80.00
*All construction rates are based on 2023 Regular Time wages and will have a 5% fringe/wage escalation applied for each subsequent calendar year.	
** All equipment will be billed at Blue Book rates per current version of Equipment Watch.	

Appendix B

CMAR Fee Schedule

1700 Swift Street, Suite 200,
Kansas City, MO 64116
Phone: 816.741.4600
Fax: 816.741.4488
www.garney.com

October 18th, 2023

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701
(479)521-1258

Attn: Corey Granderson, P.E.

Re: Garney Construction – CMAR General Conditions

Dear Mr. Granderson,

Attached you will find a copy of the mutually agreed upon Pre-Construction, Procurement, CMAR General Conditions, Insurance Percentages, and CMAR Fee of 9% for the West Transmission Main Project. The CMAR General Conditions in the attached are based on the following exceptions and clarification, but not limited to:

- Excludes - Material Testing & Inspections
- Excludes - Site Laydown & Staging Yards
- Excludes - Construction Water
- Excludes - Construction Right-of-Way Staking & Surveying
- Excludes - Field Trailers for Engineering Staff

These Rates and Fees are based on the 30% Documents shared with Garney Construction on August 8th, 2023 by the City of Fayetteville.

Feel free to contact us with any questions.

Respectfully,

Wade Pierpoint
SR. Project Manager

CC: Bill Williams, Exec. Vice President
Joey Perell, Regional Operations Manager
Sam Marston, Pre-Construction Manager

Attachments: Fayetteville – CMAR GCs.pdf

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville

Water main

Pre-Construction Lump Sum Calculations

Garney CONSTRUCTION — ADVANCING WATER

Scope of Services	Estimated Quantity	Unit	Project Management: Regional Manager	Preconstruction Project Manager	CMAR Advisor (Sr. PM)	Project SR. Superintendent	Safety Manager	Project Engineer/Scheduler	Preconstruction/Procurement Manager	Unit Cost	Total Hours	Total Costs
Hourly Rate			$277.00	$231.00	$231.00	$222.00	$149.00	$140.00	$231.00			
A. Pre-Construction Services												
Project Management												
Progress Meetings (Assume Once a Month)	9	Mo.	8	36	-			9	36		89	$ 20,108.00
Design Review Meetings (Assume 2 per month)	Included										-	$ -
Third-Party Agency Meetings	Included	Ea.									-	$ -
Constructability Meetings	4	Ea.	4	24	-	8		4	24		64	$ 14,532.00
Cost Model Review Meetings	4	Ea.	4	12	-	8		4	12		40	$ 8,988.00
Subtotal - Project Management			**16**	**72**	**-**	**16**	**-**	**17**	**72**	**-**	**193**	**$ 43,628.00**
Time Management												
Develop CPM Schedule	1	LS	-	40	-			24	40		104	$ 21,840.00
Develop Project Phasing Plan	1	LS	4	40	-			24	40		108	$ 22,948.00
Monthly Updates	9	Ea.	4	72	-			40	72		188	$ 39,972.00
Subtotal - Time Management			**8**	**152**	**-**	**-**	**-**	**88**	**152**	**-**	**400**	**$ 84,760.00**
Cost Management												
Development of Schedule of Values	1	Ea.		16	-	-	-	-	16		32	$ 7,392.00
Baseline Cost Model for Program	1	Ea.		40	-	-	-	24	40		104	$ 21,840.00
Detailed Cost Model at 30%	1	Ea.	4	60	8	-	-	24	60		156	$ 34,036.00
Detailed Cost Model at 60%	1	Ea.	4	24	8	-	-	16	24		76	$ 16,284.00
Detailed Cost Model at 90%	1	Ea.	4	20	8	-	-	8	20		60	$ 13,316.00
Develop GMP 1 - Early Material Procurement	1	Ea.	4	20	-	-	-	16	20		60	$ 12,588.00
Develop GMP 2 - Early Work Procurement	1	Ea.	4	20	-	-	-	8	20		52	$ 11,468.00
Develop GMP 3 - Final GMP	1	Ea.	4	30	-	-	-	8	30		72	$ 16,088.00
Subtotal - Cost Management			**24**	**230**	**24**	**-**	**-**	**104**	**230**	**-**	**428**	**$ 133,012.00**
Quality Management												
Review of Program Standard Details	1	Ea.		8	-	4			8		20	$ 4,584.00
Review of Program Technical Specifications	1	Ea.		32	-				32		64	$ 14,784.00
Traffic Control Plan Review	1	Ea.		4	-	2			4		10	$ 2,292.00
Constructability Review at 30%	1	Ea.		20	8				20		48	$ 11,088.00
Constructability Review at 60%	1	Ea.	4	32	8	8			32		84	$ 19,516.00
Constructability Review at 90%	1	Ea.	4	32	8	8			32		84	$ 19,516.00
Subtotal - Quality Management			**8**	**128**	**24**	**22**	**-**	**-**	**128**	**-**	**310**	**$ 71,780.00**
Development of Startup												
Startup and Commissioning Plan Development	1	Ea.	-	-	-	-	-	-	-		-	$ -
Constructability Review	1	Ea.	-	4	-	4	-	-	-		8	$ 1,812.00
Subtotal - Development of Startup			**-**	**4**	**-**	**4**	**-**	**-**	**-**	**-**	**8**	**$ 1,812.00**
Pre-Construction Support												
Estimating Support	9	Mo.								$ 5,178.00	-	$ 46,602.00
Travel	8	Mo.								$ 1,500.00	-	$ 12,000.00
Subtotal - Pre-Construction Support			**-**	**-**	**-**	**-**	**-**	**-**	**-**	**$ 160,549.00**	**-**	**$ 58,602.00**
Total Labor Hours			**56**	**586**	**48**	**42**	**-**	**209**	**582**		**1,431**	**$ 393,594.00**

Pre-Construction Services - Total Labor Costs	**A**	**$ 393,594.00**
FEE (10%)	**B**	**$ 35,423.46**
Total Pre-Construction Services Proposal	**A+B**	**$ 429,017.00**

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville

Water main

Procurement Lump Sum Calculations

Garney CONSTRUCTION — ADVANCING WATER

Scope of Services	Estimated Quantity		Project Management: Regional Manager	Preconstruction Project Manager	CMAR Advisor (Sr. PM)	Project SR. Superintendent	Project Engineer/Scheduler	Preconstruction/Procurement Manager	Unit Cost	Total Hours	Total Costs
Hourly Rate			$277.00	$231.00	$231.00	$222.00	$140.00	$231.00			
A. Procurement Services											
Assemble Bid Packages											
Early Material Procurement	**3**	Ea.		96	16		40	96		248	$ 53,648.00
Early Work Procurement	**6**	Ea.		96	16		40	96		248	$ 53,648.00
RFQ Procurement (e.g. Materials Testing)	**1**	Ea.		20	-		-	20		40	$ 9,240.00
Subtotal - Assemble Bid Packages			-	**212**	**32**	-	**80**	**212**	-	**536**	**$ 116,536.00**
Advertisement for Bids											
Develop Advertisement	**6**	Ea.		48	-		40	48		136	$ 27,776.00
Manage Civcast (Bidding Site)	**6**	Ea.		8	-		8	8		24	$ 4,816.00
Subtotal - Advertisement for Bids			-	**56**	-	-	**48**	**56**	-	**160**	**$ 32,592.00**
Pre-Bid Conferences											
Develop Agendas	**6**	Ea.		10	-	-	10	10		30	$ 6,020.00
Hold Meetings	**6**	Ea.		18	-	4	18	18		58	$ 11,724.00
Subtotal - Pre-Bid Conferences			-	**28**	-	**4**	**28**	**28**	-	**88**	**$ 17,744.00**
Addenda											
Manage Addenda	**6**	Ea.		24			24			48	$ 8,904.00
Subtotal - Addenda			-	**24**	-	-	**24**	-	-	**48**	**$ 8,904.00**
Opening Bids											
Selection Process	**6**	Ea.	8	24	16		16	32		96	$ 21,088.00
	1									-	$ -
Subtotal - Opening Bids			-	**24**	**16**	-	**16**	**32**	-	**96**	**$ 21,088.00**
Bid Evaluations											
Cost Evaluations	**1**	LS	8	40	16	-		40		104	$ 24,392.00
Review Details	**1**	LS		40	-	-		40		80	$ 18,480.00
	1									-	$ -
	1									-	$ -
Subtotal - Bid Evaluations			**8**	**80**	**16**	-	-	**80**	-	**184**	**$ 42,872.00**
Total Labor Hours			**12**	**424**	**64**	**4**	**196**	**408**		**1,112**	**$ 239,736.00**

Pre-Construction Services - Total Labor Costs	**A**	**$ 239,736.00**
FEE (10%)	**B**	**$ 21,576.24**
Total Procurement Services Proposal	**A+B**	**$ 261,312.00**

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville
Water main
Construction GCs Calculations

Garney CONSTRUCTION — ADVANCING WATER

Scope of Services	Estimated Quantity	Unit	Project Management: Regional Manager	Preconstruction Manager	Project Manager	CMAR Representative 1	Safety Manager	Project Engineer/Scheduler	CMAR Representative 2	Executive Vice President	Project Engineer 1	Project Engineer 2	Administration Field Clerk	Unit Cost	Total Hours	Total Labor Costs	Total Costs
Hourly Rate			$277.00	$231.00	$231.00	$222.00	$149.00	$140.00	$136.00	$330.00	$158.00	$140.00	$85.00				
Construction Services			*Manhours / Unit														
Administration																	
Subcontract Management	21	MO	42		420						336	336	168		1,302	$ 223,062.00	$ -
Contract Execution - Early Material Procurement	1	LS	8		60						80	80	60		288	$ 45,016.00	$ -
Contract Execution - Early Work Procurement	1	LS	8		60						80	80	60		288	$ 45,016.00	$ -
Contract Execution - Final GMP	1	LS	16		60	-	-				80	80	60		296	$ 47,232.00	$ -
Project Closeout Documentation	1	LS	16		60						80	80	60		296	$ 47,232.00	$ -
Safety Onboarding and Pre-Job Entry	21	MO	8		120		1,680				80	80	100		2,068	$ 312,596.00	$ -
			-	-		-	-	-	-	-	-	-	-		-	$ -	$ -
			-	-		-	-	-	-	-	-	-	-		-	$ -	$ -
Subtotal - Administration			**98**	**-**	**780**	**-**	**1,680**	**-**	**-**	**-**	**736**	**736**	**508**	**-**	**4,538**	**$ 720,154.00**	**$ -**
Time Management																	
Maintain CPM Schedule	21	MO	21		336	42			42	-	84	84			609	$ 123,501.00	$ -
Project Phasing Plans	5	EA	40		40	10			10	-	80	80			260	$ 47,740.00	$ -
Monthly Updates	21	MO			168	42			42	-	168	168			588	$ 103,908.00	$ -
Certified Payroll	21	MO		-	-	-			-	-		-	672		672	$ 57,120.00	$ -
Subtotal - Time Management			**61**	**-**	**544**	**94**	**-**	**-**	**94**	**-**	**332**	**332**	**672**	**-**	**2,129**	**$ 332,269.00**	**$ -**
Cost Management																	
Pay Application Management	21	MO	21		336	84			84		504	504	336		1,869	$ 292,257.00	$ -
Cash Flow Deliverables	21	MO	21		210	-					168	168			567	$ 104,391.00	$ -
Change Order Management	21	MO	21		210	42			42		80	80			475	$ 93,203.00	$ -
Allowance Tracking and Reporting	21	MO	-		210	21			21		420	420	42		1,134	$ 184,758.00	$ -
AIS Tracking	21	MO		-	32				-	-	168	168	336		704	$ 62,380.50	$ -
															-	$ -	$ -
Subtotal - Cost Management			**63**	**-**	**998**	**147**	**-**	**-**	**147**	**-**	**1,340**	**1,340**	**714**	**-**	**4,749**	**$ 736,989.50**	**$ -**
Quality Management																	
Site Management	21	MO	-		84	1,386	168		1,386		168	168			3,360	$ 590,688.00	$ -
Project Oversight	21	MO	-		84	1,386	16		1,386		16	16			2,904	$ 522,744.00	$ -
Weekly Progress Meetings	21	MO	-		168	168	84		168		168	168	84		1,008	$ 168,672.00	$ -
Document Control (Submittals and Correspondence)	21	MO	-		42	168	40		168		336	336			1,090	$ 175,934.00	$ -
Management of Material Testing and Reporting	21	MO	-		84	84	40		84		40	40			372	$ 67,356.00	$ -
															-	$ -	$ -
Subtotal - Quality Management			**-**	**-**	**462**	**3,192**	**348**	**-**	**3,192**	**-**	**728**	**728**	**84**	**-**	**8,734**	**$ 1,525,394.00**	**$ -**
Risk Management																	
Develop Risk Register	1	LS	40		40	10	200		10		80	80			460	$ 77,540.00	$ -
Maintain Risk Register	21	MO	21	-	252	21			21		168	168			651	$ 121,611.00	$ -
Subtotal - Risk Management			**61**	**-**	**292**	**31**	**200**	**-**	**31**	**-**	**248**	**248**	**-**	**-**	**1,111**	**$ 199,151.00**	**$ -**
Starting and Adjusting																	
Develop Statup Plan	1	LS		-	80		80				80	80			320	$ 54,240.00	$ -
Startup Meetings with City/Engineer	1	LS	40		60		40			-	40	40			220	$ 42,820.00	$ -
Management and Oversight of Startup	1	LS		-	80		40			-	40	40			200	$ 36,360.00	$ -
Owner Training and Handover	1	LS		-	20		40			-	40	40			140	$ 22,500.00	$ -
															-	$ -	$ -
Subtotal - Starting and Adjusting			**40**	**-**	**240**	**-**	**200**	**-**	**-**	**-**	**200**	**200**	**-**	**-**	**880**	**$ 155,920.00**	**$ -**
Warranty Correction																	
Punchlist Closeout	1	LS		-	160	40	-		40		40	40			320	$ 63,200.00	$ -
Warranty Calls	1	LS		-	20	20	-		20	-	20	20			100	$ 17,740.00	$ -
Project Finalization	1	LS	40	-	160	40	-		40	-	40	40			360	$ 74,280.00	$ -
															-	$ -	$ -
															-	$ -	$ -
Subtotal - Warranty Correction			**40**	**-**	**340**	**100**	**-**	**-**	**100**	**-**	**100**	**100**	**-**	**-**	**780**	**$ 155,220.00**	**$ -**
GC Items																	
Field Office Building (Based on triple wide and an additional single for inspection)	21	MO											80	$ 6,000.00	80	$ 6,800.00	$ 126,000.00
Lot Rent (assumed 2 acres on or near jobsite)	21	MO												$ 3,000.00			$ 63,000.00
Site Storage	21	MO												$ 500.00			$ 10,500.00
Site Mobilization/Demobilization (Connection to services, permiting, site development, and removal)	1	LS												$ 80,000.00			$ 80,000.00
Safety Equipment and First Aid	21	MO												$ 275.00			$ 5,775.00
Sanitation	21	MO												$ 325.00			$ 6,825.00
Office Supplies	21	MO												$ 300.00			$ 6,300.00
Copier/Reprographics	21	MO												$ 200.00			$ 4,200.00
Fencing and Site Security	21	MO												$ 200.00			$ 4,200.00
Internet/Comm	21	MO												$ 400.00			$ 8,400.00
Trash & Hauling	21	MO												$ 400.00			$ 8,400.00
Electricity	21	MO												$ 750.00			$ 15,750.00
Water	21	MO												$ 150.00			$ 3,150.00
Drinking Water	21	MO												$ 75.00			$ 1,575.00
Project Sign	1	LS												$ 2,000.00			$ 2,000.00
Project Specific Permitting	1	LS												$ 30,000.00			$ 30,000.00
Home Office Travel	21	MO												$ 3,300.00			$ 69,300.00
Video and Photo Documentation (Pre/Post ground photos and monthly route flights)	21	MO												$ 2,500.00			$ 52,500.00
Vehicles & Gas	21	MO												$ 14,720.32			$ 309,126.72
QA GPS (Base Station, Setup, Equipment)	1	LS												$ 65,000.00			$ 65,000.00
Misc. CMAR Items (Unloading pre-procurement items, laydown management, fencing enviromental areas, etc.)	1	LS												$ 50,000.00			$ 50,000.00
Public Relations	1	LS												$ 100,000.00			$ 100,000.00
QC (Third Party Testing - By others/separate Bid Package)	0	LS															$ -
Survey (By others/separate Bid Package)	0	LS															$ -
Storm Water Management (SWPPP - By others/separate Bid Package)	0	LS															$ -
[Blank]														$ 75,000.00			$ -
Subtotal - GCs			**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**80**		**80**	**$ 6,800.00**	**$ 1,022,001.72**
Total Labor Hours			**363**	**-**	**3,656**	**3,564**	**2,428**	**-**	**3,564**	**-**	**3,684**	**3,684**	**2,058**		**23,001**	**$ 3,831,897.50**	**$ 1,022,001.72**
Total Months Allocated to Project			**2.09**	**-**	**21.09**	**20.56**	**14.01**	**-**	**20.56**	**-**	**21.25**	**21.25**	**11.87**				

Engineers Estimate		**$ 65,000,000.00**
Construction Personnel	**A**	**$ 3,831,897.50**
Construction GCs	**B**	**$ 1,022,001.72**
Tax	**9.25%**	**$ 94,535.16**
Subtotal	**A+B+Tax**	**$ 4,948,434.38**

21.09

CMAR Pre-Construction Summary					
Preconstruction	1	Lump Sum	$	429,017.00	
Procurement	1	Lump Sum	$	261,312.00	
		Lump Sum Total	**$**	**690,329.00**	1.15%

CMAR Construction Summary					
Cost of Construction			$	59,783,464.62	
Project Specific Insurance*	1	Lump Sum	$	195,825.00	
General Conditions	1	Lump Sum	$	4,948,434.38	8.28%
General Liability Insurance	1.50%	Percent	$	970,978.49	
Performance and Payment	0.85%	Percent	$	550,221.14	
CMAR Fee	9.00%	Percent	$	5,980,403.13	
CMAR Contingency	5.74%	Percent	$	3,812,455.03	
		Total	**$**	**76,241,781.78**	

CMAR Construction Summary				
Total Contract Value	1	Lump Sum	**$**	**76,932,110.78**

*Project Specific Insurance					
Builder's Risk	1	Lump Sum	$	120,525.00	0.20%
SDI	1	Lump Sum	$	50,000.00	0.08%
Owners Protective Liability	1	Lump Sum	$	25,300.00	0.04%

Current 30% Estimate		
30% Estimate - 10/16/2023 (COW + CMAR GC's - Mat'l Testing)	**$**	**64,731,899.00**

Appendix C

RFQ 23-05, Construction Manager at Risk for West Transmission Water Main

City of Fayetteville, AR
Purchasing Division, Room 306
113 W. Mountain Street
Fayetteville, AR 72701
Phone: 479-575-8256
TDD (Telecommunication Device for the Deaf): 479.521.1316

RFQ (REQUEST FOR QUALIFICATIONS)

RFQ 23-05, CMAR for West Transmission Water Main

DEADLINE: Tuesday, June 06, 2023 prior to 2:00:00 PM, local time
PRE-PROPOSAL CONFERENCE: Tuesday, May 16, 2023 at 2:00 PM via Zoom
DELIVERY LOCATION: Electronic via the City's Online Bidding Portal
PURCHASING CONTACT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov
DATE OF ISSUE AND ADVERTISEMENT: 05/07/23, 05/08/23 & 05/09/23

Late qualifications will not be accepted.

Request for Qualifications (RFQ's) shall be submitted in accordance with the attached City of Fayetteville specifications and RFQ documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any statement of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

All RFQ's shall be submitted electronically via the City's Online Bidding Portal at http://fayetteville-ar.gov/bids. Physical submittals are not allowed for this RFQ.

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

City of Fayetteville, Arkansas
Request for Statements of Qualification
RFQ 23-05, Construction Manager at Risk (CMAR) for West Transmission Water Main

The City of Fayetteville is accepting statements of qualifications from construction management firms properly licensed to provide, construction management services as a construction manager at risk (CMAR) for the West Transmission Water Main Project. The project consists of approximately 11.3 miles of 48-inch diameter spiral-welded steel pipeline and associated appurtenances. This pipeline will convey treated water from the proposed Beaver Water District pump station, located north of Highway 612 in Springdale, to the City of Fayetteville's existing 36-inch diameter water transmission main, located near the intersection of Highway 112 and W. Van Asche Drive. The proposed alignment crosses through the cities of Tontitown, Elm Springs, and Springdale as well as unincorporated areas of Washington County.

Professional Services required include:

1. Ensure all funds are spent in accordance with State of Arkansas Procurement laws
2. Guaranteed maximum price (GMP) development
3. Cost Estimating
4. Sub-contractor bidding and procurement
5. Project and change order pricing
6. Schedule control
7. Cost reduction and control
8. Project coordination with the design engineer and the City of Fayetteville.
9. Project close out
10. Warranty

To be considered, statements of qualification shall be received electronically through the City of Fayetteville, Purchasing Division's online bidding platform by Tuesday, June 06, 2023 before 2:00:00 PM, local time.

A non-mandatory pre-proposal conference will be held on Tuesday, May 16, 2023 at 2:00 PM via Zoom. Meeting information can be found on the City's online bidding platform.

The solicitation RFQ & addendums can be downloaded from the City's web site at http://fayetteville-ar.gov/bids. All questions regarding the process should be directed to Amanda Beilfuss at abeilfuss@fayetteville-ar.gov.

Firms submitting a statement of qualification shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the project is located.

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

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

City of Fayetteville
By: Amanda Beilfuss, Sr. Purchasing Agent
P: 479.575.8220 abeilfuss@fayetteville-ar.gov
TDD (Telecommunications Device for the Deaf): (479) 521-1316
Ad dates: 05.07.23, 05.08.23, and 05.09.23
This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.
Amount paid: $666.12

SECTION:	PAGE NUMBER
Cover Page	01
Advertisement	02
SECTION A: General Terms & Conditions	05
SECTION B: Project Summary and Scope of Work	13
SECTION C: Signature Submittal	20

1. SUBMISSION OF A STATEMENT OF QUALIFICATION SHALL INCLUDE:

   a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFQ in the most cost-effective manner. The term Proposer shall be in reference to a firm or individual responding to this solicitation. The term proposal is used in these documents as equal to statement of qualification.

   b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFQ. This description should include the names of the person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work. Also, include the reference information requested in this RFQ.

   a. Electronic Submittal: Proposers are required to go to www.fayetteville-ar.gov/bids and follow the prompts to submit a statement of qualifications within the electronic bidding platform. All Proposers must register in order to be able to submit. There is no fee for registration. **Physical submittals are not allowed for this RFQ.**

      i. SOQ's shall be prepared simply and economically, providing a straightforward, concise description of its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All submittals shall be formatted for standard 8 ½" x 11" size documentation. Exceptions would be schematics, exhibits, one-page resumes, and City required forms. Proposals shall be limited to twenty- five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion. All proposals shall be uploaded in a PDF format to the City's electronic platform prior to the stated deadline.

   b. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. Only the names of Proposer's will be available after the deadline until a contract has been awarded by the Fayetteville City Council. All interested parties understand proposal documents will not be available until after a valid contract has been executed and at that time only for the intended selection.

   c. Proposers shall submit a statement of qualification based on documentation published by the Fayetteville Purchasing Division.

   d. Proposals shall be uploaded as a single PDF document to the City of Fayetteville's online electronic bidding platform

   e. Proposals must follow the format of the RFQ. Proposers should structure their responses to follow the sequence of the RFQ, if provided.

   f. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer may furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.

   g. Proposer is advised that exceptions to any of the terms contained in this RFQ or the attached service agreement must be identified in its response to the RFQ. Failure to do so may lead the City to declare

any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.

h. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline, per the online bidding platform being utilized by the City of Fayetteville Purchasing Division. Documents shall be received before the deadline.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

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

3. RIGHTS OF CITY OF FAYETTEVILLE IN THIS PROCESS:

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

a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.

b. The City of Fayetteville reserves the right to select the proposal that it believes will serve the best interest of the City.

c. The City of Fayetteville reserves the right to accept or reject any or all proposals.

d. The City of Fayetteville reserves the right to cancel the entire request.

e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for statements of qualification or resulting submittal.

f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or proposal data without changing the terms of the proposal.

g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.

4. EVALUATION CRITERIA:

The evaluation criteria define the factors that will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. Proposers shall include sufficient information to allow the selection committee to thoroughly evaluate and score proposals. Each proposal submitted shall be evaluated and ranked by a selection committee. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFQ. Proposers are not guaranteed to be ranked.

5. COSTS INCURRED BY PROPOSERS:

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

6. ORAL PRESENTATION:

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

7. CONFLICT OF INTEREST:

a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Limited Authority of City Employee to Provide Services to the City".

b. The Proposer shall promptly notify Amanda Beilfuss, City Sr. Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the Proposer's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

8. WITHDRAWAL OF PROPOSAL:

A proposal may be withdrawn at any time.

9. LATE PROPOSAL OR MODIFICATIONS:

a. Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Proposers should refer to their submission status in the online electronic bidding platform to ensure submission confirmation.

10. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

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

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

11. COLLUSION:

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

12. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

a. The City of Fayetteville reserves the privilege of auditing a vendor's records as such records relate to purchases between the City and said vendor.

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

c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

13. CITY INDEMNIFICATION:

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

14. VARIANCE FROM STANDARD TERMS & CONDITIONS:

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

15. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

Persons with disabilities requiring reasonable accommodation to participate in this proceeding/event, should call 479.521.1316 (telecommunications device for the deaf), not later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

16. PAYMENTS AND INVOICING:

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

17. CANCELLATION:

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

b. Failure of the Contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.

c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.

d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

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

a. The CMAR shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFQ.

b. In the event of a corporate acquisition and/or merger, the CMAR shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a firm that has disclosed its intent to assign or subcontract in its response to the RFQ, without exception shall constitute approval for purpose of this Agreement.

19. NON-EXCLUSIVE CONTRACT:

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

20. ADDITIONAL REQUIREMENTS:

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

21. SERVICES AGREEMENT:

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

22. INTEGRITY OF STATEMENT OF QUALIFICATION (RFQ) DOCUMENTS:

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

23. LOBBYING:

Lobbying or communicating with selection committee members, City of Fayetteville employees, or elected officials regarding request for proposals, request for qualifications, bids or contracts, during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, and agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with

or representing an organization that is responding to the request for proposal, request for qualification, bid or contract, or has a pending bid protest is **strictly prohibited** either upon advertisement or on a date established by the City of Fayetteville and shall be prohibited until either an award is final or the protest is finally resolved by the City of Fayetteville; provided, however, nothing herein shall prohibit a prospective/bidder/proposer from contacting the Purchasing Division to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities or communication shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any request for proposal, request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

24. DEBARRED ENTITIES:

By submitting a statement of qualification, vendor states submitting entity is not a debarred company with the federal, any state, or local government.

25. OTHER GENERAL CONDITIONS:

a. **Proposers shall provide documentation that their firm currently has or has applied for a valid Arkansas Contractor's License and is currently registered and in good standing or has applied with the Arkansas Secretary of State.**

b. Proposers shall provide the City with proposals signed by an employee having legal authority to submit proposals on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.

c. The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.

d. The request for statement of qualification is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by Proposer in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for statements of qualification is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.

e. If products, components, or services other than those described in this bid document are proposed, the Proposer must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.

f. **Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via e-mail at (abeilfuss@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all Proposers to be on equal terms.**

g. No oral interpretation or clarifications will be given as to the meaning of any part of this request for statements of qualification. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.

h. At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews.

i. Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFQ. The RFQ is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a RFQ's content or to exclude any relevant or essential data.

j. Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be controlled by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.

k. The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

l. The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.

26. INSURANCE:

a. Any project selected under this RFQ shall require professional liability insurance in the amount of $10 million US dollars, at minimum. Such Certificate of Insurance shall list the City as an additional insured and not be required unless firm is awarded a contract. Certificate of insurance shall be provided within 10 (ten) calendar days after contract award. The City reserves the right to provide builder's risk insurance in the event it results in a cost savings to the overall project.

i. Professional/Comprehensive General Liability Insurance: Minimum $10 million

ii. Builder's Risk

iii. Worker's Compensation: Statutory amount

iv. General Automotive Insurance as required by state law

27. SELECTION CRITERIA:

The evaluation criterion below defines the factors which will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. The evaluation factors are as follows:

1. 30 Points – Specialized experience and technical competence of the firm with respect to the type of professional services required
2. 30 Points – Capacity and capability of the firm to perform the work in question including specialized services, within the time limitations fixed for the completion of the project
3. 30 Points – Past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines
4. 10 Points – Firm's proximity to and familiarity with the area in which the project is located

****NOTE: Fees shall NOT be included with any statement of qualification. Price shall not be a considered a factor used to select a vendor. Price and fees will not be considered until the negotiating process and will be a factor in the award of any proposed contract. In the event the City is not able to negotiate a successful contract with the selected vendor, the City reserves the right to cease negotiations with such selected vendor and proceed on to the next selected vendor.

CONTINUES ON NEXT PAGE

A). PROJECT SUMMARY

I. The City of Fayetteville is accepting statements of qualifications from licensed professionals to provide construction management at risk (CMAR) services for the West Transmission Water Main project. The project consists of approximately 11.3 miles of 48-inch diameter spiral-welded steel pipeline and associated appurtenances. This pipeline will convey treated water from the proposed Beaver Water District pump station, located north of Highway 612 in Springdale, to the City of Fayetteville's existing 36-inch diameter water transmission main, located near the intersection of Highway 112 and W. Van Asche Drive. The proposed alignment crosses through the cities of Tontitown, Elm Springs, and Springdale as well as unincorporated areas of Washington County. See attached Exhibit 1 for an overall location map.

a. Status of Existing Design

i. The City of Fayetteville has retained McClelland Consulting Engineers, Inc. (MCE) as the lead design professional for this project. The CMAR will be coordinating the design effort for this project with MCE.

ii. The project is currently in the preliminary design phase. MCE is preparing a series of technical memoranda (TMs) and developing 30% design plans. The following TMs are included with current status:

1. TM1 – Pipe Material Selection (Complete)
2. TM2 – Hydraulics and Surge Scenarios (Complete)
3. TM3 – Pipe Thickness Design (Complete)
4. TM4 – Pipe Coating Evaluations (Complete)
5. TM5 – Corrosion Protection (In Progress)
6. TM6 – Trenchless Installation Methods (Complete)
7. TM7 – Utility Conflicts and Constructability (Complete)
8. TM8 – Permitting Requirements (Complete)
9. TM9 – Project Delivery Methods (Complete)

All TMs and the 30% design plans are expected to be completed during the summer of 2023.

iii. The pipeline alignment has been established and the City of Fayetteville is in the easement acquisition phase. A total of 67 easements are required for this project, and of this total, 25 easements have been acquired and 24 are being actively negotiated by the City of Fayetteville. The City of Fayetteville anticipates all easements to be acquired by the end of 2023. The pipeline will be installed typically within a 50-foot wide permanent easement, with additional temporary construction easements and access easements as required.

iv. MCE is performing a geotechnical investigation as part of the preliminary design phase. A total of 76 geotechnical bores are planned. To date, a total of 51 bores have been completed. It is anticipated that the remaining bores will be complete by the end of 2023.

v. MCE is performing a delineation of Section 404 wetlands and other waters of the US as part of the preliminary design phase. Delineations are in progress on acquired easements and the full delineation report is anticipated by the end of 2023.

b. Permitting and Governmental Approvals Anticipated

i. City of Fayetteville
ii. City of Tontitown
iii. City of Elm Springs
iv. City of Springdale
v. Washington County
vi. Arkansas Department of Health
vii. Arkansas Department of Transportation
viii. Arkansas Department of Energy & Environment, Division of Environmental Quality
ix. U.S. Army Corps of Engineers

II. **Project Schedule:** The City of Fayetteville anticipates the project to be substantially complete by the first quarter of 2026.

III. **Project Funding:** The total project funding is to be provided by the City of Fayetteville and other funding sources. The projected budget for the West Transmission Water Main project is $85 million.

B). PROJECT INFORMATION & REQUIREMENTS

I. Request for Qualifications (RFQ) responses shall be submitted from one single primary construction manager firm with each additional contracted third-party as a subcontractor to the primary. The primary firm, in addition to any contracted third-party, shall be disclosed with the RFQ response and be considered the project team for the overall construction scope of the project. This requirement to provide subconsultant professionals does not include subcontractor trades for the actual construction items (clearing, erosion control, pipe installation, etc.), as those items will be bid after contract award.

II. Responses **shall not include** price or hourly rates, or any other pricing structure. Pricing shall be negotiated with the top-ranked selected firm only and is not considered part of this selection. The City intends to negotiate each phase as a not-to-exceed fee with the selected firm.

III. The primary responding firm shall be experienced as the CMAR for the installation of large diameter spiral-welded steel pipelines (36-inch diameter and larger) in rural and urban areas with hilly terrain. Respondents to this RFQ shall submit at least three (3) similar type projects within the past ten (10) years that demonstrates successful pipeline projects.

C). SCOPE OF WORK

I. **Overview:** Anticipated phases are identified below with associated scope of work. Scope of work is not limited to any additional industry standard scope of work necessary to complete each phase. **Selected primary firm shall coordinate with the design team composed of MCE and the City of Fayetteville in order to achieve best value for the overall success of the project, including working to achieve maximum cost savings. Coordination with design team is critical for all phases.**

II. PHASE 1: Preconstruction Services

a. Review 30% plans and TMs at notice to proceed and provide constructability comments, preliminary schedule and GMP estimate, and other comments related to risk management, time, and/or cost savings.

b. Review design documents at key milestones and provide constructability comments, preliminary schedule and GMP estimate, and other comments related to risk management, time, and/or cost savings.

c. Attend period design meetings to provide constructability, cost, schedule, and risk management input.

d. Provide periodic project schedule and cost estimates.

e. Prepare GMP proposals for early work packages and the entire project. Meet with City of Fayetteville and MCE to discuss GMP proposals.

f. Develop a procurement plan for separating the design into work packages as required.

III. PHASE 2: Construction Delivery

a. Procurement Services

i. Coordinate with City Purchasing Division to ensure all procedures followed for this phase meet state laws and City of Fayetteville Purchasing policies.

ii. Provide services for reproduction and dissemination of bid sets (project manual and stamped drawings) to the City Design Team [PM (1), Purchasing (1) and interested bidders]. Documents should be made available to any interested party electronically at no cost.

iii. Provide distribution of plans to all interested parties.

1. Maintain open communication with the City of Fayetteville Purchasing Division throughout the bidding process.
2. Distribution of all documents shall be done in a fair and unbiased manner while keeping all interested parties on equal terms.
3. Document and keep an updated accurate record of plan holder's and provide updated listings to all interested parties in a timely manner.
4. Answers to questions and inquiries shall be made in the form of an addendum and shall be provided to all interested parties at the same time.

iv. Coordinate with City Purchasing Division during pre-bid meeting, facilitate and attend the Bid Opening.

v. Maintain open communication with the City Purchasing Division during any process involving Request for Information (RFI).

vi. Any addenda shall be provided to the Purchasing Division for review and approval in advance of issuance. Bidders, interested parties, and plan holders shall receive all information included in addenda at the time addenda is issued.

vii. In the event the CMAR desires to self-perform a portion of the work or a trade package, the CMAR shall submit a bid package in the same time and manner as other interested parties.

viii. Assist with the design of all Bid Proposals.

ix. Review MCE's Recommendation of Award Letter that includes the following required content (and assist with):

1. Check for math errors and reconcile any mathematical discrepancies,
2. Review for unbalance bid items,
3. Coordinate with the City Purchasing Division in finalizing a Certified Bid Tabulation including Engineer's estimate,
4. Review of contractor's financial standing and references provided,
5. Explanation of discrepancies between the Engineer's estimate and bids, and
6. Meet with the City to provide a formal written recommendation of award.
7. Attend City Council meeting(s) for the recommendation for award of Contract(s) for Construction.

b. Construction Administration Phase

i. Put forth diligent and fiscally responsible efforts to ensure the project will be completed on time and within budget.
ii. Attend Pre-Construction meeting and conduct regular update meetings as jointly determined by the Design Team and contracted construction companies.
iii. Coordinate with MCE and the Design Team on all Request for Change Proposals, Change Orders, etc. including maintaining a log of all such documents.
iv. The City of Fayetteville intends to provide regular construction administration services. MCE will provide field services, progress meetings, and progress payment review and assistance on a bi-monthly basis.
v. Review site visit report from the MCE, and City of Fayetteville staff team at least twice (2) per month.
vi. Coordinate with the Design Team to conduct Substantial Completion Inspection, coordinate with architect to create punch list, substantiate that items noted are completed, and issue Substantial Completion Certificate.
vii. The Design Team shall be notified to attend all on-site meetings, review and approve all pay requests, and change order review prior to Mayor's approval.
viii. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

c. Project Close Out

i. Provide Warranty Services during the entire Warranty Period. MCE to issue Warranty Reports and review items after the CM has notified the City that these items are complete.

ii. Provide support services as needed during the project close out process.

iii. Provide close out submittal to MCE for completeness before transmitting to the City which include but are not limited to:

1. Contractor's red lines and as-built notes
2. Provide as-Built record drawings noting any changes to the plans prepared by MCE (in hard copy and digital format)
3. Produce a project narrative that provides a comprehensive review of the construction activities for the project with a project narrative submitted for City approval at the completion of each contract phase.

D). PROFESSIONAL SERVICES AND ADDITIONAL REQUIREMENTS:

I. Professional Services:

a. Any entity responding to this RFQ shall be a current licensed contractor with or have applied for the State of Arkansas Contractor's Licensing Board. All subcontractors on the project shall be properly licensed by the State of Arkansas Contractor's Licensing Board.

b. Any industry standard cost share or savings incentive practices desired for discussion during contract negotiations should be disclosed with RFQ response. Cost sharing practice shall be presented in the format of a general best practices approach and contract terms and shall not include pricing related figures. Pricing and fees are not part of the selection criteria and shall not be include with RFQ submittal.

c. The resulting contract of this solicitation shall be a Guaranteed Maximum Price (GMP) construction contract; however, price itself shall not be considered until a firm has been selected based on qualifications. Price will be negotiated with the most qualified firm, as evaluated and voted on by the selection committee.

d. Performance and payment bonding. After a contract has been awarded to the selected construction manager (CM) and within ten (10) calendar days of the final construction contract being finalized, provide separate 100% performance and payment bonds (both inclusive of any approved contingency) to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office.

e. Construction contracts for the project shall not be entered into without both 100% payment and performance bonds in the amount of the contract and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties. The CMAR shall hold all trade contracts and purchase orders and shall bond and guarantee the project.

f. After contract award, the awarded CM shall furnish a certificate of insurance showing that insurance policies are carried in amounts acceptable to the City. Forms of insurance shall be, Comprehensive General Liability, Builder's Risk, Property Damage Insurance, Worker's Compensation, and Automobile coverage. Such insurance shall be kept in full force and in effect until all work has been satisfactorily completed and accepted. All certificates of insurance shall list the City of Fayetteville as an additional insured.

g. Ensure all funds spent are in accordance with State of Arkansas procurement laws, including but not limited to:

- Ensuring CMAR maintaining a proper license with the Arkansas Contractors Licensing Board
- Ensuring all subcontractors on the project are properly licensed by the Arkansas Contractors Licensing Board
- Compliance with Arkansas state law including but not limited to sections:
  - A.C.A. § 14-58-1001
  - A.C.A. § 19-11-801
  - A.C.A. § 17-25-101
  - A.C.A. § 17-38-101
  - A.C.A. § 17-33-101
  - A.C.A. § 12-13-101
  - A.C.A. § 12-80-101
  - A.C.A. § 22-9-101
  - A.C.A. § 22-9-103
  - A.C.A. § 22-9-104
  - A.C.A. § 22-9-213
  - A.C.A. § 22-9-401
  - A.C.A. § 22-9-501
  - A.C.A. § 22-9-601
  - A.C.A. § 22-9-701
  - And all competitive bidding statutes shall remain in full force and effect and not be affected hereby
  - This project shall not authorize a design-build project contract or sub-contracts

h. Project and change order pricing

i. Schedule control

j. Cost reduction and control

k. Project coordination

l. Project close out

m. Warranty

II. **Submittal Requirements:** The RFQ submittal should contain the following response items arranged in order, tabbed, and with a table of contents. In order to issue a uniform review process and to obtain the maximum degree of comparability, it is required that the submittal be organized in the manner specified.

a. Title Page: Show the name of agency/firm, address, and telephone number, name of contact person, date, and subject: RFQ 23-05.

b. Table of Contents: Include a clear identification of the material by section and by page number.

c. Letter of Interest: Name, address, brief history of firm and Submitter's interest in the proposed project. Briefly state the agency/firm understands the work to be done and makes a positive commitment to perform the work. Give the name of the person(s) who will be authorized to make representation for the Submitter, their titles, addresses and telephone numbers. Describe the perceived strengths to carry out the project.

d. Project Team Organization: Provide an organizational chart indicating the relationship between the Submitter's staff members who have responsibilities related to this project. Indicate on the chart the names of key personnel and their titles. Submit professional qualifications and resumes of staff to be assigned to this project, showing where they have performed work on similar projects including Construction Management GMP projects.

e. Specialized and Past Experience: Provide information regarding past experience in relation the services requested in this RFQ including information pertaining to customer satisfaction, timely completion, and meeting budgets on similar projects executed under a GMP contracting format. Actual price and fees shall not be included in submittal.

f. Schedule: Submitter shall provide a general schedule for the completion of the scope of the specified project.

g. Additional Background: All Submitters are invited to include a maximum of two pages of information not included above which may be useful and applicable to this project.

III. **Items to Specifically Include with Response:** Responses shall include the following in addition to other requirements specified:

a. Prior experience constructing large diameter spiral-welded steel pipelines (36-inch diameter and larger).

b. Prior experience as the CMAR for large diameter spiral-welded steel pipelines (36-inch diameter and larger).

c. Statement regarding understanding of pre-construction services and approach to billing for pre-construction services. Included as part of this statement should include a clear definition of understanding for what a Guaranteed Maximum Price (GMP) means.

d. Records of management teams on similar projects with timely completion, and high-quality workmanship.

e. Records of previous similar projects with owner verification and contact information. Please provide contact information including reference contacts of the owner and engineer on at least 3 projects. These projects should be within the past ten (10) years.

f. Current and projected workload.

g. Current maximum bonding capacity and rate.

h. Proof of licensure from the State of Arkansas Contractor's Licensing Board.

E). ANTICIPATED PROJECT TIMELINE:

Date	Time	Description
Sunday 5/7/23, 5/8/23, and 5/9/23	N/A	Advertisement for RFQ in local newspaper, 3 consecutive days
Tuesday, May 16, 2023	2:00 PM	Pre-Proposal Conference – open to all interested parties
Tuesday, June 6, 2023	2:00 PM	Deadline to submit a Statement of Qualification – electronic only
TBD	TBD	Selection Committee Meeting – short list firms
TBD	TBD	Interviews with short listed firms

All interested parties are advised, per City Policy, that all contact between interested parties and the City shall be through the City of Fayetteville Purchasing Division. Interested parties are strictly forbidden to discuss this project with any City Staff member or Elected Official.

1. Disclosure Information

Proposer shall disclose any possible conflict of interest or disclose any financial interest with the City of Fayetteville, including, but not limited to, City of Fayetteville employees. Proposer response shall disclose if a known relationship exists between any principal or employee of submitting firm or its team members or sub-consultants, and any City of Fayetteville employee, or elected City of Fayetteville Official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

_____1) NO KNOWN RELATIONSHIP EXISTS

_____2) RELATIONSHIP EXISTS (Please explain): _____

_____

I certify that; as an officer of this organization, or per the attached letter of authorization, I am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

2. Contact Information

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

Name of Firm: _____

Name of Primary Contact: _____

Title of Primary Contact: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

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

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

1. Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2. Pursuant to Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

7. SUB CONSULTANTS AND TEAM INFORMATION:
Proposer hereby certifies that proposals from the following consultants were used in the preparation of this statement of qualification. Proposer shall attach additional pages if necessary. **This section only applies if CMAR is proposing a sub consultant for estimating, scheduling, accounting/payroll and non-construction trade services.**

Type of Work: _____

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

Type of Work: _____

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

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

NAME: _____

COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

TAX ID#: _____ SAM UEI#: _____

PHONE: _____ FAX: _____

E-MAIL: _____

ARKANSAS CONTRACTOR'S LICENSE #: _____

ARKANSAS SECRETARY OF STATE FILING #: _____

Signed by :

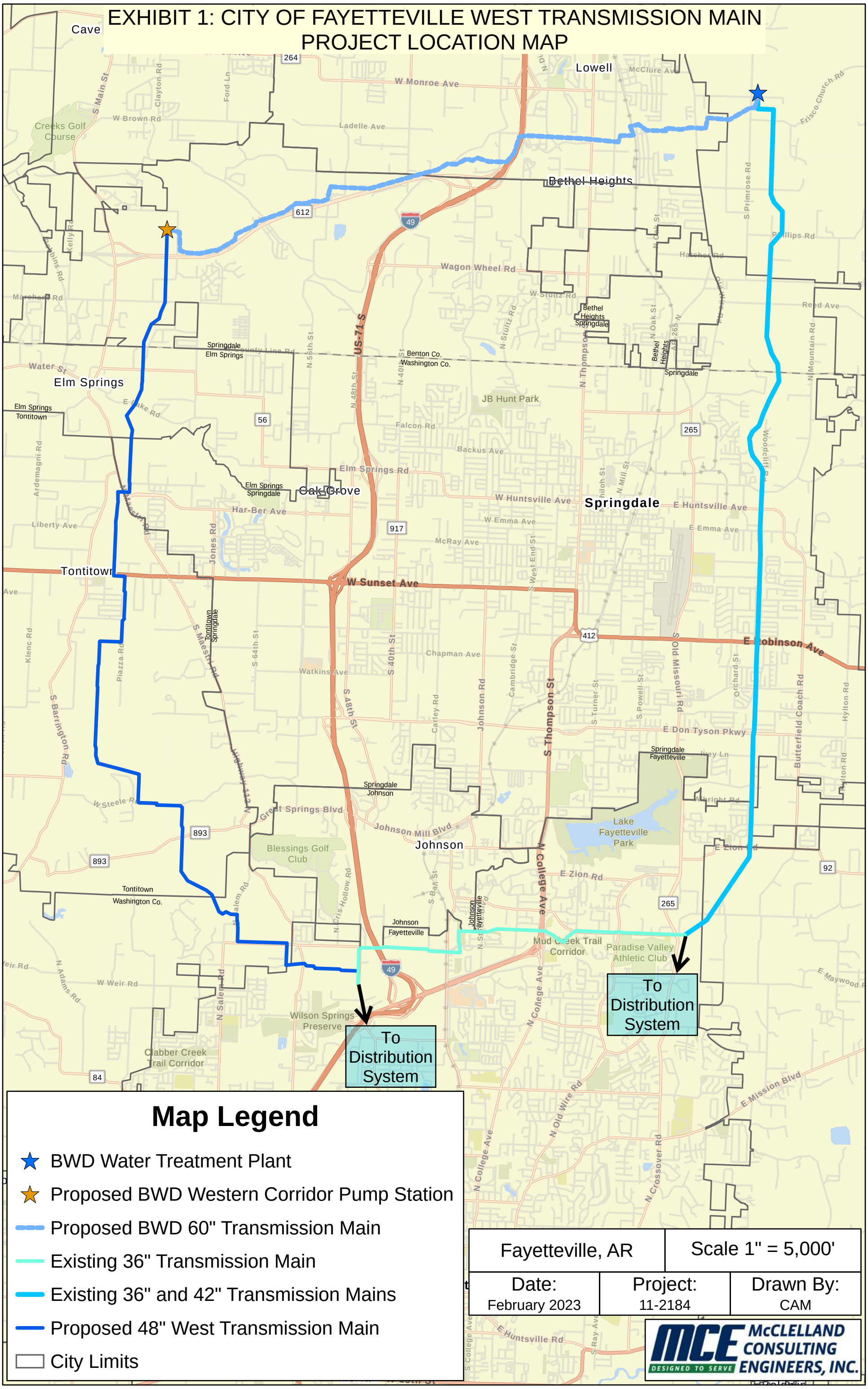
SIGNATURE: _____

PRINTED NAME : _____

TITLE: _____

DATE: _____

EXHIBIT 1: CITY OF FAYETTEVILLE WEST TRANSMISSION MAIN PROJECT LOCATION MAP



Map Legend

- BWD Water Treatment Plant
- Proposed BWD Western Corridor Pump Station
- Proposed BWD 60" Transmission Main
- Existing 36" Transmission Main
- Existing 36" and 42" Transmission Mains
- Proposed 48" West Transmission Main
- City Limits

Fayetteville, AR		Scale 1" = 5,000'
Date: February 2023	Project: 11-2184	Drawn By: CAM

McCLELLAND CONSULTING ENGINEERS, INC. DESIGNED TO SERVE

RFQ 23-05, Addendum 1

CITY OF FAYETTEVILLE ARKANSAS

Date: Monday, May 8, 2023

To: All Prospective Vendors

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

RE: RFQ 23-05, CMAR – West Transmission

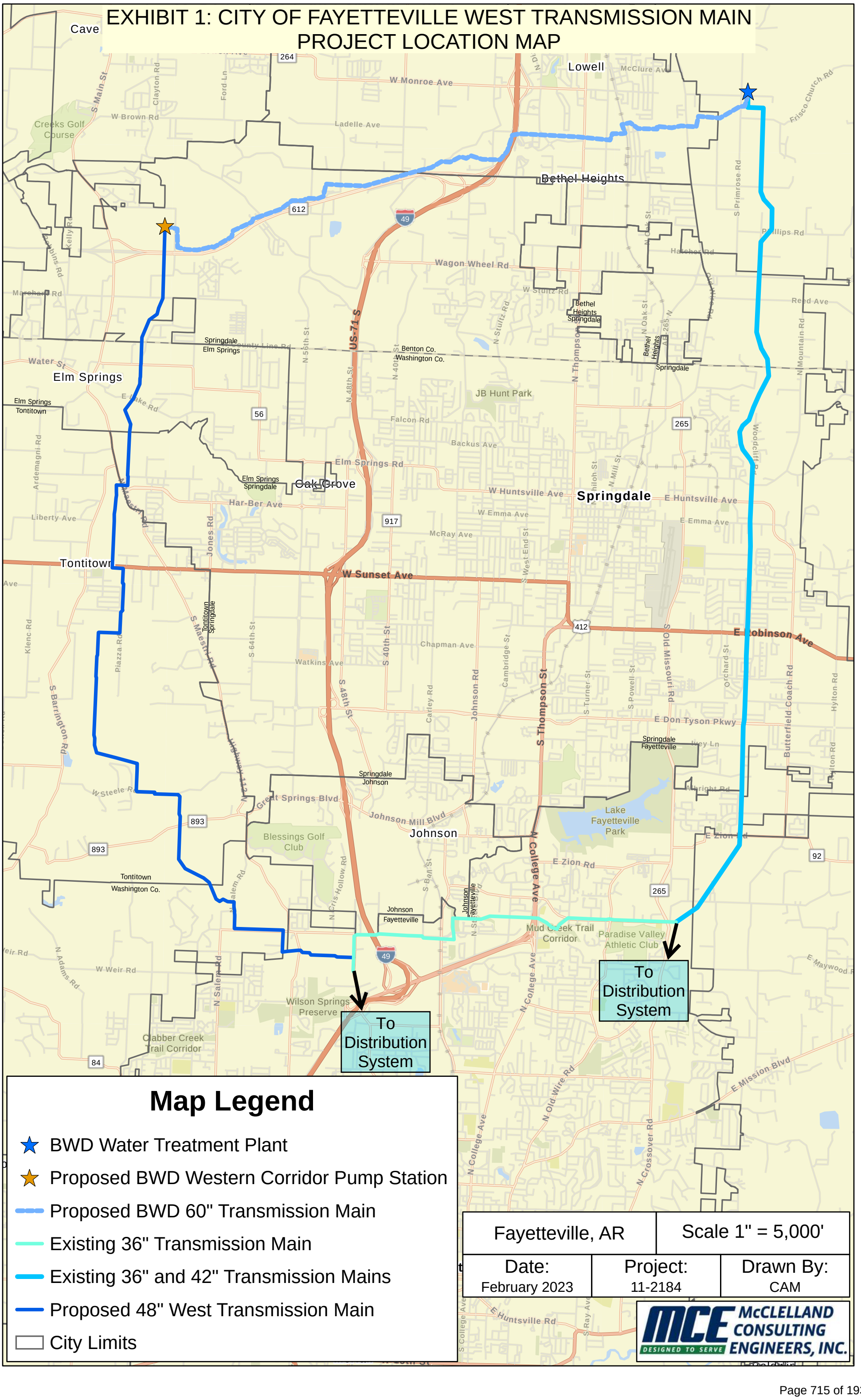
This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Interested parties should indicate their receipt of same in the appropriate blank of the RFQ. ***PROPOSERS SHOULD ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE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

1. **Exhibit 1: Project Map** – The overall location map referenced as Exhibit 1 in the RFQ document on page 13 is attached to this addendum. The project regarding this RFQ is only the dark blue line labeled as "Proposed 48" West Transmission Main".

Telecommunications Device for the Deaf TDD (479) 521-1316 113 West Mountain - Fayetteville, AR 72701

Exhibit 1 - Project Map

EXHIBIT 1: CITY OF FAYETTEVILLE WEST TRANSMISSION MAIN PROJECT LOCATION MAP



RFQ 23-05, Addendum 2

Date: Friday, May 19, 2023

To: All Prospective Vendors

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

RE: RFQ 23-05, CMAR – West Transmission Water Main

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

1. A non-mandatory pre-proposal conference was held on Tuesday, May 16, 2023 at 2:00 PM via Zoom. The listing of attendees is also attached to this addendum for disclosure to all interested parties.
    a. Attendees:
        i. City of Fayetteville:
            1. Amanda Beilfuss, Sr. Purchasing Agent
            2. Corey Granderson, City Utilities Engineer
            3. Tim Nyander, City Utilities Director
            4. Nick Batker, McClelland Engineers
        ii. Vendors:
            1. Crossland Heavy Contractors
            2. Garney Construction
            3. Thompson Pipe Group

2. QUESTIONS:
    a. Question: What will the contract look like?
        i. *Answer: City is currently working on developing contract and will coordinate with City attorney to complete*

3. CLARIFICATION:
    a. **Language has been updated in the RFQ document on page 14, Section B, Item III. RFQ form has been updated to reflect this modification. The section shall read as:**

    The primary responding firm shall be experienced as the CMAR ***for the installation*** *of large diameter spiral-welded steel pipelines (36-inch diameter and larger) in rural and/or urban areas with hilly terrain. Respondents to this RFQ shall submit at least three (3) similar type projects within the past ten (10) years that demonstrates successful pipeline projects.*

City of Fayetteville

RFQ 23-05, CMAR - West Transmission Water Main

Date: 05/16/2023 at 2:00 PM

Meeting ID	84477642470
Topic	Pre-Proposal Conference: RFQ 23-05, CMAR - West Transmission Water Main
Start Time	5/16/2023 1:55:23 PM
End Time	5/16/2023 2:16:09 PM
User Email	abeilfuss@fayetteville-ar.gov
Duration (Minutes)	21
Participants	14

Name (Original Name)	User Email	Total Duration (Minutes)	Guest
Amanda Beilfuss	abeilfuss@fayetteville-ar.gov	21	No
Joey Perell		21	Yes
Caden DeLay (Garney)		20	Yes
Jeff.Peterson		20	Yes
Corey Granderson		20	Yes
Timothy Nyander	tnyander@fayetteville-ar.gov	19	No
Nick Batker		19	Yes
Wade Pierpoint - Garney		18	Yes

Appendix D

Garney's Response to RFQ 23-05

RFQ 23-05 Addendum 2
Garney Construction
Supplier Response

Event Information

Number: RFQ 23-05 Addendum 2
Title: CMAR for West Transmission Water Main
Type: Request for Qualifications
Issue Date: 5/7/2023
Deadline: 6/6/2023 02:00 PM (CT)
Notes: The City of Fayetteville is accepting statements of qualifications from construction management firms properly licensed to provide construction management services as a construction manager at risk (CMAR) for the West Transmission Water Main Project. The project consists of approximately 11.3 miles of 48-inch diameter spiral-welded steel pipeline and associated appurtenances. This pipeline will convey treated water from the proposed Beaver Water District pump station, located north of Highway 612 in Springdale, to the City of Fayetteville's existing 36-inch diameter water transmission main, located near the intersection of Highway 112 and W. Van Asche Drive. The proposed alignment crosses through the cities of Tontitown, Elm Springs, and Springdale as well as unincorporated areas of Washington County. All questions regarding the process should be directed to Amanda Beilfuss at abeilfuss@fayetteville-ar.gov.

Contact Information

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

Garney Construction Information

Contact: Scott Phillips
Address: 1700 Swift St
North Kansas City, MO 64116
Phone: (816) 401-0424
Email: sphillips@garney.com

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

William D. Williams
Signature

bwilliams@garney.com
Email

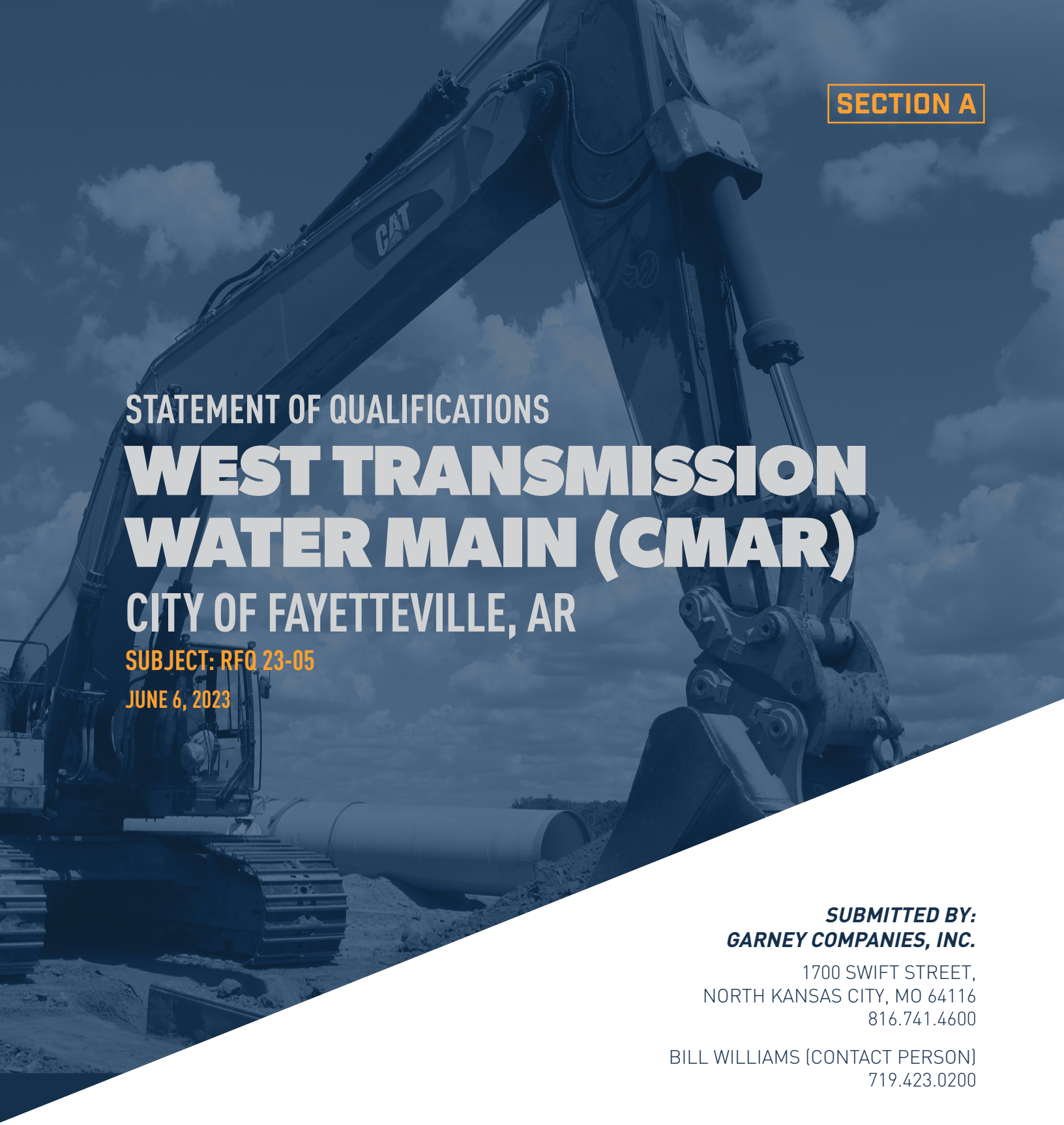
Submitted at 6/6/2023 10:16:05 AM (CT)

Requested Attachments

RFQ 23-05, Response Submittal

Please upload your completed response, including all required forms.

Fayetteville West Transmission Water Main-Garney Companies.pdf



SECTION A

STATEMENT OF QUALIFICATIONS

WEST TRANSMISSION WATER MAIN (CMAR)

CITY OF FAYETTEVILLE, AR

SUBJECT: RFQ 23-05

JUNE 6, 2023

SUBMITTED BY:
GARNEY COMPANIES, INC.

1700 SWIFT STREET,
NORTH KANSAS CITY, MO 64116
816.741.4600

BILL WILLIAMS (CONTACT PERSON)
719.423.0200

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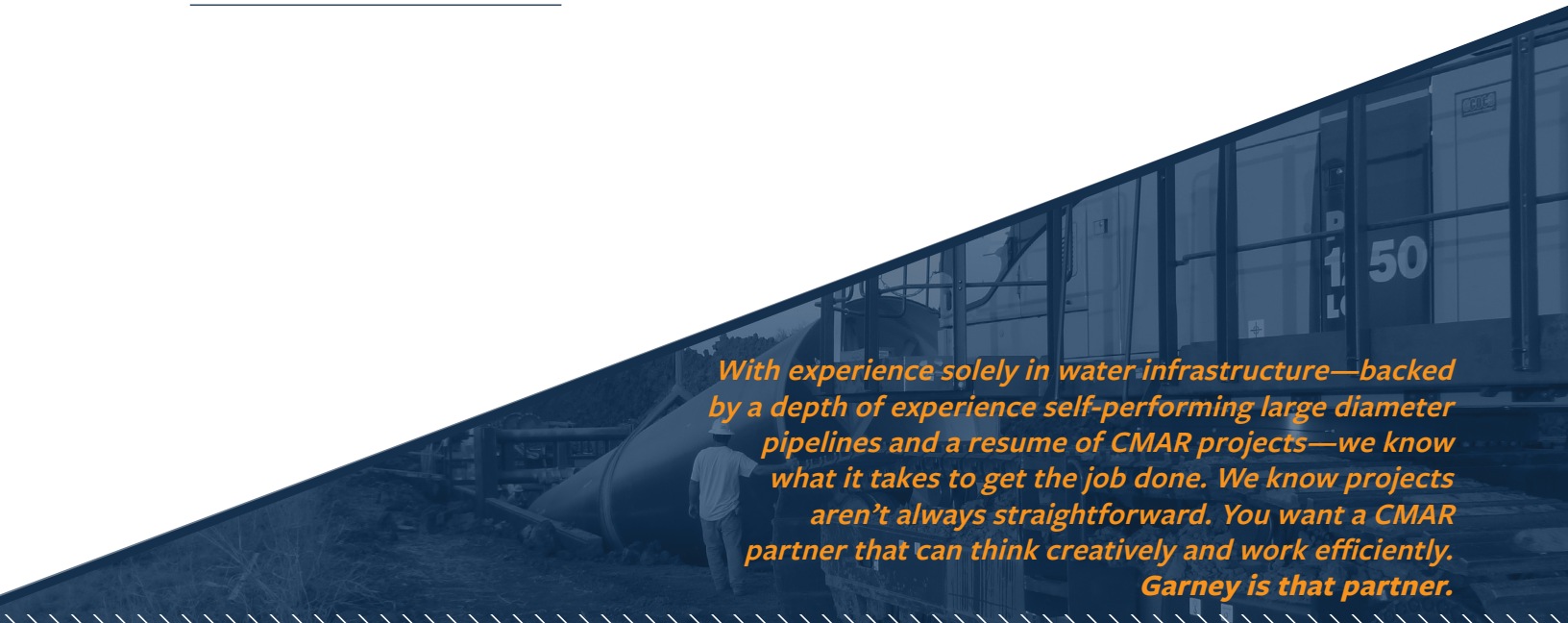
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F SCHEDULE 21

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H ADDITIONAL REQUIREMENTS 24

a. Experience Constructing Large Diameter Steel Pipelines
b. Experience as the CMAR for Large Diameter Steel Pipelines
c. Preconstruction Services and Approach
d. Records of Management Teams on Similar Projects
e. Reference Contacts
f. Current and Projected Workload
g. Bonding Capacity
h. Proof of Licensure and Certificate of Good Standing
i. Forms



With experience solely in water infrastructure—backed by a depth of experience self-performing large diameter pipelines and a resume of CMAR projects—we know what it takes to get the job done. We know projects aren't always straightforward. You want a CMAR partner that can think creatively and work efficiently. Garney is that partner.

1700 SWIFT STREET, NORTH
KANSAS CITY, MO 64116

CITY OF FAYETTEVILLE, AR

WEST TRANSMISSION WATER MAIN (CMAR), RFQ 23-05 | JUNE 6, 2023

Purchasing Division, Room 306
ATTN: Amanda Beilfuss, Sr. Purchasing Agent
113 W. Mountain Street
Fayetteville, AR 72701

Dear Ms. Beilfuss and Selection Committee Members,

The City of Fayetteville (City) is committed to providing water for your future needs with the installation of the West Transmission Water Main along the east side of Fayetteville. In support of the City's mission, Garney Companies, Inc. (Garney) will leverage our extensive past experience constructing water transmission mains supplemented by an unparalleled depth of CMAR experience. Understanding the City's need to have the pipeline installed by the first quarter of 2026, Garney has assembled a readily available team with a project-first, CMAR mindset. This team has already started developing a wide variety of innovative ideas to meet your 2026 completion goal. The City will benefit from Garney's proven performance and past partnership to achieve your vision of providing water for future needs through the following critical success factors:

CMAR COLLABORATION

PROVEN PARTNER WITH A PROJECT-FIRST, CMAR MINDSET

Garney's CMAR approach creates a partnership with the City and McClelland Consulting Engineers, Inc. (MCE) to jointly make decisions in the best interest of stakeholders, property owners, and the project. We partner, develop input, and lead the team toward making a decision together. Having completed 234 CMAR projects, in addition to seven combined water projects with the City and MCE, our key team members know how to collaborate and sequence a project to get construction started as soon as possible.

UNMATCHED EXPERIENCE INSTALLING LARGE DIAMETER WATER MAINS

SPECIALIZED PAST PERFORMANCE TO EXCEL

We understand the critical nature of the West Transmission Water Main, and we know that time and commitment are vital. Our national specialized experience installing 1,000+ complex, large diameter pipelines is the ideal match for the schedule demands of this project. Together, we bring an experienced and dedicated team backed by an unmatched depth of resources and national experts. Our experience as both the CMAR and as a self-performing contractor of large diameter pipelines and water infrastructure will be especially critical in alleviating risk for the City and enhancing future operational efficiency. We are certain no other team will bring a greater breadth of knowledge to this project.

SCHEDULE ACCELERATION

ACHIEVING YOUR VISION BY LEVERAGING OUR EXPERIENCE AND RELATIONSHIPS

Garney brings an unprecedented resume meeting aggressive schedules. There are several critical components to the West Transmission Water Main schedule, with an emphasis on the procurement, manufacturing, and delivery of pipe and isolation valves which are driving the schedule. It is also critical that the design and easement acquisition are completed on time.

PROVEN PERFORMANCE



#1
CONTRACTOR IN WATER TRANSMISSION LINES—12 CONSECUTIVE YEARS (ENR 2022)

#10
ENR RANKS GARNEY TOP 10 IN ALL WATER CATEGORIES (ENR 2022)

4,002,663
MAN-HOURS SELF-PERFORMED IN 2022, MAINTAINING A 0.71 EMR

1,339
PIPELINE PROJECTS

234
CMAR PROJECTS

7
WATER PROJECTS COLLABORATING WITH THE CITY OF FAYETTEVILLE AND MCE

Identified in Garney's schedule, we can procure the piping and valves by December 2024, which will keep the schedule completion within the first quarter of 2026. It will also be important to get the tunnels and clearing and grubbing completed ahead of the pipe deliveries to maintain the schedule. As an industry leader with national buying power, Garney has built trusted relationships that drive success on our projects. Our relationships with vendors, manufacturers, subcontractors, and technical experts as well as our history of water infrastructure projects in the Central U.S. garners trusted relationships with all of these stakeholders. This will ensure timely delivery of materials, preferred pricing, and subcontractor participation. Working with all stakeholders, Garney will deliver a project that is safe, cost effective, and one that meets your delivery deadline in the first quarter of 2026.

By submitting this statement of qualifications, Garney shares the same commitment as the City for the successful delivery of the West Transmission Water Main from notice to proceed through final completion. Our team is immediately available to begin an active partnership with the City and MCE.

Sincerely,

Garney Companies, Inc.

William (Bill) D. Williams, Vice President
(Authorized Representative)
7911 Shaffer Parkway
Littleton, CO 80127
719.423.0200 | bwilliams@garney.com

RECEIPT OF ADDENDA

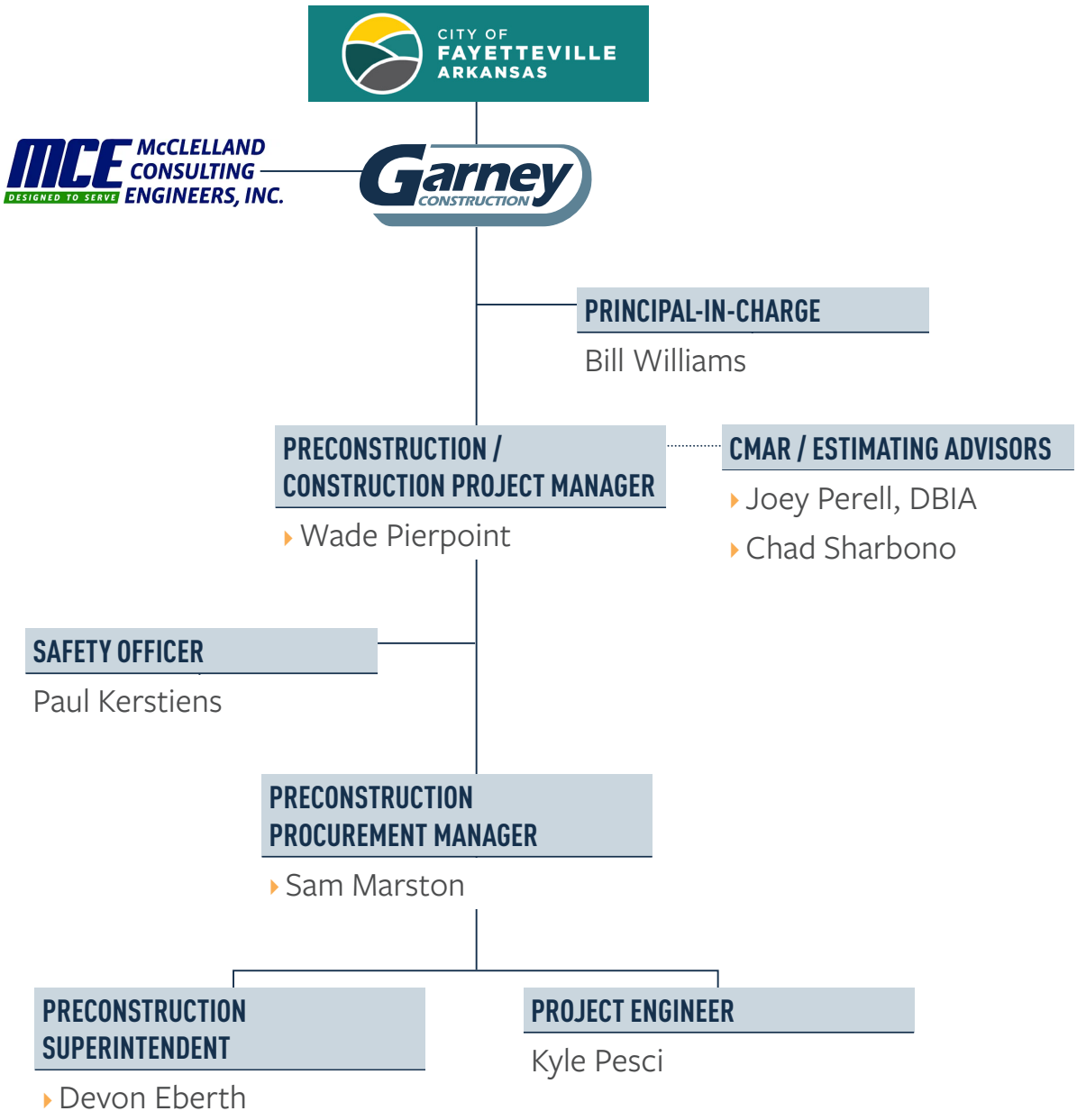
Garney recognizes receipt of addenda:

Addendum #1 dated	May 8, 2023
Addendum #2 dated	May 19, 2023

PROJECT TEAM ORGANIZATION

ORGANIZATIONAL CHART / PERSONNEL RESUMES

This project requires a CMAR team capable of self-performing a large-diameter water main installation while providing best value to the City. Garney offers the City that team. Our team's recent experience includes construction of some of the largest, most complex waterlines in the Central U.S., as well as significant experience with CMAR delivery. The City will benefit by gaining an experienced team of professionals who understand the technical complexity and who know how to foster a collaborative atmosphere. **Since Garney is a true builder focusing only on water infrastructure projects, the City can rest assured that the project schedule and cost we provide will be accurate and achievable.** As the leader in water transmission pipelines, Garney has the depth and flexibility to supplement labor forces from across the nation, if needed to ensure on time delivery, during peak construction periods. The team organization chart below outlines Garney's team structure identifying committed resources to optimize the CMAR process as well as construction. Resumes featuring team member qualifications and relevant project experience are included within this section.



Key Personnel



BILL WILLIAMS

Principal-in-Charge

Garney Experience: 13 years

Industry Experience: 33 years

Education
University of Southern Colorado, Cum Laude, BS in Civil Engineering Technology

Certifications & Training
CO Building D Concrete 12441

CO General Contractor 2021-43G

MSHA Inexperienced Miner

OSHA 30-Hour

OSHA Competent Person - Confined Space and Trenching & Excavation

Qualifications and Value to the City
Bill will oversee all project activity and ensure sufficient resources are available from preconstruction through to final construction. He will also lead all contract discussions and negotiations. Bill has been responsible for the installation of more than $1.2 billion of large-diameter, complex pipelines in the Central and Western U.S., offering the City seasoned expertise regarding risk mitigation, constructability input, and schedule security. Bill will also leverage his deep resume of collaborative delivery work, including 24 collaborative projects, to facilitate strong collaboration, teamwork, and communication across all stakeholders.

PROJECT EXPERIENCE

VISTA RIDGE WATER SUPPLY PROJECT (DESIGN-BUILD)

Central Texas Regional Water Supply Corporation / $540,000,000

Director. Installation of 142 miles of water transmission pipelines including 60" spiral-welded and mortar-lined C200 steel and 54" bar-wrapped C303, three 44 MGD pump stations, one cooling tower, a new wellfield with eighteen wells, seven miles of well collection lines, three 4 MG D110 Type III tanks, and one 10 MG D110 Type III tank, all to deliver 50,000-acre-feet of water per year.

CENTRAL MESA REUSE PIPELINE PROJECT (CMAR)

City of Mesa, AZ / $75,000,000

Principal-in-Charge. Installation of 10.5-miles of 36" C303 reclaimed water pipeline within downtown streets and requires crossings using auger bores, machined mined tunnels, and hand tunnels, as well as interaction with AZDOT, traffic control, public outreach, deep excavation, paving, and manholes.

PHASE 1B SEGMENT A TREATED PIPELINE

Alliance Regional Water Authority / $50,448,485

Principal-in-Charge. Installation of 84,039 LF of 48" and 5,000 LF of 42" mortar-lined steel finished waterline with a cathodic protection system. Supplemental work includes the installation of gate valves, CAV structures, drain structures, fiber optic, and one major creek crossing. The trenchless portion includes three separate 66" crossings including an auger bore, hand tunneling, and micro tunneling.

RED RIVER VALLEY WATER SUPPLY PROJECT, TRANSMISSION PIPELINE EAST, CONTRACT 5B

Garrison Diversion Conservancy District / $44,644,077

Principal-in-Charge. Installation of 46,650 LF of 72" C200 steel raw waterline including one 96" auger bore for 108 LF crossing under the Canadian Pacific Railway. Additional work includes the segregation and stockpiling of topsoil for pipe installation and an impressed current pipeline corrosion protection system.

ALLIANCE REGIONAL WATER AUTHORITY PHASE 1B TREATED WATER PIPELINE

Alliance Regional Water Authority / $37,629,104

Principal-in-Charge. Installation of 83,890 LF of 42" and 36" steel waterlines, twenty-two 72" manholes, and a 775 LF tunneled crossing of State Highway 130.

ZONE 3D AND 4A IMPROVEMENTS PROGRAM WATER TRANSMISSION MAIN

City of Phoenix, AZ / $30,775,962

Principal-in-Charge. Installation of 17,000 LF of 66" mortar-lined and polyurethane-coated steel waterline, manholes, butterfly valves, a 430 LF tunnel under SR-51 using a TBM and 84" steel casing, 22 VF deep excavations, dewatering, deep well rectifiers, paving, extensive landscaping, and wildlife considerations for an endangered tortoise.

SOUTHERN DELIVERY SYSTEM RAW WATER PIPELINE SOUTH 4A EAST-WEST

Colorado Springs Utilities / $26,267,972

Project Manager. Installation of 39,650 LF of 66" spiral weld steel (mortar-lined and polyurethane coated) waterline, fiber optic conduit, asphalt replacement, traffic control, and erosion and sediment control.

INDICATES PROJECT MEETING MINIMUM CRITERIA



Key Personnel

JOEY PERELL, DBIA

CMAR / Estimating Advisor

Garney Experience: 17 years

Industry Experience: 26 years

Education

Minnesota State University Moorhead, BS in Construction Management

Qualifications and Value to the City

Joey will provide the team leadership and continuity of management from project conception to completion. He will have in-depth involvement with preconstruction efforts including value engineering, constructability, sequencing, and scheduling. Additionally, Joey will review all estimates, budgets, bid package contracts, and the final GMP. He will use his knowledge of the City's processes to ensure the team is meeting project goals and objectives through high quality and safety deliverables. His 26 years of experience building complex water infrastructure and CMAR projects for municipalities across the Midwest will also be invaluable to this project.

Certifications & Training

KS Inspector (Certified Erosion and Sediment Control)

KS General Contractor 463

KS Qualified Individual 463

KS General Contractor - Class A BC-22971

KS General Contractor Unlimited G2CO 2012000000877

KS Qualifying Party G2QP 201805242830

KS Plumbing PLCO 2013000003

KS Master Plumbing PLMA 20130920281

ACI Concrete Field Testing Technician - Grade I

Design-Build Professional AS-1188

First Aid & CPR

OSHA 30-Hour

Supervisory Training I, II & III

PROJECT EXPERIENCE

KAW LAKE WATER SUPPLY PROGRAM (CMAR)

City of Enid, OK / $243,358,908

Regional Operations Manager. The Kaw Lake Water Supply (KLWS) system will provide water to the City by connecting the Kaw Lake water source to the City's distribution network. The City's water supply will be provided by combining the groundwater and surface water conveyed from Kaw Lake and pumped using a raw water intake and intermediate booster pump station through 20 miles of new 30" to 42" raw waterlines to a greenfield 10.5 MGD water treatment plant as well as a concrete storage tank.

BOIS D'ARC LAKE - RAW WATER PIPELINE AND LEONARD WTP TO MCKINNEY NO. 4 TREATED WATER PIPELINE (CMAR)

North Texas Municipal Water District / $297,074,437

Senior Project Manager. Includes installation of 212,000 LF of 90" C200 steel raw water pipe, 132,000 LF 84" C200 steel treated water pipe, dewatering, mass excavation, deep excavations, electrical work, manholes, hand tunnels, machined mined tunnels, river crossings, rock excavation, and paving.

T-BAR RANCH WELL FIELD DEVELOPMENT & DELIVERY PROJECT (DESIGN-BUILD)

Midland Co. Fresh Water Supply District No. 1 / $157,692,985

Senior Project Manager. Installation of 205,500 LF of 48" steel and 105,250 LF of 48" C303 water transmission main, and 130,000 LF of 6" to 24" of PVC well field piping. Included rock excavation, hand tunneling, and several manholes.

TRINITY RIVER MAIN STEM PUMP STATION & PIPELINE (CMAR)

North Texas Municipal Water District / $103,509,665

Senior Project Manager. CMAR project that included a 100 MGD intake, pump station with horizontal split case pumps, 87,000 LF of 72" raw water pipeline, upgrades to existing pumping facilities with vertical turbine pumps, micro-tunnel to the Trinity River with T-screen intake, access road, bank stabilization, weir box structure, electrical, SCADA, and communications infrastructure.

WATER TREATMENT PLANT NO. 2 PHASE II (CMAR)

City of Midlothian, TX / $17,987,761

Project Manager. Construction of a sedimentation basin, chemical building, recycle pump station, three sludge lagoons, raw water control building, administration building with Biwater reverse osmosis system and Touray membrane process equipment, laboratory, meeting space and shop, electrical, instrumentation and controls, mechanical and site work, and raw water pipeline that taps a 72" and 90" raw water line.

INDICATES PROJECT MEETING MINIMUM CRITERIA



Key Personnel

CHAD SHARBONO

CMAR / Estimating Advisor

Garney Experience: 23 years

Industry Experience: 23 years

Education
Louisiana Tech University, BS in Construction Engineering Technology

Certifications & Training
Confined Space Entry & Rescue

First Aid & CPR

OSHA 30-Hour

OSHA Competent Person - Confined Space and Silica

Qualifications and Value to the City
Chad's experience includes managing 49 pipeline projects, including 5 collaborative delivery projects valued at more than $1.1 billion, which will ensure safe, quality, timely, and on-budget delivery of your project. His 23 years of experience building large diameter pipeline projects for municipalities across the South Central U.S., including the City, and knowledge of local conditions will be invaluable to this project. He will facilitate and administrate preconstruction services and direct the team to determine efficiencies and alternatives, advise on selection of materials, provide price alternatives, and suggest VE opportunities.

PROJECT EXPERIENCE

VISTA RIDGE WATER SUPPLY PROJECT (DESIGN-BUILD)

Central Texas Regional Water Supply Corporation / $540,000,000

Design Build Manager- Well collection and Pipeline. Installation of 142 miles of water transmission pipelines including 60" spiral-welded and mortar-lined C200 steel and 54" bar-wrapped C303, three 44 MGD pump stations, one cooling tower, a new wellfield with eighteen wells, seven miles of well collection lines, three 4 MG D110 Type III tanks, and one 10 MG D110 Type III tank, all to deliver 50,000-acre-feet of water per year.

SABINE RIVER PUMP STATION PROJECT (CMAR)

Sabine River Authority of Texas / $63,850,000

CMAR Manager - Pipeline. New 285 MGD intake, 85 MGD raw water vertical turbine pump station, relocation of Camp House Road which ran through the pump station site, 7.5 miles of 66" waterline, and a connection to the existing Gulf Coast Canal system at the terminus of the pipeline which included energy dissipating structures, check structures, and a sedimentation basin.

TOWN CREEK DRAINAGE PROJECT (CMAR)

City of Huntsville, TX / $9,647,339

Senior Project Manager. Installation of 7,700 LF of open and enclosed channel, removal and replacement of 3,545 LF of 114″ concrete box culverts via hand tunneling that included decommissioning of railroad cars, drainage lines, and feeds.

HIGHWAY 265 WATER & SEWER MAIN REPLACEMENT

City of Fayetteville, AR / $5,062,135

Project Manager. Relocation of lines consisting of 12,000 LF of 36" DIP, 2,000 LF of 24" DIP, and 8,000 LF of 2" SDR-26 PVC waterlines, as well as the relocation 1,500 LF of 12" and 8" SDR-26 PVC gravity sewer line. Included boring along the highway using 48" to 2" steel casing, limestone rock excavation using blasting and hoe-ramming, and an open-cut river crossing with the 36" DIP that involved a cofferdam, bypass pumping, and rock excavation.

HAMESTRING LIFT STATION TO WASTEWATER TREATMENT PLANT

City of Fayetteville, AR / $4,582,536

Project Manager. Installation of 21,740 LF of parallel 24" and 30" ductile iron pipelines which serve as sewer force mains connecting a new sewer pump station to the new Westside WWTP. Also involved a considerable amount of rock removal and two environmentally sensitive creek crossings.

FAYETTEVILLE WASTEWATER SYSTEM IMPROVEMENT PROJECTS - LIFT STATION

City of Fayetteville, AR / $1,398,357

Project Administrator. Installation of a 12′ diameter, pre-cast lift station with metering vault, 4,000 LF of 16″ DIP force main, and 280 LF of DIP 18″ gravity sewer.

INDICATES PROJECT MEETING MINIMUM CRITERIA



Key Personnel

WADE PIERPOINT

Preconstruction / Construction Project Manager

Garney Experience: 19 years

Industry Experience: 23 years

Education

Kansas State University, AS in Civil Engineering Technology

Kansas State University, AS in Land Surveying

Certifications & Training

Class "C" Water and Wastewater Operator

ACI Field Testing - Grade 1

Construction Focus Four Hazards

First Aid & CPR

OSHA 30-Hour

OSHA Competent Person - Confined Space and Trenching & Excavation

Supervisory Safety Training I, II & III

Qualifications and Value to the City

Wade will serve as the Preconstruction/Construction Project Manager and will leverage extensive experience managing over $1.6 billion in water infrastructure projects. His role will involve supervising the project, material approval and procurement, project scheduling, and coordination and communications between all team members. He is well-versed with collaborative delivery and has served in a similar role on 5 CMAR projects— he will draw upon all his experience to ensure successful project coordination during all phases.

PROJECT EXPERIENCE

VISTA RIDGE WATER SUPPLY PROJECT (DESIGN-BUILD)

Central Texas Regional Water Supply Corporation / $540,000,000

Civil Project Manager. Installation of 142 miles of water transmission pipelines including 60" spiral-welded and mortar-lined C200 steel and 54" bar-wrapped C303, three 44 MGD pump stations, one cooling tower, a new wellfield with eighteen wells, seven miles of well collection lines, three 4 MG D110 Type III tanks, and one 10 MG D110 Type III tank, all to deliver 50,000-acre-feet of water per year.

BOIS D'ARC LAKE - WATER TREATMENT PLANT AND PUMP STATIONS PROJECT (CMAR)

North Texas Municipal Water District / $431,922,374

Project Manager. Pre-construction, procurement, and construction services for a water treatment plant with ultimate capacity of 280 MGD, two 70 MGD pump stations, a storage tank, and water and sewer pipelines. Included deep excavations, electrical, and paving.

SISTER GROVE REGIONAL WATER RESOURCE RECOVERY FACILITY, PHASE 1 (CMAR)

North Texas Municipal Water District / $356,124,320

Senior Project Manager. Construction of a new 16 MGD WWTF, a gravity sewer outfall for the discharge of the treated effluent, a new sewer lift station, and twin, parallel sewer force main pipelines from an existing lift station to the SGRWRRF. The plant will include liquid treatment process facilities, preliminary treatment facilities, secondary treatment, tertiary treatment filtration, UV, solids handling, peak flow handling, and plant operations support facilities.

KAW LAKE WATER SUPPLY PROGRAM (CMAR)

City of Enid, OK / $243,358,908

Senior Project Manager. The Kaw Lake Water Supply (KLWS) system will provide water to the City by connecting the Kaw Lake water source to the City's distribution network. The City's water supply will be provided by combining the groundwater and surface water conveyed from Kaw Lake and pumped using a raw water intake and intermediate booster pump station through 20 miles of new 30" to 42" raw waterlines to a greenfield 10.5 MGD water treatment plant as well as a concrete storage tank.

TRINITY RIVER MAIN STEM PUMP STATION & PIPELINE (CMAR)

North Texas Municipal Water District / $103,509,665

Project Manager. CMAR project that included a 100 MGD intake, pump station with horizontal split case pumps, 87,000 LF of 72" raw water pipeline, upgrades to existing pumping facilities with vertical turbine pumps, micro-tunnel to the Trinity River with T-screen intake, access road, bank stabilization, weir box structure, electrical, SCADA, and communications infrastructure.

INDICATES PROJECT MEETING MINIMUM CRITERIA



SAM MARSTON

Preconstruction Procurement Manager

Garney Experience: 13 years

Industry Experience: 13 years

Education
Kansas State University, BS in Construction Management

Certifications & Training
ACI Certification

Confined Space Entry & Rescue

Hazard Communication/MSDS

OSHA 30-Hour

OSHA Competent Person - Confined Space Safety, Silica, and Trenching & Excavation

Qualifications and Value to the City
Sam will support Chad and Wade with VE and constructability solutions that will keep the project on schedule and on budget. Sam has worked on multiple construction projects during his career in the water industry, including several high-profile CMAR projects. He offers a depth of experience with large diameter water pipeline installations in urban areas, via trenchless technologies and open cut methods.

PROJECT EXPERIENCE

BOIS D'ARC LAKE - RAW WATER PIPELINE AND LEONARD WTP TO MCKINNEY NO. 4 TREATED WATER PIPELINE (CMAR)

North Texas Municipal Water District / $297,074,437
Project Manager. Includes installation of 212,000 LF of 90" C200 steel raw water pipe, 132,000 LF 84" C200 steel treated water pipe, dewatering, mass excavation, deep excavations, electrical work, manholes, hand tunnels, machined mined tunnels, river crossings, rock excavation, and paving.

LAKE TEXOMA OUTFALL TO WYLIE WTP PIPELINE (CMAR)

North Texas Municipal Water District / $281,365,320
Project Engineer. CMAR project for the installation of 253,500 LF of 96" and 84" steel waterline, 240 MG balancing reservoir with HDPE membrane liner installed, 200 MG blending facility, ground storage tanks, metering, blending, and chemical feed systems.

TRINITY RIVER MAIN STEM PUMP STATION & PIPELINE (CMAR)

North Texas Municipal Water District / $103,509,665
Project Manager. CMAR project that included a 100 MGD intake, pump station with horizontal split case pumps, 87,000 LF of 72" raw water pipeline, upgrades to existing pumping facilities with vertical turbine pumps, micro-tunnel to the Trinity River with T-screen intake, access road, bank stabilization, weir box structure, electrical, SCADA, and communications infrastructure.

LAKE RALPH HALL PIPELINE, BALANCING RESERVOIR, & LAKE RALPH HALL DELIVERY POINT (CMAR)

Upper Trinity Regional Water District / $100,000,000
Preconstruction Manager. Installation of 32 miles of 60" pressurized and 72" gravity raw water steel pipelines that includes a machined mined tunnel, deep excavation, and dewatering throughout the alignment. The lines will connect to a new lined earthen reservoir and then connect to the Irving Lake Chapman Pipeline.

36-INCH WEST SHERMAN WATER MAIN (CMAR)

City of Sherman, TX / $68,000,000
CMAR Advisor. This CMAR project includes approximately 15 miles of 36-inch waterline. Construction includes the installation of water main pipe by open cut and trenchless methods, butterfly valves, drain line manholes with valves, casing, combination air release/vacuum relief valves, service manways, tunnels, a cathodic protection system, SWPPP, traffic control plan, tree and plant protection, site and pavement restorations.

GROUNDWATER REDUCTION PLAN PROGRAM, SEGMENT C2

San Jacinto River Authority / $9,004,133
Project Engineer. Installation of 16,331 LF of 12" to 24" PVC pressure waterline, 15,358 LF of 30" to 42" C303 bar-wrapped concrete waterline, 2,708 LF of trenchless pipe by jack and bore, 830 LF of 12" fusible PVC by directional drill, 34,395 LF of 3" SDR11 HDPE fiber optic conduit and pull boxes, associated combination air valves, blow-off valves, hydrants, butterfly valves, and gate valves.

INDICATES PROJECT MEETING MINIMUM CRITERIA



PAUL KERSTIENS

Safety Officer

Garney Experience: 3 years

Industry Experience: 29 years

Education
University of Alaska - Fairbanks, BA in English & Education

Certifications & Training
EM 385-1-1 40-Hour

First Aid, CPR, AED, & BBP Trainer

Hazard Communication/MSDS

NCCER Master Trainer

OSHA 40-Hour HAZWOPER

OSHA 500 Trainer Course

Qualifications and Value to the City
In his 29 years of experience, Paul has delivered 4+ collaborative delivery water / wastewater projects. He has experience leading safety programs for pipeline projects, which include installations in urban and rural settings, and crossing multiple roadways--while achieving annual safety ratings better than the industry standards.

PROJECT EXPERIENCE

KAW LAKE WATER SUPPLY PROGRAM (CMAR)

City of Enid, OK / $243,358,908

Safety Manager. The Kaw Lake Water Supply (KLWS) system will provide water to the City by connecting the Kaw Lake water source to the City's distribution network. The City's water supply will be provided by combining the groundwater and surface water conveyed from Kaw Lake and pumped using a raw water intake and intermediate booster pump station through 20 miles of new 30" to 42" raw waterlines to a greenfield 10.5 MGD water treatment plant as well as a concrete storage tank.

WOLCOTT WASTEWATER TREATMENT PLANT EXPANSION (CMAR)

Unified Government of Wyandotte County / $37,170,507

Safety Manager. Construction of a new 2 MGD WWTP that replaced an aging 0.3 MGD plant consisting of chemical feed facilities, aeration basins with diffusers, aeration blowers, submersible mixers, UV disinfection, headworks, influent pump station, odor control system, and concrete outlet structure. Additional work included the construction of a 5 MG earthen storage reservoir, electrical, manholes, paving, the installation of 2,517 LF of 2" to 30" process pipe, 360 LF of 18" and 30" DIP sanitary gravity and force main, and 800 LF of 2" HDPE gas pipe.

ARMOURDALE INDUSTRIAL DISTRICT PUMP STATION IMPROVEMENTS (CMAR)

Unified Government of Wyandotte County / $10,374,000

Safety Manager. Replacement of existing pumps consisting of four new 335 hp submersible influent pumps for a station capacity of 25 MGD, screens, manholes, demolition of existing process equipment and concrete, new VFDs and MCCs, meter vaults, and sanitary force mains consisting of 300 LF of 24" DIP and 150 LF of 12" steel. The work requires bypass pumping, dewatering 40 VF deep piling, paving, and public relations.

60" FORCE MAIN REPAIRS AT BLUE RIVER WWTP (DESIGN-BUILD)

City of Kansas City, MO / $4,690,250

Safety Manager. Removal of existing platform decking to allow overhead access to the pipelines, asbestos coating abatement, sandblasting, the removal/replacement of bolts and nuts, and coating of the pipelines, nuts, and studs.

EAST BOTTOMS PUMP STATION REHABILITATION PHASE 3

City of Kansas City, MO / $13,695,224

Safety Manager. Demolition of the existing discharge piping and vault and replacement with a new vault that will sit on auger cast piles. New construction included walls and a deck, electrical, 840 LF of baffle walls in the existing reservoir, new slide gates in the reservoir vault to control the flows, and leak repairs.

LIME SLAKERS AND ASSOCIATED EQUIPMENT REPLACEMENT AND LIME UNLOADING SYSTEM

City of Kansas City, MO / $11,109,341

Safety Manager. Demolition and replacement of lime unloading systems and slakers, electrical, and process piping including 250 LF of 4" and 1" stainless steel and 100 LF of each 2" and 4" DIP waterlines. Additional electrical improvements including new disconnect switches, transformers, switchgear, and lighting for a new electrical room, as well as slaker room ventilation improvements, ducting of lime slaker dust arrestor system, and conditioned space for the new electrical room.

INDICATES PROJECT MEETING MINIMUM CRITERIA



DEVON EBERTH

Preconstruction Superintendent

Garney Experience: 8 years

Industry Experience: 9 years

Education
University of Central Missouri, BS in Construction Management

Certifications & Training
Associate Constructor Certification

First Aid & CPR

OSHA 30-Hour

OSHA Competent Person - Confined Space and Trenching & Excavation

Qualifications and Value to the City
Devon offers the City a seasoned water / wastewater construction resume including 7 pipeline projects ranging in diameter from 2" - 66". He will leverage his 9 years of experience working on 7 pipeline projects, which included collaborative delivery, to ensure your project is delivered safely, on schedule, and on budget.

PROJECT EXPERIENCE

KAW LAKE WATER SUPPLY PROGRAM (CMAR)

City of Enid, OK / $243,358,908

Superintendent. The Kaw Lake Water Supply (KLWS) system will provide water to the City by connecting the Kaw Lake water source to the City's distribution network. The City's water supply will be provided by combining the groundwater and surface water conveyed from Kaw Lake and pumped using a raw water intake and intermediate booster pump station through 20 miles of new 30" to 42" raw waterlines to a greenfield 10.5 MGD water treatment plant as well as a concrete storage tank.

UPHAM BROOK TRUNK SEWER

Henrico County, VA / $25,810,278

Field Engineer. Installation of 13,760 LF of 48" to 66" HOBAS CCFRPM gravity sewer pipe, 67 manholes up to 108", two concrete diversion structures with epoxy coatings 2,450 LF of 8" sewer repair using CIPP, 360 LF of 6" DIP waterline, and the rehabilitation of existing 48" manholes using a cementitious liner. Required five 72" micro tunnel crossings totaling 1,233 LF, a 70 MGD bypass, rock blasting, deep open-cut sewer installation up to 45 VF deep, and 75 LF of river crossings and stream bank stabilization.

SOUTH POTOMAC SUPPLY IMPROVEMENT PROJECT (CONTRACT NO. BR4797A08)

Washington Suburban Sanitary Commission / $14,912,632

Field Engineer. Installation of 10,800 LF of 42" to 24" DIP water supply line, replacement of 5,300 LF of 42" PCCP with DIP, three 60" auger bores totaling 614 LF, demolition and replacement of existing flow control vault, and new SCADA control system.

CLINTON ZONE 30"-42" WATER TRANSMISSION MAIN ALONG BRANCH AVENUE - PHASE III

Washington Suburban Sanitary Commission / $8,503,042

Field Engineer. Installation of 12,413 LF of 42", 2,320 LF of 30", and 60 LF of 20" CL-54 DIP with PRITEC coating, three trenchless crossings using a microtunnel TBM that included 160 LF of 60" RCP casing and 310 LF of 48" steel casing, six 48" blow-off assemblies, twelve concrete vaults, gate valves, and entry ports.

EASTERN MIDDLESEX COUNTY REGIONAL WATER SYSTEM PHASE 3A

Middlesex Water Authority / $5,809,550

Assistant Superintendent. Installation of PVC waterlines in residential and busy highway areas that consisted of 56,100 LF of 2" to 12" lines requiring nineteen auger bores, two HDDs, water service connections, air release valves, fire hydrants, and water meters.

LAKE GASTON 60-INCH RAW WATER PIPELINE MEHERRIN RIVER CROSSING

City of Virginia Beach, VA / $3,436,560

Assistant Superintendent. Demolition of an existing 60" aerial raw water steel pipeline, replacement with 200 LF of 60" DIP over a river, installation of 120 LF of the new pipeline using open-cut, support caisson piles, and steel thrust collars around the connection to the existing steel pipe.

INDICATES PROJECT MEETING MINIMUM CRITERIA



KYLE PESCI

Project Engineer

Garney Experience: 2 years

Industry Experience: 2 years

Education
Oakland University, AS in Communication

Certifications & Training
iCup / Drug Testing

First Aid & CPR

Hazard Communication/MSDS

OSHA 30-Hour

Qualifications and Value to the City
Kyle joined Garney in 2021 as a Project Engineer in Oklahoma. He has experience with pay application processes for CMARs on Davis Bacon projects. His responsibilities include submittal review, plan and specification review, project permits and compliance enforcement, project administration, subcontractor coordination, cost management, submittal coordination, submittal of requests.

PROJECT EXPERIENCE

KAW LAKE WATER SUPPLY PROGRAM (CMAR)

City of Enid, OK / $243,358,908

Project Engineer. The Kaw Lake Water Supply (KLWS) system will provide water to the City by connecting the Kaw Lake water source to the City's distribution network. The City's water supply will be provided by combining the groundwater and surface water conveyed from Kaw Lake and pumped using a raw water intake and intermediate booster pump station through 20 miles of new 30" to 42" raw waterlines to a greenfield 10.5 MGD water treatment plant as well as a concrete storage tank.

INDICATES PROJECT MEETING MINIMUM CRITERIA

COLLABORATION HISTORY

The team members who comprise our team have collaborated in a number of capacities on water infrastructure projects. Our shared experiences working together will provide value to the process, ultimately maximizing integration and efficiency in the CMAR process. The matrix below outlines our collaboration history on relevant projects as featured within this proposal.

EXPERIENCE AS A TEAM		THE GARNEY TEAM							
PROJECT	VALUE	BILL WILLIAMS, PRINCIPAL	JOEY PERELL, CMAR ADVISOR	CHAD SHARBONO, CMAR MANAGER	SAM MARSTON, PRECONSTRUCTION ADVISOR	WADE PIERPOINT, PROJECT MANAGER	KYLE PESCI, PROJECT ENGINEER	DEVON EBERTH, PRECON SUPERINTENDENT	PAUL KERSTIENS, SAFETY OFFICER
Vista Ridge Water Supply Project (Design-Build)	$540,000,000	◍		◍		◍			
Bois d'Arc Lake - Raw Water Pipeline and Leonard WTP to McKinney No. 4 Treated Water Pipeline (CMAR)	$297,074,437		◍		◍	◍			
Lake Texoma Outfall to Wylie WTP Pipeline (CMAR)	$281,365,320				◍				
T-Bar Ranch Well Field Development & Delivery Project (Design-Build)	$157,692,985		◍						
Trinity River Main Stem Pump Station & Pipeline (CMAR)	$103,509,665		◍		◍	◍			
Kaw Lake Water Supply Program (CMAR)	$243,358,908		◍	◍		◍	◍	◍	◍
Sabine River Pump Station Project (CMAR)	$63,850,000			◍					

SPECIALIZED AND PAST EXPERIENCE

Garney's diversified pipeline expertise reduces project risk, our **national buying power** provides maximum cost savings, and our **depth of collaborative delivery experience** allows us to drive critical CMAR schedules. As the nation's largest contractor in our line of work, Garney has built a hard-earned reputation as the top water/wastewater contractor through unparalleled experience. **This results in the safety, quality, and best-value solutions for the City.**

PIPELINE EXPERIENCE

Since 1961, Garney has specialized solely in self-performing construction of water and wastewater pipelines, treatment facilities, pump stations, and storage tanks. Our team's resume working in DOT rights-of-way, major intersections, easements, coordination with property owners, and installations in urban and rural areas is second to none.

SELF-PERFORMANCE CAPABILITIES

Because Garney can self-perform the majority of work on our pipeline projects (70 – 90 percent), we are able to provide the City with better control of safety, schedule, cost, and quality.

We'll employ our national relationships to garner interest in the project soliciting competition. The integrity of the CMAR process is crucial for the success of the delivery. At the end of the day, we're committed to get this project completed on time, and on budget with the surety of our self-perform expertise.

INDUSTRY RECOGNIZED LEADERS

The fact that we are one of the largest heavy civil contractors in the United States allows us to target projects and commit key individuals specializing in the needs of that specific project resulting in successful project outcomes. This is evident by more than a decade of top industry rankings. **Engineering News-Record (ENR) ranks Garney in the Top 10 in all water categories.**

A sampling of Garney's relevant 2022 ENR rankings are as follows:

- #1 - Water Transmission Lines (12 consecutive years)
- #2 - Water Supply
- #6 - Top 30 All-Environmental Firms
- #87 - Top 100 Construction Management-at-Risk Firms

COLLABORATIVE DELIVERY EXPERIENCE

Early collaboration offers the strongest combined expertise when the project needs it most—during conceptual design. Collaborative project delivery methods bring the entire team together early in the process. This helps cut costs, accelerate the schedule, ensure safety, and improve productivity. Through our experience, we have developed a streamlined and efficient CMAR management process to jointly make decisions in the best interest of the City.

Garney has completed numerous comparable projects nationwide including **more than 230 CMAR projects totaling $4.7 billion**, and our experience has allowed us to perfect our project delivery approach and management processes to drive project schedules. **A sampling of our collaborative delivery experience with water pipeline projects is shown in this section as well as in Section H.**



WE ARE THE NATION'S #1 PIPELINE CONTRACTOR

Garney crews bring experience constructing pipelines up to 188" and with a variety of materials including DIP, steel, concrete, HDPE, PVC, and fiberglass in all different soil types across the United States.

Garney has successfully installed 19,000,000 LF of pipeline nationwide with nearly 6,000,000 LF installed via collaborative delivery methods, offering the City unique insights to expedite delivery, reduce public impact during construction, and meet your critical schedule.

CUSTOMER SATISFACTION

Highlighted below are several instances in which Garney has been able to meet and exceed clients' expectations.

Quality Control

Quality is second only to safety in Garney's goals that serve as guiding principles. An example of taking an extra step in terms of quality is on the Sabine River Pipeline and Pump Station project, Garney adhered to a QC plan to ensure the Owner's expectations were met. Though the minimum quality standards were achieved for cast-in-place concrete wall finishes by pointing, patching, and select rubbing, Garney went above and beyond for concrete color consistency between adjacent structures.

After completing concrete finishing of the walls on the outlet and check structures, we were not satisfied with the inconsistencies between the concrete wall finishes, even though it was acceptable to the Owner and the QC plan. Garney received Owner approval to apply "TEXCOAT 300" to the exposed concrete wall surfaces at both structures. This product was applied via paint rollers and the result was a consistent surface finish not achievable with select rubbing and pointing and patching alone.

Risk Mitigation

On the Bois d'Arc Lake project, the CMAR team identified early that the thousands of material deliveries trucked into the pipeline could potentially cause substantial damage to the county roads. The CMAR worked with the District and Counties to develop a plan for remediation of the roads, post construction. Garney hired a third-party company to conduct a road survey that would establish a preconstruction baseline condition of the roads.

Using this data, the CMAR developed a matrix that the County and District agreed upon for compensation of the damaged roads based on the degradation of the road as compared to the post construction data. Establishing this understanding gave the County assurance that they would be fairly compensated for their damaged assets while allowing the District to account for a "not-to-exceed" budget for the construction damage. This win/win mentality is a core philosophy for Garney.

Startup and Commissioning Success

Garney begins with the end in mind. In other words, Garney begins planning for start-up and commissioning at the onset of the project. The Vista Ridge project included a very successful start-up plan and execution.

A significant effort was put into completing construction during the fall of 2019 so that the system could begin testing on January 17, 2020, which was the first date the contract allowed the prescribed performance test. At the peak of construction, there were more than 250 employee-owners working on the Vista Ridge project.

A key milestone in the project was the performance test. This test was designed to demonstrate that the project could deliver both the quantity and quality of water without impacts or delays. The test included a 28-day duration at varying flow rates and a simulated electrical outage—all while meeting water quality standards. The performance test was started on January 17, 2020—operated by Garney employee-owners 24 hours a day—and was successfully completed on February 17, 2020, after running approximately 1.3 billion gallons of water through the 142 mile system.

Guidance in the CMAR Process

Garney has **successfully led 98 owners through their first-time collaborative delivery project** across the nation. Our comprehensive knowledge of industry best practices, attention to detail, and unwavering commitment to client satisfaction makes Garney the go-to partner for a efficient CMAR experience.

CUSTOMER SATISFACTION

"Garney displayed strength in their scheduling and project management. They were able to time the purchase and manufacture of steel pipe for the project at a time when several pipe manufactures had space in their production schedules and steel prices were low saving an estimated six million dollars . Garney's flexibility allowed them to adapt and adjust their schedule and crews when contending with multiple flooding events and poor ground conditions working in and along the river bank and low marshy areas. "

—Travis Markham, P.E.,
Water Conveyance Manager, North Texas Municipal Water District
Lake Texoma Outfall to Wylie WTP Pipeline **(CMAR)**

TIMELY COMPLETION

Garney has a proven CMAR reputation regarding meeting project milestones and keeping pipeline projects on schedule. Through our extensive experience in Northwest Arkansas and across the country building large diameter pipeline projects, Garney has the technical knowledge to develop critical milestones and mitigate scheduling challenges should they arise. One key component in ensuring projects are completed timely is the development of a Critical Path Method (CPM) schedule.

The CPM schedule will be developed and maintained to be contractually compliant and ensure schedule deliverables, as required in the CMAR Agreement. The schedule will be organized in a manner that easily communicates the status of the project, clearly identifies critical project milestones, and clearly defines a critical path through detailed and accurate logic. Garney's approach to project scheduling, goes beyond contract requirements to better assist the Garney CMAR team, the City's staff, and MCE engineering teams in planning and completing schedule activities and project scope with a definite direction.

Garney will work with MCE to refine design milestones incorporating them into the schedule allowing further planning of early procurements and establishing design reviews. Garney will work with MCE to incorporate their design schedules into the CPM schedule to allow planning ahead for early work packages and design reviews. Based on the current design information available, Garney will prepare the conceptual schedule logic for the procurement and construction phases of the project and incorporate this information into the preliminary CPM schedule. Combining the schedule this way will clearly show how the project will progress from the design stages into the procurement stage, and ultimately into the construction stage.

After the preliminary schedule is developed, the CPM schedule will be updated monthly and shared with the City and MCE at regular progress meetings. Upon completing design reviews at key design milestones of 30% design, 60% design, and 90% design, Garney will update the CPM schedule, which will be provided alongside other key design milestone deliverables.

As bid package contractors are selected and contracts are executed, the first order of business will be to get their complete CPM schedule incorporated and tied into the CMAR Master CPM schedule. The schedule will continue to be updated monthly and submitted as required by the contract.

MEETING BUDGETS ON SIMILAR PROJECTS EXECUTED UNDER A GMP CONTRACTING FORMAT

Garney has a strong history of meeting budgets on similar pipeline projects. Garney's extensive vendor and subcontractor relationships have proven to be critical components to providing cost certainty. In addition to having strong relationships in our industry, Garney has a proven Guaranteed Maximum Price (GMP) development process that has allowed us to provide GMP proposals within 2-3 percent of the total project costs time and time again. Below is an overview of this GMP development process that we used on a similar project (NTMWD Trinity River Main Stem Pump Station and Pipeline) which would be followed to ensure success on the City of Fayetteville, West Transmission Main Project.

The development of the GMP for the NTMWD Trinity River Main Stem Pump Station & Pipeline Project revolved around an open book environment in which the project team, including Garney, NTMWD, and Freese and Nichols, worked closely together to make sure that all parties were informed of the estimated project costs throughout all phases of design. This allowed the project team to make decisions that could potentially impact project costs as efficiently as possible, which contributed to being able to maintain an aggressive completion schedule.

Shortly after receiving the conceptual designs for the Main Stem Pump Station and Pipeline and a detailed breakdown of the engineer's estimate, Garney worked in close coordination with Freese and Nichols to verify the engineer's estimate and establish a baseline CMAR conceptual estimate for the pump station. This involved a very detailed review of the engineer's estimate and required breaking the estimate down into more detailed unit pricing. As the CMAR conceptual estimate was completed, the project team worked together to decide the appropriate design contingency that should be included in the estimate at that time.

As the design progressed from conceptual to 30% design, the project team met regularly for project scoping, design reviews, and project teaming. This included regular meetings with the engineering discipline leads to review upcoming changes and discuss potential costs associated with these changes, all of which was tracked on the project issues log (PIL). During project scoping meetings, the project team developed a bid package schedule that showed the anticipated work packages for the project and identified the early work/procurement packages.

This enabled the engineers to concentrate on the work included in the early work packages, allowing these packages to be advertised as early as possible.

Once Garney received the 30% design documents, we promptly provided an estimate based on the 30% design which was reviewed again by the other project team members. The cost estimate included a breakdown and summary of changes from the conceptual estimate to the 30% design estimate.

As the design progressed from 30% to 60% design, the project team continued to meet regularly for additional design reviews. During this time, Garney maintained the PIL. As a result of the timely discussions regarding early work/procurement packages, the design of the horizontal split cased pumps had progressed enough to allow the procurement of these long lead items to begin. Garney solicited bids for the pumps and the project team evaluated and selected pumps.

Once Garney received the 60% design documents, we provided an updated estimate based on the 60% design which was again reviewed by the other project team members. The cost estimate included a breakdown and summary of changes from the 30% design estimate to the 60% design estimate. As the 60% estimate was completed, the project team worked together to decide the appropriate design contingency that should be included in the estimate.

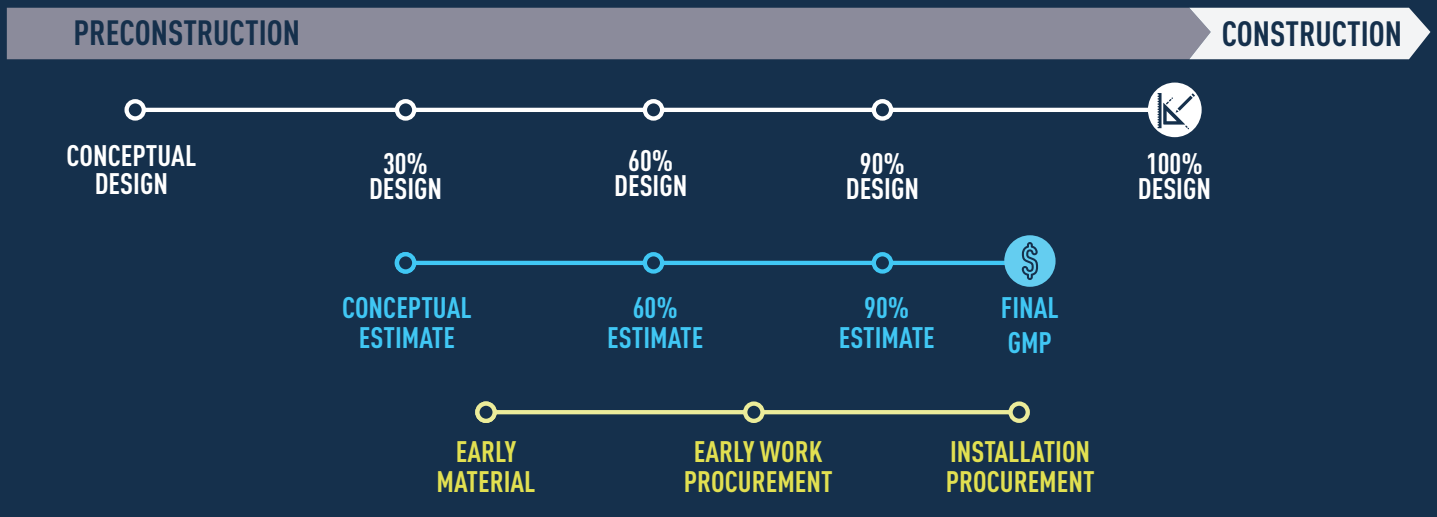
As the design progressed from 60% to 90% design, the project team continued to meet regularly for additional design reviews, during which time Garney continued to maintain the PIL. At this time, the design had progressed enough to allow the procurement of several large pieces of electrical equipment and an early work package for site clearing and road construction to begin. Garney solicited bids for these items, which were evaluated by the project team.

Once Garney received the 90% design documents, Garney provided an updated estimate based on the 90% design which was reviewed by the other project team members. The cost estimate again included a breakdown and summary of changes from the 60% design estimate to the 90% design estimate. Contingencies were discussed again as a team.

As the design progressed from 90% to 100% design, the project team continued to meet regularly for final design reviews, and construction meetings for the early work packages. At this time, the design of the pump station structural concrete had progressed enough to allow Garney to solicit bids for the pump station structural excavation and concrete package. Once these bids were received, the project team evaluated and selected the contractor for the work.

Prior to receiving the 100% design documents for the pump station, Garney provided a proposal to establish the GMP for the project. Upon receiving 100% design documents, Garney solicited bids for the remaining scopes of work, which were evaluated by the project team and the remaining construction contracts were issued by Garney.

GMP DEVELOPMENT TIMELINE





VISTA RIDGE WATER SUPPLY PROJECT (DESIGN-BUILD)

San Antonio, Texas

This project, designed and constructed for Central Texas Regional Water Supply Corporation, included the installation of potable water transmission pipelines consisting of **105 miles (556,000 LF) of 60" spiral-welded and mortar-lined C200 steel and 37 miles (193,760 LF) of 54" bar-wrapped C303 concrete cylinder pipe**, three pump stations with rated capacities of 44 MGD each, one cooling tower, a new wellfield including nine well sites and eighteen production wells from 1,500' to 2,500' deep, seven miles of well collection lines, three 4 MG D110 Type III aboveground concrete tanks, and one 10 MG D110 Type III aboveground concrete terminus site tank, all to deliver 50,000-acre-feet of water per year. The alignment included 105 different tunnels under roadways and three river crossings using hand-mined and boring machine tunneling methods.

DELIVERY METHOD
DESIGN-BUILD

ENGINEER
PAPE-DAWSON ENGINEERS

COMPLETION DATE
APRIL 2020

FINAL CONTRACT
$540,000,000

REFERENCE CONTACT
CENTRAL TEXAS REGIONAL WATER SUPPLY CORPORATION
Mark Rose
(512) 925-5064
PO Box 15851
San Antonio, TX 78212

RELEVANT EXPERIENCE TO THE WEST TRANSMISSION WATER MAIN

- ☑ 36" DIAMETER OR LARGER
- ☑ STEEL PIPELINE
- ☑ CMAR OR COLLABORATIVE DELIVERY
- ☑ SELF-PERFORMED 50% OF WORK OR MORE
- ☑ RURAL, URBAN, OR HILLY TERRAIN
- ☑ 10 COMPLETED WITHIN 10 YEARS



T-BAR RANCH WELL FIELD DEVELOPMENT & DELIVERY PROJECT (DESIGN-BUILD)

Midland, Texas

After suffering from severe drought conditions over the past several years, Midland faced a water shortage in 2013. Two of the city's three water reservoirs were nearly drained, and the third only 15% full. This project included 60 miles of 48" transmission main and 21 miles of well field collector piping, all installed in 10 months. The pipe sections consisted of **205,500 LF of 48" steel waterline, 105,250 LF of 48" C303 waterline, 10,000 LF of 36" C303** and 100,000 LF of 6" to 24" PVC pipe. The project also included the installation of new electrical power feeds to all facilities, 44 production wells, a 20 MGD high service pumping station including four 900 hp vertical turbine pumps, a 2 MG well field above ground D110 Type III storage tank, chlorination facility, telecommunication towers, and a 5 MG intermediate above ground D110 Type III storage tank. The project required 200,000 LF of rock trenching excavation, 1,750 LF of hand-mined tunneling, and over 115 air release valve structures. Teamed with Black & Veatch in a consortium agreement, and Parkhill, Smith and Cooper as a partner, Garney designed and constructed this project.

DELIVERY METHOD
DESIGN-BUILD

ENGINEER
BLACK & VEATCH

COMPLETION DATE
MAY 2013

FINAL CONTRACT
$157,692,985

REFERENCE CONTACT
MIDLAND CO. FRESH WATER SUPPLY DISTRICT NO. 1
Jay Edwards
(432) 681-6199
1700 W Wall St Suite 100
Midland, TX 79701-6578

RELEVANT EXPERIENCE TO THE WEST TRANSMISSION WATER MAIN

- ☑ 36" DIAMETER OR LARGER
- ☑ STEEL PIPELINE
- ☑ CMAR OR COLLABORATIVE DELIVERY
- ☑ SELF-PERFORMED 50% OF WORK OR MORE
- ☑ RURAL, URBAN, OR HILLY TERRAIN
- ☑ 10 COMPLETED WITHIN 10 YEARS



SOUTHERN DELIVERY SYSTEM RAW WATER PIPELINE SOUTH 4A EAST-WEST

Pueblo, Colorado

Work for this $26 million contract was broken up into East and West portions, separated by Interstate 25, and began at the Pueblo/El Paso County line. The West portion consisted of **26,980 LF while the East side included 12,669 LF of 66" spiral weld steel (mortar-lined and polyurethane coated) waterline.** Other project components included asphalt pavement replacement, fiber optic conduit installation, passive anode cathodic protection, traffic control, erosion and sediment control, and re-vegetation. All segments of the pipeline now carry raw water from the Pueblo Dam to the City of Colorado Springs.

DELIVERY METHOD
DESIGN-BID-BUILD

ENGINEER
CH2M (NOW JACOBS)

COMPLETION DATE
DECEMBER 2014

FINAL CONTRACT
$26,267,972

REFERENCE CONTACT
COLORADO SPRINGS UTILITIES
Brian Whitehead
(719) 668-8261
121 South Tejon St Suite 200
Colorado Springs, CO 80903-0920

RELEVANT EXPERIENCE TO THE WEST TRANSMISSION WATER MAIN

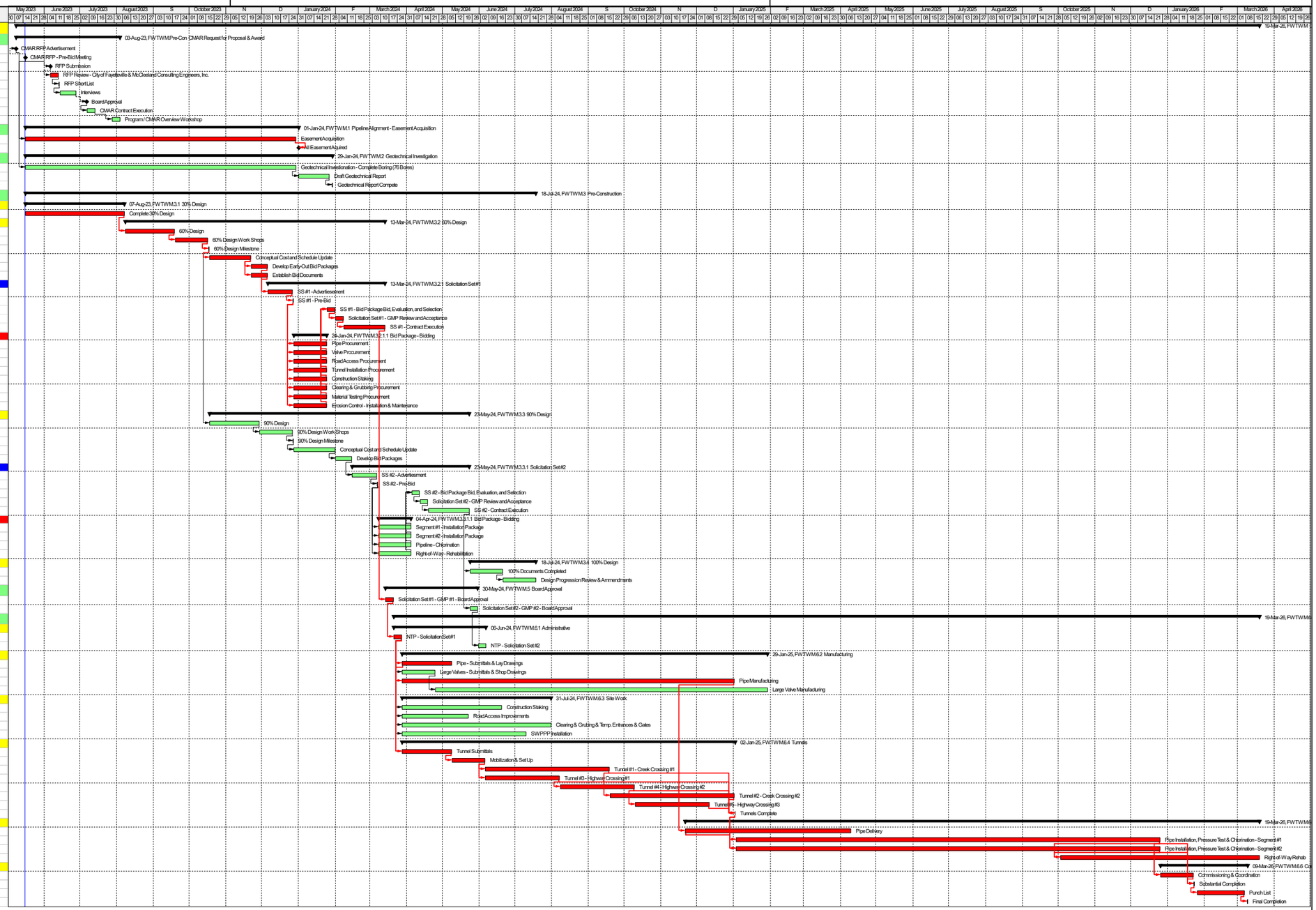
- ☑ 36" DIAMETER OR LARGER
- ☑ STEEL PIPELINE
- ☐ CMAR OR COLLABORATIVE DELIVERY
- ☑ SELF-PERFORMED 50% OF WORK OR MORE
- ☑ RURAL, URBAN, OR HILLY TERRAIN
- ☑ 10 COMPLETED WITHIN 10 YEARS

City of Fayetteville West Transmission Water Main - CMAR

CITY OF FAYETTEVILLE ARKANSAS

Garney CONSTRUCTION ADVANCING WATER

Activity ID	Activity Name	Original Duration	Start	Finish
FWTWM	City of Fayetteville West Transmission Water Mair	743	08-May-23A	19-Mar-26
FWTWM.Pre-Con	CMAR Request for Proposal & Award	58	08-May-23A	03-Aug-23
A1000	CMAR RFP Advertisement	0	08-May-23A	
A1010	CMAR RFP - Pre-Bid Meeting	0	16-May-23A	
A1020	RFP Submission	0	05-Jun-23A	
A1030	RFP Review - City of Fayetteville & McCleeland Consulting Engineers, Inc.	5	06-Jun-23*	12-Jun-23
A1040	RFP Short List	1	13-Jun-23	13-Jun-23
A1050	Interviews	10	14-Jun-23	27-Jun-23
A1060	Board Approval	0		06-Jul-23*
A1070	CMAR Contract Execution	5	07-Jul-23	13-Jul-23
A1220	Program / CMAR Overview Workshop	5	28-Jul-23	03-Aug-23
FWTWM.1	Pipeline Alignment - Easement Acquisition	164	16-May-23A	01-Jan-24
A1080	Easement Acquisition	164	16-May-23A	29-Dec-23
A1090	All Easement Aquired	0		01-Jan-24*
FWTWM.2	Geotechnical Investigation	185	16-May-23	29-Jan-24
A1100	Geotechnical Investioation - Complete Boring (76 Bores)	164	16-May-23	29-Dec-23
A1110	Draft Geotechnical Report	20	01-Jan-24	26-Jan-24
A1120	Geotechnical Report Compete	1	29-Jan-24	29-Jan-24
FWTWM.3	Pre-Construction	308	16-May-23	18-Jul-24
FWTWM.3.1	30% Design	60	16-May-23	07-Aug-23
A1130	Complete 30% Design	60	16-May-23	07-Aug-23
FWTWM.3.2	60% Design	157	08-Aug-23	13-Mar-24
A1140	60% Design	30	08-Aug-23	18-Sep-23
A1150	60% Design Work Shops	20	19-Sep-23	16-Oct-23
A1160	60% Design Milestone	1	17-Oct-23	17-Oct-23
A1170	Conceptual Cost and Schedule Update	25	18-Oct-23	21-Nov-23
A1180	Develop Early-Out Bid Packages	10	22-Nov-23	05-Dec-23
A1190	Establish Bid Documents	10	22-Nov-23	05-Dec-23
FWTWM.3.2.1	Solicitation Set #1	71	06-Dec-23	13-Mar-24
A1200	SS #1 - Advertisement	15	06-Dec-23	26-Dec-23
A1210	SS #1 - Pre-Bid	1	27-Dec-23	27-Dec-23
A1300	SS #1 - Bid Package Bid, Evaluation, and Selection	5	25-Jan-24	31-Jan-24
A1370	Solicitation Set #1 - GMP Review and Acceptance	5	01-Feb-24	07-Feb-24
A1310	SS #1 - Contract Execution	25	08-Feb-24	13-Mar-24
FWTWM.3.2.1.1	Bid Package - Bidding	20	26-Dec-23	24-Jan-24
A1230	Pipe Procurement	20	26-Dec-23	24-Jan-24
A1240	Valve Procurement	20	26-Dec-23	24-Jan-24
A1250	RoadAccess Procurement	20	26-Dec-23	24-Jan-24
A1260	Tunnel Installation Procurement	20	26-Dec-23	24-Jan-24
A1270	Construction Staking	20	26-Dec-23	24-Jan-24
A1280	Clearing & Grubbing Procurement	20	26-Dec-23	24-Jan-24
A1290	Material Testing Procurement	20	26-Dec-23	24-Jan-24
A1610	Erosion Control - Installation & Maintenance	20	26-Dec-23	24-Jan-24
FWTWM.3.3	90% Design	157	18-Oct-23	23-May-24
A1320	90% Design	30	18-Oct-23	28-Nov-23
A1330	90% Design Work Shops	20	29-Nov-23	26-Dec-23
A1340	90% Design Milestone	1	27-Dec-23	27-Dec-23
A1350	Conceptual Cost and Schedule Update	25	28-Dec-23	31-Jan-24
A1360	Develop Bid Packages	10	01-Feb-24	14-Feb-24
FWTWM.3.3.1	Solicitation Set #2	71	15-Feb-24	23-May-24
A1380	SS #2 - Advertisement	15	15-Feb-24	06-Mar-24
A1390	SS #2 - Pre-Bid	1	07-Mar-24	07-Mar-24
A1400	SS #2 - Bid Package Bid, Evaluation, and Selection	5	05-Apr-24	11-Apr-24
A1410	Solicitation Set #2 - GMP Review and Acceptance	5	12-Apr-24	18-Apr-24
A1420	SS #2 - Contract Execution	25	19-Apr-24	23-May-24
FWTWM.3.3.1.1	Bid Package - Bidding	20	08-Mar-24	04-Apr-24
A1430	Segment #1 - Installation Package	20	08-Mar-24	04-Apr-24
A1440	Segment #2 - Installation Package	20	08-Mar-24	04-Apr-24
A1450	Pipeline - Chlorination	20	08-Mar-24	04-Apr-24
A1460	Right-of-Way - Rehabilitation	20	08-Mar-24	04-Apr-24
FWTWM.3.4	100% Design	40	24-May-24	18-Jul-24
A1470	100% Documents Completed	20	24-May-24	20-Jun-24
A1480	Design Progression Review & Ammendments	20	21-Jun-24	18-Jul-24
FWTWM.5	Board Approval	56	14-Mar-24	30-May-24
A1490	Solicitation Set #1 - GMP #1 - Board Approval	5	14-Mar-24	20-Mar-24
A1500	Solicitation Set #2 - GMP #2 - Board Approval	5	24-May-24	30-May-24
FWTWM.6	Construction	521	21-Mar-24	19-Mar-26
FWTWM.6.1	Administrative	56	21-Mar-24	05-Jun-24
A1510	NTP - Solicitation Set #1	5	21-Mar-24	27-Mar-24
A1520	NTP - Solicitation Set #2	5	31-May-24	06-Jun-24
FWTWM.6.2	Manufacturing	220	28-Mar-24	29-Jan-25
A1530	Pipe - Submittals & Lay Drawings	30	28-Mar-24	08-May-24
A1540	Large Valves - Submittals & Shop Drawings	20	28-Mar-24	24-Apr-24
A1550	Pipe Manufacturing	200	28-Mar-24	01-Jan-25
A1560	Large Valve Manufacturing	200	25-Apr-24	29-Jan-25
FWTWM.6.3	Site Work	90	28-Mar-24	31-Jul-24
A1570	Construction Staking	60	28-Mar-24	19-Jun-24
A1580	RoadAccess Improvements	40	28-Mar-24	22-May-24
A1590	Clearing & Grubing & Temp. Entrances & Gates	90	28-Mar-24	31-Jul-24
A1600	SWPPP Installation	75	28-Mar-24	10-Jul-24
FWTWM.6.4	Tunnels	201	28-Mar-24	02-Jan-25
A1620	Tunnel Submittals	30	28-Mar-24	08-May-24
A1630	Mobilization & Set Up	20	09-May-24	05-Jun-24
A1640	Tunnel #1 - Creek Crossing #1	75	06-Jun-24	18-Sep-24
A1660	Tunnel #3 - Highway Crossing #1	45	06-Jun-24	07-Aug-24
A1670	Tunnel #4 - Highway Crossing #2	45	08-Aug-24	09-Oct-24
A1650	Tunnel #2 - Creek Crossing #2	75	19-Sep-24	01-Jan-25
A1680	Tunnel #5 - Highway Crossing #3	45	10-Oct-24	11-Dec-24
A1770	Tunnels Complete	1	02-Jan-25	02-Jan-25
FWTWM.6.5	Pipe Installation	346	21-Nov-24	19-Mar-26
A1690	Pipe Delivery	100	21-Nov-24	09-Apr-25
A1700	Pipe Installation, Pressure Test & Chlorination - Segment #1	255	03-Jan-25	25-Dec-25
A1710	Pipe Installation, Pressure Test & Chlorination - Segment #2	255	03-Jan-25	25-Dec-25
A1720	Right-of-Way Rehab	120	03-Oct-25	19-Mar-26
FWTWM.6.6	Commissioning	52	26-Dec-25	09-Mar-26
A1780	Commissioning & Coordination	20	26-Dec-25	22-Jan-26
A1740	Substantial Completion	1	23-Jan-26	23-Jan-26
A1750	Punch List	30	26-Jan-26	06-Mar-26
A1760	Final Completion	1	09-Mar-26	09-Mar-26



Actual Work | Remaining Work | Critical Remaining Work | Milestone | Summary

TASK filter: All Activities

© Oracle Corporation

ADDITIONAL BACKGROUND

ADDITIONAL BACKGROUND

Different geology profiles are always challenging for pipeline contractors, NW Arkansas is no exception. In fact, Arkansas' chert and limestone formations are some of the harshest ground conditions in the country. Garney's first pipeline project in Arkansas dates back to 1982, and since then we have laid nearly 60 miles of pipe in Arkansas' various types of terrain. This demonstrated prowess, along with our longstanding relationships with local tunneling and blasting subcontractors, provides the City of Fayetteville the peace of mind that no matter the challenge, **Garney knows what it takes to build large diameter pipelines in NW Arkansas.**

Over the last 18 years, Garney has been privileged to be the CMAR on more than 30 water infrastructure projects in TX, OK, KS, and TN, totaling more than $2 billion in project value. **We are the regional CMAR experts you need for this challenging project.**

We are especially proud of the Beaver Lake Intake Structure which included construction of a new intake facility and a new 60" raw water pipeline for Beaver Water District. ABC (Associated Builders and Contractors) bestowed their "Excellence in Construction" award to Garney for this project in Lowell, AR. The 60" raw water pipeline project topography is similar to this West Transmission Water Main project in Fayetteville. Garney embraced the challenge of installing large diameter (60") pipe in hilly terrain in NW Arkansas, along with significant rock excavation.



The Beaver Lake Intake Structure constructed by Garney won Excellence in Construction by the Associated Builders and Contractors association. This project is similar in nature to the City's West Transmission Water Main.

Bid Package Experience

Through Garney's CMAR experience, we have established a proven method for developing bid packages and the procurement process. **A preliminary list of work bid packages is outlined in the chart shown below.**

Bid Package Development

ID	Bid Package Sequence	Description
CMAR Provided	1.01	Steel Pipe Manufacturing
CMAR Provided	1.02	Large Diameter Valves
CMAR Provided	1.04	Small Diameter Valves
CMAR Provided	1.05	Air Release Valves
RFQ	1	Materials Testing
RFQ	2	Road Survey Analysis
All	2.01	Easement / Tunnel Construction Staking
All	2.02	SWPPP Installation and Inspection
All	2.03	Tunnel Liner Plate / Casing Installation
All	2.04	Pipeline Clearing and Temporary Fences
A	3.01	Segment A - Pipe Installation
B	3.02	Segment B - Pipe Installation
All	3.03	Specialty Tunnel Installation (If Applicable)

PRIOR PROJECTS IN ARKANSAS

We have established strong relationships with Owners across the state, as well as local and national suppliers, subcontractors, and regulatory agencies, providing timely response for modifications that may arise during construction. We are committed to managing the challenges and complexities in the construction of your project. Garney's experience includes 30+ water infrastructure projects in the state of Arkansas, including five with the City. A sample of relevant projects are featured below.

PROJECT AND OWNER	VALUE	COMPLETION DATE	DIAMETER AND FOOTAGE	STEEL PIPE	36" AND ABOVE	ROCK TRENCHING / EXCAVATION	TUNNELING
Water Transmission Contract 1 - 48-Inch PCCP // City of Bentonville, AR	$14,914,765	August 2007	48" // 72,750 LF		X	X	X
Beaver Lake Intake Structure // Beaver Water District	$13,561,643	July 2005	60" // Microtunnels		X	X	X
48" Water Transmission Main // Springdale Water and Sewer Commission	$6,657,246	April 2010	24" to 48" // 25,600 LF		X	X	X
South Source Water Transmission Main // City of Jacksonville, AR	$5,998,391	December 2015	48" // 850 LF	X	X		X
Beaver Lake Contract 5 - Sludge Handling Facility // Beaver Water District	$5,955,447	November 2005	4" to 36" // 6,965 LF	X	X		X
Highway 265 Water & Sewer Main Replacement // City of Fayetteville, AR	$5,062,135	April 2012	24" to 36" // 14,000 LF		X	X	X
Hamestring Lift Station to Wastewater Treatment Plant // City of Fayetteville, AR	$4,582,536	October 2006	24" to 30" // 21,740 LF			X	X
Raw Water Delivery System // Tractebel Power Development	$4,001,683	October 2002	12" to 24" // 19,200 LF			X	X
54th Street Water Line - 36-Inch Transmission Line // City of Fort Smith, AR	$3,633,957	January 2004	36" // 17,200 LF		X		X
60" Raw Water Pipeline // Beaver Water District	$3,250,386	November 2004	60" // 10,400 LF		X	X	X
Water Treatment Facility Improvements // City of Siloam Springs, AR	$3,157,929	September 2021	24" // 12,250 LF				X
Northbelt Section C - 42" Water Main Installation // Central Arkansas Water	$2,466,722	April 2012	42" // 9,500 LF		X		X
Franklin-Sebastian County Water Line Schedule II // Franklin-Sebastian Public Works Authority	$1,950,178	April 2011	8" to 24" // 23,500 LF			X	X
36-Inch Subaqueous Waterline Crossing // Conway Corporation	$1,891,368	April 2021	36" // 300 LF		X		X
WL10A Gravity Sewer Main // Cities of Farmington and Fayetteville, AR	$1,750,122	February 2010	12" to 21" // 11,000 LF			X	X
Fayetteville Wastewater System Improvement Projects - Lift Station // City of Fayetteville, AR	$1,398,357	May 2008	16" to 18" // 4,280 LF			X	X
Wastewater System Improvements // Cities of Farmington and Fayetteville, AR	$1,376,586	October 2008	16" // 10,000 LF			X	X
2004 Water Revenue Bond // Rogers Water Utilities	$1,372,365	May 2005	24" // 7,700 LF				X
Dogwood Street / Turtle Creek Valley Water Main Extension // Rogers Water Utilities	$1,357,695	July 2007	24" // 7,500 LF				X
AMO Classyard 36-inch Well Line Replacement & Well #19 Connection // Evergreen Packaging	$716,000	March 2015	42" and 48" // 825 LF	X			X
Phase II-A Water Transmission Facilities // Carroll-Boone Water District	$ 642,472	December 1982	36" // 158,400 LF	X	X		X
48-Inch Bentonville Repair // City of Bentonville, AR	$392,625	April 2021	48" // 80 LF		X	X	X

INDICATES PROJECT WITH THE CITY OF FAYETTEVILLE

INDICATES PROJECT WITH MCE

ADDITIONAL REQUIREMENTS

a. Experience Constructing Large Diameter Steel Pipelines

Three projects that best demonstrate Garney's relevant experience similar in size, scope and complexity self-performing the installation of large diameter steel pipelines are featured below.



Water Resources Integration Program

Elmendorf, Texas

+ The Water Resources Integration Program (WRIP) consists of approximately 45 miles of water transmission pipeline that conveys water from San Antonio Water System's (SAWS') Twin Oaks Aquifer Storage and Recovery (ASR), Carrizo and Brackish Desalination programs located at the SAWS Twin Oaks Facility property in south Bexar County, to new and existing facilities in western and northwestern Bexar County. **Construction included 146,800 LF of 60" mortar-lined and polyurethane-coated steel pipe**; 22 butterfly valves; 29 84" ARV valves with vaults; a 96" meter/valve vault; multiple 72" and 78" tunnels, including five tunnels under highways and railroads; micro-tunnels; and three stream crossings.

Start Date: January 2015
Completion Date: April 2016
Final Contract: $73,021,964

Owner Reference:
+ **Meagan Brown, PE, PMP**
(now with Freese and Nichols)
San Antonio Water System
T: (817) 735-7300



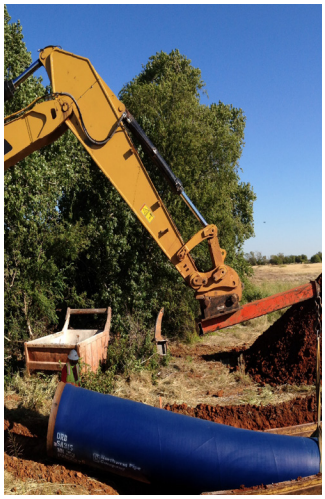
Section 14-1 of the Integrated Pipeline Project

Waxahachie, Texas

+ This project included the installation of **78,641 LF of 108" mortar-lined and welded steel waterline** by a combination of open-cut and tunneling in primarily open country. Soil conditions were mostly limestone rock requiring double cutting by hard rock chain trenchers prior to excavation and pipeline installation. There were four areas that required 40 VF deep excavations totaling 450 LF. The project also included 950 anodes for a galvanic cathodic protection system, 58 manholes, 24 air release valves, 30 blow-off valves, 1,981 LF of 130" to 168" of hand tunneling including 835 LF for a tunneled crossing of I-35 East, a railroad, several large creek crossings in rock, and three existing high-pressure gas lines ranging from 30" to 42" in size.

Start Date: February 2016
Completion Date: December 2017
Final Contract: $47,080,639

Owner Reference:
+ **Brian Coltharp**
Freese and Nichols
T: (817) 735-7300



WC-0506 and WC-0766: 48-Inch Water Main / Transmission Main Extension Projects

Oklahoma City, Oklahoma

+ These projects included the installation of **18,400 LF of 48" steel and mortar-lined steel pipe**, 48" butterfly valves and poured-in place vaults, 4" ARV valve assemblies with poured-in place vaults, and fire hydrants. The scope also included required construction dewatering, working with sandy soil conditions, a 66" auger bore underneath I-40 in Oklahoma City along with seven 66" tunnels underneath major city roads, totaling 900 LF of tunnels, as well as miscellaneous pavement restoration and sodding.

Start Date: May 2013
Completion Date: December 2017
Final Contract: $7,835,242

Owner Reference:
+ **Dustin Seagraves**
City of Oklahoma City, OK
T: (405) 482-4654

b. Experience as the CMAR for Large Diameter Steel Pipelines

Projects that best demonstrate Garney's relevant experience similar in size, scope and complexity as CMAR for the installation of large diameter steel pipelines is shown below and on the following page.



Bois d'Arc Lake - Raw Water Pipeline and Leonard WTP to McKinney No. 4 Treated Water Pipeline (CMAR)

Leonard, Texas

+ **Garney served as the CMAR in addition to self-performing the installation of 212,000 LF of 90" C200 steel raw water pipe, 132,000 LF of 84" C200 steel treated water pipe, and all associated appurtenances**. Construction is also included dewatering, mass excavation, deep excavations, electrical work, manholes, hand tunnels, machined mined tunnels, river crossings, rock excavation via hoe ramming and trenching, and paving. This project had sections cross through residential areas, requiring public relations as well as parallel busy roads.

Start Date: April 2017
Completion Date: March 2023
Final Contract: $297,074,437

Owner Reference:

+ **Cesar Baptista, P.E.**
  North Texas Municipal Water District
  T: (972) 442-5405



Lake Texoma Outfall to Wylie WTP Pipeline (CMAR)

Wylie, Texas

+ With a growing population and severe drought conditions, NTMWD required full access to its surface water stored in reservoirs on a permanent reliable basis. When one of the District's key storage reservoirs was infested with zebra mussels, the District's ability to access the water stored in the reservoir was limited by the government and involved interactions with the US Army Corps of Engineers, USGS, Texas Parks and Wildlife, and TCEQ. A new transmission and storage method were required to access 28% of its total capacity. **Garney served as the CMAR in addition to self-performing the installation of 206,000 LF of 96" and 47,500 LF of 84" steel waterlines**, 6,000 LF of 78" to 102" hand-mined liner plate tunnels with entrance shafts installed 20 VF deep with shoring, 1,000 LF of open-cut creek crossings which required dewatering and road crossings, 240 MG balancing reservoir that required excavation of 1.2 million CY of on-site material and included an HDPE membrane liner, 200 MG blending facility, five D110 Type III blend and surge tanks ranging from 1.1 MG to 2.69 MG, metering, blending, fiber optic lines, and chemical feed systems. The plant was required to run at full capacity during construction.

Start Date: January 2012
Completion Date: July 2014
Final Contract: $281,365,320

Owner Reference:

+ **Cesar Baptista, P.E.**
  North Texas Municipal Water District
  T: (972) 442-5405

b. Experience as the CMAR for Large Diameter Steel Pipelines (Cont.)



Trinity River Main Stem Pump Station & Pipeline (CMAR)

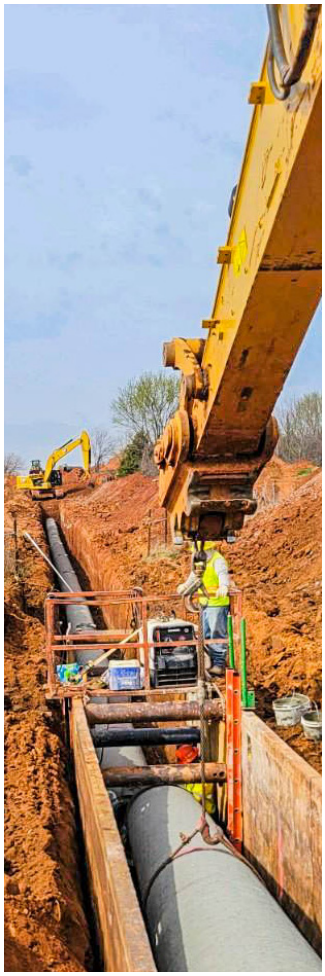
Rosser, Texas

+ This CMAR project included the construction of an intake, pump station facility, and forebay constructed within an excavation, four 1,500 hp horizontal split case centrifugal pumps for a total capacity of 100 MGD near the Main Stem of the Trinity River, installation of two 48" micro-tunnels to the Trinity River with a T-screen intake inside an engineered cofferdam comprised of sheet piling inserted at 30 VF deep and consistent dewatering, construction of earthen flood protection berms over 2,500 CY surrounding the pump station to protect the pump station from river flood events, an access road to the intake site and bank stabilization, provision and installation of two 3,500 hp raw water vertical turbine pumps at the conveyance pump station for a capacity of 200 MGD, upgrades to the weir box structure at a diversion pump station, **Garney served as the CMAR in addition to self-performing the installation of 86,821 LF of 72" C200 spiral weld polyurethane-coated mortar-lined steel raw water pipeline**, numerous in-line valves, air release valves, blow-off valves, tunneled crossings, electrical, SCADA, and communications infrastructure.

Start Date: October 2016
Completion Date: October 2019
Final Contract: $103,509,665

Owner Reference:

+ **Travis Markham**
  North Texas Municipal Water District
  T: (469) 626-4724



Kaw Lake Water Supply Program (CMAR)

Enid, Oklahoma

+ The City of Enid, OK is pursuing a new surface water supply from Kaw Lake to satisfy the anticipated annual average water supply deficit of 9.2 MGD through the year 2048, with a full build-out capacity of 21 MGD. The Kaw Lake Water Supply (KLWS) system will provide water to the City by connecting Kaw Lake to the City's distribution network. The City's water supply will be provided by combining the groundwater and surface water conveyed from Kaw Lake, about 75 miles northeast of Enid, and pumped through new waterlines to a new 10.5 MGD water treatment plant operated by the City. The water will be stored, treated, and distributed to meet the projected demand. This Construction Manager at Risk project began with a preconstruction phase including a preliminary evaluation of the City's program, schedule and budget requirements, procurement of materials and equipment, subcontracting, permitting, risk management plans, and environmental and tribal considerations which is followed by the construction phase including bid package development, construction of the pump stations, pipeline, and treatment plant, followed by testing. The scope includes a 39' x 100' deep wet-well pump station shaft connected to a 72" x 500' tunnel excavated by a micro tunnel boring machine (MTBM). **Garney is serving as the CMAR in addition to self-performing the installation of the tunnel at the bottom of Kaw Lake that contains 72" steel casing houses 42" steel mortar-lined raw water intake pipeline, 1,800 LF of 8" stainless steel air burst pipe, and 7,200 LF of 1" stainless steel pneumatic valve operator pipe.**

Start Date: January 2017
Completion Date: December 2023
Final Contract: $243,358,908

Owner Reference:

+ **Angela Rasmuson**
  City of Enid, OK
  T: (580) 616-7242

c. Preconstruction Services and Approach

The preconstruction phase is a critical component for the overall success of the project. There are six major parts that Garney will focus on during preconstruction: Collaboration, Scheduling, Constructability, Value Engineering (VE), Bid Package Development and Estimating. Our recommended GMP development process is outlined in the graphic below. This approach is based on the provided design documents (30%, 60%, 90% design) and information received on the project thus far. Our team of CMAR experts will adjust this approach based on the needs of the project and the team. Garney suggests weekly team meetings to collaborate and establish the GMP.

Our completely transparent budget process will allow all the stakeholders to see the financial effects of constructability and VE decisions in real-time, allowing timely decisions that are in the best interest of the project. The schedule is also established once we receive the initial documents, and like estimating, Garney will schedule the project without influence from the deliverable date to ensure the project can be completed by the first quarter of 2026. Receiving proposals from subcontractors and suppliers during the estimating phases will also identify potential procurement delays that will allow us to plan for in the schedule. Once the baseline is established, the schedule is continually updated and reviewed to ensure the schedule is still attainable.

Throughout preconstruction, constructability review and VE work sessions allow the team to collaborate. The entire team can see the cause and effect of these ideas in real-time, from both budget and schedule perspectives. We keep our finger on the pulse of the market all the way through the procurement phase. Especially in our current environment of long lead times and price volatility, knowing when to advertise certain packages is critical.

Garney has worked through the preconstruction phase with various owners and has billed our services based on the preferences of the Owner and what has been stipulated in the Contract Documents. We have provided this service based on hourly rates, lump sum with man-hour level of effort, or per milestone deliverable. We would consider 30%, 60% and GMP the major milestones that we would bill on. This will also be influenced by what the contract dictates.

The GMP is the maximum budget allocated to the project, typically established at the 90% design phase. The delivery of the project will maintain within the GMP budget aside from scope changes that would constitute a change to the GMP. Although the GMP can be established earlier in design, the 90% phase provides balance certainty in design and identifiable risk that the CMAR and Owner can quantify. Garney has had great success employing a progressive GMP which amends the contract to initiate the early procurement of long lead items and early work packages. This provides the opportunity to establish allowances specific to scopes of work to manage changes that will likely occur in the advancement of design.

GMP DEVELOPMENT PROCESS

INITIAL ESTIMATE / 30% DESIGN

Kickoff workshop
Permitting
Constructability & VE
Open-book estimate
Identify “early work” bid packages

GOALS:

- Provide cost certainty
- Identify contingencies
- Establish key milestones & expectations

60% DESIGN

Constructability & VE
Open-book estimate
Release “early work” bid packages

GOALS:

- Refine the design
- Improve cost certainty
- Outline technical specs

90% DESIGN

Compare and analyze bids
Compare bids to the initial estimate

GOALS:

- Minimize contingencies
- Finalize the budget
- Develop an approve final GMPs
- Select best value subcontractors
- Begin construction (at 90% or 100% design)

100% DESIGN

d. Records of Management Teams on Similar Projects

The case studies below represent records of management teams working on similar projects resulting in timely completion and high-quality workmanship.

Bois d'Arc Lake - Raw Water Pipeline and Leonard WTP to McKinney No. 4 Treated Water Pipeline (CMAR)

During preconstruction, Garney worked with the Owner and Engineer through the design phase to provide constructability reviews and VE, while soliciting local contractors and suppliers. Throughout preconstruction, Garney also kept in communication with our national subcontractors and suppliers. These local partnerships, our national purchasing footprint, and bidding schedule inform our knowledge of the market conditions. During the procurement phase, Garney solicited 28 bid packages and received over 80 proposals for the varying scopes of supply and construction. Garney maintained a live estimate throughout preconstruction that allowed the project team to make educated decisions on components of the design that provided real value. Throughout preconstruction, Garney submitted preliminary cost opinions at 30, 60, and 90% design milestones. Through VE reviews, Garney was able to reduce the number of tunnels on the project, consolidate pressure classes of pipe, and discern permanent erosion control materials saving the District money and improving the quality of the project. In locations that tunnels were not required by environmental permitting, Garney evaluated the impacts of the open cut installation, reducing tunnels and saving approximately $1,000 per LF in construction costs. **Similar to this past project, Garney will work with the City and MCE on the West Transmission Water Main. Garney will quickly get informed on the current design to determine where we can positively impact quality, risk, budget, and schedule. Collaborating with MCE to effectively deliver the functionality of the design while maintaining constructability and budget is where the CMAR process, and Garney's experience, provide a significant value. Meeting or exceeding all stakeholders requirements takes the collective input of the project team focused on the singular goal of successful delivery.**

Vista Ridge Water Supply Project (Design-Build)

On this project, one of Garney's main preconstruction activities included assistance with design and advisory of easement acquisitions. The finite date of the overall delivery constrained the procurement, construction, and startup of the system. Included in the timeframe of the delivery was 140 miles of easement required for the project which Garney spearheaded. Coordinating with landowners and processing the acquisitions was a consuming task that Bill Williams managed through completion. Due to Garney's heavy involvement during preconstruction, VE was an ongoing effort to ensure the project remained on budget. The design for the project needed to accomplish the functionality of a major transmission line while limiting capital cost and providing a project that could be constructed in an extremely expeditious manner. An example of this coordinated effort was in the details of the project where the team simplified the appurtenances by reducing the outlet sizes and removing manholes structures or using alternative materials where applicable. Vista Ridge was a challenging project, included multiple crossings and tunnels, and carried an aggressive delivery schedule, similar to the City's project. **Garney uses the same careful consideration during preconstruction on all our projects. We challenge the entire team to think with an innovative mindset. The more ideas we can develop as a team, the higher the likelihood that we can achieve significant savings in budget or schedule and improved quality and risk mitigation.**

Lake Texoma Outfall to Wylie WTP Pipeline (CMAR)

On this relevant project, Garney solicited local contractor and supplier interest and availability of local and national firms through market analysis. Garney submitted preliminary GMP pricing at 30, 60, and 90% design milestones. Lake Texoma was constructed during a prolonged drought in North Texas. The dwindling supply of water and increasing demand of the expanding population combined to require the construction of the 60 mile pipeline and facility improvements to be viewed in the same lens as an emergency project. Garney worked in parallel with the District and design engineers from when the project was a line on a piece of paper through the development of design. The route planning, packaging of the scopes of work, scheduling, and estimating throughout the preconstruction phase were critical to the decision making in development and delivery of the project. The procurement of the Texoma program necessitated 70 bid packages for the entirety of the scope of supply and construction. Garney also worked with the Owner and design engineers to evaluate scopes of work for each bid package. **One of the most valuable VE items was the development and timing of the pipe material bid package ultimately saving the District $8 million in steel pipe material. This was accomplished by segmenting the pipeline materials to awarding to multiple manufacturers. The increased competition provided value for the District while also expediting the manufacturing and delivery, in turn providing schedule savings.**

e. Reference Contacts

Below are Garney's records of previous similar projects with owner and engineer verification and contact information that have been completed in the past ten years.



Bois d'Arc Lake - Raw Water Pipeline and Leonard WTP to McKinney No. 4 Treated Water Pipeline (CMAR)

Leonard, Texas

Owner Reference:
+ **Cesar Baptista, P.E.**
  North Texas Municipal Water District
  T: (972) 442-5405
  E: cbaptista@ntmwd.com

Engineer Reference:
+ **Adam Payne, P.E.**
  Freese and Nichols
  T: (210) 833-1350
  E: ap@freese.com

Relevant Experience:
- 212,000 LF of 90" steel water pipeline
- 132,000 LF of 84" steel water pipeline
- Rocky and rural terrain



Lake Texoma Outfall to Wylie WTP Pipeline (CMAR)

Wylie, Texas

Owner Reference:
+ **Cesar Baptista, P.E.**
  North Texas Municipal Water District
  T: (972) 442-5405
  E: cbaptista@ntmwd.com

Engineer Reference:
+ **Scott Maughn, P.E.**
  Freese and Nichols
  T: (214) 217-2260
  E: asm@freese.com

Relevant Experience:
- 206,000 LF of 96" steel water pipeline
- 47,000 LF of 84" steel water pipeline
- Rock excavation; deep excavations



Trinity River Main Stem Pump Station & Pipeline (CMAR)

Rosser, Texas

Owner Reference:
+ **Cesar Baptista, P.E.**
  North Texas Municipal Water District
  T: (972) 442-5405
  E: cbaptista@ntmwd.com

Engineer Reference:
+ **Scott Maughn, P.E.**
  Freese and Nichols
  T: (214) 217-2260
  E: asm@freese.com

Relevant Experience:
- 86,821 LF of 72" mortar-lined steel raw water pipeline
- Managed multiple bid packages to secure long-lead items



Sabine River Pump Station Project (CMAR)

Orange, Texas

Owner Reference:
+ **Travis Williams**
  Sabine River Authority of Texas
  T: (409) 746-2192
  E: twilliams@sratx.org

Engineer Reference:
+ **Alan Hutson, P.E.**
  Freese and Nichols
  T: (817) 735-7315
  E: ach@freese.com

Relevant Experience:
- 39,600 LF of 66" steel water pipeline
- Garney guided Owner through their first-time CMAR

f. Current and Projected Workload

Projects presently under construction by Garney are outlined below. **This list represents a sampling of our work focused on projects in the Central region.** The key personnel dedicated to the City's project will be available from Notice to Proceed through final completion.

Project Name	Owner	Start Date	Completion Date	Final Contract
Sister Grove Regional Water Resource Recovery Facility Phase 1 (CMAR)	North Texas Municipal Water District, TX	1/6/2020	7/28/2023	$356,124,320
Kaw Lake Water Supply Program (CMAR)	City of Enid, OK	1/17/2020	12/31/23	$243,358,908
Lake Ralph Hall Pipeline Balancing Reservoir & Lake Ralph Hall Delivery Point (CMAR)	Upper Trinity Regional Water District, TX	2/14/2022	10/1/2025	$100,000,000
WTP Rehabilitation and Misc. Upgrades Project	City of Odessa, TX	1/10/2022	7/23/2024	$71,553,713
Red River Valley Water Supply Project Transmission Pipeline East Contract 5B	Garrison Diversion Conservancy District (ND)	1/26/2022	9/30/2023	$44,644,077
Alliance Regional Water Authority Phase 1B Treated Water Pipeline, Segment A	Alliance Regional Water Authority (TX)	1/26/2022	7/20/2023	$37,629,104
Armourdale Industrial District Pump Station Improvements (CMAR)	Unified Government of Wyandotte County (KS)	3/21/2022	11/14/2023	$10,374,000
Bottom Ash Basins	Evergy (KS)	12/5/2017	12/31/2023	$9,959,761
Replacement Pumps Motors and Starters for Pump Station No. 4	City of Lubbock, TX	11/22/2022	3/29/2024	$1,504,000

g. Bonding Capacity

Proof of Garney's bonding capacity is provided on the following page.

h. Proof of Licensure and Certificate of Good Standing:

License No. 0032110623 ID #4572

State of Arkansas

Commercial Contractors Licensing Board

GARNEY COMPANIES, INC.
1700 SWIFT STREET
NORTH KANSAS CITY, MO 64116

This is to Certify That GARNEY COMPANIES, INC.

is duly licensed under the provisions of Ark. Code Ann. § 17-25-101 et. seq. as amended and is entitled to practice Contracting in the State of Arkansas within the following classifications/specialties:

HEAVY CONSTRUCTION
HIGHWAY, RAILROAD, AIRPORT CONSTRUCTION
MUNICIPAL & UTILITY CONSTRUCTION

This contractor has an unlimited suggested bid limit.

from June 10, 2022 **until** June 30, 2023 **when this Certificate expires.**

Witness our hands of the Board, dated at North Little Rock, Arkansas:

GREAT SEAL OF THE STATE OF ARKANSAS

CHAIRMAN

SECRETARY

June 10, 2022 - srg

SEAL OF THE SECRETARY OF STATE ARKANSAS

Arkansas Secretary of State
John Thurston
State Capitol Building ♦ Little Rock, Arkansas 72201-1094 ♦ 501-682-3409

Certificate of Good Standing

I, John Thurston, Secretary of State of the State of Arkansas, and as such, keeper of the records of domestic and foreign corporations, do hereby certify that the records of this office show

GARNEY COMPANIES, INC.

formed under the laws of the state of Missouri, and authorized to transact business in the State of Arkansas as a Foreign For Profit Corporation, was granted a Application for Certificate of Authority by this office November 1, 1979.

Our records reflect that said entity, having complied with all statutory requirements in the State of Arkansas, is qualified to transact business in this State.

SEAL OF THE SECRETARY OF STATE ARKANSAS

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 22nd day of May 2023.

John Thurston
Secretary of State

Online Certificate Authorization Code: 8cf222e070a2343
To verify the Authorization Code, visit sos.arkansas.gov

CNA SURETY

May 17, 2023

City of Fayetteville, AR
Attn: Amanda Beilfuss, Sr. Purchasing Agent
113 W. Mountain Street
Fayetteville, AR 72701

Re: Garney Companies, Inc.
RFQ 23-05, CMAR for West Transmission Water Main

Dear Amanda:

In connection with the requirements of your request for qualifications concerning Garney Companies, Inc.'s bond program, we are pleased to respond in that regard.

Bonds have been written on a co-surety basis by The Continental Insurance Company, a member of the CNA Group of Insurance Companies, and Liberty Mutual Insurance Company, a member of the Liberty Mutual Insurance Companies, since 2006. A.M. Best currently rates The Continental Insurance Company "A", Class Size XV, and Liberty Mutual Insurance Company "A", Class Size XV. The Continental Insurance Company and Liberty Mutual Insurance Company are approved for federal projects as provided for in the current online edition of the Department of the Treasury – Circular 570 with underwriting limitations of $1,140,370,000 and $1,772,737,000 respectively. Both The Continental Insurance Company and Liberty Mutual Insurance Company are licensed to write bonds in all 50 states.

The largest project bonded by the sureties on behalf of Garney Companies, Inc., totaled $700,000,000. The sureties have committed a $2,000,000,000 aggregate cost to complete program. At present, approximately $1,000,000,000 of this facility remains available for use for construction work during the next 24 months.

Garney Companies, Inc. enjoys a national reputation as one of the premier contractors performing sewer and water line work, with particular expertise in large diameter installations, and constructing water and wastewater treatment facilities. The company's experience includes a broad range of alternative procurement methodologies. At no time during our history with the account have they been refused a bond nor have there been any bond claims. Garney Companies, Inc. remains an account in good standing.

Should Garney Companies, Inc., be awarded this contract and requests that we provide the necessary Performance and/or Payment, we will be prepared to execute the bonds subject to our acceptable review of the contract terms and conditions, bond forms, appropriate contract funding and any other underwriting considerations at the time of the request.

Our consideration of issuance of bonds is a matter solely between Garney Companies, Inc., and ourselves, and we assume no liability to third parties or to you by the issuance of this letter.

We trust that this information meets with your satisfaction. If there are further questions, please feel free to contact Brian Cooper, Managing Director, of Arthur J. Gallagher Risk Management Services LLC, located at 595 Market Street, Suite 2100, San Francisco, CA 94105 - Telephone (415) 288-1620

The Continental Insurance Company
151 N. Franklin Street
Chicago, IL 60606
(312) 822-5000

By: _____
K. Zerounian, Attorney-in-Fact

Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116
(617) 357-9500

By: _____
K. Zerounian, Attorney-in-Fact

1. Disclosure Information

Proposer shall disclose any possible conflict of interest or disclose any financial interest with the City of Fayetteville, including, but not limited to, City of Fayetteville employees. Proposer response shall disclose if a known relationship exists between any principal or employee of submitting firm or its team members or sub-consultants, and any City of Fayetteville employee, or elected City of Fayetteville Official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

____X_____1) NO KNOWN RELATIONSHIP EXISTS

_____2) RELATIONSHIP EXISTS (Please explain): _____

_____

I certify that; as an officer of this organization, or per the attached letter of authorization, I am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

2. Contact Information

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

Name of Firm: Garney Companies, Inc.

Name of Primary Contact: Bill Williams

Title of Primary Contact: Vice President

Phone#1 (cell preferred): (719) 423-0200 Phone#2: _____

E-Mail Address: bwilliams@garney.com

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

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED
1	William (Bill) D. Williams, Vice President	May 8, 2023
2	William (Bill) D. Williams, Vice President	May 19, 2023

4. As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

1. Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2. Pursuant to Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

7. SUB CONSULTANTS AND TEAM INFORMATION:

Proposer hereby certifies that proposals from the following consultants were used in the preparation of this statement of qualification. Proposer shall attach additional pages if necessary. **This section only applies if CMAR is proposing a sub consultant for estimating, scheduling, accounting/payroll and non-construction trade services.**

Type of Work: N/A

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

Type of Work: N/A

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

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

NAME: Garney Companies, Inc.

COMPANY: Garney Companies, Inc.

PHYSICAL ADDRESS: 1700 Swift St., Suite 200, North Kansas City, MO 64116

MAILING ADDRESS: 1700 Swift St., Suite 200, North Kansas City, MO 64116

TAX ID#: 44-0658613 SAM UEI#: 0BH31

PHONE: (816) 741-4600 FAX:

E-MAIL: info@garney.com

ARKANSAS CONTRACTOR'S LICENSE #: 0032110623

ARKANSAS SECRETARY OF STATE FILING #: 100060806

Signed by :

SIGNATURE: 

PRINTED NAME : William (Bill) D. Williams

TITLE: Vice President

DATE: June 6, 2023


JOHN DEERE
744K-II
Garney
CONSTRUCTION

Appendix E

Garney Certificate of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/20/2023

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

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

PRODUCER
Arthur J. Gallagher Risk Management Services, LLC
595 Market Street
Suite 2100
San Francisco CA 94105

License#: #0D69293

CONTACT NAME:
PHONE (A/C, No, Ext): 415-391-1500 **FAX (A/C, No):** 415-391-1882
E-MAIL ADDRESS: CertRequests@ajg.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Liberty Mutual Fire Insurance Company	23035
INSURER B : Travelers Property Casualty Co of America	25674
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Garney Companies, Inc.
1700 Swift Street, Suite 200
North Kansas City, MO 64116

GARNCOM-02

COVERAGES **CERTIFICATE NUMBER:** 703638256 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			TB2641426942723	10/1/2023	10/1/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 5,000,000 $ 300,000 $ 10,000 $ 5,000,000 $ 10,000,000 $ 10,000,000 $
A	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY [ ]			AS2641426942713	10/1/2023	10/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 5,000,000 $ $ $ $
B	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			EX8T36244823NF	10/1/2023	10/1/2024	EACH OCCURRENCE AGGREGATE $	$ 15,000,000 $ 15,000,000 $
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WA264D426942733	10/1/2023	10/1/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Contractor License #0032110320 and ID # Contractor License #4572

CERTIFICATE HOLDER

State of Arkansas, Contractors Licensing Board
4100 Richards Road
North Little Rock AR 72117

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Appendix F

Document 00700 – General Conditions, Including supplemental conditions

DOCUMENT 00 72 13 – GENERAL CONDITIONS:

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DOCUMENT 00 72 13 – GENERAL CONDITIONS:

This document is based upon Engineers Joint Contract Documents Committee "Standard General Conditions of the Construction Contract," with modifications.

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 CONTRACT DOCUMENTS:

A. The Contract Documents establish the rights and obligations of the parties and shall consist of the documents listed in the CMAR Contract.

B. Reports and drawings of subsurface and physical conditions and approved Submittals by Contractor are not Contract Documents.

C. Only items listed in subparagraph 1.01A are Contract Documents.

D. In the event of a conflict between the terms of Document 00700 General Conditions and Section 00900 RLF Supplemental General Conditions, the RLF Supplemental General Conditions shall govern.

1.02 DEFINITIONS:

A. Wherever used in these General Conditions or elsewhere in the Contract Documents, the following terms have the meanings indicated below, which are applicable to both the singular and plural thereof:

1. "Addenda" - written or graphic changes or interpretations of the Contract Documents issued by Owner prior to the opening of Bids.
2. "Agreement" - the written agreement between Owner and Contractor covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
3. "Application for Payment" - the form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress and final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
4. "Asbestos" - any material that contains more than 1% asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
5. "Bid" - the formal offer of the Bidder submitted on the prescribed Bid Form together with the required Bid security and all information submitted with the Bid that pertains to performance of the Work.
6. "Bidder" - any person, firm, or corporation submitting a Bid for the Work or their duly authorized representatives.
7. "Change Order" - a written document signed by Owner and Engineer authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued on or after execution of the Agreement.
8. "Contract Drawings" - drawings and other data designated as Contract Drawings prepared by Engineer for this Contract which show the character and scope of the Work to be performed and are referred to in the Contract Documents.
9. "Contract Price" - the total monies payable to Contractor under the Contract Documents as stated in the Agreement.

10. "Contract Times" - the number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendations of final payment.
11. "Contractor" - the person, firm or corporation with whom Owner has entered into the Agreement.
12. "Date of Contract", "Effective Date of the Agreement" - the date of the City Council Approval also indicated in the Agreement.
13. "Engineer" or "Engineer-Architect" - Architect, engineer, or other licensed professional who is either employed or has contracted with Owner to serve in a design capacity and whose consultants, members, partners, employees, or agents have prepared and sealed the Drawings and Specifications.
14. "Engineer's Consultant" - an individual or entity having a contract with Engineer to furnish services as Engineer's independent professional associate or consultant with respect to the Project.
15. "Equipment" - a product with operational or nonoperational parts, whether motorized or manually operated, that requires service connections, such as wiring or piping.
16. "Field Order" - a written order issued by Engineer which orders minor changes in the Work in accordance with Paragraph 9.05 but which does not involve a change in the Contract Price or the Contract Times.
17. "General Requirements" - Sections of DIVISION 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.
18. "Hazardous Waste" - the term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
19. "Law" - law of the place of the Project which shall govern the performance hereunder.
20. "Laws and Regulations," "Laws or Regulations" - laws, rules, regulations, ordinances, codes and/or orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
21. "Lien" - charges, security interests, or encumbrances on Project funds, real property, or personal property.
22. "Materials" - products substantially shaped, cut, worked, mixed, finished, refined, or otherwise fabricated, processed, or installed to form a part of the Work.
23. "Notice of Award" - the written notice by Owner to the apparent successful Bidder stating that upon compliance by the apparent successful Bidder with the conditions precedent enumerated therein, within the time specified, Owner will sign and deliver the Agreement.
24. "Notice to Proceed" - the written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform Contractor's obligation under the Contract Documents.
25. "Owner" - the City of Fayetteville, Arkansas, a constitutionally chartered municipal corporation, with which the Contractor has entered into the Agreement and for whom the Work is to be provided.

26. "Partial Utilization" - placing a portion of the Work in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion of all the Work.
27. "PCBs" - Polychlorinated biphenyls.
28. "Petroleum" - petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60^{o} Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.
29. "Program Manager" – NOT USED.
30. "Project" - the total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.
31. "Project Manual" - The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
32. "Radioactive Material" - source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
33. "Resident Project Representative" - the authorized representative of Engineer who is assigned to the construction Site or any part thereof.
34. "Reference Drawings" - drawings not specifically prepared for, nor a part of, this Contract, but which contain information pertinent to the Work.
35. "Samples" - physical examples of Equipment, Materials, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
36. "Shop Drawings" - all drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
37. "Site" - lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
38. "Specifications" - those portions of the Contract Documents consisting of written technical descriptions of the Work, and covering the Equipment, Materials, workmanship, and certain administrative details applicable thereto.
39. "Subcontractor" - an individual, firm, or corporation having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
40. "Submittals" - all Shop Drawings, product data, and Samples which are prepared by Contractor, a Subcontractor, manufacturer, or Supplier, and submitted by Contractor to Engineer as a basis for approval of the use of Equipment and Materials proposed for incorporation in the Work or needed to describe proper installation, operation and maintenance, or technical properties.

41. "Substantial Completion" - the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer as evidenced by its definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be used for the purposes for which it was intended.
42. "Supplementary Conditions" – part of the Contract Documents which amends and/or supplements these General Conditions.
43. "Supplier" - a manufacturer, fabricator, supplier, distributor, material man, or vendor.
44. "Underground Facilities" - all pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water.
45. "Unit Price Work" - Work to be paid on the basis of Unit Prices.
46. "Work" - the entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, the furnishing of Bonds and insurance, furnishing labor, and furnishing and incorporating Materials and Equipment into the construction, all as required by the Contract Documents.
47. "Work Change Directive" - a written directive to Contractor, issued on or after the effective Date of the Agreement and signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in Article 4 or to emergencies under Paragraph 6.13. A Work Change Directive will not change the Contract Price or the Contract Times, but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times as provided in Paragraph 10.01B.
48. "Written Amendment" - a written amendment to the Contract Documents, signed by Owner and Contractor on or after the Effective Date of the Agreement, and normally dealing with the nonengineering or nontechnical rather than strictly Work-related aspects of the Contract Documents.

1.03 TERMINOLOGY:

A. Whenever used in these General Conditions or elsewhere in the Contract Documents, the following terminology shall have the intent and meaning specified below:
   1. The words "as indicated" refer to the Drawings and "as specified" refer to the remaining Contract Documents.
   2. The terms "responsible" or "responsibility" mean that the party to which the term applies shall assume all responsibilities thereto.
   3. The term "approve", when used in response to Submittals, requests, applications, inquiries, reports and claims by Contractor, will be held to limitations of Engineer's responsibilities and duties or specified in these

General Conditions. In no case will "approval" by Engineer be interpreted as a release of Contractor from responsibilities to fulfill requirements of Contract Documents.

4. When applied to Equipment and Materials, the words "furnish", "install", and "provide" shall mean the following:
   a. The word "provide" shall mean to furnish, pay for, deliver, assemble, install, adjust, clean and otherwise make Materials and Equipment fit for their intended use.
   b. The word "furnish" shall mean to secure, pay for, deliver to Site, unload and uncrate Equipment and Materials.
   c. The word "install" shall mean to assemble, place in position, incorporate in the Work, adjust, clean, and make fit for use.
   d. The phrase "furnish and install" shall be equivalent to the word "provide."
5. The word "day" shall constitute a calendar day of twenty-four hours measured from midnight to the next midnight.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 DELIVERY OF BONDS:

A. When Contractor delivers the executed Agreements to Owner, Contractor shall also deliver to Owner such executed and recorded Bonds as Contractor may be required to furnish in accordance with Paragraph 5.01.

2.02 COPIES OF DOCUMENTS:

A. Owner will furnish to Contractor copies of the Contract Documents as stated in the General Requirements.

2.03 COMMENCEMENT OF CONTRACT TIMES; NOTICE TO PROCEED:

A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time mutually agreed upon by the Contractor and the Owner within 60 days after the Effective Date of the Agreement upon completion of required executed documents. In no event will the Contract Times commence to run later than the 60th day after the Effective Date of the Agreement.

2.04 STARTING THE PROJECT:

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run, but no Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 BEFORE STARTING CONSTRUCTION:

A. Before starting construction and undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby; however, Contractor

shall not be liable to Owner or Engineer for failure to report any conflict, error, or discrepancy in the Contract Documents, unless Contractor had actual knowledge thereof or should reasonably have known thereof.

B. Within thirty (60) days after the Effective Date of the Agreement, and before Contractor starts the Work at the Site, Contractor shall submit items as noted in Document 00 55 00 – Notice to Proceed (and as specified) to Engineer for review.

C. Further, before any Work at the Site is started, Contractor shall deliver to Owner, with a copy to Engineer, certificates and other evidence of insurance requested by Owner which Contractor is required to purchase and maintain in accordance with Paragraph 5.02 (and Owner shall deliver to Contractor certificates and other evidence of insurance requested by Contractor which Owner is required to purchase and maintain in accordance with Paragraph 5.02).

2.06 PRECONSTRUCTION CONFERENCE:

A. Within 60 days after the Effective Date of the Agreement, but before Contractor starts the Work at the Site, a conference attended by Contractor, Engineer, and others as appropriate will be held to discuss the schedules referred to in Paragraph 2.05B, to discuss procedures for handling Submittals, processing Applications for Payment, and to establish a working understanding among the parties as to the Work.

2.07 FINALIZING SCHEDULES:

A. A schedule shall be finalized in accordance with Document 01 32 16. The finalized construction progress schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times, but such acceptance will neither impose on Engineer responsibility for the progress or scheduling of the Work nor relieve Contractor from full responsibility therefor. The finalized schedule of Submittal submissions will be acceptable to Engineer if it provides a workable arrangement for processing the submissions.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 INTENT:

A. The Contract Documents comprise the entire agreement between Owner and Contractor concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the Law of the place of the Project.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, Materials, or Equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for, at no additional cost to the Owner.

1. When words which have a well-known technical or trade meaning are used to describe Work, Materials, or Equipment, such words shall be interpreted in accordance with that meaning.
2. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication,

shall mean the latest standard specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual, or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of Owner, Contractor, or Engineer, or any of their consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Engineer, or any of Engineer's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of the Contract Documents.

3. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Paragraph 9.04.

C. If, during the performance of the Work, Contractor finds a conflict, error, or discrepancy in the Contract Documents, Contractor shall so report to Engineer in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from Engineer, however, Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or should reasonably have known thereof.

D. Applicable codes and standards referenced in these Contract Documents establish minimum requirements for Equipment, Materials, and Work and are superseded by more stringent requirements of Contract Documents when and where they occur.

E. The Specifications are separated into Divisions and Sections for convenience in defining the Work. Contract Drawings are separated according to engineering disciplines and other classifications. This sectionalizing and the arrangement of Contract Drawings shall not control the Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

3.02 AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS:

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

1. A formal Written Amendment.
2. A Change Order (pursuant to Paragraph 10.01D).

B. As indicated in Paragraphs 11.01B and 12.01A, Contract Price and Contract Times may only be changed by a Change Order or Written Amendment.

C. In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in the following way:

1. A Field Order (pursuant to Paragraph 9.05).
2. Engineer's written interpretation or clarification (pursuant to Paragraph 9.04).

3.03 OWNERSHIP AND REUSE OF DOCUMENTS:

A. All Contract Documents and copies thereof furnished by Engineer shall be the property of the Owner.

B. Neither Contractor nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with Owner shall have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer; and they shall not reuse any of the documents on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 AVAILABILITY OF LANDS:

A. Owner shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by Owner, unless otherwise provided in the Contract Documents.

B. If Contractor believes that any delay in Owner's furnishing these lands, rights-of-way, or easements entitles Contractor to an extension of the Contract Times, Contractor may make a claim therefor as provided in Article 12.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

D. Contractor shall confine its operations to the construction limits indicated.

4.02 UNFORESEEN SUBSURFACE CONDITIONS:

A. The following reports of explorations and tests of subsurface conditions at or adjacent to the Project are known to the Owner: Report dated August 16, 2022, prepared by McClelland Consulting Engineers, Inc. titled "Geotechnical Investigation for Greenland Sewer Rehabilitation" consisting of 25 pages.

B. The aforementioned report is being made available for Contractor's and any bidder's convenience. It is intended to supplement rather than serve in lieu of Contractor's or bidder's own investigations and is not a warranty of existing conditions. This report is not a part of the Contract Documents.

C. Contractor shall promptly notify Engineer in writing of any subsurface or latent physical conditions encountered at the Site which differ materially from those specified or indicated, or which could be reasonably interpreted from examination of the Site and available subsurface information at the time of bidding.

D. Engineer will promptly investigate those conditions and advise Owner if further surveys or subsurface tests are necessary. Promptly thereafter, Engineer will obtain the necessary additional surveys and tests and furnish copies of results to Contractor and Owner.

E. If Engineer and Owner find that the subsurface or latent physical conditions encountered at the Site differ materially from those specified or indicated, or which

could have been reasonably interpreted from examination of the Site and available subsurface information at the time of bidding, then a Change Order will be issued by the Owner incorporating the necessary revisions.

4.03 PHYSICAL CONDITIONS - UNDERGROUND FACILITIES:

A. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and,
2. Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in Paragraph 6.12 and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

B. Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the Contract Documents and which Contractor could not reasonably have been expected to be aware of, Contractor shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by Paragraph 6.13), identify the owner of such Underground Facility and give written notice thereof to that owner and Engineer. Engineer will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility as provided in Paragraph 6.12. Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which Contractor could not reasonably have been expected to be aware of. If the parties are unable to agree as to the amount or length thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

4.04 REFERENCE POINTS:

A. Engineer will provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points, and shall make no changes or relocations without the prior written approval of Engineer. Contractor shall report to Engineer whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified

personnel. Contractor shall be responsible for any mistakes or loss of time that may result from their loss or disturbance.

B. Contractor shall make such surveys as are required for establishing pay limits and determining quantities for progress pay estimates. He shall furnish Engineer with one copy each of all field notes of such surveys.

4.05 ASBESTOS, PCBS, PETROLEUM, HAZARDOUS WASTE, OR RADIOACTIVE MATERIAL:

A. Owner shall be responsible for any Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work and which may present a substantial danger to persons or property exposed thereto in connection with the Work at the Site. Owner shall not be responsible for any such materials brought to the Site by Contractor, Subcontractor, Suppliers, or anyone else for whom Contractor is responsible.

B. Contractor shall immediately: (i) stop all Work in connection with such hazardous condition and in any area affected thereby (except in an emergency as required by Paragraph 6.13), and (ii) notify Owner and Engineer (and thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such hazardous condition or take corrective action, if any. Contractor shall not be required to resume Work in connection with such hazardous condition or in any such affected area until after Owner has obtained any required permits related thereto and delivered to Contractor special written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of such Work stoppage or such special conditions under which Work is agreed by Contractor to be resumed, either party may make a claim therefor as provided in Articles 11 and 12.

C. If after receipt of such special written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order such portion of the Work that is in connection with such hazardous condition or in such affected area to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a claim therefor as provided in Articles 11 and 12. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

D. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, Engineer, Engineer's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages arising out of or resulting from such hazardous condition, provided that: (i) any such claim, cost, loss or damage is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this

subparagraph 4.05D shall obligate Owner to indemnify any person or entity from and against the consequences of that person's or entity's own negligence.

E. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Engineer, Engineer's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages arising out of or relating to such hazardous condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this subparagraph 4.05E shall obligate Contractor to indemnify any person or entity from and against the consequences of that person's or entity's own negligence.

F. The provisions of Paragraphs 4.02 and 4.03 are not intended to apply to Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 PERFORMANCE AND OTHER BONDS:

A. Contractor shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These Bonds shall remain in effect at least until two years after the date when final payment is approved by Owner, except as otherwise provided by Law or Regulation or by the Contract Documents. Contractor shall also furnish such other Bonds as are required by the Contract Documents. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds shall be signed by an Arkansas Agent.

B. The Bonds shall be automatically increased in amount and extended in time without formal and separate amendments to cover full and faithful performance of the Contract in the event of Change Orders, regardless of the amount of time or money involved. It is Contractor's responsibility to notify its surety of any changes affecting the general scope of the Work or change in the Contract Price or Contract Times.

C. Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

D. Date of Bonds shall be the same as the Effective Date of the Agreement.

E. The Contractor shall file the Performance, Payment and Warranty Bonds at the Washington County Clerk's office prior to providing a file marked copy of the filed Performance, Payment and Warranty Bonds to the Owner or Engineer.

F. If at any time during the continuance of the Contract, the surety on any Bond becomes unacceptable to Owner for financial reasons, Owner has the right to require additional and sufficient sureties which Contractor shall furnish to the satisfaction of Owner within ten days after notice to do so.

G. If the surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the

Project is located or it ceases to meet the requirements of Paragraph 5.01A, Contractor shall within five days thereafter substitute another Bond and surety, both of which must be acceptable to Owner

5.02 INSURANCE:

A. Contractor's Liability Insurance:

1. Contractor and all of its subcontractors shall purchase and maintain such liability and other insurance as is appropriate for the Work being furnished and performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's furnishing and performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
   a. Claims under workers' compensation, disability benefits, and other similar employee benefit acts;
   b. Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
   c. Claims for damages because of bodily injury, sickness, or disease, or death of any person other than Contractor's employees;
   d. Claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason;
   e. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use therefrom;
   f. Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and
   g. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

2. The insurance required by this paragraph shall include the specific coverages and be written for not less than the limits of liability specified or required by Law, whichever is greater.

a.	Umbrella General Liability	$5,000,000
b.	Workers' compensation	Statutory (State and Federal Limits)
	Employer's Liability	$500,000 each accident
c.	Commercial General Liability	
	(1) General Aggregate	$2,000,000
	(2) Products-Completed Operations Aggregate	$2,000,000
	(3) Personal & Advertising Injury Limit	$1,000,000
	(4) Each Occurrence Limit	$1,000,000
	(5) Fire Damage Limit	$ 100,000
	(6) Medical Expense Limit	$ 5,000
d.	Business Automobile Liability	
	(1) Any one loss or accident	$1,000,000

B. The policies of insurance so required by paragraph 5.02A to be purchased and maintained shall:

1. with respect to insurance required by Paragraphs 5.02A.1.c through 5.02A.1.g inclusive, include as additional insureds by endorsement (subject to customary exclusion in respect of professional liability) Owner, Engineer, and Engineer's Consultants, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability specified in Paragraph 5.02A.2 or required by Laws and Regulations, whichever is greater;
3. with respect to insurance required by paragraphs 5.02A1.c through 5. 02A1.g inclusive, include premises/operations, products, completed operations, independent contractors, and personal injury insurance;
4. include in the Commercial General Liability policy, contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.06, 6.10, and 6.16, and written for not less than the limits of liability and coverages specified above;
5. contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed, or renewal refused until at least 30 days' prior written notice by certified mail has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued;
6. provide Broad Form Property Damage coverage and contain no exclusion (commonly referred to as XC&U exclusion) relative to blasting, earthquake, flood, explosion, collapse of buildings, or damage to underground property;
7. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07;
8. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment and Contractor shall furnish Owner and each other specified additional insured to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter;
9. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies required by Paragraph 5.02A and any other liability insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, Engineer, Engineer's Consultants, and all other individuals or entities endorsed as insureds or additional insureds (and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. As required by Paragraph 6.05D, each subcontract between Contractor and a Subcontractor shall contain similar waiver

provisions by the Subcontractor in favor of Owner, Contractor, Engineer, Engineer's Consultants, and all other parties endorsed as insureds or additional insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

C. Owner's Protective Liability Insurance:
   1. Contractor shall be responsible for purchasing and maintaining Owner's Protective Liability insurance with Owner and Engineer as named insureds.
   2. This insurance shall have the same limits of liability as the Commercial General Liability insurance and shall protect Owner and Engineer against any and all claims and liabilities for injury to or death of persons, or damage to property caused in whole or in part by, or alleged to have been caused in whole or in part by, negligent acts or omissions of Contractor or Subcontractors or any agent, servant, worker, or employee of Contractor or Subcontractors arising from the operations under the Contract Documents.
   3. This insurance may be provided by endorsement to Contractor's Commercial General Liability insurance policy.

D. Property Insurance:
   1. Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full insurable value thereof (subject to such deductible amounts as follows) or as required by Laws or Regulations. This insurance shall:
      a. be on the completed value form and include the interests of Owner, Contractor, Subcontractors, Engineer, and Engineer's Consultants, and the officers, directors, partners, employees, agent, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;
      b. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and Equipment and Materials, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, terrorism, and such other perils (as flood, earthquake, explosions, collapse, underground hazard) or causes of loss as may be specifically required in the Contract Documents;
      c. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals);
      d. cover Equipment and Materials stored at the Site or at another location that was agreed to in writing by Engineer prior to being incorporated in the Work, provided that such Equipment and Materials have been included in an Application for Payment recommended by Engineer;
      e. allow for partial utilization of the Work by Owner;
      f. include testing and startup;
      g. be maintained in effect until final payment (or the Owner assumes beneficial occupancy and agrees to provide insurance coverage for the

facilities so occupied) is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days' written notice to each other additional insured to whom a certificate of insurance has been issued.

2. Contractor shall purchase and maintain such boiler and machinery insurance or additional property insurance as required by Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, Engineer, and Engineer's Consultants in the Work, each of whom is deemed to have an insurable interest and shall be listed as insured or additional insured parties.
3. All policies of insurance required to be purchased and maintained in accordance with Paragraph 5.02D will contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least 30 days' prior notice by certified mail has been given to Owner and Contractor and to each additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.02F below.
4. Copies of the policies shall be furnished for property insurance. Certificates will not be acceptable.

E. Transit Insurance:
1. Transit insurance shall be furnished by Contractor to protect Contractor and Owner from all risks of physical loss or damage to Equipment and Materials, not otherwise covered under other policies, during transit from point of origin to the Site of installation or erection.
2. This insurance shall be written on an "All Risk" basis with additional coverages applicable to the circumstances that may occur in the particular Work included in this Contact.
3. This insurance shall be in an amount not less than 100% of the manufactured or fabricated value of items exposed to risk in transit at any one time.
4. This insurance shall contain a waiver of rights of subrogation the insurer may have or acquire against Engineer and Owner.

F. Waiver of Rights:
1. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.02D will protect Owner, Contractor, Subcontractors, Engineer, Engineer's Consultants, and other individuals or entities endorsed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder; and if the insurers require separate waiver forms to be signed by Engineer or Engineer's Consultants, Owner will obtain the same, and if such waiver forms are required of any Subcontractor, Contractor shall obtain the same.
2. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by

such policies required by Paragraph 5.02D and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, Engineer, Engineer's Consultants, and all other individuals or entities endorsed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. As required by Paragraph 6.05D, each subcontract between Contractor and a Subcontractor shall contain similar waiver provisions by the Subcontractor in favor of Owner, Contractor, Engineer, Engineer's Consultants, and all other parties endorsed as insureds or additional insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

G. Receipt and Application of Insurance Proceeds:

1. Any insured loss under the policies of insurance required by Paragraph 5.02D will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.02G.2. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied to account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.
2. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection is made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties upon the occurrence of an insured loss.

H. Acceptance of Insurance:

1. If Owner has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with Paragraph 5.02 on the basis of non-conformance with the Contract Documents, Owner shall so notify Contractor in writing thereof within 10 days of the date of delivery of such certificates and other evidence of insurance to Owner required by Paragraph 2.05C.
2. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent insurance to protect such other party's

interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

I. Partial Utilization, Acknowledgment of Property Insurer:

1. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.06, no such use or occupancy shall commence before the insurers providing property insurance pursuant to Paragraph 5.02D have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 SUPERVISION AND SUPERINTENDENCE:

A. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, but Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract Documents. Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.

B. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.

C. When manufacturer's field services in connection with the erection, installation, start-up, or testing of Equipment furnished under this Contract, or instruction of Owner's personnel thereon are specified, Contractor shall keep on the Work, during its progress or as specified, competent manufacturer's field representatives and any necessary assistants.

6.02 LABOR, EQUIPMENT, AND MATERIALS:

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site. Except in connection with the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise indicated in the

Contract Documents, all Work at the Site shall be performed during regular working hours, and Contractor will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without Engineer's written consent.

B. Unless otherwise specified in the General Requirements, Contractor shall furnish and assume full responsibility for all Equipment and Materials, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up, and completion of the Work.

C. All Equipment and Materials shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by Engineer, Contractor shall furnish to Engineer satisfactory evidence (including reports of required tests) as to the kind and quality of Equipment and Materials. All Equipment and Materials shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to Engineer, or any of Engineer's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.10C and 9.10D.

D. All Equipment and Materials incorporated in the Work shall be designed to meet the applicable safety standards of federal, state, and local Laws and Regulations.

E. Domestic Product Procurement: As further specified elsewhere in these or referenced documents.

6.03 ADJUSTING PROGRESS SCHEDULE:

A. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

6.04 SUBSTITUTES OR "OR-EQUAL" ITEMS:

A. Whenever an item of Equipment or Material is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitute is permitted, other items of Equipment or Material of other Suppliers may be submitted by Contractor to Engineer for review under the circumstances described below.

1. "Or-Equal" Items: If in Engineer's sole discretion an item of Equipment or Material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for

approval of proposed substitute items. For purposes of this Paragraph 6.04A.1, a proposed item of Equipment or Material will be considered functionally equal to an item so named if:

a. In the exercise of reasonable judgment Engineer determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;
b. Contractor certifies that: (i) there is no increase in cost to Owner; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.
c. "Or-Equal" will not be considered until after Award of Contract.

2. Substitute Items:
   a. If in Engineer's sole discretion an item of Equipment or Material proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.04A.1, it will be considered a proposed substitute item.
   b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of Equipment or Material proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of Equipment or Materials will not be accepted by Engineer from anyone other than Contractor.
   c. The procedure for review by Engineer will be as set forth in Paragraph 6.04A.2.d, as may be supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.
   d. Contractor shall first make written application to Engineer for review of a proposed substitute item of Equipment or Material that Contractor seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute will prejudice Contractor's achievement of Substantial Completion on time; whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for work on the Project) to adapt the design to the proposed substitute item; and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by Engineer in evaluating the proposed substitute item. Engineer may require Contractor to furnish additional data about the proposed substitute item.

e. Substitute items will not be considered until after Award of Contract.

B. If a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or use a substitute means, method, sequence, technique, or procedure of construction acceptable to Engineer, if Contractor submits sufficient information to allow Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by Engineer will be similar to that provided in Paragraph 6.04A.2 as applied by Engineer and as may be supplemented in the General Requirements.

C. Engineer will be allowed a reasonable time within which to evaluate each proposed substitute or "or-equal" item. Engineer will be the sole judge of acceptability, and no substitute or "or-equal" will be ordered, installed, or used until Engineer's review is complete, which will be evidenced by either (i) a Change Order for a substitute, or (ii) an approved Submittal for an "or-equal." Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. Engineer will record time required by Engineer and, Engineer's Consultants, in evaluating substitute proposed or submitted by Contractor pursuant to Paragraphs 6.04A.2 and 6.04B and in making changes in the Contract Documents or in the provisions of any other direct contract with Owner for work on the Project occasioned thereby. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of, Engineer, and Engineer's Consultants for evaluating each such proposed substitute.

6.05 CONCERNING SUBCONTRACTORS, SUPPLIERS, AND OTHERS:

A. Contractor shall not employ any Subcontractor, Supplier, or other person or organization (including those acceptable to Owner and Engineer as indicated in Paragraph 6.05B), whether initially or as a substitute, against whom Owner or Engineer may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other person or organization to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Contract Documents require the identity of certain Subcontractors, Suppliers, or other persons or organizations (including those who are to furnish the principal items of Equipment and Materials) to be submitted to Owner within the required time after Bid opening prior to the Effective Date of the Agreement for acceptance by Owner and Engineer and if Contractor has submitted a list thereof, Owner's or Engineer's 'acceptance (either in writing or by failing to make written objection thereto) of any such Subcontractor, Supplier, or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case Contractor shall submit an acceptable substitute, the Contract Price will be increased by the difference in the cost occasioned by such substitution, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by Owner or Engineer of any such Subcontractor, Supplier, or other person or organization shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between Owner, or Engineer and any such Subcontractor, Supplier, or other person or organization, nor shall it create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other person or organization except as may otherwise be required by Laws and Regulations.

D. All Work performed for Contractor by a Subcontractor will be pursuant to an appropriate agreement between Contractor and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer and contains waiver provisions as required by Paragraph 5.02F. Contractor shall pay each Subcontractor a just share of any insurance moneys received by Contractor on account of losses under policies issued pursuant to Paragraph 5.02D.

6.06 PATENT FEES AND ROYALTIES:

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. Contractor shall indemnify and hold harmless Owner and Engineer and anyone directly or indirectly employed by either of them from and against all claims, damages, losses, and expenses (including attorneys' fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

6.07 PERMITS:

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids. Fees for permits issued by the City will be waived and the Permits issued by the City necessary for the work are required. Contractor shall pay all charges of utility owners for connections to the Work, and Owner shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

6.08 LAWS AND REGULATIONS:

A. Contractor shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor observes that the Specifications or Drawings are at variance with any Laws or Regulations, Contractor shall give Engineer prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in Paragraph 3.02. If Contractor performs any Work knowing or having reason to know that it is contrary to such Laws or Regulations, and without such notice to Engineer, Contractor shall bear all costs arising therefrom; however, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

6.09 TAXES:

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid or withheld by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.10 USE OF PREMISES:

A. Contractor shall confine construction equipment, the storage of Equipment and Materials, and the operations of workers to the Project Site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits, and easements, and shall not unreasonably encumber the premises with construction equipment or other equipment and materials. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against Owner or Engineer by any such owner or occupant because of the performance of the Work, Contractor shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at Law. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner and Engineer harmless from and against all claims, damages, losses, and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals, and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against Owner or Engineer to the extent based on a claim arising out of Contractor's performance of the Work.

B. During the progress of the Work, Contractor shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work, Contractor shall remove all waste materials, rubbish, and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the Site clean and ready for occupancy by Owner. Contractor shall restore to original condition all property not designated for alteration by the Contract Documents.

C. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.11 RECORD DOCUMENTS:

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Test Records, Field Orders, and written interpretations and clarifications (issued pursuant to Paragraph 9.04) in good order and annotated to show all changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Submittals shall be available to Engineer for reference. Upon completion of the Work, these record documents and Submittals shall be delivered to Engineer for Owner.

B. Receipt and acceptance of record documents will be a prerequisite for final payment on the Contract.

6.12 SAFETY AND PROTECTION:

A. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. All employees on the Work and other persons and organizations who may be affected thereby;
2. All the Work and Materials and Equipment to be incorporated therein, whether in storage on or off the Site; and
3. Other property at the Site or adjacent thereto, including trees shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury or loss to any property referred to in Paragraph 6.12A.2 or 6.12A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor). Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.09A that the Work is

acceptable (except as otherwise expressly provided in connection with Substantial Completion).

C. Contractor shall designate a responsible representative at the Site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to Owner and Engineer.

6.13 EMERGENCIES:

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor, without special instruction or authorization from Engineer or Owner, is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order will be issued to document the consequences of the changes or variations.

6.14 SUBMITTALS:

A. After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, Contractor shall submit to Engineer for review and acceptance by Engineer, in accordance with the accepted schedule of submissions, copies of Submittals which will bear the required information that Contractor has satisfied Contractor's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as Engineer may require. The data shown on Submittals will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to enable Engineer to review the information as required.

B. Before submission of each Submittal, Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect thereto and reviewed or coordinated each Submittal with other Submittals and with the requirements of the Work and the Contract Documents.

C. At the time of each submission, Contractor shall give Engineer specific written notice of each variation that the Submittal may have from the requirements of the Contract Documents, and in addition, shall cause a specific notation to be made on each Submittal submitted to Engineer for review and approval of each such variation.

D. Engineer will review Submittals with reasonable promptness, but Engineer's review and acceptance will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences, or procedures of construction (except where a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Submittals and resubmit as required for

review and acceptance. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.

E. Engineer's review and acceptance of Submittals shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents. Contractor shall in writing call Engineer's attention to each and every variation at the time of submission. Engineer will show approval of each such variation by a specific written notation thereof incorporated in or accompanying the Submittal. Acceptance by Engineer shall not relieve Contractor from responsibility for errors or omissions in the Submittals.

F. Where a Submittal is required by the Specifications, any related Work performed prior to Engineer's review and acceptance of the pertinent submission will be the sole expense and responsibility of Contractor.

6.15 CONTINUING THE WORK:

A. Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with Engineer or Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.03 or as Contractor and Owner may otherwise agree in writing.

6.16 INDEMNIFICATION:

A. CMAR's obligations to indemnify, defend and hold harmless the CITY OF FAYETTEVILLE are set forth in Paragraph 18 of the Revolving Loan Fund (RLF) Supplemental General Conditions and the Rider attached thereto.

ARTICLE 7 - OTHER WORK

7.01 RELATED WORK AT SITE:

A. Owner may perform other work related to the Project at the Site by Owner's own forces, have other work performed by utility owners, or let other direct contracts therefor which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to Contractor prior to starting any such other work; and, if Contractor believes that such performance will involve additional expense to Contractor or requires additional time and the parties are unable to agree as to the extent thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

B. Contractor shall afford each utility owner and other contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional work with Owner's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs; Contractor shall do all cutting, fitting, and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected.

C. If any part of Contractor's Work depends for proper execution or results upon the work of any such other contractor or utility owner or Owner, Contractor shall inspect and promptly report to Engineer in writing any delays, defects, or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure so to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work except for latent or nonapparent defects and deficiencies in the other work.

7.02 COORDINATION:

A. If Owner contracts with others for the performance of other work on the Project at the Site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the General Requirements, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 COMMUNICATIONS:

A. Owner shall issue all communications to Contractor through Engineer.

8.02 CHANGE OF ENGINEER:

A. In case of termination of the employment of Engineer, Owner shall appoint, subject to the requirements of Section 00001 CERTIFICATIONS and Arkansas State Law an engineer against whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer. Any dispute in connection with such appointment shall be addressed as discussed in Article 16.

8.03 REQUIRED DATA:

A. Owner shall furnish the data required of Owner under the Contract Documents promptly and shall make payments to Contractor promptly after they are due as provided in Paragraphs 14.04A and 14.09A.

8.04 LANDS AND EASEMENTS:

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.04.

8.05 INSURANCE:

A. Owner's responsibilities in respect of purchasing and maintaining insurance are set forth in Paragraph 5.02.

8.06 CHANGE ORDERS:

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.01.

8.07 INSPECTIONS AND TESTS:

A. Owner's responsibility in respect of certain inspections, tests and approvals is set forth in Paragraph 13.03B.

8.08 STOPPING THE WORK:

A. In connection with Owner's right to stop Work or suspend Work, see Paragraphs 13.06 and 15.02. Paragraph 15.02A deals with Owner's right to terminate services of Contractor under certain circumstances.

8.09 LIMITATIONS ON OWNER'S RESPONSIBILITIES:

A. Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 OWNER'S REPRESENTATIVE:

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of Owner and Engineer.

B. Owner and Contractor are reminded of the requirements of Arkansas State Law **§22-9-101.** Observation by registered professionals required.

9.02 VISITS TO SITE:

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous on-Site inspections to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-Site observations as an experienced and qualified design professional, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defects and deficiencies in the Work.

9.03 PROJECT REPRESENTATION:

A. Engineer may furnish Resident Project Representative and assistants to assist Owner and Engineer in observing the performance of the Work.
   1. Communications pertaining to Submittals, written interpretations, and Change Orders shall be directed to Engineer at its home office.
   2. Communications pertaining to day-to-day operations at the Site shall be directed to Resident Project Representative.

3. Resident Project Representative and any assistants will conduct observations of the Work in progress to assist Engineer in determining that the Work is proceeding in accordance with the Contract Documents.
4. Resident Project Representative will not have authority to permit any deviation from the Contract Documents, except with concurrence of Owner and Engineer.

9.04 CLARIFICATIONS AND INTERPRETATIONS:

A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of drawings or otherwise) as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If Contractor believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Times and the parties are unable to agree to the amount or extent thereof, Contractor may make a claim therefor as provided in Article 11 or Article 12.

9.05 AUTHORIZED VARIATIONS IN WORK:

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner, and also on Contractor who shall perform the Work involved promptly.

9.06 REJECTING DEFECTIVE WORK:

A. Engineer will have authority to disapprove or reject Work which Engineer believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.05B, whether or not the Work is fabricated, installed, or completed.

B. Resident Project Representative will have authority, subject to final decision of Engineer, to disapprove or reject any defective workmanship, Equipment, or Material.

9.07 SUBMITTALS, CHANGE ORDERS, AND PAYMENTS:

A. In connection with Engineer's responsibility for Submittals, see Paragraph 6.14.

B. In connection with Engineer's responsibilities as to Change Orders, see Articles 10, 11, and 12.

C. In connection with Engineer's responsibilities in respect of Applications for Payment, see Article 14.

9.08 DETERMINATIONS FOR UNIT PRICES:

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon to the Owner. Engineer will provide approval by recommendation of an Application for Payment to the Owner or return Application to Engineer for further review.

B. Engineer's written decisions thereon will be final and binding upon Owner and Contractor, unless, within ten days after the date of any such decision, either Owner or Contractor delivers to the other party to the Agreement and to Engineer written notice of intention to appeal such a decision.

9.09 DECISIONS ON DISPUTES:

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Times will be referred initially to Engineer in writing with a request for a formal decision in accordance with this Paragraph, which Engineer will render in writing within a reasonable time. Written notice of each such claim, dispute, and other matter will be delivered by the claimant to Engineer and the other party to the Agreement promptly (but in no event later than 30 days) after the occurrence of the event giving rise thereto, and written supporting data shall be delivered to Engineer and the other party within 60 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim. Owner may request written review by Engineer of claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents.

B. When functioning as interpreter and judge under Paragraphs 9.08 and 9.09A, Engineer will not show partiality to Owner or Contractor and Engineer will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer with respect to any such claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 14.11) will be a condition precedent to any exercise by Owner or Contractor of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute, or other matter.

9.10 LIMITATIONS ON ENGINEER'S RESPONSIBILITIES:

A. Neither Engineer's authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of Engineer to Contractor, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

B. Whenever in the Contract Documents the terms "as directed", "as required", "as allowed", "as approved", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review, or judgment of Engineer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any

duty or authority to undertake responsibility contrary to the provisions of Paragraphs 9.10C or 9.10D.

C. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform or furnish the Work in accordance with the Contract Documents.

D. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

E. The presence or absence of Engineer, or any of their representatives will not act to relieve Contractor of any responsibility or of any guarantee of its performance. Neither will observation by Engineer, or any of their representatives in any way be understood to relieve Contractor of any responsibility for proper supervision of the Work at all times.

F. Review by Engineer of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.08A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

G. The limitations upon authority and responsibility set forth in this Paragraph 9.10 shall also apply to Engineer's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK

10.01 GENERAL:

A. Without invalidating the Agreement and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work; these will be authorized by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which shall be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

1. There shall be no changes without prior written approval of the Engineer of Record and/or the City's designated Professional Engineer.

B. If Owner and Contractor are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price or an extension or a shortening of the Contract Times that should be allowed as a result of a Work Change Directive, a claim may be made therefore as provided in Article 11 or 12.

C. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified, and supplemented as provided in Paragraphs 3.02A and 3.02C, except in the case of an emergency as provided in Paragraph 6.13 and except in the case of uncovering Work as provided in Paragraph 13.05B.

D. Owner and Contractor shall execute appropriate Change Orders (or Written Amendments) covering:
   1. Changes in the Work which are ordered by Owner pursuant to Paragraph 10.01A, are required because of acceptance of defective Work under Paragraph 13.09 or correcting defective Work under Paragraph 13.10, or are agreed to by the parties;
   2. Changes in the Contract Price or Contract Times which are agreed to by the parties; and
   3. Changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 9.09A, provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the progress schedule as provided in Paragraph 6.15.

E. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be Contractor's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

ARTICLE 11 - CONTRACT PRICE

11.01 GENERAL:

A. The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract Price.

B. The Contract Price may only be changed by a Change Order or a Written Amendment. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to Engineer promptly (but in no event later than 30 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 60 days after such occurrence (unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price shall be determined by Engineer in accordance with Paragraph 9.09A if Owner and Contractor cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Paragraph 11.01B.

C. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
   1. Where the Work involved is covered by Unit Prices contained in the Contract Documents, by application of Unit Prices to the quantities of the items involved (subject to the provisions of Paragraphs 11.05A through 11.05C, inclusive).

2. By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with the CMAR Contract).
3. On the basis of the Cost of the Work (determined as provided in Paragraphs 11.02A and 11.02B) plus a Contractor's Fee for overhead and profit (determined as provided in the CMAR Contract).

D. A mutually acceptable fixed fee shall be incorporated into the CMAR Contract.

E. The Contract Price shall be a Fixed Priced Guaranteed Maximum Price as agreed upon between Contractor and Owner, which shall be based upon the Wage Rates set forth in Attachment A hereto and the current applicable Blue Book Rates in connection with the equipment utilized for the Work.

F. The term Cost of the Work means the sum of all costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Paragraph 11.02B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the Site. The expenses of performing Work after regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
2. Cost of all Equipment and Materials furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from Subcontractors acceptable to Contractor and shall deliver such bids to Owner who will then determine, with the advice of Engineer, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as Contractor's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:
   a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
   b. Costs, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.
   c. Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, installation, dismantling, and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
   d. Sales, consumer, use, or similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.
   e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
   f. Losses and damages not compensated by insurance or otherwise, to the Work or otherwise sustained by Contractor in connection with the performance and furnishing of the Work provided they have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable; shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the cost of the Work for the purpose of determining Contractor's fee. If, however, any such loss or damage requires reconstruction and Contractor is placed in charge thereof, Contractor shall be paid for services a fee proportionate to that stated in the CMAR Contract.
   g. The cost of utilities, fuel, and sanitary facilities at the Site.
   h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.
   i. Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by Owner in accordance with Paragraph 5.02D.4.

G. The term Cost of the Work shall not include any of the following:
   1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal or a

branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.02A.1 or specifically covered by Paragraph 11.02A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work, and charges against Contractor for delinquent payments.
4. Cost of premiums for all Bonds and for all insurance whether or not Contractor is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 11.02A.5.i above).
5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 11.02A.

11.02 CASH ALLOWANCES:

A. Not applicable.

11.03 UNIT PRICE WORK:

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer in accordance with Paragraph 9.08.

B. Each Unit Price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

C. Where the quantity of any item of Unit Price Work performed by Contractor exceeds the estimated quantity of such item indicated in the Agreement by twenty-five percent or more and there is no corresponding adjustment with respect to any other item of Work and if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may make a claim for an increase in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the amount of any such increase.

11.04 RIGHT OF AUDIT:

A. Owner shall have the right to inspect and audit all of Contractor's books, records, correspondence, instructions, drawings, receipts, payment records, vouchers, and memoranda relating to the Work, and Contractor shall preserve all such records and supporting documentation for a period of three years after date of Final Payment. Contractor hereby grants to Owner the authority to enter Contractor's premises for the purpose of inspection of such records and supporting documentation or, at Contractor's option, Contractor may make such records and supporting documentation available to Owner at a location satisfactory to Owner.

B. All of the records and supporting documentation shall be open to inspection and subject to audit and reproduction by Owner or its authorized representative for any and all purposes, including but not limited to (i) compliance with the Contract Documents; (ii) proper pricing of Change Orders; and (iii) claims submitted by or against Contractor or any Subcontractor or Supplier in connection with any performance under the Contract Documents.

ARTICLE 12 - CHANGE OF CONTRACT TIMES

12.01 GENERAL:

A. The Contract Times may only be changed by a Change Order or a Written Amendment. .

B. Adjustments to the Contract Times will be made for delays in completion of the Work from causes beyond Contractor's control, including the following:

1. Federal embargoes, priority orders, or other restrictions imposed by the United States Government.
2. Unusual delay in fabrication or shipment of Equipment or Materials required in the Work, whether ordered by Contractor or furnished by Owner or others under separate contract.
3. Strikes and other labor disputes.
4. Delays caused by court proceedings.
5. Change Orders.
6. Neglect, delay, or default of any other contractor employed by Owner.
7. Unusual construction delays resulting from weather conditions abnormal to the geographical area and to the season of the year such as above normal continuous days of precipitation, above normal amount of precipitation within a 24-hour period, or above normal days of extreme cold or hot temperature conditions affecting installation / application due to manufacturers or specifications limitations. These conditions will not be cause for extensions of time if abnormal weather conditions do not affect the stage of construction. All claims for extension of time due to abnormal weather conditions must be substantiated with evidence from a weather bureau or other authoritative source. Weather conditions normal to the geographical area and to the season of the year shall be taken into consideration in the Bid. Normal conditions shall be defined as the average number of days, amounts, or both over a 5-year period averaged per season.
8. Conflicts, errors or discrepancies in the Contract Documents reported to Engineer as provided in these General Conditions.

9. Any failure or delay by Contractor in supplying equipment, materials, work, or services that are Year 2000 compliant or failure or delay by Contractor's Subcontractors or Suppliers in providing equipment, materials, work, or services as a result of Subcontractors' or Suppliers' lack of Year 2000 compliance in their own operations, systems, or processes used to provide or deliver equipment, material, work, or services shall not be considered to be caused by events beyond Contractor's control. Such Year 2000 compliance problems shall not constitute a basis for delay in completion of the Work, adjustment to the Contract Times, or an excuse for Contract nonperformance.

C. Owner shall award extensions of the Contract Times on account of such causes of delay, provided that adequate evidence is presented to enable Engineer to determine with exactness the extent and duration of delay for each item involved.

D. No extension to the Contract Times will be granted for delays involving only portions of the Work, or which do not directly affect the time required for completion of the entire Work.

E. Any claim for an extension to the Contract Times shall be delivered in writing to Owner and Engineer within thirty (30) days of the occurrence of the event giving rise to the claim. All claims for adjustment to the Contract Times will be determined by Engineer if Owner and Contractor cannot otherwise agree. Any change to the Contract Times resulting from any such claim will be incorporated in a Change Order or a Written Amendment.

F. All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and court and arbitration costs) for delay by either party.

ARTICLE 13 - WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

13.01 WARRANTY AND GUARANTEE:

A. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 13.

B. No provision in the Contract Documents nor any specified guarantee time limit shall be held to limit Contractor's liability for defects to less than the legal limit of liability in accordance with the Law.

C. All Equipment and Materials furnished by Contractor for the Work shall carry a written guarantee from the manufacturer or Supplier of such items when called for in the Specifications. Written guarantees shall be submitted to Engineer with other Submittals. Engineer will transmit such guarantees to Owner for review.

13.02 ACCESS TO THE WORK:

A. Engineer and Engineer's representatives, other representatives of Owner, testing agencies, and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting, and testing. Contractor shall provide proper and safe conditions for such access.

13.03 TESTS AND INSPECTIONS:

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
   1. for inspections, tests, or approvals covered by Paragraphs 13.03C and 13.03D below;
   2. that costs incurred in connections with tests or inspections conducted pursuant to Paragraph 13.05B shall be paid as provided in said Paragraph 13.05B; and
   3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested, or approved, Contractor shall assume full responsibility therefor, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection, testing, or approval.

D. Contractor shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with Owner's or Engineer's acceptance of a Supplier of Materials or Equipment proposed to be incorporated in the Work, or of Materials or Equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

E. All inspections, tests, or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to Owner and Contractor (or by Engineer if so specified).

F. If any Work (including the work of others) that is to be inspected, tested, or approved is covered without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

G. Neither observations by Engineer nor inspections, tests, or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

13.04 DEFECTIVE WORK:

A. The term "defective" is used in these documents to describe Work that is unsatisfactory, faulty, not in conformance with the requirements of the Contract Documents, or not meeting the requirements of any inspection, test, approval, or acceptance required by Law or the Contract Documents.

B. Any defective Work may be disapproved or rejected by Engineer at any time before final acceptance even though it may have been overlooked and included in a previous Application for Payment.

C. Prompt notice will be given by Engineer to Contractor of defects as they become evident.

13.05 UNCOVERING WORK:

A. If any Work is covered contrary to the written request of Engineer, it shall, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect, and consequential costs of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals); and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in Article 11. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

13.06 OWNER MAY STOP THE WORK:

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor or any other party.

13.07 CORRECTION OR REMOVAL OF DEFECTIVE WORK:

A. If required by Engineer, Contractor shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Engineer, remove it from the Site and replace it with nondefective Work. Contractor shall bear all direct, indirect, and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) made necessary thereby.

13.08 ONE-YEAR WARRANTY AND CORRECTION PERIOD:

A. Before final acceptance of the project, the contractor shall provide a maintenance bond in accordance with section 158.03 of the City of Fayetteville Unified Development Code. The bond shall be in the amount of 25% of the total contract price for a period of one year from the date of Substantial Completion. If within one year after the Date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, Contractor shall promptly,

without cost to Owner and in accordance with Owner's written instructions, either correct such defective Work, or, if it has been rejected by Owner, remove it from the Site and replace it with nondefective Work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect, and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) will be paid by Contractor. In special circumstances where a particular item of Equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment. Contractor shall provide Owner with an option to extend the warranty period by an additional one-year. If Owner wishes to exercise the option, the cost and any additional terms shall be set forth in a change order executed by both parties.

13.09 ACCEPTANCE OF DEFECTIVE WORK:

A. If, instead of requiring correction or removal and replacement of defective Work, Owner and, prior to Engineer's recommendation of final payment, also Engineer prefers to accept it, Owner may do so. Contractor shall bear all direct, indirect, and consequential costs attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys, and other professionals). If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.10 OWNER MAY CORRECT DEFECTIVE WORK:

A. If Contractor fails within a reasonable time after written notice of Engineer to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.07, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days' written notice to Contractor, correct and remedy any such deficiency. In exercising the rights and remedies under this Paragraph, Owner shall proceed expeditiously.

B. To the extent necessary to complete corrective and remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment, and machinery at the Site and incorporate in the Work all Equipment and Materials stored at the Site or for which Owner has paid Contractor but which are stored elsewhere.

C. Contractor shall allow Owner, Owner's representatives, agents, and employees such access to the Site as may be necessary to enable Owner to exercise the rights and remedies under this Paragraph.

D. All direct, indirect, and consequential costs of Owner in exercising such rights and remedies will be charged against Contractor in an amount approved as to reasonableness by Engineer,, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as provided in Article 11. Such direct, indirect, and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs, and all costs of repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

E. Contractor shall not be allowed an extension of the Contract Times because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 SCHEDULE OF VALUES:

A. The schedule of values established will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 APPLICATION FOR PROGRESS PAYMENT:

A. Not later than the 15th day of each month, or on the next business day thereafter, (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.

B. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

C. If payment is requested on the basis of Equipment and Materials not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the Equipment and Materials free and clear of all liens, charges, security interests, and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the Equipment and Materials are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which will be satisfactory to Owner.

D. The amount of retainage with respect to progress payments will be as stipulated in Paragraph 14.04G.

14.03 CONTRACTOR'S WARRANTY OF TITLE:

A. Contractor warrants and guarantees that title to all Work, Materials, and Equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 REVIEW OF APPLICATION FOR PROGRESS PAYMENT:

A. Engineer will, within seven days after receipt of each Application For Payment, either indicate in writing a recommendation of payment and present the Application to Owner (subject to the provisions of the last sentence of Paragraph 14.04D), or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application. After the required internal reviews and processing by the Owner, the Owner will diligently proceed to make payment to the Contractor, in accordance with the approved payment request, within 30 days. All efforts will be made to make payments within the 30-day period, but the Owner cannot guarantee the 30 days maximum time.

B. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's on-Site observations of the Work in progress as experienced and qualified design professionals and on Engineer's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of Engineer's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.08, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment, Engineer will not thereby be deemed to have represented that exhaustive or continuous on-Site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents, or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or Owner to withhold payment to Contractor.

C. Engineer's recommendation of final payment will constitute an additional representation by Engineer to Owner that the conditions precedent to Contractor's being entitled to final payment as set forth in Paragraph 14.09 have been fulfilled.

D. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to Owner. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

1. The Work is defective, or completed Work has been damaged requiring correction or replacement.

2. Written claims have been made against Owner or Liens have been filed in connection with the Work.
3. The Contract Price has been reduced by Written Amendment or Change Order
4. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.10,
5. Of Engineer's 'actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02B.
6. Of Contractor's unsatisfactory prosecution of the Work in accordance with the Contract Documents.
7. Contractor's failure to make payment to Subcontractors, or for labor, Materials, or Equipment, or
8. Engineer shall not certify payments requesting more than eighty (80) percent of the Contract amount until such time as all operation, maintenance, repair, and replacement manuals, and product data has been furnished by the Contractor to the Owner.

E. Owner may refuse to make payment of the full amount recommended by Engineer because claims have been made against Owner on account of Contractor's performance of furnishing of the Work, or Liens have been filed in connection with the Work, or there are other items entitling Owner to a set-off against the amount recommended, but Owner must give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action.

F. When all grounds for withholding payment are removed, payment will be made in the amounts withheld because of them.

G. Progress payments will be in the amount of 95% of the amount of the Work completed and 100% of Equipment and Materials suitably stored and documented as indicated on the Application for Payment less the sum of all previous payments. The owner may forego withholding retainage of the progress payments if the construction contract is fifty-percent (50%) complete and the contractor has provided the work in a satisfactory manner.

14.05 SUBSTANTIAL COMPLETION:

A. When Contractor considers the entire Work ready for its intended use, Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Within a reasonable time thereafter, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor. If Engineer considers the Work substantially complete, Engineer will prepare and deliver to Owner a tentative certificate of Substantial Completion which will fix the Date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment.

C. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not

substantially complete, Engineer will within fourteen days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said fourteen days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, maintenance, heat, utilities, insurance, and warranties.

E. Unless Owner and Contractor agree otherwise in writing and so inform Engineer prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

F. Owner shall have the right to exclude Contractor from the Work after the Date of Substantial Completion, but Owner shall allow Contractor reasonable access to complete or correct items on the tentative list.

14.06 PARTIAL UTILIZATION:

A. Use by Owner of any finished part of the Work, which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and useable part of the Work that can be used by Owner without significant interference with Contractor's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

1. Owner at any time may request Contractor in writing to permit Owner to use any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If Contractor agrees, Contractor will certify to Owner and Engineer that said part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.05 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
2. Owner may at any time request Contractor in writing to permit Owner to take over operation of any such part of the Work although it is not substantially complete. A copy of such request will be sent to Engineer and within a

reasonable time thereafter, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If Contractor does not object in writing to Owner and Engineer that such part of the Work is not ready for separate operation by Owner, Engineer will finalize the list of items to be completed or corrected and will deliver such list to Owner and Contractor together with a written recommendation as to the division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, maintenance, utilities, insurance, warranties, and guarantees for that part of the Work, which will become binding upon Owner and Contractor at the time when Owner takes over such operation (unless they shall have otherwise agreed in writing and so informed Engineer). During such operation and prior to Substantial Completion of such part of the Work, Owner shall allow Contractor reasonable access to complete or correct items on said list and to complete other related Work.

3. No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of Paragraph 5.02I in respect of property insurance.

14.07 FINAL INSPECTION:

A. Upon written notice from Contractor that the Work or an agreed portion thereof is complete, Engineer will make a final inspection with Owner, Engineer, and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to remedy such deficiencies.

14.08 FINAL APPLICATION FOR PAYMENT:

A. After Contractor has completed all such corrections to the satisfaction of Engineer and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents, and other documents - all as required by the Contract Documents, and after Engineer has indicated that the Work is acceptable (subject to the provisions of Paragraph 14.11), Contractor may make application for final payment following the procedure for progress payments.

B. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to Owner) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by Owner, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, Material, and Equipment for which a Lien could be filed, and that all payrolls, Equipment and Material bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, Contractor may furnish a Bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

14.09 FINAL PAYMENT AND ACCEPTANCE:

A. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation -- all as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within fourteen days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application to Owner for payment. Thereupon, Engineer will give written notice to Owner and Contractor that the Work is acceptable (subject to the provisions of Paragraph 14.11). Otherwise, Engineer will return the Application to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application. Thirty days after presentation to Owner of the Application and accompanying documentation, in appropriate form and substance, and with Engineer's recommendation and notice of acceptability, the amount recommended by Engineer will become due and will be paid by Owner to Contractor.

B. If, through no fault of Contractor, final completion of the Work is significantly delayed and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment and recommendation of Engineer, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. The written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

C. The Final Pay Estimate will include all sums remaining to be paid.

14.10 CONTRACTOR'S CONTINUING OBLIGATION:

A. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by Engineer, nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Work or any part thereof by Owner, nor any act of acceptance by Owner nor any failure to do so, nor any review and approval of a Submittal, nor the issuance of a notice of acceptability by Engineer pursuant to Paragraph 14.09, nor any correction of defective Work by Owner will constitute an acceptance of Work not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents (except as provided in Paragraph 14.11).

14.11 WAIVER OF CLAIMS: The making and acceptance of final payment will constitute:

A. A waiver of all claims by Owner against Contractor, except claims arising from unsettled Liens, from defective work appearing after final inspection pursuant to Paragraph 14.07, or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver

by Owner of any rights in respect of Contractor's continuing obligations under the Contract Documents; and

B. A waiver of all claims by Contractor against Owner other than those previously made in writing and still unsettled.

14.12 INTEREST: NOT APPLICABLE.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER MAY SUSPEND WORK:

A. Owner may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than 90 days by notice in writing to Contractor, and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to any suspension if Contractor makes an approved claim therefor as provided in Articles 11 and 12.

15.02 OWNER MAY TERMINATE:

A. Upon the occurrence of any one or more of the following events:
   1. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state Law in effect at such time relating to the bankruptcy or insolvency;
   2. If a petition is filed against Contractor under any chapter of the bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state Law in effect at the time relating to bankruptcy or insolvency;
   3. If Contractor makes a general assignment for the benefit of creditors;
   4. If a trustee, receiver, custodian, or agent of Contractor is appointed under applicable Law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;
   5. If Contractor admits in writing an inability to pay its debts generally as they become due;
   6. If Contractor persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable Equipment or Materials or failure to adhere to the progress schedule established under Paragraph 2.07 as revised from time to time);
   7. If Contractor disregards Laws or Regulations of any public body having jurisdiction;
   8. If Contractor disregards the authority of Engineer; or
   9. If Contractor otherwise violates in any substantial way any provisions of the Contract Documents;

B. Owner may, after giving Contractor (and the surety, if there be one) ten days' written notice and an opportunity to commence to cure the event set forth in such notice, and to the extent permitted by Laws and Regulations, terminate the services of Contractor, exclude Contractor from the Site and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the Work all Equipment and Materials stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and finish the Work as Owner may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect, and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and court and arbitration costs), such excess will be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to Owner. Such costs incurred by Owner will be approved as to reasonableness by Engineer and incorporated in a Change Order, but when exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

C. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due to Contractor by Owner will not release Contractor from liability.

D. Upon ten days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, Contractor shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect, and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals, and court and arbitration costs).

E. Notwithstanding the foregoing, before Owner shall exercise any right to terminate pursuant to this section 15.02, Contractor shall, within ten (10) days from receipt of such notice, have an opportunity to consult with the Owner regarding the reason for termination. Contractor shall have ten (10) days from receipt of such notice or from the date of its consultation with the Owner, whichever occurs later, to cure or to take substantial steps to commence to cure the issue and proceed with diligence for which the notice of termination has been given. The Owner shall decide, in its sole discretion, if the Contractor has cured or taken substantial steps to cure or commence to cure the issue and may withdraw its notice to terminate.

15.03 CONTRACTOR MAY STOP WORK OR TERMINATE:

A. If, through no act or fault of Contractor, the Work is suspended for a period of more than 90 days by Owner or under an order of court or other public authority, or Engineer fails to act on any Application for Payment within 30 days after it is submitted, or Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon ten days' written notice to Owner and Engineer, terminate the Agreement and recover from Owner payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if Engineer has failed to act on an Application for

Payment or Owner has failed to make any payment as aforesaid, Contractor may upon ten days' written notice to Owner and Engineer stop the Work until payment of all amounts then due. The provisions of this Paragraph shall not relieve Contractor of the obligations under Paragraph 6.15 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with Owner.

ARTICLE 16 - RESOLUTION OF DISPUTES

16.01 RESOLUTION OF CLAIMS AND DISPUTES

A. Contractor's claims against Owner will be reviewed by Engineer, who shall take one or more of the following actions within ten (10) days after receipt of a claim:
   1. Request additional supporting data from the claimant;
   2. Submit a schedule to Contractor indicating reasonable time within which Engineer expects to take action;
   3. Reject the Claim in whole or in part, stating reasons for rejection;
   4. Recommend approval of the claim; or
   5. Suggest a compromise.

B. Owner's claims against Contractor will be reviewed by Contractor who shall take one or more of the following actions within ten (10) days after receipt of the Claim:
   1. Request additional supporting data from Engineer;
   2. Submit a schedule to the Engineer indicating a reasonable time within which Contractor expects to take action;
   3. Deny the claim in whole or in part, stating reasons for denial;
   4. Recommend approval of the claim; or
   5. Suggest a compromise.

C. If a claim has been resolved, the Owner will prepare or obtain appropriate documentation.

D. If a claim has been denied or if no action has been taken in the manner provided in Paragraphs 16.01A or 16.01B, then the claimant, within ten (10) days thereafter, may notify the Owner, the other party, and Contractor's surety that Engineer and Contractor have been unable to resolve the claim. In that event, the Owner, pursuant to Paragraph 16.01E shall review the claim and make a decision on the claim.

E. If a claim is presented to the Owner, then the Owner shall review the claim and make a decision within fourteen (14) days.

F. Disputes that cannot be settled through negotiation or the procedures in Paragraphs 16.01A through 16.01E above, shall be settled as mutually agreed or in a court of competent jurisdiction within the State of Arkansas.

G. Arbitration shall not be used in the settlement of disputes.

ARTICLE 17 - MISCELLANEOUS

17.01 GIVING NOTICE:

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 COMPUTATION OF TIME:

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the Law of the applicable jurisdiction, such day will be omitted from the computation.

B. A calendar day of 24 hours measured from midnight to the next midnight shall constitute a day.

17.03 CLAIMS, CUMULATIVE REMEDIES:

A. Should Owner or Contractor suffer injury or damage to person or property because of any error, omission, or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this Paragraph shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

B. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by Paragraphs 6.16A, 13.01, 13.08, 13.10, 14.03, and 15.02A and all of the rights and remedies available to Owner and Engineer thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply. All representations, warranties, and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

17.04 FREEDOM OF INFORMATION ACT:

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

END OF DOCUMENT 00700

Appendix G

Revolving Loan Fund (RLF) Supplemental General Conditions

SUPPLEMENTAL GENERAL CONDITIONS

1. Project Funding
2. Supersession
3. Definitions
4. Additional Instructions & Detail Drawings
5. Drawings & Specifications
6. Land & Rights-of-Way
7. Bidding and Contract Award
8. American Iron and Steel (AIS)
9. Disadvantaged, Minority, Women's Business Enterprises
10. Equal Employment Opportunity Clause
11. Labor Standards
12. Responsibilities of Participants Regarding Transactions (A.K.A. Debarment and Suspension)
13. Procurement Prohibitions
14. Substitutions
15. Insurance
16. Contract Security
17. Assignments
18. Indemnification
19. Separate Contracts
20. Subcontracting
21. Pre-Construction Conference
22. Schedules, Reports & Records
23. Job Bulletin Board
24. Shop Drawings
25. Materials, Services & Facilities
26. Safety Standards
27. Protection of Lives and Property
28. Protection of Work, Property, and Persons
29. Protection of the Environment
30. Archeological, Historical, and Cultural Remains
31. Storm Water Permit Requirements
32. Engineer's Authority
33. Owner's Protection from Contractor's Actions
34. Inspection & Testing
35. Supervision by Contractor
36. Payment to Contractor
37. Acceptance of Final Payment as Release
38. Cleanup and Corrections
39. Taxes
40. State Tax Exemption
41. Operation and Maintenance Manual
42. Changes in the Work
43. Subsurface Conditions
44. Correction of Work
45. Surveys, Permits, Regulations
46. Time for Completion & Liquidated Damages
47. Suspension of Work, Termination, & Delay
48. As-Built Drawings
49. Guarantee
50. Patents
51. Conflicts of Interest
52. Arbitration by Mutual Agreement
53. Gratuities
54. Prohibition on Telecommunication and Video Surveillance Services or Equipment

Appendix A Labor Standards Provisions, Attachments 1 & 2
Appendix B Equal Employment Opportunity Provisions, Title 41, Chapter 60
Appendix C 40 CFR Part 33 Subpart C: Good Faith Efforts
Appendix D. Memo: Implementation of American Iron and Steel (AIS)
Appendix E. Memo: Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment in the SRF Programs

1. PROJECT FUNDING

These Supplemental General Conditions are based on detailed, specific guidance provided by the United States Environmental Protection Agency (US EPA).

In accordance with Title XV and XVI, the Arkansas Natural Resources Commission (Commission) and the Arkansas Development Finance Authority (ADFA) is not a partner, joint venture or in any way party to the construction contract. The Recipient and its Contractors shall release and hold harmless the officers and employees of the Commission and ADFA from claims arising in connection with the design, construction and operation of the project including any matter due solely to the Contractor or Borrowers negligence.

2. SUPERSESSION

These Supplemental General Conditions supersede any conflicting provisions of the Contract Documents.

3. DEFINITIONS

Wherever used in the Contract Documents, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof:

A. **Addenda** - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings and Specifications, by additions, deletions, clarifications, or corrections.

B. **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

C. **Bidder** - Any person, firm or corporation submitting a Bid for the Work.

D. **Bonds** - Bid, Performance, and Payment Bonds and other instruments of surety, furnished by the Contractor and the Contractor's surety in accordance with the Contract Documents.

E. **Change Order** - A written order to the Contractor authorizing an addition, deletion, or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.

F. **Commission** – The Arkansas Natural Resources Commission.

G. **Contract Documents** - The contract, including Advertisement for Bids, Information for Bidders, Bid, Bid Bond, Agreement, Payment Bond, Performance Bond, Notice of Award, Notice to Proceed, Change Order, Drawings, Specifications, General Conditions, Supplemental General Conditions, and Addenda.

H. **Contract Price** - The total monies payable to the Contractor under the terms and conditions of the Contract Documents.

I. **Contract Time** - The number of calendar days stated in the Contract Documents for the completion of the Work.

J. **Contractor** - The person, firm or corporation with whom the Owner has executed the Agreement.

K. **Drawings** - The parts of the Contract Documents, which show the characteristics, and scope of the Work to be performed and which have been prepared or approved by the Engineer.

L. **Engineer** - The person, firm, or corporation named as such in the Contract Documents.

M. **Field Order** - A written order effecting a change in the Work not involving an adjustment in the Contract Price, an extension of the Contract Time, or a change affecting the overall integrity of the design of the project issued by the Engineer, not the Engineer's Resident Inspector, to the Contractor during construction.

N. **Notice of Award** - The written notice of the acceptance of the Bid from the Owner to the successful Bidder.

O. **Notice to Proceed** - Written communication issued by the Owner to the Contractor authorizing him/her to proceed with the Work and establishing the date for commencement of the Work.

P. **Owner** - A public or quasi-public body or authority, corporation, association, partnership, or an individual for whom the Work is to be performed.

Q. **Project** - The undertaking to be performed as provided in the Contract Documents.

R. **Resident Project Representative** - The authorized representative of the Owner who is assigned to the Project site or any part thereof.

S. **Shop Drawings** - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, Supplier or distributor, which illustrates how specific portions of the Work shall be fabricated or installed.

T. **Specifications** - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

U. **Subcontractor** - An individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site.

V. **Substantial Completion** - That date certified by the Engineer when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

W. **Additional Supplemental General Conditions** - Modifications to Supplemental General Conditions required by a State agency for participation in the Project and approved by the agency in writing prior to inclusion in the Contract Documents, or such requirements that may be imposed by applicable state laws.

X. **Supplier** - Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

Y. **Work** - All labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the Project.

Z. **Written Notice** - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at their last given address, or delivered in person to said party or their authorized representative on the Work.

4. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

A. The Contractor may be furnished additional instructions and detail drawings, by the Engineer, as necessary to carry out the Work required by the Contract Documents.

B. The additional drawings and instructions thus supplied will become a part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detailed drawings and instructions.

5. DRAWINGS AND SPECIFICATIONS

A. The intent of the Drawings and Specifications is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the Owner.

B. In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over general Drawings.

C. Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

D. In the case of defective Specifications for which the Owner is responsible, the equitable adjustment shall include any increased cost the Contractor reasonably incurred in attempting to comply with those defective Specifications.

6. LAND AND RIGHTS-OF-WAY

A. Prior to issuance of Notice to Proceed, the Owner shall obtain all land and rights-of-way necessary for carrying out and for the completion of the Work to be performed pursuant to the Contract Documents, unless otherwise mutually agreed.

B. The Owner shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired.

C. The Contractor shall provide at its own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.

7. BIDDING AND CONTRACT AWARD

A. Prospective Bidders are advised that other sections of these Supplemental General Conditions describe requirements pertaining to bidding and the performance of the RLF funded contract. The Supplemental General Conditions should be thoroughly reviewed by prospective Bidders prior to the preparation and submission of bids.

B. Awards shall be made only to the lowest responsive, responsible Contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Bidders are required to comply with the requirements of these Supplemental General Conditions in the preparation and submission of bids. Failure by the bidder to comply with the requirements outlined herein may result in the rejection of the bid as non-responsive.

C. Bidders shall submit with the bid proposal an executed Contractor's Act of Assurance form as provided in these contract documents. Through execution of this form, the Bidder warrants its understanding of and compliance with these Supplemental General Conditions and all relevant requirements pertaining to the RLF funded work. In addition, each prime Contractor is required to submit an executed Contractor's Act of Assurance form to the Owner for each subcontract awarded above $2,000.00.

D. The information described below shall be submitted to the Commission by the Owner for review and approval within thirty days of bid opening. Construction contracts will not be Awarded without Commission concurrence.
   i. Proposal of the lowest responsive responsible Bidder.
   ii. Bid tabulation showing all bids and bid opening date.
   iii. Recommendation of Award of contract by Engineer.
   iv. Clear Site Certificate without exceptions.
   v. Certified copies of the advertisements for bids.
   vi. Contractors Act of Assurance Form
   vii. Bid bond for and name of Surety Company that will underwrite the Payment and Performance Bonds for the lowest responsive responsible Bidder.
   viii. Itemized bid breakdown of lump sum bid from lowest responsive responsible Bidder (if applicable).
   ix. Resume(s) of the proposed resident inspector(s).
   x. DBE/MBE/WBE documentation from lowest responsive responsible Bidder within fifteen days of bid opening.

   Item (x.) shall be submitted by the lowest responsive responsible Bidder to the Owner within fifteen days of bid opening for transmittal to the Commission.

E. If the Owner has not already enacted a written protest procedure to handle and resolve disputes relating to the award of contracts, the Owner will follow the process below upon receipt of a bid protest:

i. Bid protests may be filed by an "interested party." Prior to a bid submittal deadline, these persons include any party who declares an interest in the solicitation. Following the bid submittal deadline, interested parties include only bidders who submitted a bid or response to the solicitation.

ii. The written protest shall specify the reasons and facts upon which the protest is based; specific portions of the documents or statutes that form the basis of the protest; and the name, address, and telephone number of the party representing the Bidder.

iii. The protest must be filed in writing with the Owner at the address below:

Attn: _____

_____

_____

_____ ,AR _____

iv. The protest must be filed with the Owner before 5 p.m. and no later than five business days after the date of the Bid opening.

v. Owner must disclose all bid protests to the Commission immediately.

vi. Owner will investigate the basis for the bid protest and analyze the facts. Owner will notify Bidder whose bid is the subject of the bid protest of evidence presented in the bid protest and evidence found as a result of the investigation, and, if deemed appropriate, afford Bidder an opportunity to rebut such evidence, and permit Bidder to present evidence that it should be allowed to perform the work. If deemed appropriate by Owner, an informal hearing will be held.

vii. Owner will issue a written decision within 15 days following receipt of the bid protest, unless factors beyond Owner's reasonable control prevent such a resolution, in which event such decision will be issued as expeditiously as circumstances reasonably permit. The decision will state the reasons for the action taken by Owner. A copy of the decision will be furnished to the protestor, the Commission, the Bidder whose bid is the subject of the bid protest, and all Bidders affected by the decision. A Bidder is affected by the decision on a bid protest if a decision on the protest could have resulted in the Bidder not being the lowest responsible and responsive Bidder for the contract.

8. AMERICAN IRON AND STEEL (AIS)

The Contractor acknowledges to and for the benefit of the Owner and the Commission that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water

State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States including iron and steel products provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner and the Commission that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner or the Commission. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner or Commission to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Owner or Commission resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Commission or any damages owed to the Commission by the Owner). While the Contractor has no direct contractual privity with the Commission, as a lender to the Owner for the funding of its project, the Owner and the Contractor agree that the Commission is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Commission. A copy of the EPA Memorandum implementing the American Iron and Steel requirement and its procedures is attached as Appendix D to these Supplemental General Conditions.

9. DISADVANTAGED, MINORITY, AND WOMEN'S BUSINESS ENTERPRISES

Whenever subcontracts are solicited, the Contractor is required to take affirmative steps (known as "good faith efforts") to assure that disadvantaged business enterprises (DBE), which includes small and minority and women's business enterprises (MBE/WBE) as well, are used when possible as sources of materials, supplies, equipment, construction activities and professional services. DBE utilization is authorized by 40 CFR Parts 30, 31, 33, 35, and 40, OMB Circular A-102, and Executive Orders 11625, 12432 and 12138.

The Contractor and Loan Recipient shall at a minimum, take the following affirmative actions, known as "good faith efforts" in the procurement of subcontracts for construction, equipment, services, and supplies:

i. Ensure DBE firms are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities and include small, minority and women's businesses on solicitation lists;

ii. Assure that small, minority and women's businesses are solicited whenever they are potential sources;

iii. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small, minority and women's businesses;
iv. Establish delivery schedules, when the requirements of the work permit, which will encourage participation by small, minority and women's businesses;
v. Use the services of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, AHTD and AEDC as appropriate.
vi. Continue the above steps, including follow-up contact as necessary, throughout the performance of the contract.

Prime Contractors must also follow the steps indicated below in the paragraph entitled "DBE/MBE/WBE Requirements Prior to Award" and all other instructions of this document.

DBE/MBE/WBE Requirements Prior to Award: All Bidders, as a condition of bidding, are required to document to the Owner and to the Commission that the "good faith efforts" were taken in the preparation of bids to obtain DBE/MBE/WBE participation. Contractors, including DBE Prime Contractors, must conduct the "six good faith efforts" as well. Steps for Compliance are as follows:

i. Solicit DBE/MBE/WBE quotes through direct solicitation communication, document that this was done, and submit within fifteen days of the bid opening. Examples of direct solicitation communication that must be conducted by the low bidder are: faxes, letters, phone calls, and emails. Indicate the source of the DBE/MBE/WBE list(s) used. Sources of DBE Certified Lists are listed below. Newspaper Advertisements/Public Notices alone will not meet the required DBE solicitation efforts.
ii. Document efforts and responses received.
iii. Document contracts awarded, or intent to award, and indicate whether the contract is with a DBE/MBE or WBE certified firm.
iv. Document the basis on which the subcontractor/supplier was selected and/or rejected for all contracts awarded.

Note: Subcontracts include: supplies, services, equipment, and construction activity.

If the Primary Contractor states that they can complete the entire project using only in-house services and supplies, then the Contractor must indicate they will not use a subcontractor or procure supplies, services, and equipment on the DBE Compliance Evaluation Form and shall write a letter to that effect to Commission. Note, this occurs very infrequently.

Required Form: The DBE Compliance Evaluation Form Supplemental Conditions of the Revolving Loan Fund. (This form is numbered RLF-96 for CWRLF projects.) This form is to be completed and submitted within fifteen days of the bid opening.

Lists of DBE/MBE/WBE firms are available from:

- Arkansas Highway and Transportation Department, Programs and Contracts Division; 10324 I-30; Post Office Box 2261; Little Rock, Arkansas 72203, Phone: (501) 569-2259 www.ahtd.state.ar.us/contract/program/letting
- Arkansas Economic Development Commission, Small and Minority Business Team; One Capitol Mall; Little Rock, Arkansas 72201; Phone: (501) 682-6105 http://www.arkansasedc.com.
- Arkansas Small Business Administration, Business Opportunity Section; 2120 Riverfront Drive, Suite 100; Little Rock, Arkansas 72202-1747; Phone: (501) 324-7379; http://pro-net.sba.gov/ or http://www.ccr.gov.

A copy of 40 CFR Part 33, Subpart C- Good Faith Efforts is attached to these Supplemental General Conditions.

DBE/MBE/WBE Reporting Requirements: In addition to the reporting and documentation requirements during bidding, the Contractor is required to report to the Owner within fifteen days of the end of each calendar quarter, or to the Division as requested, all contracts awarded to DBE/MBE/WBE firms throughout the life of the contract. The Owner is required to report to the Division within thirty days of the end of each calendar quarter, all contracts awarded by the Owner and subcontracts awarded by the Owner's Contractors to DBE/MBE/WBE firms. In accordance with 40 CFR 35, Subpart K, the Division must report to the Environmental Protection Agency all DBE/MBE/WBE participation in the RLF program.

10. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, sex, age, marital status, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, sex, age, marital status, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to furnish and post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this equal employment opportunity clause.

B. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, sex, age, marital status, or national origin.

C. In the event of the Contractor's noncompliance with the equal employment opportunity clause of this contract or with any rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part.

D. The Contractor shall include the provisions of subparagraph's (A) through (C) in every subcontract or purchase order involved with this contract.

E. The Contractor or any Subcontractor shall have an affirmative action plan which declares that it does not discriminate on the basis of race, color, creed, national origin, sex, marital status, or age and which specifies goals and target dates to assure the implementation of that plan. The Owner shall establish procedures to assure compliance with this requirement by the Contractor and to assure that suspected or reported violations are promptly investigated.

F. The Contractor and Subcontractors supplying materials, equipment and/or labor must comply with the Civil Rights Act of 1964 as amended (42 U.S.C. 2000d et seq.), Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794), Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination (Public Law 92-500), and the Age Discrimination Act of 1973.

The Contractor and all Subcontractors shall provide equal employment opportunity for all qualified applicants and all contractor solicitations for employees must contain the Equal Employment Opportunity statement. The Prime Contractor must assure Subcontractor compliance with the Civil Rights Act for each subcontract by including the Act of Assurance form and these Supplemental General Conditions in each Subcontract in excess of $10,000. Applicable Equal Employment Opportunity regulations and Nondiscrimination provisions are described in the Appendix to these Supplemental General Conditions.

11. LABOR STANDARDS

The Contractor and all Subcontractors awarded subcontracts shall pay all laborers and mechanics employed on the project not less than the prevailing wage rates, as determined by the United States Secretary of Labor, in accordance with the Davis-Bacon Act as provided for in the Supplemental General Condition's Appendix A.

The wage decision identifies job classifications and minimum wages to be paid to all workers. Payrolls must be submitted weekly by the Contractor and all non-exempt Subcontractors to the Owner showing each worker's name, address, job classification, hourly rate of pay, daily regular and overtime hours, gross and net pay, and any fringe benefits where applicable. All workers are required to receive overtime pay in any week in which the hours worked exceed 40 hours per work week. Overtime is paid at a rate not less than 1 and 1/2 times the worker's base rate of pay.

The Owner is responsible for monitoring contractor compliance with Davis-Bacon Act requirements of Appendix A. The Owner's responsibilities will include, but not be limited to, payroll review for compliance, maintain payroll files, and conduct on-site interviews with the Contractor's employees to verify payroll accuracy. The Owner will provide the Commission a letter with each pay request certifying wages, through payroll review and employee interviews, met the Davis-Bacon Requirements of this contract. Copies of completed interviews will be forwarded to the Commission.

12. **RESPONSIBILITIES OF PARTICIPANTS REGARDING TRANSACTIONS** (A.K.A. DEBARMENT AND SUSPENSION)

Individuals or organizations that have been debarred or excluded from participating in Federal Assistance programs under 40 CFR Part 32 are prohibited from participating in the RLF program. This prohibition applies for every contract and subcontract for materials, supplies, equipment, and services. Contractors and Subcontractors shall execute the Contractors Act of Assurance Form as provided in the Contract Documents certifying compliance with 40 CFR Part 32.

13. PROCUREMENT PROHIBITIONS

As required by Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, RLF loan recipients, Prime Contractors and Subcontractors are prohibited from procuring goods and services from persons who have been convicted of violations of either law if the goods or services are to be produced by the facility that gave rise to the violation.

14. SUBSTITUTIONS (of "or Equal")

All RLF procurement transactions shall be conducted in a manner that promotes maximum free and open competition. Whenever a material, article, or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue numbers, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered for substitution. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the Engineer, such material, article or piece of equipment is of equal substance and function to that specified, the Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

15. INSURANCE

A. The Contractor shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of, or result from, the Contractor's execution of the Work, whether such execution be by the Contractor, any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

i. Claims under worker's compensation, disability benefit and other similar employee benefit acts;

ii. Claims for damages because of bodily injury, occupational sickness or disease, or death of employees;

iii. Claims for damages because of bodily injury, sickness or disease, or death of any person other than employees;

iv. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person; and

v. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

B. Certificates of Insurance acceptable to the Owner and the Commission shall be filed with the Owner and the Commission prior to commencement of the Work. Each insurance policy shall contain a clause providing that it shall not be canceled by the insurance company without written notice to the Owner and the Commission of intention to cancel that is in accordance with Arkansas Code Annotated §23-66-206. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen days prior written notice has been given to the Owner and the Commission. The Insurance shall be made by an agent licensed by the Insurance Commissioner of the State of Arkansas to represent the surety company executing the bonds. Furthermore, the Commission will be a "Certificate Holder" and the words "will endeavor" must be removed from the insurance form.

C. The Contractor shall procure and maintain, at the Contractor's own expense, during the Contract Time, liability insurance as hereinafter specified:

Contractor's General Public Liability and Property Damage Insurance including vehicle coverage issued to the Contractor and protecting the Contractor from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contract Documents, whether such operations be by the Contractor or by any Subcontractor employed by the Contractor or anyone directly or indirectly employed by the Contractor or by a Subcontractor employed by the Contractor. Insurance shall be written with a limit of liability of not less than $1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom sustained by any one person in any one accident; and a limit of liability of not less than $2,000,000 aggregate for any such damage sustained by two or more persons in any one accident. Insurance shall be written with a limit of

liability of not less than $1,000,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than $1,000,000 aggregate for any such damage sustained by two or more persons in any one accident.

D. The Contractor shall furnish umbrella liability coverage, and keep it in effect during the term of the contract which provides excess limits over the primary coverages. The minimal amount of coverage will be determined by the Risk Management Division of the Arkansas Insurance Department.

E. The Contractor shall procure and maintain, at the Contractor's own expense, during the Contract Time, in accordance with the provisions of the laws of the State in which the Work is performed, Worker's Compensation Insurance, including occupational disease provisions, for all of the Contractor's employees at the site of the Project and in case any Work is sublet, the Contractor shall require such Subcontractor similarly to provide Worker's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under Worker's Compensation statute, the Contractor shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of its employees not otherwise protected.

F. The Contractor shall secure, if applicable, "All Risk" type Builder's Risk Insurance for Work to be performed. Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the Contract Price totaled in the Bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightening, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the Contract Time, and until the Work is accepted by the Owner. The policy shall name as the insured the Contractor, and the Owner.

16. CONTRACT SECURITY

A. The Contractor shall within ten days after the receipt of the Notice of Award furnish the Owner and the Commission with a Performance Bond and a Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the Work provided by the Contract Documents. Such Bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the State in which the Work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570, provided that the contract amount shall not exceed the underwriting limitation listed for the surety in Circular 570. For contracts in excess of $100,000.00, the Bonds shall be issued by a Bonding Company by the A.M. BEST Rating Book as follows:

i. contracts in excess of $100,000.00, but less than $1,000,000.00 - "B+" rating or higher and contract amount may not exceed 2.0% of the policyholder's surplus.
ii. contracts in excess of $1,000,000.00 - "A" rating or higher and contracts may not exceed 2.0% of the policyholder's surplus.

B. In addition, the Bonds shall be executed by an Agent licensed by the Insurance Commissioner of the State of Arkansas to represent the surety company executing the bonds. The mere countersigning of a bond will not be sufficient. The Agent shall file with the bonds its Power of Attorney. The expense of these Bonds shall be borne by the Contractor. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the State of Arkansas or is removed from the above list of Surety Companies, the Contractor shall notify the Owner, Engineer, and the Commission and substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner and Commission. The Contractor shall pay the premiums on such Bond. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable Bond to the Owner and the Commission

17. ASSIGNMENTS

The Contractor shall not sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of any right, title or interest therein, or any obligations thereunder, without written consent of the Owner.

18. INDEMNIFICATION

A. The Contractor will indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against all claims; damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction or tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the Contractor, and Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

B. In any and all claims against the Owner or the Engineer, or any of their agents or employees, by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under worker's compensation acts, disability benefits acts or other employee benefits acts.

C. The obligation of the Contractor under this paragraph shall not extend to the liability of the Engineer, its agents or employees arising out of the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or Specifications.

19. SEPARATE CONTRACTS

A. The Owner reserves the right to let other contracts in connection with this Project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall properly connect and coordinate the Work with theirs. If the proper execution or results of any part of the Contractor's Work depends upon the Work of any other Contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such Work that render it unsuitable for such proper execution and results.

B. The Owner may perform additional Work related to the Project or the Owner may let other contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such contracts (or the Owner, if the Owner is performing the additional Work) reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work, and shall properly connect and coordinate the Work with theirs.

C. If the performance of additional Work by other Contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by the Owner or others involves it in additional expense or entitles it to an extension of the Contract Time, the Contractor may make a claim thereof as provided in Sections 15 and 16.

20. SUBCONTRACTING

A. The Contractor may utilize the services of specialty Subcontracts on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.

B. The Contractor shall not award Work to Subcontractor(s), in excess of fifty percent of the Contract Price, without prior written approval of the Owner.

C. The Contractor shall be fully responsible to the Owner for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

D. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

E. Nothing contained in this Contract shall create any contractual relationship between any Subcontractor and the Owner.

21. PRE-CONSTRUCTION CONFERENCE

A Pre-Construction Conference (PCC) will be held following the RLF loan closing, the review of bid documents by the Commission, and the Award of the construction contract(s). Work orders will not be issued until after the PCC is held and the Contractor has furnished an acceptable completion schedule as described by these Supplemental General Conditions. The PCC shall be attended by the Owner, Engineer, Contractor(s), and representatives of the Commission. The purpose of the conference will be to define the roles and responsibilities of the Owner, the Commission, the Engineer and all Contractors during the performance of the Contract.

22. SCHEDULES, REPORTS AND RECORDS

A. The Contractor shall submit to the Owner and the Engineer such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required by the Contract Documents for the Work to be performed. One copy of the up-to-date schedule shall be maintained at the job site.

B. Prior to the first partial payment estimate, the Contractor shall submit construction progress schedules showing the order in which the Contractor proposes to carry on the Work, including dates at which the various parts of the Work will be started, estimated date of completion of each part and, as applicable:
   i. The dates at which special detailed drawings will be required; and
   ii. Respective dates for submission of Shop Drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.

C. The Contractor shall also submit a schedule of payments that the Contractor anticipates will be earned during the course of the Work that must be updated each month.

23. JOB BULLETIN BOARD

The Contractor shall maintain a weather-tight job bulletin board in an area frequented by the Contractor's employees for the duration of construction. The job bulletin board shall display at a minimum a copy of the Davis-Bacon Wage Decision, a Davis-Bacon poster, a notice to employees concerning minimum wage requirements, Equal Employment Opportunity (Labor Standards) information, and a notice to labor unions as applicable. A copy of the construction schedule (i.e. critical path chart) is to be placed on the job bulletin board and updated monthly, showing project progress.

24. SHOP DRAWINGS

A. The Contractor shall provide Shop Drawings as may be necessary for the prosecution of the Work as required by the Contract Documents. The Engineer shall promptly review all Shop Drawings. The Engineer's approval of any Shop Drawings shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of any Shop Drawings, which substantially deviates from the requirement of the Contract Documents, shall be evidenced by a Change Order.

B. When submitted for the Engineer's review, Shop Drawings shall bear the Contractor's certification that he has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents.

C. Portions of the Work requiring Shop Drawings or submission of samples shall not begin until the Shop Drawings or submissions have been approved by the Engineer. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Engineer.

25. MATERIALS, SERVICES AND FACILITIES

A. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the Work within the specified time.

B. Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection. Materials not located in or near the project site will not be eligible for re-imbursement.

C. Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the Manufacturer.

D. Materials, supplies, and equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer.

E. Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the Seller.

26. SAFETY STANDARDS

A. The Contractor is responsible for complying with the Department of Labor Safety and Health Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333). The Contractor shall not require any laborer or

mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by regulations of the Secretary of Labor.

Job site situations which pose an immediate and serious threat to life or safety will be referred to the Occupational Safety and Health Administration (OSHA).

B. Act 291 of the 1993 Arkansas General Assembly applies to all public improvement construction projects that involve any trench or excavation which equals or exceeds five feet in depth. Beginning March 1, 1993, Act 291 requires that:
   i. The current edition of Occupational Safety and Health Administration Standard for Excavation and Trenches Safety System, 29 CFR 1926, Subpart P, be specifically incorporated into the specifications for the project; and
   ii. The contract bid form include a separate pay item for trench and excavation safety systems and be included in the base bid.

In the event that a Contractor fails to complete a separate pay item in accordance with the Act, the Owner shall declare that the bid fails to comply fully with the specifications and the bid will be considered invalid as a non-responsive bid.

The Owner shall notify the Safety Commission of the State Department of Labor of the award of a contract covered by this Act.

27. PROTECTION OF LIVES AND PROPERTY

A. In order to protect the lives and health of its employees under the contract, the Contractor shall comply with all pertinent provisions of the "Manual of Accident Prevention in Construction" issued by the Associated General Contractors of America, Inc., and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment or work under the contract.

B. The Contractor alone shall be responsible for the safety, efficiency, and adequacy of its plant, appliances and methods and for any damage which may result from his failure or his improper construction, maintenance or operation.

28. PROTECTION OF WORK, PROPERTY, AND PERSONS

A. The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor will take all necessary precautions for the safety of, will provide the necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns,

walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

B. The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The Contractor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. The Contractor will notify owners of adjacent utilities when prosecution of the Work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the Owner, of the Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

C. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instructions or authorization from the Engineer or Owner, shall act to prevent threatened damage, injury or loss. The Contractor will give the Engineer prompt Written Notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved.

29. PROTECTION OF THE ENVIRONMENT

The Contractor will provide for protection of the environment as required by the Contract Documents, Local Ordinance, State and Federal Law and these Supplemental General Conditions. The Contractor shall:

i. Limit the area of construction disturbance to areas within temporary and permanent easements and the land areas designated for the Contractors use in performing the work.
ii. Provide for the protection of trees, shrubs and grass wherever possible.
iii. Provide for the prevention of air pollution through burning permits as required. The Contractor shall provide dust control on haul roads as site conditions dictate.
iv. Control noise pollution by providing efficient mufflers on all machinery and limiting work hours if required by the Contract Documents.
v. Control excessive erosion and sedimentation at the job site through prompt seeding of disturbed areas and the construction of temporary control measures as required in the contract documents and by Storm Water Permits.
vi. Perform the work in coordination with the Owner and in a manner that will provide for the continuous transport and treatment of wastewater during construction.
vii. Cease all work in areas where species classified as threatened or endangered under the Endangered Species Act (Public Law 93-205 as amended) are discovered and promptly notify the Engineer.

30. ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL REMAINS

The Contractor shall immediately stop all work in any area where artifacts of archaeological, historical or cultural significance are found and notify the Engineer. The Owner shall notify the Commission, the State Advisory Council on Historic Preservation and the Arkansas Natural Heritage Commission of the discovery.

31. STORM WATER PERMIT REQUIREMENTS

A. The Contractor is advised that if this construction activity involves clearing, grading or excavation activities that result in the disturbance of one or more acres of total land area including areas which are part of the total RLF project, this activity is subject to Storm Water Permit Requirements of the Arkansas Department of Environmental Quality. The Owner will obtain an NPDES General Stormwater Permit for construction activities (ARR150000). The Contractor is responsible for compliance with all terms and conditions of the General Permit. Most RLF projects are eligible for inclusion under the General Permit.

B. The General Permit requires the control of the entrance of pollutants into the surface and ground waters of the State. Temporary and permanent sediment and erosion control measures must be included in the Work during the course of construction. These measures may include temporary and permanent seeding, construction of catch basins, the use of mulch, straw bales and silt fences to control sediments, the use of riprap at erosion-prone areas, and other measures.

C. The General Permit also requires maintenance and “good housekeeping practices” that include items such as proper waste disposal, proper storage for hazardous materials and designating safe places for equipment maintenance and wash-down.

D. The Contractor is required to maintain on-site a Stormwater Pollution Prevention Plan describing the storm water pollution prevention measures that will be taken at the construction site. The Plan must include a site description, a description of the nature of the activity, the intended sequence of the work, estimates of the total area involved in the activity, an estimate of the possible volume of runoff from the area, site maps showing drainage patterns, pollution prevention measures that will be taken, and other items.

E. The Contractor is responsible for implementation of Best Management Practices described within the Stormwater Pollution Prevention Plan.

F. The Contractor shall be responsible for implementing all applicable requirements of the Owner’s ADEQ General Stormwater Permit for Construction Activity, 401 Water Quality Certification, the COE Section 404 Permit, the ADEQ Short-Term Activity Authorization, the SPCCP, the USFWS recommendations for cave protection, local Municipal Separate Storm Sewer requirements, and all other environmental regulatory requirements that are associated with the construction activities that the Contractor is to perform.

G. Additional information and application materials may be obtained by writing to the Arkansas Department of Environmental Quality's Storm Water Permits Section.

32. ENGINEER'S AUTHORITY

A. The Engineer shall act as the Owner's representative during the construction period, shall decide questions which may arise as to quality and acceptability of materials furnished and Work performed, and shall interpret the intent of the Contract Documents in a fair and unbiased manner. The Engineer will make visits to the site and determine if the Work is proceeding in accordance with the Contract Documents.

B. The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship, and execution of the Work. Inspections may be made at the factory or fabrication plant of the source of material supply.

C. The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

D. The Engineer shall promptly make decisions relative to interpretation of the Contract Documents.

33. OWNER'S PROTECTION FROM CONTRACTOR'S ACTIONS

The Engineer may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any approved partial payment estimate to such extent as may be necessary to protect the owner from loss on account of:

i. Defective work not remedied.
ii. Claims filed or reasonable evidence indicating probable filing of claims.
iii. Failure of Contractor to make payments properly to Subcontractors or for material or labor.
iv. A reasonable doubt that the work can be completed for the balance then unpaid.
v. Damage to another Contractor.
vi. Performance of work in violation of the terms of the contract documents.

34. INSPECTION AND TESTING

A. All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the Contract Documents.

B. The Owner shall provide for full time inspection of the work by the Engineer to assure the work is being performed in accordance with the approved plans, specifications and change orders; and in accordance with sound engineering principles and building practices.

The Resident Inspector(s) of the Owner will perform required inspections and tests and maintain on-site records as assurance that the work conforms to the contract

requirements. The Resident Inspector shall make available to the Owner and Commission representatives adequate records of such inspections and tests. Failed tests with passing retests will be clearly marked in the project records.

C. The Contractor will maintain an adequate inspection and supervision system and perform required inspections and tests to assure that the work conforms to the contract requirements. The Contractor will make available to the Owner and the Commission adequate records of such inspections and tests. Failed tests with passing re-tests will be clearly marked in the project records.

D. If laws, ordinances, or regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested, or approved by an employee or other representative of such public body, the Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish the Engineer the required certificates of inspection or approval.

E. Inspections, tests, or approvals by the Engineer or others shall not relieve the Contractor from the obligations to perform the Work in accordance with the requirements of the Contract Documents and Specifications.

F. The Engineer and the Engineer's representatives will at all times have access to the Work. In addition, authorized representatives and agents of any participating State agency shall be permitted to inspect all work, materials, payrolls, records or personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof.

G. The Commission will make periodic engineering and administrative inspections of the project to examine project records, monitor progress and inspect the work for conformance with contract requirements. The Commission shall notify the Owner and the Engineer of any observed deficiencies in the completed construction, procedures or materials used in construction, resident inspection, engineering supervision, financial management or any violation of loan program requirements. The Commission will require the Owner to take such action as may be necessary to correct any such observed deficiency.

H. If any Work is covered contrary to the written instructions of the Engineer it must, if requested by the Engineer, be uncovered for the Engineer's observation and replaced at the Contractor's expense.

I. If the Engineer considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, materials,

tools, and equipment. If it is found that such Work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, if however, such Work is not found to be defective, the Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate Change Order shall be issued.

J. The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance on RLF funded work under this agreement in accordance with the provisions of these Contract Documents. The Contractor shall also maintain the financial information and data used in the preparation or support of the cost submission required for a change order and a copy of the cost summary submitted to the Owner. The Owner and the Commission or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The Contractor will provide proper facilities for such access and inspection.

K. Upon completion of all project construction, the Commission will schedule a final inspection within thirty days of receipt of a written certification by the Owner that construction is ready for a final inspection. Prior to approval of the final construction payment, the Commission will verify that all construction is complete in accordance with plans, specifications and approved change orders, all equipment has been purchased and installed, the final contract amounts have been agreed to by Change Order, as-built drawings are complete, and the Owner has prepared an operation and maintenance manual that includes contractor supplied data as required by these Supplemental General Conditions.

Following an acceptable Final Inspection by the Commission, the Commission will provide written acceptance to the Owner of the project and the final construction payment can be requested. The Commission will not approve the final construction payment until the Owner and the Contractor has complied with the requirement for the release of final payment as outlined in these Supplemental General Conditions.

35. SUPERVISION BY CONTRACTOR

The Contractor will supervise and direct the Work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the Work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The Supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The Supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the Work.

36. PAYMENT TO CONTRACTOR

A. Disbursements from the State Revolving Loan Fund (RLF) Programs shall be made monthly based upon actual work performed and materials stored on site less retainage. Funds will not be disbursed from the RLF without approval by the Commission. The Commission will approve disbursements provided the Owner (loan recipient) and the Contractor are in compliance with the provisions of these contract documents and RLF regulations. Contract cost overruns approved by the Commission but in excess of the loan amount must be funded by the Owner or through an additional loan. Contract cost overruns not approved by the Commission must be funded by the Owner.

B. Each month, at least ten days before each progress payment falls due (but not more often than once a month), the Contractor shall prepare and submit to the Engineer a progress estimate acceptable in form and content to the Engineer and the Commission supported by such data as the Engineer may reasonably require. The estimate shall show a detailed breakdown of the amount of work completed previously, amount of work completed this period, amount of work completed to date, the amount of retainage, and the quantity and value of materials and equipment currently stored on site that have not been incorporated into the work. Partial payment requests will be placed on the form provided by the Commission and must include a reduced scale copy of the updated construction schedule. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the Owner as will establish Owner's title to the material and equipment and protect the Owner's interest therein, including applicable insurance.

The progress payment request shall also include a certification by the Contractor that it has complied with all labor standards. The Certification may be placed in the content of the progress payment request or Commission form "Certification by Contractor of Labor Standards Compliance" may be attached to the payment request. No disbursement request will be approved by the Commission without this certification. Furthermore, the Owner will provide the Commission a letter with each pay request certifying wages, through payroll review and employee interviews, met the Davis-Bacon Requirements of this contract. Copies of completed interviews will be forwarded to the Commission.

The Engineer will, within ten days after receipt of each partial payment estimate, either indicate in writing approval of payment, and present the partial payment estimate to the Owner or return the partial payment estimate to the Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within ten days of presentation of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate less the retainage.

Retainage will be in accordance with state law (Arkansas Code of 1987 as amended, Annotated 22-9-604) and as described herein. The retainage shall be an amount equal to five percent of said estimate (excluding Section C. below). Upon final completion of the work, any amount retained may be paid to the Contractor. When the Work has been completed except for Work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgement of the Owner are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the Work still to be completed.

C. In compliance with Arkansas Code Ann. §17-25-404 (1995), ten percent may be withheld from the Engineer's estimate until a proper statement or certificate is received from the Contractors Licensing Board stating that the required bond has been filed and that the Contractor is otherwise in compliance with Arkansas Code Ann. §17-25-404 (1995).
   i. That no compensating tax is due the State under the contract.
   ii. That the tax due under the contract has been paid.
   iii. That a suitable surety bond has been provided by the Contractor and approved by the Contractors Licensing Board as prescribed in the Act.

D. The Owner shall request payment on Disbursement Request Form supplied during the Pre-Construction Conference. The requested amount shall not exceed the current amounts approved for construction, engineering and other project costs on individual line items. Only those individuals authorized to represent the Owner and the Engineer shall sign the Disbursement Request Form. Documentation for costs incurred since the last disbursement request must accompany each pay request including the Contractor's monthly pay estimate with attachments as described in these Supplemental General Conditions and invoices for engineering, administrative, and legal services as well as approved equipment costs.

E. The Owner is required to submit one copy of the completed Disbursement Request Form and all supporting documentation to the Commission for processing; the deadlines for all disbursements from the City to the Commission will be discussed at the Preconstruction Conference. Disbursement requests not received at the Commission prior to the deadlines established in the Preconstruction Conference will not be processed and paid until the following month.

   For the Owner to realize this deadline, Contractor estimates should be received by the Engineer on or before the 10th day of each month. The actual due date for Contractor estimates shall be as established by the Contract Documents or by the Engineer.

F. Disbursements from the RLF are generally received by the Owner (loan recipient) from the Arkansas Development Finance Authority (ADFA) within the first ten working days of the month. The Owner shall promptly pay all bills due as disbursements are made from the RLF.

G. Prior to Substantial Completion, the Owner with the approval of the Engineer and with the concurrence of the Contractor, may use any completed or substantially completed portions of the Work. Such use shall not constitute an acceptance of such portions of the Work.

H. The Owner shall have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work, or the restoration of any damaged Work except such as may be caused by agents or employees of the Owner.

I. Upon completion and acceptance of the Work, the Engineer shall issue a certificate attached to the final payment request that the Work has been accepted under the conditions of the Contract Documents. The entire balance found to be due the Contractor, including the retained percentages, but except such sums as may be lawfully retained by the Owner shall be paid to the Contractor within thirty days of completion and acceptance of the Work.

J. The Contractor will indemnify and save the Owner or the Owner's gents harmless from all claims growing out of the lawful demand of Subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools and all supplies, incurred in the furtherance of the performance of the Work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so the Owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed in accordance with the terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor, the Contractor's Surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the Contract Documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

K. If the Owner fails to make payment thirty days after approval by the Engineer, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the Contractor.

L. In addition to the Contract Time specified in these Contract Documents, the Bond Purchase Agreement between the Owner and the Commission contains an estimated completion date beyond which no further loan disbursements will be made without

specific written waiver by ADFA and the Commission. ADFA and the Commission will grant waivers only where there is sufficient documented evidence that project completion was delayed through no fault of the Contractor and the Owner.

Regardless of the existence of circumstances where a delay in completion is beyond the control of the Contractor and the Owner, a waiver to the estimated completion date will not be granted should the granting of such waiver harm any commitments made to the purchasers of Revolving Loan Fund Bonds issued by ADFA. Should a wavier be denied, the Owner must complete the project with its own funds or apply for an additional loan from the RLF program.

37. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance of the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the Owner and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or its sureties from any obligations under the Contract Documents or the Performance and Payment Bonds.

38. CLEANUP AND CORRECTIONS

Where work on unit price items are substantially complete but lack clean-up and/or corrections ordered by the Engineer, amounts shall be deducted from unit prices in partial payment estimates to amply cover such clean-up and corrections.

39. TAXES

The Contractor will pay all sales, consumer, use and other similar taxes required by the laws of the place where the Work is performed.

40. STATE TAX EXEMPTION

This section only applies with projects receiving Clean Water Revolving Loan Funds; Drinking Water Revolving Loan Funds can not receive this benefit. Except were applicable below, the Contractor will pay all sales, consumer, use and other similar taxes required by the laws of the place where the Work is performed. Machinery and equipment purchased by the Contractor for installation under this contract may be exempt from Arkansas Sales Tax. Arkansas Department of Finance and Administration Regulation GR-66 states that the gross proceeds derived from the sale of pollution control machinery and equipment are exempt from the tax if:

i. The machinery and equipment is utilized, either directly or indirectly, by manufacturing or processing plants or facilities, or cities or towns in Arkansas to prevent or reduce air or water pollution or contamination which might otherwise result from the operation of the plant or facility; and,

ii. The machinery and equipment is required by Arkansas or federal law or regulations to be installed and utilized to control pollution or contamination as evidenced by written documentation from the Arkansas Natural Resources Commission or the Environmental Protection Agency.
iii. Supplies and chemicals used by pollution control machinery and equipment are taxable.

Should the contract involve the installation of pollution control machinery and equipment at a treatment facility, the Arkansas Department of Environmental Quality will furnish a written general certification to document that the machinery and equipment is required by Arkansas or federal law. A request for written documentation should be sent to the Arkansas Department of Environmental Quality's NPDES Permit Branch, Water Division.

To claim the exemption, the Contractor must provide the vendor with a copy of the documentation. The invoice must show that the purchase is for pollution control machinery and equipment under Arkansas Code Annotated 26-53-114. Most ancillary items necessary to install the equipment do not qualify for tax exemption. Any questions involving the definition of machinery and equipment should be directed to the Arkansas Department of Finance and Administration's Sales and Use Tax Section.

41. OPERATION AND MAINTENANCE MANUAL

A. The Contractor shall furnish four copies of all operation, maintenance, repair and replacement manuals, and product data for all equipment supplied by the Contractor to the Engineer. The Engineer shall not certify payments requesting more than eighty percent of the Contract amount until such time as all operation, maintenance, repair and replacement manuals, and product data has been furnished by the Contractor to the Engineer.

B. The Engineer is required to obtain approval from the Commission of the project operation and maintenance manual prior to the release of the final construction payment.

42. CHANGES IN THE WORK

A. The Owner may at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order.

B. All changes should be recorded and approved on a contract Change Order so that they may be included in partial payment estimates. The Commission must approve all contract Change Orders prior to commencing with the associated Work. When drafting Change Orders, the Engineer will use the RLF form provided by the Commission.

C. All changes, which affect the cost of the construction of the Project, must be authorized by means of a contract Change Order. The contract Change Order will include extra work,

work for which quantities have been altered from those shown in the bidding schedule, as well as decreases or increases in the quantities of installed units which are different than those shown in the bidding schedule because of final measurements.

In the case of defective specifications for which the Owner is responsible, the equitable adjustment shall include any increased cost the Contractor reasonably incurred in attempting to comply with those defective specifications.

Where justified, adjustments to the Contract Time specified in the Contract Documents shall be made in conjunction with changes in the work and with equitable adjustments in the contract price as described in these Supplemental General Conditions. Where delays in project completion are not due to changes in the work or acts of the Owner, extensions to the contract time will be made only where there is sufficient documented evidence that delays in project completion were caused by events beyond the contractor's control.

The Owner shall promptly investigate the conditions and if found that conditions materially differ, the Owner will cause an increase or decrease in the Contractor's cost or the time required to perform any part of the work under this agreement as applicable.

The Contractor shall promptly, and before such conditions are disturbed, notify the Owner in when differing site conditions occur. Notification will come in the writing with:

i. Subsurface or latent physical conditions at the site differing materially from those indicated in this agreement, or
ii. Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this agreement.

No claim of the Contractor for increased cost or time due to differing site conditions shall be allowed unless the Contractor has given a written notice of the differing site conditions within thirty days of the discovery of such conditions.

D. The Contractor shall document the necessity of all claims for additional cost and time in writing and shall provide detailed cost and time estimates to the Engineer for all proposed contract changes. The Engineer shall review the supporting documents and estimates provided by the Contractor for reasonableness and shall as necessary develop independent cost estimates of the proposed contract changes to assure that the cost of the proposed change is fair and reasonable.

E. The Owner shall provide sufficient information such as a description and justification for the change, drawings, the Contractor’s proposal and other supporting documentation to the Commission for review. The Owner shall promptly notify the Commission in writing of events or proposed changes which may substantially alter the design and scope of the Project, alter the type of treatment provided or the location, size, capacity, or quality of

any major item of equipment or treatment unit, or exceed the amount of funds available to complete the project.

F. The Contract Price may be changed only by a Change Order. The value of any Work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:
   i. Unit prices previously approved.
   ii. An agreed lump sum.

G. Should project changes increase the amount of funds necessary to complete the Project beyond the initial loan amount, the Owner must fund the project changes or apply to the Commission for monies to cover the cost overruns.

H. The Engineer, also, may at any time, by issuing a Field Order, make changes in the details of the Work. The Contractor shall proceed with the performance of any changes in the Work so ordered by the Engineer unless the Contractor believes that such Field Order entitles the Contractor to change in Contract Price or Time, or both, in which event the Contractor shall give the Engineer written notice thereof within seven days after the receipt of the ordered change. Thereafter the Contractor shall document the basis for the change in Contract Price or Time within thirty days. The Contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the Owner.

43. SUBSURFACE CONDITIONS

A. The Contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the Owner by Written Notice of:
   i. Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or
   ii. Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents.

B. The Owner shall promptly investigate the conditions, and if it is found that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the Work, an equitable adjustment shall be made and the Contract Documents shall be modified by a Change Order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless the required Written Notice has been given; provided that the Owner may, if the Owner determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

44. CORRECTION OF WORK

A. The Contractor shall promptly remove from the premises all Work rejected by the Engineer for failure to comply with the Contract Documents, whether incorporated in the

construction or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of making good all Work of other Contractors destroyed or damaged by such removal or replacement.

B. All removal and replacement Work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected Work within ten days after receipt of Written Notice, the Owner may remove such Work and store the materials at the expense of the Contractor.

45. SURVEYS, PERMITS, REGULATIONS

A. The Owner, through the Engineer, shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the Work together with a suitable number of bench marks adjacent to the Work as shown in the Contract Documents. From the information provided by the Engineer unless otherwise specified in the Contract Documents, the Contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pipe locations and other working points, lines, elevations and cut sheets.

B. The Contractor shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.

C. Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor unless otherwise stated in the Supplemental General Conditions. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. If the Contractor observes that the Contract Documents are at variance therewith, the Contractor shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided in Section 42, CHANGES IN THE WORK.

46. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

A. The date of beginning and the time for completion of the Work are essential conditions of the Contract Documents and the Work embraced shall be commenced on a date specified in the Notice to Proceed.

B. The Contractor will proceed with the Work at such rate of progress to insure full completion within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the Owner that the Contract Time for the completion of the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

C. If the Contractor shall fail to complete the Work within the Contract Time, or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for liquidated damages as specified in the Bid for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.

D. The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the Work is due to the following and the Contractor has promptly given Written Notice of such delay to the Owner or Engineer.
   i. To any preference, priority or allocation order duly issued by the Owner.
   ii. To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; and
   iii. To any delays of Subcontractors occasioned by any of the causes specified in paragraphs (i.) and (ii) of this article.

E. Where justified, adjustments to the Contract Time specified in the Contract Documents shall be made in conjunction with changes in the work and with equitable adjustments in the contract price as described in these Supplemental General Conditions. Where delays in project completion are not due to changes in the work or acts of the Owner, extensions to the contract time will be made only where there is sufficient documented evidence that delays in project completion were caused by events beyond the Contractor's control. Requests for time extensions by the Contractor must be submitted with the pay estimate for the month that the lost days are being sought.

F. Notification procedures.
   i. At eighty percent completion of project construction time the Engineer will contact in writing the Surety Company, the Contractor, the Owner, and the Funding Agencies. The letter will contain contract specific language concerning time left in the contract and work needed to be completed. If the Engineer deems the project to be on time for completion then they may contact the Owner and the Funding Agency via email requesting a relief from this clause.
   ii. When contract time has been completed and the project is not substantially complete, the Engineer will notify in writing the Surety Company, the Contractor, the Owner, and the Funding Agencies. The letter will notify all parties that Liquidated Damages will be assessed from this point forward until the project has been completed.
   iii. If paragraph ii. above is enacted, the Engineer will contact all parties in writing when the project is complete.

47. SUSPENSION OF WORK, TERMINATION, AND DELAY

A. The Owner may suspend the Work or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the Contractor, by Written Notice to the Contractor and the Engineer, which shall fix the date on which Work shall be resumed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension.

B. If the Contractor is adjudged to be bankrupt or insolvent, or makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if the Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or repeatedly fails to make prompt payments to Subcontractors or for labor, materials, or equipment or disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the Work or disregards the authority of the Engineer, or otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and its surety a minimum of ten days from delivery of a Written Notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the Work by whatever method the Owner may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the Engineer and incorporated in a Change Order.

C. Where the Contractor’s services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents. Upon receipt of a termination action the Contractor shall promptly discontinue all affected work (unless the notice directs otherwise), and deliver or otherwise make available to the Owner all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Contractor in performing this agreement, whether completed or in process.

D. After ten days from delivery of a Written Notice to the Contractor and the Engineer, the Owner may, without cause and with prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case the Contractor shall be paid for all Work executed and any expense sustained plus reasonable profit.

E. If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety days by the Owner or under an order of the court or other public authority, or the Engineer fails to act on any request for payment within thirty days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Engineer or awarded by arbitrators within thirty days of its approval and presentation, then the Contractor may, after ten days from delivery of a Written Notice to the Owner and the Engineer terminate the Contract and recover from the Owner payment for all Work executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the Engineer has failed to act on a request for payment or if the Owner has failed to make any payment as aforesaid, the Contractor may upon ten days written notice to the Owner and the Engineer stop the Work until paid all amounts then due, in which event and upon resumption of the Work Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the Work.

F. If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the Owner or Engineer to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner or Engineer.

48. AS-BUILT DRAWINGS

To assure quality control, the Contractor and the Owner's Inspector shall each maintain a complete set of Plans and Specifications and approved shop drawings at the construction site. In addition, one set of Plans shall be maintained at the site solely for the purpose of marking authorized changes in the plans as the work progresses. These marked up drawings shall be used in the preparation of as-built drawings following project completion and shall be maintained in current condition at all times.

49. GUARANTEE

The Contractor shall guarantee all materials and equipment furnished and Work performed for a period of one year from the date of Substantial Completion. The Contractor warrants and guarantees for a period of one year from the date of Substantial Completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other Work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

50. PATENTS

The Contractor shall pay all applicable royalties and license fees, and shall defend all suits or claims for infringement of any patent rights and save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design, or product of a particular manufacturer or manufacturers is specified, however, if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly gives such information to the Engineer.

51. CONFLICTS OF INTEREST

No official of the Owner who is authorized in such capacity and on behalf of the "Owner" to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof. No officer, employee, architect, attorney, engineer or inspector of or for the "Owner" who is authorized in such capacity and on behalf of the "Owner" who is in any legislative, executive, supervisory, or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

52. ARBITRATION BY MUTUAL AGREEMENT

A. All claims, disputes, and other matters in question arising out of, or relating to, the Contract Documents or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided by Section 36 and 37, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

B. Notice of the request for arbitration shall be filed in writing with the other party to the Contract Documents and a copy shall be filed with the Engineer. Request for arbitration shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations.

C. The Contractor shall diligently pursue the completion of the work during any arbitration or court proceeding unless the work is suspended by the Owner or the contract terminated under the provisions of the Contract Documents.

53. GRATUITIES

If the Owner finds after a notice and hearing that the Contractor or any of the Contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Owner, or the State, in an attempt

to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this agreement, the Owner may, by written notice to the Contractor, terminate this agreement. The Owner may also pursue other rights and remedies that the law or this agreement provides. However, the existence of the facts on which the Owner bases such findings shall be at issue and may be reviewed in proceedings under the Disputes and Remedies section of these Supplemental General Conditions.

54. PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

The Contractor and all subcontractors awarded subcontracts must comply with regulations at 2 CFR 200.216, *Prohibition on certain telecommunication and video surveillance services or equipment*, implementing section 889 of Public Law 115-232. The regulation prohibits the use of federal funds to procure, enter into, extend, or renew contracts, or obtain equipment, systems, or services that use "covered telecommunications equipment or services" identified in the regulation as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor hereby represents and warrants to and for the benefit of the Owner and the Commission that: (a) the Contractor has reviewed and understands the prohibition on certain telecommunication and video surveillance services, or equipment (the "Prohibition Requirement") and (b) the Contractor will provide verified information, certification or assurance of compliance with this paragraph, or information necessary to support the Prohibition Requirement. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner or Commission to recover as damages against the Contractor for any loss, expense, or cost including, without limitation, attorney's fees, incurred by the Owner or Commission resulting from any such failure including, without limitation, any impairment or loss of funding, whether in whole or in part, from the Commission or any damages owed to the Commission by the Owner. While the Contractor has no direct contractual privity with the Commission, the Owner and the Contractor agree that the Commission is a third-party beneficiary and neither this paragraph nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the Commission. A copy of the EPA Memorandum implementing the Prohibition Requirement is attached as Appendix E to these Supplemental General Conditions.

Appendix A.

United States Environmental Protection Agency
Washington, DC 20460

Labor Standards Provisions for
Federally Assisted Contracts

Davis-Bacon and Related Acts

ATTACHMENT 1

CWSRF: The recipient agrees to include in all agreements to provide assistance for the construction of treatment works carried out in whole or in part with such assistance made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or with such assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both, a term and condition requiring compliance with the requirements of section 513 of that Act (33 U.S.C. 1372) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for the construction of treatment works carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of $2,000 the contract clauses as attached hereto entitled "Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)." This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

DWSRF: The recipient agrees to include in all agreements to provide assistance for any construction project carried out in whole or in part with such assistance made available by a drinking water revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12), a term and condition requiring compliance with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions All contracts and subcontracts for any construction project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of $2,000 the contract clauses as attached hereto entitled "Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)." This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

ATTACHMENT 2

Wage Rate Requirements
Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

I. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) for Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. If a State recipient needs guidance, the recipient may contact Lorraine Fleury at fleury.lorraine@epa.gov or at 215-814-2341 of EPA, Region III Grants and Audit Management Branch for guidance. for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at http://www.dol.gov/whd/

1. Applicability of the Davis-Bacon (DB) prevailing wage requirements.
   Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.
   (a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.
      (i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
      (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

   (b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

   (c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

   (d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.
   (a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

   (1) Minimum wages.
      (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

      Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii) (A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all

workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding.

The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR

5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA , the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees,
(i) Apprentices.
(a) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed -
(i) pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training,

Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or

(ii) if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(b) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program.

(c) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(d) Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination.

(e) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(f) In the event the Office of Apprenticeship Training, Employer and Labor Services (OATELS), or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees.

(a) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S.

Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(b) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to

include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such

workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient**,** upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the

Subrecipient shall insert in any such contract a clause providing hat the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification
   (a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

   (b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

   Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

   (c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract . Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

   (d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be

conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/contacts/whd/america2.htm.

II. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) for Subrecipients That Are Not Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its DB responsibilities when DB applies to EPA awards of financial assistance under the FY2013 Continuing Resolution with respect to subrecipients that are not governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. If a State recipient needs guidance, the recipient may contact Julie Milazzo at Milazzo.julie@epa.gov or at 415-972-3687, EPA Grants Management Office for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at http://www.dol.gov/whd/

Under these terms and conditions, the subrecipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.
   Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.
   (a) Subrecipients must obtain proposed wage determinations for specific localities at www.wdol.gov. After the Subrecipient obtains its proposed wage determination, it must submit the wage determination to the Arkansas Natural Resources Commission's Water Resource Development Division for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official.

(b) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor www.wdol.gov. on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(d) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.
   (a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

   (1) Minimum Wages.
      (i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

      Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov. .

(ii) (A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all

workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount

of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations,
29 CFR part 5, and that such information is correct and complete;
(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and Trainees
(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services,

or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe

benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iv) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the

Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without

payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

Appendix B.

Rules and Regulations

Title 41- Public Contract and Property Management

Chapter 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor

Compliance Responsibility for Equal Employment Opportunity

Final Rule

Part 60-1 Obligations of Contractors and Sub-Contractors

§60-1.4 Equal Opportunity Clause

(a) FEDERALLY ASSISTED CONSTRUCTION CONTRACTS (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(2) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor 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, or national origin, such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(3) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: PROVIDED, HOWEVER. That in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: PROVIDED, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering. agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliances.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee): refrain from extending any further assistance to the applicant under the program

with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(b) SUBCONTRACTS. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(c) INCORPORATION BY REFERENCE. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the director may designate.

(d) INCORPORATION BY OPERATION OF THE ORDER. By operation of the Order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(e) ADAPTATION OF LANGUAGE. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

Part 60-4 - Construction Contractors - Affirmative Action Requirements
§60-4.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in §60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to §60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in §60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this part 60-4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall give (SIC) written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designed by the Director pursuant to §60-4.5 of this part (see 4) CFR 60-4.2 (a)):

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

(1) The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

(2) The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Time Tables	Goals for minority participation for each trade Insert goals for each year.	Goals for female participation in each trade Insert goals for each year.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed, with regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specification set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of the meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR part 60-4, Compliance with the goals will be measured against the total work hours performed.

(3) The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction sub-contract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract ; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

(4) As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

§60-4.3 EQUAL OPPORTUNITY CLAUSES;

(a) The equal opportunity clause published at 41 CFR 60-1.4 (a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4 (b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal

contracting officers, all applicants and all nonconstruction contractors as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to §60-4.6 of this part and in construction subcontracts in excess of $10,000 necessary in whole or in part to the performance of non-construction Federal contracts and subcontracts covered under the Executive Order.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

(1) As used in these specifications:
- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted:
- b. "Director" means Director, Office of Federal Contracts Compliance Programs, United States Department of Labor, or any person to who the Director delegates authority:
- c. "Employer identification number" means the Federal Social Security number used on the Employer' s Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- d. "Minority" includes:
  - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless or race);
  - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands): and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which a set forth in the solicitations from which this contract resulted.

(3) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate, their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in a approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

(4) The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal of federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting the goals in each craft during the period specified.

(5) Neither the provisions of any collective bargaining agreement, or the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications. Executive Order 11246, or the regulations promulgated pursuant thereto.

(6) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. The trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(7) The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a.. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the

Contractor, this shall be documented in the file with the reason therefore, along with what-ever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meets its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female new media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with who the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and

encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligation under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

(8) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participating may be asserted as fulfilling any one or more to its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf to the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(9) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

(10) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(11) The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(12) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing

regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

(13) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contract fails to comply with the requirements to the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

(14) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes of status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of l977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not used after the regulations in 41 CFR part 60-4 become effective.

Appendix C.

40 CFR PART 33

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES
IN UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PROGRAMS

Subpart C—Good Faith Efforts

§ 33.301 What does this subpart require?

A recipient, including one exempted from applying the fair share objective requirements by § 33.411, is required to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, even if it has achieved its fair share objectives under subpart D of this part:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

§ 33.302 Are there any additional contract administration requirements?

(a) A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient.
(b) A recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor.
(c) If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor.

(d) A recipient must require its prime contractor to employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of this part.

§ 33.303 Are there special rules for loans under EPA financial assistance agreements?

A recipient of an EPA financial assistance agreement to capitalize a revolving loan fund, such as a State under the CWRLF or DWSRF or an eligible entity under the Brownfields Cleanup Revolving Loan Fund program, must require that borrowers receiving identified loans comply with the good faith efforts described in § 33.301 and the contract administration requirements of §3.302. This provision does not require that such private and nonprofit borrowers expend identified loan funds in compliance with any other procurement procedures contained in 40 CFR part 30, part 31, or part 35, subpart O, as applicable.

§ 33.304 Must a Native American (either as an individual, organization, Tribe or Tribal Government) recipient or prime contractor follow the six good faith efforts?

(a) A Native American (either as an individual, organization, corporation, Tribe or Tribal Government) recipient or prime contractor must follow the six good faith efforts only if doing so would not conflict with existing Tribal or Federal law, including but not limited to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e), which establishes, among other things, that any federal contract, subcontract, grant, or subgrant awarded to Indian organizations or for the benefit of Indians, shall require preference in the award of subcontracts and subgrants to Indian organizations and to Indian-owned economic enterprises.

(b) Tribal organizations awarded an EPA financial assistance agreement have the ability to solicit and recruit Indian organizations and Indian-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts. Tribal governments with promulgated tribal laws and regulations concerning the solicitation and recruitment of Native-owned and other minority business enterprises, including women-owned business enterprises, have the discretion to utilize these tribal laws and regulations in lieu of the six good faith efforts. If the effort to recruit Indian organizations and Indian-owned economic enterprises is not successful, then the recipient must follow the six good faith efforts. All tribal recipients still must retain records documenting compliance in accordance with § 33.501 and must report to EPA on their accomplishments in accordance with § 33.502.

(c) Any recipient, whether or not Native American, of an EPA financial assistance agreement for the benefit of Native Americans, is required to solicit and recruit Indian organizations and Indian-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts. If the efforts to solicit and recruit Indian organizations and Indian-owned economic enterprises is not successful, then the recipient must follow the six good faith efforts.

(d) Native Americans are defined in § 33.103 to include American Indians, Eskimos, Aleuts and Native Hawaiians.

Appendix D.

MEMORANDUM

SUBJECT: Implementation of American Iron and Steel provisions of P.L. 113-76, Consolidated Appropriations Act, 2014

FROM: Andrew Sawyers, Director
Office of Wastewater Management (4201M)

Peter Grevatt, Director
Office of Ground Water and Drinking Water (4601M)

TO: Water Management Division Directors
Regions I - X

P.L. 113-76, Consolidated Appropriations Act, 2014 (Act), includes an "American Iron and Steel (AIS)" requirement in section 436 that requires Clean Water State Revolving Loan Fund (CWSRF) and Drinking Water State Revolving Loan Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works if the project is funded through an assistance agreement executed beginning January 17, 2014 (enactment of the Act), through the end of Fiscal Year 2014.

Section 436 also sets forth certain circumstances under which EPA may waive the AIS requirement. Furthermore, the Act specifically exempts projects where engineering specifications and plans were approved by a State agency prior to January 17, 2014.

The approach described below explains how EPA will implement the AIS requirement. The first section is in the form of questions and answers that address the types of projects that must comply with the AIS requirement, the types of products covered by the AIS requirement, and compliance. The second section is a step-by-step process for requesting waivers and the circumstances under which waivers may be granted.

Implementation

The Act states:

Sec. 436. (a)

(1) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term ''iron and steel products'' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the ''Administrator'') finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.

The following questions and answers provide guidance for implementing and complying with the AIS requirements:

Project Coverage

What classes of projects are covered by the AIS requirement?

All treatment works projects funded by a CWSRF assistance agreement, and all public water system projects funded by a DWSRF assistance agreement, from the date of enactment through the end of Fiscal Year 2014. The AIS requirements apply to the entirety of the project, no matter when construction begins or ends. Additionally, the AIS requirements apply to all parts of the project, no matter the source of funding.

Covered Iron and Steel Products

What is an iron or steel product?

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

Lined or unlined pipes or fittings;
Manhole Covers;
Municipal Castings (defined in more detail below);
Hydrants;
Tanks;
Flanges;
Pipe clamps and restraints;
Valves;
Structural steel (defined in more detail below);
Reinforced precast concrete; and
Construction materials (defined in more detail below).

What does the term 'primarily iron or steel' mean?

'Primarily iron or steel' places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

Can you provide an example of how to perform a cost determination?

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem, coupling, valve, seals, etc.). However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete, which is addressed in a later question.

If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product be produced in the US?
The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

What is the definition of steel?
Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

What does 'produced in the United States' mean?
Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

Are the raw materials used in the production of iron or steel required to come from US sources?
No, raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?
No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example trench boxes or scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

What is the definition of 'municipal castings'?
Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches;
Ballast Screen;
Benches (Iron or Steel);
Bollards;
Cast Bases;
Cast Iron Hinged Hatches, Square and Rectangular;
Cast Iron Riser Rings;
Catch Basin Inlet;
Cleanout/Monument Boxes;
Construction Covers and Frames;
Curb and Corner Guards;
Curb Openings;
Detectable Warning Plates;
Downspout Shoes (Boot, Inlet);
Drainage Grates, Frames and Curb Inlets;
Inlets;
Junction Boxes;
Lampposts;
Manhole Covers, Rings and Frames, Risers;
Meter Boxes;
Steel Hinged Hatches, Square and Rectangular;
Steel Riser Rings;
Trash receptacles;
Tree Grates;
Tree Guards;
Trench Grates; and
Valve Boxes, Covers and Risers.

What is 'structural steel'?
Structural steel is rolled flanged shapes, having at least one dimension of their cross-section 3 inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

What is a 'construction material' for purposes of the AIS requirement?
Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered "structural steel". This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, gates, and screens.

What is not considered a 'construction material' for purposes of the AIS requirement?
Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electrical/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, and analytical instrumentation, and dewatering equipment.

If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?
No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?
While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing rebar must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing rebar is considered to be a construction material and must be produced in the US.

Compliance

How should an assistance recipient document compliance with the AIS requirement?

In order to ensure compliance with the AIS requirement, specific AIS contract language must be included in each contract, starting with the assistance agreement, all the way down to the purchase agreements.

EPA recommends the use of a step certification process, similar to one used by the Federal Highway Administration. The step certification process is a method to ensure that producers adhere to AIS requirements and assistance recipients can verify that products comply with the AIS requirement. The process also establishes accountability and better enables States to take enforcement actions against violators.

Step certification creates a paper trail which documents the location of the manufacturing process involved with the production of steel and iron materials. A step certification is a process under which each handler (supplier, fabricator, manufacturer, processor, etc.) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin. A certification can be quite simple. Typically, it includes the name of the manufacturer, the location of the manufacturing facility where the product or process took place (not its headquarters), a description of the product or item being delivered, and a signature by a manufacturer's responsible party. Attached, as Attachment 3, is a sample certification. These certifications should be collected and maintained by the assistance recipients.

Alternatively, the final manufacturer that delivers the iron or steel product to either the worksite, vendor, or contractor, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information. Step certification is the best practice.

How should a State ensure assistance recipients are complying with the AIS requirement?

States should, as a best practice, conduct site visits of projects during construction and review documentation demonstrating proof of compliance which the assistance recipient has gathered.

What happens if a State or EPA finds a non-compliant iron and/or steel product permanently incorporated in the project?
If a potentially noncompliant product is identified, the State should notify the assistance recipient of the apparent unauthorized use of a non-domestic component, including a proposed corrective action, and should be given the opportunity to reply. If unauthorized use is confirmed, the State can take one or more of the following actions: request a waiver where appropriate; require the removal of the non-domestic item; or withhold payment for all or part of the project. Only EPA can issue waivers to authorize the use of a non-domestic item. EPA may use remedies available to it under the Clean Water Act, the Safe Drinking Water Act, and 40 CFR part 31 grant regulations in the event of a violation of a grant term and condition.

It is recommended that the State work collaboratively with EPA to determine the appropriate corrective action, especially in cases where the State is the one who identifies the item in noncompliance or there is a disagreement with the assistance recipient.

If fraud, waste, abuse, or any violation of the law is suspected, the Office of Inspector General (OIG) should be contacted immediately. The OIG can be reached at 1 (888) 546-8740 or OIG_Hotline@epa.gov. More information can be found at this website: http://www.epa.gov/oig/hotline.htm.

How do international trade agreements affect the implementation of the AIS requirements?
The AIS provision applies in a manner consistent with United States obligations under international agreements. Typically, these obligations only apply to direct procurement by the entities that are signatories to such agreements. In general, SRF assistance recipients are not signatories to such agreements, so these agreements have no impact on this AIS provision. In the few instances where such an agreement applies to a municipality, that municipality is under the obligation to determine its applicability and requirements and document the actions taken to comply for the State.

Waiver Process
The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework described below will allow States to apply for waivers of the AIS requirement directly to EPA Headquarters. Pursuant to the Act, EPA has the responsibility to make findings as to the issuance of waivers to the AIS requirements.

Definitions

The following terms are critical to the interpretation and implementation of the AIS requirements and apply to the process described in this memorandum:

Reasonably Available Quantity: The quantity of iron or steel products is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design.

Satisfactory Quality: The quality of iron or steel products, as specified in the project plans and designs.

Assistance Recipient: A borrower or grantee that receives funding from a State CWSRF or DWSRF program.

Step-By-Step Waiver Process

Application by Assistance Recipient

Each local entity that receives SRF water infrastructure financial assistance is required by section 436 of the Act to use American made iron and steel products in the construction of its project. However, the recipient may request a waiver. Until a waiver is granted by EPA, the AIS requirement stands, except as noted above with respect to municipalities covered by international agreements.

The waiver process begins with the SRF assistance recipient. In order to fulfill the AIS requirement, the assistance recipient must in good faith design the project (where applicable) and solicit bids for construction with American made iron and steel products. It is essential that the assistance recipient include the AIS terms in any request for proposals or solicitations for bids, and in all contracts. The assistance recipient may seek a waiver at any point before, during, or after the bid process, but before installation of the product, if one or more of the following three conditions is met:

1. Applying the American Iron and Steel requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Proper and sufficient documentation must be provided by the assistance recipient. A checklist detailing the types of information required for a waiver to be processed is attached as Attachment 1.

Additionally, it is strongly encouraged that assistance recipients hold pre-bid conferences with potential bidders. A pre-bid conference can help to identify iron and steel products needed to complete the project as described in the plans and specifications that may not be available from domestic sources. It may also identify the need to seek a waiver prior to bid, and can help inform the recipient on compliance options.

In order to apply for a project waiver, the assistance recipient should email the request in the form of a Word document (.doc) to the State SRF Engineer. The State SRF designee will review the application for the waiver and determine whether the necessary information has been included. Once the waiver application is complete, the State designee will forward the application to either of two email addresses. For CWSRF waiver requests, please send the application to: cwsrfwaiver@epa.gov. For DWSRF waiver requests, please send the application to: dwsrfwaiver@epa.gov.

Evaluation by EPA

After receiving an application for waiver of the AIS requirements, EPA Headquarters will publish the request on its website for 15 days and receive informal comment. EPA Headquarters will then use the checklist in Attachment 2 to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver – that it is quantitatively and qualitatively sufficient – and to determine whether or not to grant the waiver.

In the event that EPA finds that adequate documentation and justification has been submitted, the Administrator may grant a waiver to the assistance recipient. EPA will notify the State designee that a waiver request has been approved or denied as soon as such a decision has been made. Granting such a waiver is a 3-step process:

1. Posting – After receiving a complete application for a waiver, EPA is required to publish the application and all material submitted with the application on EPA's website for 15 days. During that period, the public will have the opportunity to review the request and provide informal comment to EPA. The website can be found at: http://water.epa.grants_funding/aisrequirement.cfm
2. Evaluation – After receiving an application for waiver of the AIS requirements, EPA Headquarters will use the checklist in Attachment 2 to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver – that it is quantitatively and qualitatively sufficient – and to determine whether or not to grant the waiver.
3. Signature of waiver approval by the Administrator or another agency official with delegated authority – as soon as the waiver is signed and dated, EPA will notify the State SRF program, and post the signed waiver on our website. The assistance recipient should keep a copy of the signed waiver in its project files.

Public Interest Waivers

EPA has the authority to issue public interest waivers. Evaluation of a public interest waiver request may be more complicated than that of other waiver requests so they may take additional time for a decision to be made. An example of a public interest waiver that might be issued could be for a community that has standardized on a particular type or manufacturer of a valve because of its performance to meet their specifications. Switching to an alternative valve may require staff to be trained on the new equipment and additional spare parts would need to be purchased and stocked, existing valves may need to be unnecessarily replaced, and portions of the system may need to be redesigned. Therefore, requiring the community to install an alternative valve would be inconsistent with public interest.

EPA also has the authority to issue a public interest waiver that covers categories of products that might apply to all projects.

EPA reserves the right to issue national waivers that may apply to particular classes of assistance recipients, particular classes of projects, or particular categories of iron or steel products. EPA may develop national or (U.S. geographic) regional categorical waivers through the identification of similar circumstances in the detailed justifications presented to EPA in a waiver request or requests. EPA may issue a national waiver based on policy decisions regarding the public's interest or a determination that a particular item is not produced domestically in reasonably available quantities or of a sufficient quality. In such cases, EPA may determine it is necessary to issue a national waiver.

If you have any questions concerning the contents of this memorandum, you may contact us, or have your staff contact Jordan Dorfman, Attorney-Advisor, State Revolving Fund Branch, Municipal Support Division, at dorfman.jordan@epa.gov or (202) 564-0614 or Kiri Anderer, Environmental Engineer, Infrastructure Branch, Drinking Water Protection Division, at anderer.kirsten@epa.gov or (202) 564-3134.

Attachment 1: Information Checklist for Waiver Request

The purpose of this checklist is to help ensure that all appropriate and necessary information is submitted to EPA. EPA recommends that waiver applicants review this checklist carefully and provide all appropriate information to EPA. This checklist is for informational purposes only and does not need to be included as part of a waiver application.

Items	✓	Notes
General • Waiver request includes the following information: — Description of the foreign and domestic construction materials — Unit of measure — Quantity — Price — Time of delivery or availability — Location of the construction project — Name and address of the proposed supplier — A detailed justification for the use of foreign construction materials • Waiver request was submitted according to the instructions in the memorandum • Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime contractor		
Cost • Waiver request includes the following information: — Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products — Relevant excerpts from the bid documents used by the contractors to complete the comparison — Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers		
Availability • Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested: — Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials — Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers. — Project schedule — Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials • Waiver request includes a statement from the prime contractor confirming the non-availability of the domestic construction materials for which the waiver is sought • Has the State received other waiver requests for the materials described in this waiver request, for comparable projects?		

Attachment 2: EPA HQ Review Checklist for Waiver Request

Instructions: To be completed by EPA. Review all waiver requests using the questions in the checklist, and mark the appropriate box as Yes, No or N/A. Marks that fall inside the shaded boxes may be grounds for denying the waiver. If none of your review markings fall into a shaded box, the waiver is eligible for approval if it indicates that one or more of the following conditions applies to the domestic product for which the waiver is sought:

1. The iron and/or steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
2. The inclusion of iron and/or steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

Review Items	Yes	No	N/A	Comments
Cost • Does the waiver request include the following information? — Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products — Relevant excerpts from the bid documents used by the contractors to complete the comparison — A sufficient number of bid documents or pricing information from domestic sources to constitute a reasonable survey of the market • Does the Total Domestic Project exceed the Total Foreign Project Cost by more than 25%?				
Availability • Does the waiver request include supporting documentation sufficient to show the availability, quantity, and/or quality of the iron and/or steel product for which the waiver is requested? — Supplier information or other documentation indicating availability/delivery date for materials — Project schedule — Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of materials • Does supporting documentation provide sufficient evidence that the contractors made a reasonable effort to locate domestic suppliers of materials, such as a description of the process for identifying suppliers and a list of contacted suppliers? • Based on the materials delivery/availability date indicated in the supporting documentation, will the materials be unavailable when they are needed according to the project schedule? (By item, list schedule date and domestic delivery quote date or other relevant information) • Is EPA aware of any other evidence indicating the non-availability of the materials for which the waiver is requested? Examples include: — Multiple waiver requests for the materials described in this waiver request, for comparable projects in the same State — Multiple waiver requests for the materials described in this waiver request, for comparable projects in other States — Correspondence with construction trade associations indicating the non-availability of the materials • Are the available domestic materials indicated in the bid documents of inadequate quality compared those required by the project plans, specifications, and/or permits?				

Attachment 3: Sample Certification for Step Certification Process

The following information is provided as a sample letter of step certification for Buy America compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address
City, State Zip

Subject: Buy America Step Certification for Project (XXXXX-XXXXXXA)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.
Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

The following information is provided as a sample letter of certification for Buy America compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address
City, State Zip

Subject: Buy America Certification for Project (XXXXX-XXXXXXA)

I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.
Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

Appendix E.

Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment in the SRF Programs

OFFICE OF WATER
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment in the SRF Programs

FROM: Kiri Anderer, P.E., Acting Associate Branch Chief
Infrastructure Branch, OGWDW

Michael Deane, Branch Chief
State Revolving Fund Branch, OWM

TO: SRF Branch Chiefs
Regions 1-10

Effective August 13, 2020, recipients and subrecipients of EPA funded assistance agreements, including borrowers under EPA funded revolving loan funds, must comply with regulations at 2 CFR 200.216, *Prohibition on certain telecommunication and video surveillance services or equipment*, implementing section 889 of Public Law 115-232. The regulation prohibits the use of Federal funds to procure (enter into, extend, or renew contracts) or obtain equipment, systems, or services that use "covered telecommunications equipment or services" identified in the regulation as a substantial or essential component of any system, or as critical technology as part of any system. Prohibitions extend to the use of Federal funds by recipients and subrecipients to enter into a contract with an entity that "uses any equipment, system, or service that uses covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the System for Award Management exclusion list.

As described in section 889 of Public Law 115-232, covered telecommunications equipment or services includes:

- Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications

Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

- Telecommunications or video surveillance services provided by such entities or using such equipment.
- Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Applicability in the State Revolving Fund (SRF) Programs

Clean Water and Drinking Water SRF (CWSRF and DWSRF) programs may not expend equivalency funds for these products on or after August 13, 2020. States must ensure that equivalency assistance agreements include the telecommunications prohibition condition provided by EPA's Office of Grants and Debarment (OGD) in OGD's most recent EPA General Terms and Conditions. The condition must also be in construction contracts associated with equivalency assistance agreements.

There is no exhaustive list of components and services that fall under the prohibition. State SRF managers and local assistance recipients should exercise due diligence and be particularly mindful of project components with internet or cellular connections. For example, recipients should be mindful of automatic meter reading (AMR) technology and advanced metering infrastructure (AMI), instrumentation control systems (e.g. process control systems, distributed control systems and programmable logic controls), and security cameras and other electronic security measures to ensure that those items are procured from a non-excluded entity. Items included in the prohibition are not eligible SRF costs, and the SRF programs cannot reimburse borrowers for these costs.

The prohibition also applies to the CWSRF administrative funds (if states are billing those costs to the federal CWSRF capitalization grant) and the four DWSRF set-asides. States should be mindful of items such as cell phones, computers, and mobile WiFi routers or hotspots funded by those accounts.

If you have questions on the implementation of this grant condition, please contact Michael Deane at Deane.Michael@epa.gov or Kiri Anderer at Anderer.Kirsten@epa.gov.

Appendix H

Rider to RLF Supplemental General Conditions

RIDER TO REVOLVING LOAN FUND (RLF)
SUPPLEMENTAL GENERAL CONDITIONS

This Rider is to Revolving Loan Fund (RLF) Supplemental General Conditions is entered by and between the **City of Fayetteville, Arkansas, acting by and through its Mayor** ("Owner"), and **Garney Companies, Inc.** ("Contractor") for construction manager at risk services for the construction of the West Transmission Water Main Project ("Project").

This Rider shall amend and/or supplement the Revolving Loan Fund (RLF) Supplemental General Conditions as indicated below and shall have full force and effect. In the event of a conflict between this Rider and any of the Contract Documents, including but not limited to the Contract for Construction Manager at Risk Services for the Construction of the West Transmission Water Main Project, Document 00 72 13 – General Conditions, and the Revolving Loan Fund (RLF) Supplemental General Conditions, the terms of this Rider shall govern and control.

1. Add the following as new paragraph 18.D of the Revolving Loan Fund (RLF) Supplemental General Conditions:

D. Notwithstanding the foregoing provisions of paragraph 18 of these Revolving Loan Fund (RLF) Supplemental General Conditions, Contractor's indemnity obligations set forth herein shall apply only to the extent caused by a negligent act of Contractor, its Subcontractors, or anyone directly employed by any of them or anyone for whose acts they may be responsible. (**For example:** If a loss or damage occurs and it is adjudged that Contractor is held 40% liable and another party (or parties) is/are held 60% liable, Contractor's obligation to indemnify under this paragraph shall only be for 40% of such loss or damage).

2. Add the following as new paragraph 18.E to the Revolving Loan Fund (RLF) Supplemental General Conditions:

E. CMAR shall require any Subcontractor, subconsultant and/or Supplier to indemnify and hold harmless the City and CMAR from and against all claims, damages, losses, and expenses including reasonable attorney's fees, provided that such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to damage to tangible property (other than to the Work itself), but only to the extent caused by a negligent act of the Subcontractor, subconsultant and/or Supplier, or anyone directly employed by any of them or anyone for whose acts any of them may be liable.

3. Add the following as new paragraph 42.I to the Revolving Loan Fund (RLF) Supplemental General Conditions:

I. Notwithstanding anything other provision in the Contract Documents, if Contractor incurs or sustains any increase in the Contract Time or the Contract Price, or both, which was not caused by Contractor or under Contractor's control (including, but

not limited to, an increase in or delay caused by substantial increases in the cost of materials, supplies or equipment, changed market conditions, or supply chain deficiencies), then Contractor shall be entitled to an equitable adjustment to the Contract Time or Contract Price, or both, which shall be authorized by Change Order. To the extent Contractor disputes the amount of any such adjustment, then Contractor shall be entitled to proceed with a claim in accordance with the terms of the Contract Documents.

4. Add the following as new Paragraph 47.G to the Revolving Loan Fund (RLF) Supplemental General Conditions:

G. Notwithstanding the foregoing, before Owner shall exercise any right to terminate pursuant to this agreement, Contractor shall, within ten (10) days from receipt of such notice, have an opportunity to consult with the Owner regarding the reason for termination. Contractor shall have ten (10) days from receipt of such notice or from the date of its consultation with the Owner, whichever occurs later, to cure or to take substantial steps to commence to cure the issue and proceed with diligence for which the notice of termination has been given. The Owner shall decide, in its sole discretion, if the Contractor has cured or taken substantial steps to cure or commence to cure the issue and may withdraw its notice to terminate.

5. Add the following to the end of Paragraph 49 of the Revolving Loan Fund (RLF) Supplemental General Conditions:

Contractor shall provide Owner with an option to extend the warranty period by an additional one year. If Owner wishes to exercise this option, the cost and any additional terms shall be set forth in a Change Order executed by both parties.

6. Add the following as new Paragraph 55 to the Revolving Loan Fund (RLF) Supplemental General Conditions:

NOTWITHSTANDING ANYTHING CONTAINED IN THE CONTRACT DOCUMENTS TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY TO THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF, OR RELATING TO, THE PERFORMANCE OF THIS AGREEMENT AND THE CONTRACT DOCUMENTS, EXCEPT TO THE EXTENT THAT THOSE DAMAGES ARE COVERED BY INSURANCE REQUIRED UNDER THIS AGREEMENT.

Appendix I

SRF Contractor's Act of Assurance Form

CONTRACTOR'S ACT OF ASSURANCE FORM

As the authorized agent of the individual, incorporation, or corporation (hereinafter referred to as the Contractor) bidding on or participating in a Revolving Loan Fund (RLF) financed project, I certify that I have read and understand the requirements of the RLF Supplemental General Conditions, and that the principles, agents and employees of the Contractor will comply with these requirements, including all relevant statutes and regulations issued pursuant thereto. As the authorized agent of the Contractor, I further certify that:

DBE/MBE/WBE - During the bid process, and throughout the performance of the Contract, whenever subcontracts are to be awarded, I will take the six affirmative steps described in the RLF Supplemental General Conditions to use Disadvantaged, Minority and Women's Business (DBE/MBE/WBE) firms wherever possible. I will document to the borrower and the Arkansas Natural Resources Commission all efforts to secure DBE/MBE/WBE participation, including follow-up efforts, and will report to the Owner the dollar value of all DBE/MBE/WBE contracts and subcontracts awarded.

AMERICAN IRON AND STEEL - I will comply with the statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States pursuant to this contract and the RLF Supplemental General Conditions. I understand that all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and I will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement as detailed in the RLF Supplemental General Conditions.

EQUAL OPPORTUNITY - I will comply with all requirements of 41 CFR Chapter 60 and Executive Orders 11246 and 11375, including inclusion of all required equal opportunity clauses in each subcontract awarded in excess of $10,000, and will furnish a similar statement from each proposed subcontractor, when appropriate. I will also comply with all Equal Employment Opportunity requirements as defined by Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination.

NONSEGREGATED FACILITIES - The Contractor that I represent does not and will not maintain any facilities provided for its employees in a segregated manner, or permit its employees to perform their services at any location under the Contractor's control where segregated facilities are maintained. I will also obtain a similar certification from each subcontractor prior to the award

of any subcontract exceeding $10,000 to said subcontractor, which is not exempt from the equal opportunity clause.

LABOR STANDARDS - I will comply with the Labor Standards Provisions contained in Davis–Bacon wage rates specific to this contract and the RLF Supplemental General Conditions. I understand that the aggregate wage rates paid to any employees must equal or exceed the sum total of the base rate plus any listed fringe rate. I will furnish weekly payrolls and certifications as may be required by the Owner to affirm compliance. I will also require that weekly payrolls be submitted to the Owner for all Subcontracts.

OSHA REQUIREMENTS - I will comply with the Department of Labor Occupational Safety and Health Administration (OSHA) Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) in performance of the contract.

PROCUREMENT PROHIBITIONS - In compliance with Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, I certify that I will not procure goods and services from persons who have been convicted of violations of either law, if the facility that gave rise to said violations produces said goods or services.

PRESERVATION OF OPEN COMPETITION - In accordance with Executive Order 13202 and its amendments, I certify that I have not discriminated against my employees or any subcontractor based upon labor affiliation or lack thereof.

RESPONSIBILITIES OF PARTICIPANTS REGARDING TRANSACTIONS (A.K.A. DEBARMENT AND SUSPENSION) - I certify that I shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions." I am responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 40 CFR Part 32, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. I am responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. I acknowledge that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment. I further acknowledge that I may access the Excluded Parties List System at http://www.epls.gov. This term and condition supersede EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT - I will comply with regulations at 2 CFR 200.216, designated as the "Prohibition on

certain telecommunication and video surveillance services or equipment", implementing section 889 of Public Law 115-232 and repeated in the RLF Supplemental General Conditions. The regulation prohibits the use of federal funds to procure, enter into, extend, or renew contracts, or obtain equipment, systems, or services that use "covered telecommunications equipment or services" identified in the regulation as a substantial or essential component of any system, or as critical technology as part of any system. I understand that all products used in this contract will meet this requirement and that I will provide further verified information, certification or assurance of compliance with this paragraph, or information necessary to this prohibition as detailed in the RLF Supplemental General Conditions.

I understand that a false statement on this certification regarding any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution. I further certify that I will obtain a similar certification for each subcontract awarded.

AUTHORIZED AGENT

CONTRACTOR NAME:	Garney Companies	ARKANSAS LICENSE NO.	0032110624
SIGNATURE:		DATE:	11/20/23
PRINTED NAME:	William D Williams	TITLE:	Executive Vice President

Appendix J

Davis-Bacon Wage Rate Determination Number AR20230049

"General Decision Number: AR20230049 01/06/2023

Superseded General Decision Number: AR20220049

State: Arkansas

Construction Type: Heavy
HEAVY CONSTRUCTION PROJECTS (Including Water and Sewer Lines)

County: Benton County in Arkansas.

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least $16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/06/2023

SUAR2015-046 01/09/2017

	Rates	Fringes
CARPENTER, Includes Form Work	$ 17.50	0.00
CEMENT MASON/CONCRETE FINISHER	$ 17.72	0.00
ELECTRICIAN	$ 22.88	7.19
LABORER: Common or General	$ 13.12 **	0.63
LABORER: Pipelayer	$ 14.14 **	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	$ 17.07	1.47
OPERATOR: Bulldozer	$ 17.00	1.92
OPERATOR: Crane	$ 24.21	6.79
OPERATOR: Loader	$ 15.45 **	0.00
PAINTER (Brush and Roller)	$ 18.00	0.00
TRUCK DRIVER: Dump Truck	$ 14.02 **	2.18

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($16.20) or 13658 ($12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification

and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1220

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: October 20, 2023

SUBJECT: **Budget Adjustment - Misty Simpson Water Damage Claim**

RECOMMENDATION:
Staff recommends approval of a budget adjustment in the amount of $80,039.00 to move funds into the water damage claims account to cover the cost of the Misty Simpson water damage claim at 2425 E. Sharon St.

BACKGROUND:
On September 20, 2021, the City of Fayetteville experienced a large 36-inch diameter water main break on N. Makeig Ct. Misty Simpson owns the home located at 2425 E. Sharon St. This large water main break caused substantial amounts of flooding and damage to the neighborhood and to the Simpson residence. Misty Simpson's insurance company denied her claim, so she immediately filed a damage claim with the City after the incident.

DISCUSSION:
The Misty Simpson water damage claim was previously brought to City Council but was tabled. The claim request was greater than the previous $50,000.00 damage claim cap, and the City later revised the City Code to state that for water main breaks on lines 36" and larger that cause damage to property would have a new damage claim cap of $100,000.00.

Now that an ordinance has been passed (on Sept. 19) to raise the payout limits to $100,000, this item went back to City Council for consideration. The City has already paid $19,961.77 to Misty Simpson for this damage claim. City Council has approved paying the claimant the full $100,000 allowable by City Code (minus what has already been paid). The council amended the resolution to include the new, larger amount of $80,038.23.

BUDGET/STAFF IMPACT:
A budget adjustment is attached to move funds from the Lake Sequoyah Dredging project to the water damage claims account to fund the new larger amount for the damage claim payment.

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

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

File #: 2023-1220

Budget Adjustment - Misty Simpson Water Damage Claim

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $80,039.00 TO FUND THE MISTY SIMPSON WATER DAMAGE CLAIM AT 2425 EAST SHARON STREET

WHEREAS, on October 17 City Council approved paying the claimant the full $100,000.00 allowable by City Code; and

WHEREAS, the City has already paid $19,961.77 to Misty Simpson for this damage claim.

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 a budget adjustment, a copy of which is attached to this Resolution, in the amount of $80,039.00 to cover the cost of the Misty Simpson water damage claim at 2425 E. Sharon St.

City of Fayetteville Staff Review Form

2023-1220

Item ID

11/7/2023

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

Tim Nyander	10/20/2023	WATER SEWER (720)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of a budget adjustment in the amount of $80,039.00 to move funds into the water damage claims account to cover the cost of the Misty Simpson water damage claim at 2425 E. Sharon St.

Budget Impact:

5400.720.4310-5311.04	Water and Sewer
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	233,349.00
		Expenses (Actual+Encum)	$	167,112.76
		Available Budget	$	66,236.24
Does item have a direct cost?	Yes	Item Cost	$	80,038.23
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	80,039.00
		Remaining Budget	$	66,237.01

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	WATER SEWER (720)	
	Requestor: Cheryl Partain	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

A budget adjustment is needed in the Self Insurance (non-vehicle damage) account within the Water & Sewer fund to pay for a large water damage claim for Misty Simpson at 2425 E Sharon St. Budgeted funds will be moved from the Lake Sequoyah Sediment Removal/Dredging Project. The project is complete and a portion of the available remaining budget is being moved to fund the repair costs.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1220**

Holly Black
10/20/2023 11:22 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.2023109

Account Number	Increase / (Decrease) Expense	Revenue	Project.Sub# Project	Sub.Detl	AT	Account Name
TOTAL	-	-				
5400.720.4310-5311.04	80,039	-			EX	Insurance - Self (Non-Vehicle Damage)
5400.720.5600-5808.00	(80,039)	-	17004	1	EX	Improvements - Water Line
	-	-				
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CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1205

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: October 12, 2023

SUBJECT: **Arkansas One-Call System, Inc. - Utility Locating Services**

RECOMMENDATION:
Staff recommends approval of the purchase of utility locating services from Arkansas One-Call System, Inc. in an amount not to exceed $45,000.00 for all City departments in 2023.

BACKGROUND:
Arkansas One-Call System, Inc. provides utility locating services for the City of Fayetteville to make sure that our employees don't damage other utilities in the course of installing lines and taps and performing repairs on the water and sewer system. Ark. Code Ann. 14-271-107 requires the City of Fayetteville to be a part of the One Call Center as owners of an underground utility system.

DISCUSSION:
For the Water & Sewer Department, locating services from Arkansas One-Call System, Inc. have usually cost under $35,000.00 annually. However, other City departments utilize Arkansas One-Call. With those other departments, the combined amount will exceed $35,000 for utility locating services in 2023, requiring City Council approval. It is estimated that the total Arkansas One-Call expenses for 2023 will not exceed $45,000.00 for all City departments.

BUDGET/STAFF IMPACT:
Funds are available for the utility locating services within the Water & Sewer fund and the Street fund.

ATTACHMENTS: SRF (#3), 2023 Membership Fees (#4)

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

File #: 2023-1205

Arkansas One-Call System, Inc. - Utility Locating Services

A RESOLUTION TO APPROVE THE PURCHASE OF UTILITY LOCATING SERVICES FOR 2023 FROM ARKANSAS ONE-CALL SYSTEM, INC. IN AN AMOUNT NOT TO EXCEED $45,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of utility locating services for 2023 from Arkansas One-Call System, Inc. in an amount not to exceed $45,000.00.

City of Fayetteville Staff Review Form

2023-1205

Item ID

11/7/2023

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

Tim Nyander	10/12/2023	WATER SEWER (720)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of the purchase of utility locating services from Arkansas One-Call System, Inc. in an amount not to exceed $45,000.00 for all City departments in 2023.

Budget Impact:

5400.720.XXXX-5216.00	Water and Sewer
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	228,708.23
		Expenses (Actual+Encum)	$	-
		Available Budget	$	228,708.23
Does item have a direct cost?	Yes	Item Cost	$	45,000.00
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	183,708.23

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Arkansas 811

Member Fees

2023

Members of Arkansas 811 pay fees to finance the cost of providing the statewide system to process notices from excavators of their intention to dig, drill or blast and to promote digging safely. The fees fall into two categories — basic monthly fees and call fees.

Member Types

Arkansas 811 members fall into one of three categories:

Public Authority Membership	A Public Authority Member is limited to owners or operators of utility systems which are governmental entities or otherwise political subdivisions of the State of Arkansas or the United States, such as municipalities, counties, improvement districts, rural water associations, and similar bodies and organizations.
Premium Membership	A Premium Member includes any member whose facilities are primarily engaged in interstate transmission or whose facilities are not connected directly to end users other than themselves.
Regular Membership	All other owners and operators of underground facilities.

Member Categories

Members fall into one of 12 categories based on the total number of notices during the previous year:

Category	Minimum Notices	Maximum Notices	Annual Notices Included
A	0	150	150
B	151	360	240
C	361	750	0
D	751	1,500	0
E	1,501	3,000	0
F	3,001	6,000	0
G	6,001	15,000	0
H	15,001	30,000	0
I	30,001	75,000	0
J	75,001	150,000	0
K	150,001	300,000	0
L	300,001	500,000	0

(over)

Basic Fees

The Basic Fee covers the cost of servicing the member with record-keeping, information, mailings, screening of locates not in a member's territory, and the statewide education and damage prevention program. It also covers the cost of the notices included in the basic fee.

Monthly Basic Fees			
Category	Regular Members	Public Authority	Premium Member
A	19.50	11.40	29.28
B	34.80	24.36	52.20
C	46.50	32.58	69.78
D	69.00	48.30	103.50
E	114.00	79.80	171.00
F	204.00	142.80	306.00
G	474.00	331.80	711.00
H	924.00	646.80	1,386.00
I	2,274.00	1,591.80	3,411.00
J	4,524.00	3,166.80	6,786.00
K	9,024.00	6,316.80	13,536.00
L	15,024.00	10,516.80	22,536.00

Call Fees

Call fees cover the cost of receiving the locate requests in the center, processing to determine which members need to be notified, and transmitting the notices to the appropriate members. Call fees are billed on a monthly basis after the free notices included in the basic fees have been used:

Type Notice	Cost Per Ticket
Data Transmission (modem/internet/FTP)	.95
Facsimile	1.40
Voice	3.00

Billing — Members are invoiced for both basic fees and call fees (should they exceed the number of "free" notices included) on a monthly basis. Invoices are due and payable within 20 days of the date of invoice. A late charge of 3% is assessed if the invoice is not paid within 30 days.

Effective Date: 01/01/2009

(over)

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1214

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: October 20, 2023

SUBJECT: **Budget Adjustment for Unit 3016 and Unit 9237 Repair/Replacement**

RECOMMENDATION:
Staff recommends approval of a budget adjustment in the amount of $20,000.00 to cover the repair and replacement costs for Unit 3016 and Unit 9237 used by the Water & Sewer Division.

BACKGROUND:
Units 3016 (F550 Diesel Service Truck) and 9237 (Equipment Trailer) were involved in an accident on July 15, 2023. The accident resulted in a major oil leak on unit 3016 ultimately resulting in complete failure of the engine. Engine replacement cost is estimated at $20,000. Water/Sewer will split this expense equally with Fleet.

In the same accident, unit 9237 overturned and was a total loss. Fleet has collected $3,196.26 towards the replacement, requiring Water/Sewer to make up the difference of $7,326.52 to purchase the new trailer for a total of $10,522.78.

DISCUSSION:
Water and Sewer's portion of the total cost to repair/replace the units is approximately $20,000.00. Staff recommends approval of a budget adjustment that would move funds from the capital Water & Sewer Equipment Expansion account to the Water & Sewer operations account to fund the cost of the repairs.

BUDGET/STAFF IMPACT:
A budget adjustment is attached that would move funds from the Water & Sewer Equipment Expansion account to the appropriate accounts/projects for the transactions.

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

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

File #: 2023-1214

Budget Adjustment for Unit 3016 and Unit 9237 Repair/Replacement

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $20,000.00 TO COVER THE REPAIR AND REPLACEMENT COSTS FOR TWO UNITS USED BY THE WATER & SEWER OPERATIONS DIVISION

WHEREAS, on July 15, 2023, Units 3016 and 9237, used by the Water and Sewer Operations Division, were involved in a multi-vehicle accident in which both sustained significant damage.

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 a budget adjustment, a copy of which is attached to this Resolution, in the amount of $20,000.00 to cover the repair and replacement costs for Unit 3016 and Unit 9237.

City of Fayetteville Staff Review Form

2023-1214

Item ID

11/7/2023

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

Tim Nyander	10/18/2023	WATER SEWER (720)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of a budget adjustment to cover the repair/replacement costs in the amount of $20,000.00 for Unit 3016 and Unit 9237 used by the Water & Sewer Division.

Budget Impact:

5400.720.4310-5403.00 5400.720.4000-7602.70	Water and Sewer
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	Yes	Total Amended Budget	$	112,310.00
		Expenses (Actual+Encum)	$	3,807.27
		Available Budget	$	**108,502.73**
Does item have a direct cost?	Yes	Item Cost	$	20,000.00
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	20,000.00
		Remaining Budget	$	**108,502.73**

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	WATER SEWER (720)	
	Requestor: Cheryl Partain	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

A budget adjustment is needed within the Water and Sewer operational budget to cover the repair/replacement costs for Unit 3016 - Truck and Unit 9237 - Trailer. Costs were due to an accident. Available budgeted funds are being transferred from the Water and Sewer Equipment Expansion Project to cover the cost of these repairs.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1214**

Holly Black
10/20/2023 10:17 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.2023109

TOTAL	12,200	12,200				
	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
5400.720.1840-5210.00	(20,000)	-	13019	1	EX	Minor Equipment
5400.720.4310-5403.00	11,000	-			EX	Maintenance - Vehicle & Machine
5400.720.4000-7602.70	9,000	-	59700	5400	EX	Transfers To Funds - Shop
9700.770.1920-6602.40	-	9,000	02080	2023	RE	Transfer from Fund - Water & Sewer
9700.770.1920-5802.00	12,200	-	02080	2023	EX	Vehicles & Equipment - base
9700.770.1910-4999.99	-	3,200			RE	Use Fund Balance - Current
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
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	-	-				

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1166

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Mike Reynolds, Police Chief

DATE: October 10, 2023

SUBJECT: **FY 2024 Selective Traffic Enforcement Project (STEP) Grant Award**

RECOMMENDATION:
Staff recommends acceptance of the FY2023 Selective Traffic Enforcement Project (STEP) Grant Award and approval of a budget adjustment in the amount of $72,700.

BACKGROUND:
The Fayetteville Police Department has participated in STEP every year since its inception in 1998. For 25 years, Fayetteville has partnered through grant funding with the Arkansas Highway Safety Office in an effort to reduce the total number of motor vehicle crashes, injuries and fatalities. Our primary strategy for reaching our mutual goals is through dedicated and diligent enforcement of occupant protection, DWI/DUI, speeding, and distracted driving laws. This is accomplished by dedicating patrol officer(s) to monitor STEP activity for a given period of time in known problem areas. This grant funding not only allows us to participate in directed traffic enforcement (speeding, DWI, Click It or Ticket protection mobilization, etc.), it also allows the Fayetteville Police Department to purchase additional equipment, provide child safety seat checkpoints, and provide a loaner child safety seat for those in need.

DISCUSSION:
The FY2024 STEP Grant Award for the Fayetteville Police Department is $62,700 in federal funding for STEP enforcement and $10,000 in state grant funding for the purchase of child safety seats. Local in-kind matching funds in the amount of $12,700 are required for the FY2024 STEP grant award. In-kind expenses are defined as on-duty regular patrol shift hours dedicated to STEP activity. The FY2024 STEP grant will reimburse the Fayetteville Police Department for overtime hours dedicated to seatbelt, driving under the influence, speed, and distracted driving enforcement activity. The grant period for this award is October 1, 2023, to September 30, 2024. Furthermore, the Fayetteville Police Department budgets $15,000 annually to supplement and support the purchase of child safety seats for those in need.

STEP is a very important program and funding source for the Fayetteville Police Department. Through dedicated STEP activity during our shift hours, our department can meet the in-kind matching funds required of this grant award. Recent year to date figures for the Fayetteville Police Department indicates 3 fatality accidents compared to 4 for the same period in 2022, 4.2% decrease in injury accidents, and 9.9% decrease in driving under the influence charges. The loss of this grant funding would have an adverse effect on local traffic safety, and those in our community in need of child safety seats.

BUDGET/STAFF IMPACT:
In-kind expenses in the amount of $12,700 are budgeted annually within our operating budget. Patrol officers will perform matching STEP activities while on duty, and no additional officers are required within the STEP grant.

ATTACHMENTS: SRF (#3), BA (#4), HIGHWAY SAFTEY SUBGRANT AGREEMENT (#5)

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

File #: 2023-1166

FY 2024 Selective Traffic Enforcement Project (STEP) Grant Award

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2023 SELECTIVE TRAFFIC ENFORCEMENT PROJECT GRANT AWARD IN THE AMOUNT OF $72,700.00, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a 2023 Selective Traffic Enforcement Project (STEP) grant award in the amount of $72,700.00.

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

City of Fayetteville Staff Review Form

2023-1166

Item ID

11/7/2023

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

Mike Reynolds	10/9/2023	POLICE (200)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends acceptance of the FY2024 Selective Traffic Enforcement Project (STEP) Grant Award and approval of a budget adjustment in the amount of $72,700.

Budget Impact:

1010.200.2920-various	General
Account Number	Fund
31607.2324.4302/4309	Police STEP Grant
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	72,700.00
		Remaining Budget	$	72,700.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	POLICE (200)	
	Requestor: T Tannehill	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Establish revenue and expense accounts for the FY2024 Selective Traffic Enforcement Project (STEP) grant award.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1166**

Holly Black
10/10/2023 8:40 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.202398

TOTAL	72,700	72,700				
	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
1010.200.2920-4309.01	-	62,700	31607	2324.4309	RE	Federal Grants - Operational
1010.200.2920-4302.01	-	10,000	31607	2324.4302	RE	State Grants - Operational
1010.200.2920-5120.00	50,000	-	31607	2324.4309	EX	Personnel Other - Contra
1010.200.2920-5210.00	12,700	-	31607	2324.4309	EX	Minor Equipment
1010.200.2920-5210.00	10,000	-	31607	2324.4302	EX	Minor Equipment
	-	-				
	-	-				
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State of Arkansas

ARKANSAS STATE POLICE

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

"SERVING WITH PRIDE AND DISTINCTION SINCE 1935"

FY 2024 HIGHWAY SAFETY SUBGRANT AGREEMENT

RECIPIENT

Fayetteville Police Department

Telephone: (479) 587-3581

Fax: (479) 587-3570

TAX ID NO:

71 - 6018462

GOVERNMENTAL UNIT

1800 N Stephen Carr Memorial Blvd
Fayetteville Arkansas 72704
Washington County

PROJECT NO: OP-2024-02-02-08
SC-2024-01-01-08
AL-2024-06-06-08
M8DDLE-2024-02-02-08

FAIN: 69A37524300004020AR06
9A3752430000405EARC

TYPE OF APPLICATION

Initial

Revision

X Continuation

UEI: FKCQRMDULFH9

INITIAL PROJECT STARTING DATE

10/01/2099

PROJECT TITLE:

Selective Traffic Enforcement Program FY2024

OPERATIONAL AREA OF PROJECT

Fayetteville
Police Dept

	AMOUNT		
COST CATEGORY	**FEDERAL**	**STATE**	**LOCAL**
Personal Services	$50,000.00		$8,500.00
Equipment	$12,700.00		
Maintenance & Operation			$4,200.00
Other Direct Costs		$10,000.00	
Indirect Cost			
Administrative Costs			
Total	$62,700.00	$10,000.00	$12,700.00

PROJECT PERIOD		**FUNDING PERIOD**	
From:	10/01/2023	From:	10/01/2023
To:	09/30/2024	To:	09/30/2024

FUNDING

SOURCE	**AMOUNT**
Federal	$62,700.00
State	$10,000.00
Local	$12,700.00
Total	$85,400.00

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SUB-GRANT AGREEMENT/CONTRACT TERMS ..... Appendix i

CERTIFICATIONS AND ASSURANCES ..... Appendix ii

BUDGET REQUEST AND LOCAL MATCH ..... Appendix iii

Agreement Prepared By: Michael Catanach (PM)

Title: Program Manager

Arkansas State Police
Arkansas Highway Safety Office
1 State Police Plaza Drive
Little Rock, AR 72209
(501) 618-8137
(501) 618-8124 fax

BACKGROUND

The State of Arkansas is taking increased steps to address safety on the State's roadways as part of an effort to implement innovative strategies to reduce traffic fatalities throughout the State. The Arkansas Highway Safety Office (AHSO) considers safety issues by focusing on behavioral aspects at the driver level. The goal is to reduce highway fatalities by better identifying driver behaviors that cause fatal crashes, implementing programs to address those behaviors and targeting locations where fatal crashes occur.

Based on a five-year average (2017 - 2021), 580 people lose their lives each year on Arkansas roadways. In 2021, there were 693 total traffic fatalities compared to 651 the previous year. Over the same five years, alcohol-related fatalities (fatalities involving a driver or motorcycle operator with a BAC of .08 or greater) averaged 153 per year. There were 185 alcohol-related fatalities in 2021.

An additional area of concern is occupant protection where in 2021 there were 228 unrestrained passenger vehicle occupant fatalities. In 2021, Arkansas' safety belt use rate was 84.2%, while the National use rate stood at 90%. Arkansas' safety belt use rate decreased to 79.1% in 2022.
Also of concern are speed-related fatalities where in 2021, 148 people died as a result of speed-related crashes.

Strict enforcement of the State's traffic laws, through Selective Traffic Enforcement Projects (STEP), has been proven effective in reducing traffic crashes and fatalities. The State will continue to use this strategy to address its traffic safety problems.

PROBLEM STATEMENT

The Fayetteville Police Department STEP began a proactive approach to collision reduction which included implementation of the STEP through a grant with the AHSO. The Department wishes to continue to operate aggressive and sustained selective traffic enforcement, as well as, participate in the State's Impaired Driving, Seat Belt, Speed and Distracted Driving mobilizations/campaigns.

SCOPE OF WORK

PROJECT GOALS: The overall goal of this project is to decrease the number of traffic-related crashes and fatalities by conducting a Selective Traffic Enforcement Project in Washington County. The goal for each component of this project is as follows: Alcohol Component (Section 405)- Reduce the annual number of alcohol-related crashes from 378 and reduce alcohol-related fatalities from 4 as recorded in 2021. Seat Belt Component (Section 402)- Increase seat belt use from 88% as recorded in 2023. Speed Component (Section 402)- Reduce the annual number of speed-related crashes from 545 and reduce speed-related fatalities from 7 as recorded in 2021.

SUMMARY OF PROJECT OBJECTIVES: This project's primary objectives are to achieve as average of two (2) - three (3) vehicles stops per hour per officer during seat belt enforcement (with an emphasis on enforcement of occupant restraint laws); two (2) - three (3) vehicle stops per hour per officer during speed enforcement; one (1) – two (2) vehicle stops per hour per officer during distracted driving enforcement; and one (1) DWI/DUI arrest per eight (8) – twelve (12) hours per officer during DWI/DUI enforcement. A public information and education program will support these objectives.

METHOD OF EVALUATION BY ASP/HSO

ADMINISTRATIVE: X
IMPACT EVALUATION: X By achievement of project objectives.

_____ ASP/AHSO will reimburse the recipient an amount equal to ____% of all eligible cost.

X ASP/AHSO will reimburse the recipient an amount equal to all eligible costs as identified in work statement.

REIMBURSEMENT LIMITS

1. Maximum amount eligible for reimbursement:

   Federal Funds: $62,700.00

   State Funds: $10,000.00

2. Only those orders placed and costs incurred during the following time period shall be eligible for reimbursement:

   (Date) 10/01/2023 to (Date) 09/30/2024

3. The recipient must bear all costs not eligible for Federal reimbursement.

Federal and State regulations shall be the basis for determining eligibility of costs, as detailed in the General Provisions and Subgrant Agreement/Contract Terms.

This agreement may be amended only by written notice in advance and in accordance with ASP/AHSO policy. (See Subgrant Agreement/Contract Terms).

WORK STATEMENT

A. The recipient, Fayetteville Police Department in exchange for consideration offered by the Arkansas State Police Highway Safety Office, hereafter referred to as the Arkansas Highway Safety Office (AHSO), and in the interest of improving highway safety, hereby agrees to pursue the achievement of the following objectives:

1. Appoint a Project Coordinator to be a liaison between the recipient and the (AHSO) and to be responsible for coordinating selective enforcement activities and financial transactions associated with this subgrant agreement. Herein, give signature authorization for the Project Coordinator to request reimbursement and agreement change orders when applicable. Compensation for the Project Coordinator will be from local funds.

2. Project Coordinator, or designee, will work with their designated AHSO Program Manager to ensure they understand State, Federal and Highway Safety Office policies and procedures.

3. Ensure that agency maintains an enforced seat belt policy and provides the AHSO a copy of any revisions to the policy.

4. Conduct selective enforcement of the State's seat belt, driving while intoxicated (DWI)/driving under the influence (DUI), speed limit, child passenger protection, distracted driving and motorcycle helmet laws. Officers are to ensure compliance with the State's seat belt and child restraint laws during all vehicle stops. Enforcement should target locations where fatal/serious injury crashes are occurring.

5. Seat belt enforcement (from 6:00 a.m. until 9:00 p.m.) will emphasize enforcement of seat belt and child restraint laws.
Speed enforcement (from 6:00 a.m. until 9:00 p.m.) will emphasize speed violations.
Distracted Driving enforcement (from 6:00 a.m. to 9:00 p.m.) will emphasize distracted driving violations.
DWI/DUI enforcement will emphasize enforcement of DWI/DUI laws and may be worked anytime day or night any day of the week. Participating officers are expected to average two vehicle stops per hour when not actively processing a DWI arrest during DWI enforcement.
The AHSO retains the right to limit or modify enforcement hours and days at its discretion and as necessary to help projects meet performance objectives as stated in Work Statement six (6). Agencies may request modifications to enforcement hours for AHSO approval based on problem identification. Also, during the enforcement mobilizations in Work Statement 7, the enforcement time restrictions cited above do not apply and Seat Belt, Speed and Distracted Driving may be enforced day or night. For example: During the State Speed Mobilization, Speed enforcement is not limited to 6:00 a.m. to 9:00 p.m., but may be worked anytime day or night during the mobilization.
Officers working on the project are expected to enforce all the laws cited in this agreement during seat belt, speed, DWI/DUI and Distracted Driving enforcement.

6. Performance objectives for the project and individual participating officers are as follows:
Seat Belt and Speed: two (2) to three (3) stops per hour; Distracted Driving: one (1) to two (2) per hours; DWI/DUI: 1 DWI arrest per eight (8) to twelve (12) hours.
Nothing in this agreement shall be interpreted as a requirement, formal or informal, that an officer issue a specific or predetermined number of citations in pursuance of the organization's obligations here under. The organization agrees to complete the above stated objectives in addition to completing the normal routine agency traffic enforcement activities.

7. Participate in two (2) Seat Belt, five (5) DWI/DUI, one (1) Speed and two (2) Distracted Driving mobilization(s) during the project period. Must participate in the public information and education (PI&E) activities (press conferences/news releases) in conjunction with the mobilization activities. An informal seat belt survey conducted by the agency will also precede and follow each seat belt mobilization for evaluation purposes. Mobilization dates are as follows, but are subject to change.

1. State Distracted Driving Mobilization - October 16 -22, 2023

2. State Seat Belt Mobilization - November 20 – 26, 2023

3. National Winter DWI Mobilization - December 13, 2023 - January 1, 2024*

4. State St. Patrick's Day DWI Mobilization - March 15 – 17, 2024

5. National Distracted Driving Mobilization - April 3 – 10, 2024

6. 420 Campaign April 19 – 21, 2024

7. National Memorial Day Seat Belt Mobilization - May 20 - June 2, 2024

8. State July 4th Holiday DWI Mobilization – July 3 – 7, 2024

9. National Speed Mobilization - July 10 – 31, 2024

10. National Labor Day DWI Mobilization - August 16 - September 2, 2024*

*Conduct checkpoints and/or saturation patrols on at least four days/nights during the National DWI mobilizations.

Participation in all State, National and Regional Mobilizations is a required activity of this grant agreement. Project activity should be managed to ensure that sufficient funds are available to participate in these mobilizations. Submit a mobilization report within 15 days after a mobilization period in accordance with the format provided by the AHSO. Agency is urged to participate in sobriety checkpoints and/or saturation patrols during all DWI/DUI mobilizations. Officers are not restricted to the enforcement times cited in Work Statement 5 during the mobilizations.

8. Conduct Public Information and Education (PI&E) activities to support the objectives of this project. These activities will include, but are not limited to, issuing a news release at the beginning of the project period to notify the community of the project activities, conducting a minimum of two media exposures for each mobilization e.g., news conferences, news releases, social media posts, interviews, reporter ride-alongs and participating in a minimum of two (2) other community activities e.g., community events, health fairs, booths, civic/school/employer presentations during the year. Please click on www.trafficsafetymarketing.gov for materials to assist you in conducting these activities.

9. The only costs eligible for reimbursement are selective enforcement (which includes officer pay and applicable benefits), child safety seats (see Work Statement 10) and pre-approved equipment (see Work Statement 11). The recipient will be reimbursed for officers working selective traffic enforcement at a rate that does not exceed one and one-half times the officer's regular hourly rate. Reimbursement is limited to one officer per patrol vehicle. Officers may also be compensated at the selective enforcement rate for hours spent conducting seat belt surveys associated with mobilizations and time spent working at clinics associated with the proper installation of child safety seats. Hours spent conducting seat belt surveys, participating in sobriety checkpoints, or working at child safety seat clinics will not be used when calculating enforcement performance and is reported separately on the monthly report form in eGrants. Officers compensated through this agreement shall work strictly within the scope of this project while performing duties in connection with and being funded by this agreement. Hours worked on and compensated through this agreement must not supplant (be a substitute for) regular officer hours and pay. Routine patrol functions, including crash investigations, will be assigned to personnel on regular duty. Should a project officer become involved in routine patrol functions while conducting

selective enforcement, the officer will be compensated from other funds. No part-time personnel can be compensated through this agreement. Note: Consistent with federal guidelines officers working Selective Enforcement should be compensated in accordance with recipient overtime policy and nothing in this agreement should be interpreted as authority to violate agency policy. Submit to the AHSO any revisions to agency overtime policy within 30 days of the effective date of the revision.

10. If child safety seats are an approved budget line item on the invoice forms, purchase and loan child safety seats in accordance with AHSO policy. Seats must be purchased no later than February 28, 2024. Invoices for the seats must be submitted to the AHSO within 30 days of purchase. All purchases must be in compliance with federal, state and local purchasing laws and regulations.

11. If equipment is an approved budget line item on the invoice forms, purchase the following equipment to assist with the enforcement effort:

EQUIPMENT: Two (2) Black Cat II Radar Systems at $4,600.00 each and one (1) Motor Radar Unit at $3,500.00 each to be used during overtime traffic enforcement. Priority use of this equipment shall be given to those officers actively working STEP enforcement. Assurance is provided herein that throughout the life expectancy of this equipment, it will be used for the purposes expressed or implied in this agreement. All purchases must be in compliance with federal, state and local purchasing laws and regulations and if applicable, be listed on the National Highway Traffic Safety Administration's current Conforming Products List of Evidential Breath and Speed Measurement Devices. ALL equipment purchases must be pre-approved in writing and must comply with the Buy America Act.

12. Ensure that all officers working on this project have successfully completed the National Highway Traffic Safety Administration's approved courses on occupant protection usage and enforcement (OPUE) or traffic occupant protection strategies (TOPS) training and standardized field sobriety testing (SFST) during the project period.

13. Ensure that all officers working this project are familiar with Arkansas Code Annotated (A. C. A.) 27-37-701 thru 27-37-707 (the mandatory seat belt law). A violation of the mandatory seat belt law is a "primary" offense for enforcement purposes.

14. Ensure that all officers working on this project are familiar with A.C.A. 27-34-101 thru 27-34-108 (the "Child Passenger Protection Act"). Children under the age of fifteen (15) years must be restrained and any child under six (6) years of age and under sixty (60) pounds in weight must be restrained in a child safety seat. Violation of this law is a primary offense, meaning that a vehicle may be stopped if there is probable cause to believe that the law is being violated.

15. Ensure that all officers working on this project are familiar with Act 561 of 2001 (the ".08 BAC law"). Persons arrested for violation of A.C.A. 5-65-103 and 5-56-205 shall be determined to be DWI arrests. Youthful offenders arrested for violation of A.C.A. 5-65-303 shall be determined to be DUI arrests.

16. Ensure that all officers working on this project are familiar with laws concerning Distracted Driving. Act 738 of 2019 amends A.C.A. 27-51-1501 thru 27-51-1506 and 27-51-1601 thru 27-51-1610 to comply with distracted driving requirements under Federal law. These laws prohibit the use of wireless communication devices for texting while driving; limit wireless communication device use by young drivers: prohibit wireless communication device use by drivers under eighteen years of age and drivers who are at least eighteen but under twenty-one years of age from using wireless communication devices (allows drivers who are at least eighteen but under twenty one years of age to use hands-free wireless telephones or devices); and to improve the safety of highways and roads by prohibiting wireless communication device use in school zones and

highway work zones.

17. Ensure department implements policies and internal controls to prevent fraud and misuse of grant funds.

18. Submit monthly reimbursement requests, local match reporting form and activity reports, including PI&E activities, along with a cover letter(s) by the 30th of the subsequent month in accordance with formats provided by the AHSO. Also include with the reimbursement requests as back-up supporting documentation, payroll summary sheets which accurately reflects payroll disbursed by the agency for STEP for the time period requested and invoices for any eligible items purchased (i.e. child safety seats) along with proof of payment (i.e. copy of the check). The summary sheets must record each officer who worked, dates they worked, number of hours worked for each date, regular and overtime pay rates, applicable fringe rates and be signed by both the project coordinator and an agency payroll or fiscal department representative. An Annual Project Activity Report will be submitted in accordance with the format provided by the AHSO. This annual report and the final reimbursement request are due within 30 days following the end of the project period. Final reimbursement will not be made until a satisfactory annual report is submitted.

Note: NHTSA regulations require that each state submit a final voucher (reimbursement request/invoice) within 120 days after the end of the Fiscal Year. Therefore, in order to meet the NHTSA deadline, subrecipient reimbursement requests received by the AHSO more than 90 days after the end of the project period are ineligible for payment. The AHSO Administrator may extend the time period to submit reimbursement requests only in extraordinary circumstances.

19. Create a project file (physical or electronic) for maintaining the agreement and financial documents. The file will contain a copy of this agreement, agreement terms, and officers signed Acknowledgement Form. Related AHSO policies and procedures, policies or procedures of the recipient related to this project's activities, copies of monthly activity reports, AHSO STEP daily worksheets, reimbursement requests, payroll summary sheets outlined in Work Statement 18, other supporting financial documentation such as payroll printouts and invoices, a copy correspondence relating to the agreement, and documentation of public information activities should also be included in this file. The file must be maintained in one location and is subject to review by State and Federal authorities responsible for oversight of this agreement. Copies of time sheets, original AHSO STEP daily worksheets, and citations for all officers paid through this agreement must be kept in this file. Time sheets must have officer's and supervisor's signatures with attached supporting documents. AHSO STEP daily worksheets must be completed properly and have the officer's and a supervisor's signature to be eligible and approved for reimbursement.

WORK STATEMENT

B. The Arkansas Highway Safety Office (AHSO) hereby agrees to perform the following activities:

1. Reimburse the recipient for all eligible costs incurred in accordance with provisions stated in the Subgrant Agreement/Contract Terms.
An analysis of reimbursable costs is provided in the attached Subgrantee Budget Request Form.

2. Provide reasonable consultative assistance to the recipient to aid in the achievement of project objectives.

3. Conduct administrative and/or on-site evaluations to assess the effectiveness of the project. Evaluations will include, but are not limited to, a review of activity reports examining progress toward objectives stated in the work statement, reimbursement requests, fiscal management and on-site monitoring visits.

ARKANSAS STATE POLICE
HIGHWAY SAFETY SUBGRANT AGREEMENT

ACCEPTANCE AND AUTHORIZATION TO PROCEED

It is understood and agreed by the undersigned that a subgrant received for this agreement is subject to the Fixing America's Surface Transportation (FAST) Act, Infrastructure Investment and Jobs Act (or Bipartisan Infrastructure Law (BIL)), subsequent U.S. Department of Transportation funding reauthorization, and all administrative regulations governing this grant established by the U.S. Department of Transportation approved in accordance with 2 CFR Part 1201 and 23 CFR Part 1300 subject to the availability of Federal funds. It is further understood that any State funds utilized within are subject to all applicable State regulations and are likewise subject to their availability. It is expressly agreed that this agreement including the Appendix i (Subgrant Agreement/Contract Terms) and Appendix ii (Certifications and Assurances), constitute an official part of the State's Highway Safety Program and that said recipient will meet the requirements as set forth herein.

The recipient Fayetteville Police Department has appointed the following official representatives with legal authority to accept this subgrant agreement.

A. SUBGRANT DIRECTOR		B. AUTHORIZING OFFICIAL	
1. Signature:	_____	1. Signature:	_____
2. Name:	_____	2. Name:	Lioneld Jordan
3. Title:	_____	3. Title:	Mayor
4. Date:	_____	4. Date:	_____

Approval to proceed, effective 10/01/2023 to 09/30/2024 with committed Federal funds of $62,700.00 and State funds of $10,000.00, given by the State Official responsible to the Governor for administration of the State Highway Safety Program:

Approved:

_____

Director, Arkansas State Police
and
Governor's Highway Safety Representative

_____

Date

Appendix i

ARKANSAS STATE POLICE
HIGHWAY SAFETY OFFICE
GENERAL PROVISIONS AND
SUBGRANT AGREEMENT/CONTRACT TERMS

The terms below are hereby included as part of this subgrant agreement/contract.

I.	Glossary of Definitions
II.	Changes
III.	Disputes
IV.	Conditions for Termination Prior to Completion
V.	Excusable Delays
VI.	Non-Collusion
VII.	Cost Provisions
VIII.	Uniform Administrative Requirements
IX.	Method of Payment
X.	Terms and Conditions of Payment
XI.	Inspection/Monitoring
XII.	Property Management
XIII.	Record Retention
XIV.	Ownership of Data and Creative Material
XV.	Reports
XVI.	Equal Opportunity
XVII.	Subcontractual
XVIII.	Utilization of Small Business Concerns
XIX.	Order of Precedence
XX.	Subgrant's/Contractor's Liability
XXI.	Save Harmless
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ARKANSAS STATE POLICE
HIGHWAY SAFETY OFFICE
GENERAL PROVISIONS AND SUBGRANT AGREEMENT/CONTRACT TERMS

I. GLOSSARY OF DEFINITIONS

This glossary defines those terms whose meanings may be unclear in the subgrant agreement/contract in which they are used. These definitions are meant to apply only to the usage of these terms in this subgrant agreement/contract.

Activity - Elements of work that accumulate to accomplish contract objectives.

Activity Number - A number assigned by the HSO for internal management.

Actual - The attained state of resources expended and/or accomplishments.

Ark. Code Ann. - Arkansas Code Annotated.

ASP - Arkansas State Police.

Authorizing Official - The Contractor's or Subgrantee legally appointed person authorized to commit the organization to contract or subgrant agreement.

Budgeted - The estimated level of expenditure set up in the contract.

CFR - Code of Federal Regulation.

Contractor - The State agency, county, city, quasi-public organization, private individual, or corporation entering into a contract with the HSO.

Contract Director - The duly authorized representative of the Contractor charged with the responsibility of executing the contract.

Contract Period - The period of time in which all activities specified in the contract must be performed.

Coordinator/Administrator - The State official appointed by the Governor's Representative for Highway Safety to be responsible for the Highway Safety Program.

Cost Incurred - Costs are considered incurred on the date that goods/services are received and accepted.

DOT - Department of Transportation.

DPS - Department of Public Safety

Evaluation - A process that involves measuring the success or failure of an activity in achieving predetermined objectives; a judgment of value of worth.

FHWA - Federal Highway Administration, U.S. Department of Transportation.

FY - Fiscal Year. Federal Fiscal Year starts October 1st and ends September 30 of each year. State Fiscal Year starts July 1st and ends June 30 of each year.

Funding Period - The period of time in which the Subgrantee/Contractor can incur costs eligible for reimbursement.

Governor's Highway Safety Representative - The State official who is responsible to and represents the Governor in the conduct of the Statewide Highway Safety Program (Director - Arkansas State Police).

Grantor Agency - Arkansas State Police.

Highway Safety Manager - A staff member authorized by the Highway Safety Office Administrator to oversee the day to day activities of the Highway Safety Program and serve as deputy to the Administrator.

HSO - Highway Safety Office.

HSP - Highway Safety Plan as required by NHTSA and DOT.

NHTSA - National Highway Traffic Safety Administration, U.S. Department of Transportation.

OMB - Office of Management and Budget.

Obligated - The proposed level of accomplishments that are budgeted and funded.

PM - Program Module.

PSP - Problem Solution Plan.

Political Subdivision - A generally recognized governmental unit below the State level having a defined geographic area of the State.

Program Manager - A staff member authorized by the Administrator to act as the liaison between the HSO and the Subgrantee/Contractor in all matters pertaining to a subgrant agreement/contract.

Project Period (Period of Performance) - The time during which the non-Federal entity may incur new obligations to carry out the work authorized under the award.

Standard Number - A number assigned to one of the 18 highway safety program areas as developed by NHTSA and promulgated by the Secretary, U.S. Department of Transportation.

State Agency - An administrative division of State Government.

Subgrantee - The State agency, county, city, quasi-public organization, private individual, or corporation entering into a subgrant agreement with the HSO.

Subgrant Director - The duly authorized representative of the Subgrantee charged with the responsibility of executing the subgrant agreement.

USC - United States Code.

YTD - Year to date.

II. CHANGES/PROJECT REVISIONS/AMENDMENTS

A. Any change (project revision/amendment) to this subgrant agreement/contract document must be requested by written notice 30 days prior to the anticipated effective date of the proposed change if possible.Upon request, a Subgrant Agreement/Contract Change Order form will be furnished to theSubgrantee/Contractor, which must be submitted with the Authorizing Official's signature. Upon receipt of the Subgrant Agreement/Contract Change Order, the HSO will review and either approve or disapprove this change.

B. Likewise, any change in this subgrant agreement/contract document initiated by the HSO will require notice to the Subgrantee/Contractor of the proposed change 30 days prior to the anticipated effective date of same if possible. The Subgrantee/Contractor will be given 10 working days to review and either concur or contend to the proposed change.

C. Any disputes or disagreements arising from A or B above will be arbitrated as set forth in Contract Subgrant Agreement/Term III.

III. DISPUTES

A. Except as otherwise provided in this subgrant agreement/contract, any dispute concerning a question of fact arising under this subgrant agreement/contract which is not disposed of by agreement shall be decided by the Coordinator/Administrator, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Subgrantee/Contractor. The decision of the Coordinator/Administrator shall be final and conclusive unless, within 30 days from the date of receipt of such copy if possible, the Subgrantee/Contractor mails or otherwise furnishes to the Coordinator/Administrator a written appeal addressed to the HSO. The decision of the HSO or its authorized representative for the determination of such appeals shall be final and conclusive unless it is determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Subgrantee/Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his/her appeal. Pending final decision of a dispute hereunder, the Subgrantee/Contractor shall proceed diligently with the performance of the subgrant agreement/contract and in accordance with the HSO's decision.

B. This "DISPUTES" clause does not preclude consideration of law questions in connection with decisions provided for in Paragraph A above, and nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

IV. IV. CONDITIONS FOR TERMINATION PRIOR TO COMPLETION

If, through any cause other than acts of God or the public enemy, flood, or quarantine restrictions, the Subgrantee/Contractor should fail to fulfill in timely or proper manner the obligations of this agreement/contract, the HSO may terminate this agreement/contract by giving written notice to the Subgrantee/Contractor at least 7 days prior to the effective date of termination and by specifying the effective date of termination. All furnished or unfurnished documents, data, studies, surveys, reports, maps, drawings, models, and photographs prepared by the Subgrantee/Contractor shall, at the option of the HSO, become the property of the HSO and the Subgrantee/Contractor shall be entitled to receive only reasonable and equitable compensation for the satisfactory work completed, and only in proportion to the monetary consideration covenanted and agreed upon in the contract for the completed scope of the work.

At their convenience, the principals to this agreement may terminate this agreement by one giving to the other, or each giving to the other, written notice at least 30 days prior to the effective date of termination, and by specifying the effective date of termination.

Upon termination of this agreement/contract, whether for cause or at the convenience of one or both principals, the Subgrantee/Contractor shall be reimbursed for the portion of out-of-pocket expenses (not otherwise reimbursed prior thereto) incurred by the Subgrantee/Contractor during the project/contract period which are directly attributable to the incompleted portion of the services covered by this agreement. The Subgrantee/Contractor shall be paid an amount which bears the same ration to the total compensation as the services actually performed bear to the total services of the Subgrantee/Contractor.

V. EXCUSABLE DELAYS

Except with respect to defaults of Subcontractors, the Subgrantee/Contractor shall not be in default by reason of any failure in performance of this agreement/contract in accordance with its terms (including any failure by the Subgrantee/Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failures arise out of causes beyond the control and without the fault or negligence of the Subgrantee/Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Subgrantee/Contractor. If the failure to perform is caused by the failure of a Subcontractor to perform or make progress, and if such failure arises out of cause beyond the control of the Subgrantee/Contractor and Subcontractor, and without the fault or negligence of either of them, the Subgrantee/Contractor shall not be deemed to be in default, unless (a) the supplies or services to be furnished by Subcontractor were obtainable from other sources, (b) the Coordinator shall have ordered the Subgrantee/Contractor in writing to procure such supplies or services from other sources, or (c) the Subgrantee/Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Coordinator shall ascertain the facts and extent of such failure, and if he/she shall determine that any failure to perform was occasioned by one or more of the said causes, the delivery schedule shall be revised accordingly.

VI. NON-COLLUSION

The Subgrantee/Contractor warrants that he has not employed or retained any company or person, other than a bonafide employee working for the Subgrantee/Contractor, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bonafide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the HSO shall have the right to annul this agreement without liability, or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

VII. COST PROVISIONS

2 CFR Part 1201 and 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards which can be found at <http://www.ecfr.gov>.

VIII. UNIFORM ADMINISTRATIVE REQUIREMENTS

2 CFR Part 1201 and 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards which can be found at http://www.ecfr.gov.

IX. METHOD OF PAYMENT

Under the Standard Method of Payment, the Subgrantee/Contractor agrees to perform the work previously stated and to accept as payment reimbursement(s) for actual costs incurred, in accordance with the terms of the agreement/contract.

Other methods which may be used to pay Consultants are as follows; (1) lump sum, (2) cost per unit of work, (3) cost plus a fixed fee amount, or (4) specific rates of compensation. The specific rates of compensation method should be considered only if all other methods have been found to be inappropriate.

Each of the acceptable Consultant methods of payment is discussed below:

A. Lump Sum By this method, the Consultant undertakes to perform the services stated in the agreement for an agreed amount of compensation.

This method of payment is appropriate only if the extent, scope, complexity, character, and duration of the work to be required has been established to a degree that just compensation can be determined and evaluated by all parties at the time of negotiations.

When submitted for approval, each proposed agreement wherein payment is to be by a lump sum shall be accompanied by a copy of an estimate prepared by the Consultant showing a statement of his probable costs for the several elements of the work and his expected net fee.

The Consultant's statement is to include a supported breakdown of the costs, direct and indirect which the firm expects to incur. The Consultant's method of dividing the project into work units is to be such that the estimate can be intelligently reviewed.

To be considered for Federal-aid reimbursement, the lump sum amount proposed must be found by the Governor's Representative or appropriate State agency to be a just and equitable compensation, and must be supported by documentation as to the basis for such findings.

The agreement should contain provisions for the adjustment of the lump sum amount in the event of changes in the work to be performed.

B. Cost Per Unit of Work By this method, the Consultant is paid on the basis of the unit of work performed. This method is appropriate when the related unit cost of the work can be determined in advance with reasonable accuracy, but the extent of the work is indefinite. A proposal utilizing this method payment is to be supported in the same manner as that specified for the lump sum method.

C. Cost Plus a Fixed Fee By this method, the Consultant is reimbursed for his costs and receives in addition a predetermined amount as a fixed fee.

When at the time of negotiations with the Consultant, it is found not feasible to establish payment on the basis of the lump sum or cost per unit of work method, payment should be on the basis of reimbursement of the acceptable costs incurred by the Consultant plus a predetermined amount. This method of payment is appropriate when the extent, scope, complexity, character, or duration is indeterminable at the time of negotiations, or where the work is of a nature that the State agency does not have the experience or knowledge to permit an evaluation of the Consultant's proposal as required to support a lump sum amount.

D. Specific Rates of Compensation By this method the Consultant is paid at an agreed and supported specific fixed hourly or daily rate for each class of employee directly engaged in the work. Such rates of pay include the Consultant's estimated costs and net fee. This method of payment should be considered only on those occasions where none of the three methods of payment described under method 1. 2., or 3. can be used. It should be considered only for relatively minor items of work of indeterminable extent over which control is maintained of the class of employee to be used and the extent of such use. The specific rates of compensation are to include, and the agreement or referenced supporting data shall specifically identify and set forth separately, the direct salary costs, salary additives, indirect costs, and the fixed fee. Other direct costs may be set forth as an element of the specific rate or may be included as independent cost items. The specific rates so determined are to be established by the Consultant and found by the Governor's Representative to be reasonable and proper.

Consultant agreements providing that payment is to be based or adjusted on a prescribed percentage of estimated or actual cost times a multiplier, will not be accepted for Federal-aid reimbursement.

When the method of payment for Consultant services is other than a lump sum, the agreement must specify an upper limit of compensation. There should be recognition, however, that the reasons underlying the selection of the method of payment preclude arriving at a realistic estimate of the total anticipated costs of the service. The basis for establishment of the amount specified as the upper limit should be documented and provisions should be made to permit adjustment in the upper limit when the Consultant is able to establish, to the satisfaction of the governmental agency and Governor's Representative, that there has been or is to be a significant change in the (1) scope, complexity, or character of the services to be performed, (2) conditions under which the work is required to be performed, or (3) duration of work. In the case of the Cost-Plus Fixed Fee method, an appropriate adjustment in the predetermined net fee shall be considered.

X. TERMS AND CONDITIONS OF PAYMENT

A. Unless otherwise specified in the agreement/contract Work Statement, the Subgrantee/Contractor agrees to bill the ASP at monthly intervals only, using the forms and format specified. The maximum amount of the total subgrant agreement/contract is specified in the agreement/contract.

B. The Subgrantee/Contractor agrees to submit the final bill no later than 30 days after the termination of the funding period.

C. The Subgrantee/Contractor agrees to submit no bill for work performed or material delivered unless such bill is accompanied by a report which complies with the requirements of the Work Statement.

XI. INSPECTION/MONITORING

The ASP, (including, as an adjunct thereto, agents of the Federal Government when Federal funds are involved) has the right, at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises on which it is being performed. If any inspection or evaluation is made by the HSO on the premises of the Subgrantee/Contractor or a Subcontractor, the Subgrantee/Contractor shall provide and shall require his Subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the HSO personnel in their duties. All inspections and evaluation shall be performed in such a manner as will not unduly delay the work.

XII. PROPERTY MANAGEMENT

See 2 CFR Part 1201, 2 CFR Part 200 and 23 CFR § 1300.31

XIII. RECORD RETENTION

See 2 CFR Part 200

XIV. OWNERSHIP OF DATA AND CREATIVE MATERIAL

The ownership of material, discoveries, inventions, and results developed, produced, or discovered by this agreement/contract is governed by the terms of 2 CFR Part 1201 and 2 CFR Part 200.

XV. REPORTS

A. Before publication or printing, the final draft of any report(s) required under the agreement/contract schedule shall be submitted to the HSO for review and concurrence. Review and approval by the National Highway Traffic Safety Administration will be coordinated by the ASP prior to returning comments or approvals to the Subgrantee/Contractor. All recorded information which is produced in the performance of this agreement shall be the sole property of the Arkansas State Police, Highway Safety Office, and reports or other such information are to be regarded as material in the public domain and shall not be copyrighted or restricted as to the distribution and reproduction. The Subgrantee/Contractor shall furnish the ASP with the quantity of copies of the report(s) specified in the agreement/contract.

B. Each report covered by Paragraph A must include the following statements on the cover page:

1. This report was prepared for the HSO, in cooperation with DOT's NHTSA or DOT's FHWA.

2. The conclusions and opinions expressed in this document are those of the author, and do not necessarily represent those of the State of Arkansas, ASP, DOT or any other agency of the State or Federal Government.

XVI. EQUAL OPPORTUNITY

The Subgrantee/Contractor assures and certifies:

A. The Subgrantee/Contractor will comply with Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, handicap, 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 receives Federal financial assistance, and the Subgrantee/Contractor will immediately take any measures necessary to effectuate this agreement.

B. The Subgrantee/Contractor will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

XVII. SUBCONTRACTUAL

A. The Subgrantee/Contractor shall give advance notice to the HSO of any proposed subcontract hereunder, and the Subgrantee/Contractor shall not, without prior written approval of the Administrator, enter into such subcontract. (See Paragraph B. below.)

B. NHTSA or FHWA may require approval of any contract for professional services prior to issuance and initiation of work. This review may take up to 30 days and shall consider, in part, the following matters:

1. Determination of the Consultant's qualifications;
2. Manner of selection from those qualified to perform the service;
3. Necessity for subcontracting;
4. Review of the contract, to ensure that minimum terms of the prime contract have been incorporated into the subcontract;
5. Pre-award audit has been performed for contracts in excess of $25,000.00; and,
6. The Subgrantee/Contractor's price breakdown includes costs (if any) for personal services, subcontracts, commodities, other direct costs, indirect costs, and profit.

XVIII. UTILIZATION OF SMALL BUSINESS CONCERNS

A. It is the policy of the United States Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

B. The Subgrantee/Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Subgrantee/Contractor finds to be consistent with the efficient performance of this agreement/contract.

XIX. ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this agreement/contract, the inconsistency shall be resolved by giving precedence in the following order:

A. Subgrant Agreement/Contract Document

B. Work Statement

C. Subgrant Agreement/Contract Terms

XX. SUBGRANTEE/CONTRACTOR'S LIABILITY

A. The Subgrantee/Contractor shall be liable for any loss of, or injury to, any material developed or serviced under this agreement/contract which is caused by the Subgrantee/Contractor's failure to exercise such care in regard to said material as a reasonably careful owner of similar materials would exercise.

B. Subgrantee/Contractor shall provide commercial insurance or equivalent method acceptable to the HSO office for replacement or repair of damaged or lost equipment. Subgrantee/Contractor shall reimburse the HSO office for residual value of equipment sold or otherwise disposed of.

XXI. SAVE HARMLESS

It is expressly agreed and understood that the Subgrantee/Contractor is an independent Subgrantee/Contractor and not an agent, servant, or employee of the State, and the Subgrantee/Contractor shall save harmless the State and representatives thereof from all suits, actions, or claims of any kind brought on account of any person or property in consequence of any neglect in safeguarding the work, or on any act or omission by the Subgrantee/Contractor or its employees, or from any claims or amounts arising or recovered under Worker's Compensation Laws or any other law, by-law, ordinance, regulation, order, or decree (Not Applicable to State Agencies and Institutions of Higher Education).

The Subgrantee/Contractor shall be responsible for all damage to property and personal injury of any kind resulting from any act, omission, neglect, or misconduct of any employee or agent of said Subgrantee/Contractor in the manner or method of performing the work for the period of the agreement/contract

XXII. TAX AND COMPENSATION LIABILITY

Nothing herein contained shall be construed as incurring for the State any liability for Worker's Compensation, F.I.C.A., Withholding Tax, Unemployment, or any other payment which would be required to be paid by the State if the State and the Subgrantee/Contractor were standing in an employer-employee relationship, and the Subgrantee/Contractor hereby agrees to assume and pay all such liabilities.

XXIII. REIMBURSEMENT OF ELIGIBLE EXPENDITURES

A. It is mutually agreed and promised that upon written application by the Subgrantee/Contractor and approval by the State, the State shall obligate funds for reimbursement of eligible expenditures as set forth in the application.

B. It is mutually agreed and promised that the Subgrantee/Contractor shall reimburse the State for any ineligible or unauthorized expenditures for which Federal and/or State funds have been claimed and payment received as determined by a State or Federal audit.

C. It is further agreed and promised that where reimbursement is made to the Subgrantee/Contractor in installments, the State shall have the right to withhold any installments to make up reimbursement received for any ineligible or unauthorized expenditures until such time as the ineligible claim is made up or corrected by the Subgrantee/Contractor.

XXIV. APPLICATION OF HATCH ACT

The subgrantee/contractor will comply with the provisions of the Hatch Act which limit the political activities of employees.

XXV. STANDARDS FOR SUBGRANTEE/CONTRACTOR FINANCIAL MANAGEMENT SYSTEMS

This item prescribes standards for financial management systems of subgrant agreement/contract supported activities of state and local governments. Subgrantee/Contractor financial management systems shall provide for:

A. Accurate, current, and complete disclosure of the financial results of each subgrant agreement/contract activity in accordance with the HSO reporting requirements;

B. Records which identify adequately the source and application of funds for subgrant agreement/contract activities. These records shall contain information pertaining to grant awards and authorizations, obligations, commitments, assets, liabilities, outlays, and income;

C. Effective control over and accountability for all funds, property, and other assets. Subgrantee/Contractor shall adequately safeguard all such assets, and shall assure that they are used solely for authorized purposes;

D. Comparison of actual with budgeted amounts for each agreement/contract. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the HSO;

E. Procedures to minimize the time elapsing between the transfer of funds from the State Treasury and the disbursement by the Subgrantee/Contractor whenever funds are advanced by the HSO;

F. Procedures for determining the allowability and allocability of costs in accordance with the provisions of 2 CFR Part 200;

G. Accounting records which are supported by source documentation;

H. Audits to be made by the Subgrantee/Contractor or at his direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The Subgrantee/Contractor will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity; and, every two years, considering the nature, size, and complexity of the activity; and;

I. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

XXVI. PROCUREMENT

A. State of Arkansas Procurement Law and Rules, will govern purchasing.

https://www.transform.ar.gov/wp-content/uploads/2021/09/Procurement-Law-and-Rules-updated-09032021final.pdf

B. A summary of the various requirements is as follows:

Typical Procurement Methods

Type	Small Order (SO)	Competitive Bid (CB)	Competitive Sealed Bid Invitation for Bid (IFB)	Competitive Sealed Proposal Request for Proposal (RFP)
Method	No price quotes required. No public posting required.	Email Prospective Contractors to obtain at least 3 price quotes. No public posting required.	Publicly posted solicitation (5-90 days) requesting a sealed price quote. Requires a public opening.	Publicly posted solicitation (5-90 days) requesting a sealed technical proposal and a separately sealed cost proposal. Requires a public opening.
Cost Threshold	Up to $20,000 or up to $40,000 if the Prospective Contractor is a *Certified* Minority-Owned or *Certified* Woman-Owned Business.	Up to $75,000	$75,000 and up	$75,000 and up
Contractor Selection	Based on agency policy, but competition should be used to the greatest extent possible.	Based on low cost	Based on low cost	Based on highest total score from evaluation of technical proposals (70%) and calculated cost score (30%).
Discussion/ Negotiation	Requesting a lower cost is encouraged.	Requesting a lower cost is encouraged.	Negotiation is encouranged to achieve a lower cost and/or better contract value.	Negotiation is encouraged to achieve a lower cost and/or better contractual value.
Examples	Commodities: Office supplies, medical supplies, uniforms, equipment, and books. Services: lawn care, pest control, security guard services.	Commodities: Office supplies, medical supplies, uniforms, equipment, and books. Services: lawn care, pest control, security guard services.	Commodities: furniture, license places, IT equipment Services: mailing services, transcription services, basic medical services	Services: actuarial servcies, advertising and marketing services, banking services
Ark. Code	§ 19-11-231	§ 19-11-234	§ 19-11-229	§ 19-11-230

C. Splitting of item or items with the intent to use a less restrictive requirement is not permitted.

D. Descriptions and specifications must be sufficiently restricted or specific so as to exclude cheap or inferior commodities which are not suitable or practicable for the purpose for which they are to be used, but at no time should they be so specific in detail as to restrict or eliminate competitive bidding of any items of comparable quality and coming within a reasonably close price range.

E. Arkansas preference does not apply.

Note: Also see Procurement Standards at 2 CFR Part 200

XXVII. PROCUREMENT PROCEDURES - BREATH TESTING EQUIPMENT

A. These items are usually exempt from bidding requirements because of one or several of the following:

1. Single source of supply items;
2. Scientific and technical equipment and parts thereof required by an employee by reason of his profession or training; and
3. Items requiring standardization and interchangeability of parts with existing equipment.

B. The records required for reimbursement are as follows:

1. Copy of Purchase Order giving description of item purchased:
2. Statement, approved by the Project Director, explaining reason for purchasing on an exempt basis without any bids;
3. Standard payment documentation, as follows:
   a. Copy of vendor's invoice showing receiving approval by project personnel,
   b. Copy of document showing payment for goods, and,
   c. Paid receipt or endorsement on payment document; and,
4. Statement for each item purchased showing the following:
   a. Serial number,
   b. Model number, and,
   c. Property control number (if any).

XXVIII. MINORITY BUSINESS ENTERPRISE

The recipient of this subgrant agreement/contract agrees to adopt by reference the Minority Business Enterprise Program that has been approved by DOT for the HSO, or to show evidence of approval of the recipient's own Minority Business Enterprise Program by a cognizant agency of the Federal government.

The recipient of this subgrant agreement/contract agrees to include the following statement in all subsequent contracts which are financed in whole or in part with Federal funds provided under the agreement with the recipient:

A. Required MBE Contract Clauses

1. Policy It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23, apply to this agreement.

2. MBE Obligation The recipient or its subcontractor agrees to ensure that minority business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

XXIX. PAYROLL PROCEDURES

A. Personal Services compensation is allowable if:

1. For services rendered during the contract period,

2. Reasonable for services rendered,

3. Personnel appointed in accordance with state or local government rules,

4. Based on payrolls documented and approved in accordance with generally accepted business practices, and

5. Supported by time and attendance records signed by both employee and supervisor.

B. Employee Benefits are allowable if:

1. Provided pursuant to a leave system,
2. Employer contribution or expense for:
   a. Social Security
   b. Employee Health Insurance
   c. Unemployment Insurance
   d. Worker's Compensation Insurance
   e. Pension Plans
3. The cost is equitably allocated to all activities.

C. The records required are as follows:

1. Time sheets showing employee names, daily hours, activities, and signatures of employee and supervisor;
2. Payroll record showing rate of pay, gross wages, itemized deductions, net pay, and signature of proper official; and,
3. Benefit Plan(s) records showing rates and amount paid by the employer.

XXX. TRAVEL PROCEDURES

Travel costs are allowable for the following actual expenses incurred by project employees while traveling on official project business: transportation, lodging, meals and other related expenses. An itemized travel report, with receipts for all items **excluding meals**, is required, and should be signed by the traveler and the supervisor. Out-of-State travel must have **prior written approval** of the HSO. Current daily limits for meals and lodging are set out in State Travel Regulations promulgated by the Arkansas Department of Finance and Administration found at https://www.dfa.arkansas.gov/accounting-office/financial-management-guide/subchapter-9-travel-regulations.

Regards State of Arkansas Employees:

Travel costs are limited to the State of Arkansas Travel maximums according to current State Travel Regulations. (Airfare is always limited to less-than-first-class airfare when less-than-first-class air accommodations are available). Reimbursement is for **actual expenses** up to the maximum allowed per federal per diem rates established by the General Services Administration (GSA). Guidance is provided on the GSA website at www.gsa.gov/travel-resources for deducting meal amounts from reimbursement claims for meals furnished by the government or other sources. Detailed receipts are required for all expenses **excluding meals**.

Regards Other Travelers:

Travel costs are limited to the lesser of local regulations, actual costs, or State travel maximums. Lodging may exceed State travel maximums only in instances where the maximum allowable lodging rate for that area is not available to the traveler (the traveler must make every effort to obtain the allowable State rate) or when the hotel rate where the conference or meeting is held exceeds the maximum allowable lodging rate for that area. Reimbursement is for **actual expenses** up to the maximum allowed per federal per diem rates established by the GSA. Guidance is provided on the GSA website at www.gsa.gov/travel-resources for deducting meal amounts from reimbursement claims for meals furnished by the government or other sources. Detailed receipts are required for all expenses, **excluding meals**.

XXXI. CONFIDENTIALITY REQUIREMENTS

We have researched the question on confidentiality and have identified the following salient items which are relevant to our agreements/contracts:

A. NHTSA Order 210-1, Chapter I, Section B, Subsection (7) (a) states that the Contractor or any employee of the such Contract shall be considered to be employees of the NHTSA for purposes of the requirements of the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C.

B. Section 3, Subsection (b) (1) of the July 1, 1975, Privacy Act Guidelines states that disclosures "To those officers and employees of the agency which maintains the records who have a need for the records in the performance of their duties;" is a permissible disclosure (Section 552a of U.S.C.5, P.L. 93-579).

C. Section 408, Subsection (b) (1) (b) of the regulations on Confidentiality of Alcohol and Drug Abuse Patient Records states that records may be released to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner (P.L. 93-282, 2.1 U.S.C. 1175).

XXXII. PROFESSIONAL SERVICES CONTRACT

See 2 CFR 200

XXXIII. INDIRECT COSTS

Indirect costs are those: Incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefitted cost objectives on basis that will produce an equitable result in consideration of relative benefits derived.

See Section VII, Cost Provisions of these terms for applicable cost regulations.

Appendix ii

Appendix A to Part 1300 - Certifications and Assurances for Fiscal Year 2024 Highway Safety Grants (23 U.S.C Chapter 4 Sec. 1906, Pub. L. 109-59, as Amended by Sec. 4011, Pub. L. 114-94)

[Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption]

Recipient: Fayetteville Police Department **Fiscal Year:** 2024

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. The Governor's Representative for Highway Safety, hereby provides the following Certifications and Assurances:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 - Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 - Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 - Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subward and Executive Compensation Reporting, August 27, 2010, (https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
  (i) the entity in the preceding fiscal year received-
  (I) 80 percent or more of its annual gross revenues in Federal awards;
  (II) $25,000,000 or more in annual gross revenues from Federal awards; and
  (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies** Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973,** (23 U.S.C. 324 et seq.), **and Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency-

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;

- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the NonDiscrimination Authorities identified in this Assurance;

- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;

- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;

- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

'During the performance of this contract/funding agreement, the contractor/funding recipient agrees-

a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 2l and herein;
c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against
employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:
   1. The dangers of drug abuse in the workplace;
   2. The grantee's policy of maintaining a drug-free workplace;
   3. Any available drug counseling, rehabilitation, and employee assistance programs;
   4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
   5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will -
   1. Abide by the terms of the statement;
   2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted -
   1. Taking appropriate personnel action against such an employee, up to and including termination;
   2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www .sam.gov/).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Mailers-Primary Tier Covered Transactions

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (l)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction, civil judgment debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/)

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U .S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902. l 0, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.

2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b) (1)(A))

3. The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation. (23 U.S.C. 402(b)(1)(B))

4. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or for the benefit of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and for the benefit of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

5. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))

6. The State will provide for an evidenced-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. (23 U.S.C. 402(b)(1)(E))

7. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:

    - Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to -
        - o Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
        - o Increase use of seat belts by occupants of motor vehicles;
    - Submission of information regarding mobilization participation into the HVE Database;
    - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
    - An annual Statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
    - Development of Statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
    - Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a). (23 U.S.C. 402(b)(1)(F))

8. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))

9. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4))

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements

AUDIT REQUIREMENTS

The recipient will arrange for an organization-wide financial and compliance audit, if required by 2 CFR Part 200.501 within the prescribed audit reporting cycle. The audit report must separately identify highway safety funds from other Federal funds. One (1) copy of the report will be furnished to the Arkansas State Police Highway Safety Office (ASP-HSO) within three months of the report date. Failure to furnish an acceptable audit as determined by the cognizant Federal audit agency may be a basis for denial and/or refunding of Federal funds. A copy of 2 CFR Part 200.501 is available at www.ecfr.gov. The recipient has been made aware of audit requirements. **The recipient is required to inform the ASP-HSO if subject to these audit requirements.**

Appendix iii

2024 STEP

Organization: Fayetteville Police Department **STEP-2024-Fayetteville Police Depar-00012**

III. Budget Request

Complete the budget categories request below detailing the projected number of officers , hours to be worked during these mobilizations, and average rate of pay and applicable fringe benefits. If any equipment is requested, list the type of equipment, cost, and justification for the equipment in the budget narrative.

Budget Categories	# Officers Est. to Work	Avg. # of Hours per Officer	OT Avg. Rate of Pay	Total Est. OT Pay	Fringe Benefit Rate	Total Fringe	Amount Requested	Approved Amount	Funding Source
Personal Services									
(DWI/DUI)	65	3	$59.90	$11,680.50		$3,264.70	$14,945.20	$15,000.00	2024 IJA 402 - AL 24 ($0.00)
(Safety Belt)	65	3	$59.90	$11,680.50		$3,264.70	$14,945.20	$15,000.00	2024 IJA 402 - OP 24 ($0.00)
(Speed)	65	2	$59.90	$7,787.00		$2,176.47	$9,963.47	$10,000.00	2024 IJA 402 - SC 24 ($0.00)
(Texting/Cell)	65	2	$59.90	$7,787.00		$2,176.47	$9,963.47	$10,000.00	2024 IJA 405e - M8DDLE 24 ($0.00)
New Funding Source (AHSO ONLY)									
Other Direct Costs				Cost Per Seat	Quantity				
	Child Safety Seats			$79.99	187	$14,958.13	$10,000.00		2024 Child Passenger Seats ($0.00)
Equipment (Describe below)				Cost Per Item	Quantity				
Radar kit				$4,999.00	2	$9,998.00	$9,200.00		2024 IJA 402 - SC 24 ($0.00)
Motor radar				$3,447.00	1	$3,447.00	$3,500.00		2024 IJA 402 - SC 24 ($0.00)
TOTAL							$78,220.46	$72,700.00	

FAIN Number(s):

Appendix iii

2024 STEP

Organization: Fayetteville Police Department **STEP-2024-Fayetteville Police Depar-00012**

III. Budget Request

69A37524300004020AR0
69A3752430000405EARC

Note: This is a budget request only. The Subgrantee Invoice Form (SIF) issued by the AHSO represents the approved budget and only those costs included on the SIF are eligible for reimbursement.

Sub Grantee Budget Narrative:

The Child Safety Seat Program is a highly effective community outreach service by our Community Oriented Policing Division . The demand exceeds our supply level on a yearly basis. Fayetteville currently has 10 Child Safety Seat Technicians, which includes one instructor. We have requested $14,958.13 due to the popularity and demand of our community. This amount is based on an average cost per seat of $79.99 per unit for 187 child safety seats. These funds can easily be justified due to the depletion of our supply of seats within a few months of receiving the order.

We have identified equpment needs to support our traffic enforcement activity that is not budgeted for locally :
Two portable radar kits to capture volume, speed, and vehicle speed from various locations, currently priced at $4999 each.
One motor radar unit for use by our motorcycle patrol, currently priced at $3,447.
These items will enhance our traffic enforcement activities.

(attach additional sheets if needed) (attach additional sheets if needed)

Budget Narrative AHSO Use Only

Equipment Line Item "Radar Kit" is Black Cat II radar system to measure traffic speeds, see attached quote from Jamar sales rep. Michael Catanach 9/11/23

(attach additional sheets if needed) (attach additional sheets if needed)
https://ahsoegrants.asp.arkansas.gov//_Upload/55160
_1143021-Quote95518FayettevillePDARbcii_2_bcii_.
pdf

Fayetteville Police Department

STEP-2024-Fayetteville Police Depar-00012

IV. Local Match

Budget Categories	Amount	Approved Amount
Personal Services		
Personnel	$8,500.00	$8,500.00
Maintenance & Operation		
Vehicles	$4,152.46	$4,200.00
Equipment		
Other Direct Costs		
Total	$12,652.46	$12,700.00

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1175

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Mike Reynolds, Police Chief

DATE: October 6, 2023

SUBJECT: **2023 Bulletproof Vest Partnership Grant Program Award**

RECOMMENDATION:
Staff recommends approval of a matching grant award from the 2023 Bulletproof Vest Partnership (BVP) Grant Program and a budget adjustment in the amount of $11,990 for the scheduled replacement of expiring body armor vests of current officers and outfitting new officers with body armor. Matching funds in the amount of $11,989.80 are budgeted within the Police Ballistic Protection (#13011-1) project of the Capital Improvement Program.

BACKGROUND:
The BVP, created by the BVP Grant Act of 1998, is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. Since 1998, the Fayetteville Police Department has obtained grant funding in excess of $225,000 for the purchase of body armor vests through this partnership. The BVP program provides an important component to the continuing health and welfare of our police officers. All state-of-the-art body armor is custom-made to the wearer's exact specifications with a five-year guaranteed life. This ensures all officers have level IIIA vest protection, which is the best defense available for our personnel.

DISCUSSION:
The anticipated cost to replace 30 body armor vests is approximately $30,834.30. This grant funding by BVP will provide 50% reimbursement for a maximum of $399.66 per vest (or $11,989.80 for 30 vests) of the City's expense for the replacement of each body armor vest, which is currently priced at $1,027.81, including tax. The Police Department has planned for this grant matching requirement through the attached 2021-2025 Capital Improvements Plan (CIP) budget process. The City must match the grant allotment of $11,989.80 plus any overage.

BUDGET/STAFF IMPACT:
The City's total expenses is $18,844.50, which consists of the award match in the amount of $11,989.80 plus the additional expense of $6,854.70. Matching funds in the amount of $11,989.80 are budgeted within the Police Ballistic Protection (#1301101) project of the Capital Improvements Plan.

ATTACHMENTS: SRF (#3), BA (#4), BJA AWARD NOTIFICATION (#5)

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

File #: 2023-1175

2023 Bulletproof Vest Partnership Grant Program Award

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A MATCHING GRANT AWARD FROM THE 2023 BULLETPROOF VEST PARTNERSHIP PROGRAM IN THE AMOUNT OF $11,990.00 FOR THE REPLACEMENT OF BODY ARMOR VESTS AND OUTFITTING NEW OFFICERS, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a matching grant award from the 2023 Bulletproof Vest Partnership Grant Program in the amount of $11,990.00 for the replacement of body armor vests and outfitting new officers with body armor.

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

City of Fayetteville Staff Review Form

2023-1175

Item ID

11/7/2023

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

Mike Reynolds	10/5/2023	POLICE (200)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of a matching grant award from the 2023 Bulletproof Vest Partnership (BVP) Grant Program and a budget adjustment in the amount of $11,990 for the scheduled replacement of expiring body armor vests of current officers and outfitting new officers with body armor.

Budget Impact:

1010.200.2920-5210.00	General
Account Number	Fund
37042-2023	Bulletproof Vest Partnership - 2023
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	11,990.00
		Remaining Budget	$	11,990.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	POLICE (200)	
	Requestor: T Tannehill	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Establish revenue and expense accounts for the 2023 Bulletproof Vest Partnership grant in the amount of $11,990.

COUNCIL DATE: 11/21/2023

ITEM ID#: **2023-1175**

Holly Black
10/6/2023 11:47 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.202398

TOTAL	11,990	11,990				
	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
1010.200.2920-4309.01	-	11,990	37042	2023	RE	Federal Grants - Operational
1010.200.2920-5210.00	11,990	-	37042	2023	EX	Minor Equipment
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				

Dear BVP applicant,

The Bureau of Justice Assistance (BJA) is pleased to inform you that your jurisdiction will receive an award under the Fiscal Year (FY) 2023 Patrick Leahy Bulletproof Vest Partnership (BVP) program. These funds have been posted to your account in the BVP System. A complete list of FY 2023 BVP awards is now available at the following link: https://bja.ojp.gov/funding/fy23-bvp-awards.pdf.

Important: Jurisdictions must be registered and include updated banking information in the System for Award Management (SAM) (https://www.sam.gov/SAM/) to receive reimbursement. For more information about renewing and updating your existing SAM registration, or registering in SAM as a new entity, please visit: https://sam.gov/content/help. The SAM Helpdesk can be reached at 866-606-8220.

The FY 2023 award may be used for National Institute of Justice (NIJ) compliant armored vests which were ordered after April 1, 2023. The deadline to request payments from the FY 2023 award is August 31, 2025, or until all available funds have been requested. Awards will not be extended past that date, and any unused funds will be forfeited.

As a reminder, body armor vests purchased with BVP funds must have been tested through the National Institute of Justice (NIJ) Compliance Testing Program and found to comply with the most current NIJ body armor standards, appear on the NIJ Compliant Products List as of the date the body armor was ordered, be uniquely fitted, and be made in the United States. In addition, applicants must have a written mandatory wear policy for uniformed patrol officers in place at the time of application.

In addition, the federal portion of the costs for body armor vests purchased under the BVP Program may not exceed 50 percent. However, jurisdictions may request a financial or natural disaster hardship waiver during the payment request process and receive up to 100 percent of the cost of each body armor vest submitted for reimbursement. Additional information regarding match waivers can be found in the BVP FAQs, and detailed instructions on the process for requesting a waiver and the documentation required can be found in the Submitting Payment Requests in BVP User Guide.

Please contact the BVP Helpdesk at 1-877-758-3787 or email vests@usdoj.gov if you have any questions regarding the above information. Please also visit the BVP website for additional information regarding the BVP Program.

In addition, please visit BJA's Officer Robert Wilson III Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) Initiative website to obtain other information regarding officer safety: VALOR Officer Safety and Wellness Initiative | Overview | Bureau of Justice Assistance (ojp.gov). The VALOR Initiative is a comprehensive set of programs that deliver no-cost officer safety, wellness, resilience training, resources, and technical assistance to law enforcement throughout the country. VALOR brings together the latest research and practices to address current and emerging officer safety and wellness issues/threats. Please see the VALOR Initiative Overview-Booklet for a detailed synopsis of this important initiative: BJA VALOR INITIATIVE (ojp.gov).

Sincerely, BVP Program Support Team

Bureau of Justice Assistance

APPLICATION DETAILS

APPLICATION PROFILE

Participant	FAYETTEVILLE CITY
Fiscal Year	2023
Number of Agencies Applied	0
Total Number of Officers for Application	154
Number of Officers on Approved Applications	154

APPLICATION PROFILE

Fiscal Year		2023
Vest Replacement Cycle		5
Number of Officers		154
Number of Emergency Replacement Needs	**Number of Stolen or Damaged**	0
	Number of Officer Turnover	15

APPLICATION DETAILS

NIJ#	Quantity	Unit Price	Extended Cost	Tax Shipping and Handling	Total Cost
AXBIIIA	30	$728.31	$21,849.30	$2,130.30	$23,979.60
Grand Totals	**30**		**$21,849.30**	**$2,130.30**	**$23,979.60**

AWARD SUMMARY FOR FY2023 REGULAR FUND

Funds Type	Eligible Amount	Award	Date Approved	Status
Regular Fund	$23,979.60	$11,989.80	10/02/23	Approved by BVP
Grand Totals:	$23,979.60	$11,989.80		

RETURN

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1207

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Mike Reynolds, Police Chief

DATE: October 19, 2023

SUBJECT: **FY2023 Law Enforcement Mental Health and Wellness Act Grant Award**

RECOMMENDATION:
Staff recommends acceptance of a non-matching grant award for the expansion of the Police Department's Wellness and Resiliency Program funded through the 2023 Law Enforcement Mental Health and Wellness Act (LEMHWA), and the approval of a budget adjustment in the amount of $200,000.

BACKGROUND:
The U.S. Department of Justice, Office of Community Oriented Policing Services, has announced the 2023 LEMHWA grant awards. LEMHWA funds are used to improve the delivery of and access to mental health and wellness services for law enforcement officers through implementation and expansion of peer support, training, family resources, suicide prevention, and other promising practices for wellness programs. Programs may also serve civilian staff who may regularly experience some of the same trauma exposure. The LEMHWA has a 2-year grant period, and LEMHWA awards are managed through the JustGrants web portal.

The Fayetteville Police Department was awarded an initial LEMHWA grant in October 2022 in the amount of $94,810.73 to fund our Wellness and Resiliency Program and Peer to Peer Team. With these grant funds, the Peer to Peer Team received training and certification to provide all Fayetteville Police Department (FPD) employees with tangible emotional support through times of personal or professional crisis, to help anticipate and address potential difficulties, and to assist FPD and surrounding small-town agencies within Northwest Arkansas with critical incident response, defusing, debriefings, and individual peer discussions. To date, the FPD Peer Team spent 241 hours with area agencies that encountered officer involved shootings, officers killed in the line of duty, officer suicide, and an officer assaulted and seriously wounded.

DISCUSSION:
This new grant award in the amount of $200,000 will expand and enhance our current Wellness and Resliency Program by obtaining instructor certification for peer team members insuring adequate availability within our department in times of crisis. Grant funding will also provide for counseling sessions, obtaining certifications and attending training in the areas of nutrition, leadership, suicide prevention and stress management. Grant funding will be utilized for any overtime expenses incurred by peer team members in developing and implementing these resources. The 2023 LEMHWA grant has a two-year award period ending on September 30, 2025. Please see attached program narrative and budget narrative for details.

BUDGET/STAFF IMPACT:

This grant award does not require local matching funds and has no impact on staffing levels.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5), Award_Package_FAW-180156 (#6), 2023 LEMHWA Project Narrative (#7), 2023 LEMWHA Budget Narrative (#8)

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

File #: 2023-1207

FY2023 Law Enforcement Mental Health and Wellness Act Grant Award

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A NON-MATCHING GRANT AWARD IN THE AMOUNT OF $200,000.00 FOR THE EXPANSION OF THE POLICE DEPARTMENT'S WELLNESS AND RESILIENCY PROGRAM FUNDED THROUGH THE 2023 LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to execute a grant agreement accepting a non-matching grant in the amount of $200,000.00 to be funded through the 2023 Law Enforcement Mental Health and Wellness Act.

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

City of Fayetteville Staff Review Form

2023-1207

Item ID

11/7/2023

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

Mike Reynolds	10/20/2023	POLICE (200)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends acceptance of a non-matching grant award for the expansion of the Police Department's Wellness and Resiliency Program funded through the 2023 Law Enforcement Mental Health and Wellness Act (LEMHWA), and the approval of a budget adjustment in the amount of $200,000.

Budget Impact:

1010.200.2920-various	General
Account Number	Fund
32205.2023	Police - COPS 2023 LEMHWA Grant
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	Yes	Budget Adjustment	$	200,000.00
		Remaining Budget	$	200,000.00

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2023	POLICE (200)	
	Requestor: Willie Newman	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Establish a revenue and expense budget within project accounting for the 2023 Law Enforcement Mental Health and Wellness Act grant award.

COUNCIL DATE: 11/7/2023

ITEM ID#: **2023-1207**

Holly Black
10/20/2023 7:33 AM

Budget Division Date

TYPE: **D - (City Council)**

JOURNAL #:

GLDATE:

RESOLUTION/ORDINANCE

CHKD/POSTED: /

v.2023109

TOTAL	200,000	200,000				
	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
1010.200.2920-4309.01	-	200,000	32205	2023	RE	Federal Grants - Operational
1010.200.2920-5304.00	83,756	-	32205	2023	EX	Travel & Training
1010.200.2920-5210.00	39,960	-	32205	2023	EX	Minor Equipment
1010.200.2920-5314.00	37,000	-	32205	2023	EX	Professional Services
1010.200.2920-5120.00	39,284	-	32205	2023	EX	Personnel Other - Contra
	-	-				
	-	-				
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	-	-				

CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF NOVEMBER 7, 2023

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

DATE: October 20, 2023

SUBJECT: **FY2023 Law Enforcement Mental Health and Wellness Act Grant Award**

RECOMMENDATION:

Staff recommends acceptance of a non-matching grant award for the expansion of the Police Department's Wellness and Resiliency Program funded through the 2023 Law Enforcement Mental Health and Wellness Act (LEMHWA), and the approval of a budget adjustment in the amount of $200,000.

BACKGROUND:

The U.S. Department of Justice, Office of Community Oriented Policing Services, has announced the 2023 LEMHWA grant awards. LEMHWA funds are used to improve the delivery of and access to mental health and wellness services for law enforcement officers through implementation and expansion of peer support, training, family resources, suicide prevention, and other promising practices for wellness programs. Programs may also serve civilian staff who may regularly experience some of the same trauma exposure. The LEMHWA has a 2-year grant period, and LEMHWA awards are managed through the JustGrants web portal.

The Fayetteville Police Department was awarded an initial LEMHWA grant in October 2022 in the amount of $94,810.73 to fund our Wellness and Resiliency Program and Peer to Peer Team. With these grant funds, the Peer to Peer Team received training and certification to provide all Fayetteville Police Department (FPD) employees with tangible emotional support through times of personal or professional crisis, to help anticipate and address potential difficulties, and to assist FPD and surrounding small-town agencies within Northwest Arkansas with critical incident response, defusing, debriefings, and individual peer discussions. To date, the FPD Peer Team spent 241 hours with area agencies that encountered officer involved shootings, officers killed in the line of duty, officer suicide, and an officer assaulted and seriously wounded.

DISCUSSION:

This new grant award in the amount of $200,000 will expand and enhance our current Wellness and Resliency Program by obtaining instructor certification for peer team members insuring adequate availability within our department in times of crisis. Grant funding will also provide for counseling sessions, obtaining certifications and attending training in the areas of nutrition, leadership, suicide prevention and stress management. Grant funding will be utilized for any overtime expenses incurred by peer team members in developing and implementing

these resources. The 2023 LEMHWA grant has a two-year award period ending on September 30, 2025. Please see attached program narrative and budget narrative for details.

BUDGET/STAFF IMPACT:

This grant award does not require local matching funds and has no impact on staffing levels.

Attachments:

2023 LEMWHA Grant Award Packet

Department of Justice (DOJ)

Office of Community Oriented Policing Services (COPS Office)

Washington, D.C. 20531

Name and Address of Recipient:	CITY OF FAYETTEVILLE 100 W ROCK ST
City, State and Zip:	FAYETTEVILLE, AR 72701
Recipient UEI:	ZGAZNS4HKFY3

Project Title: FY23 City of Fayetteville, AR, LEMHWA Project	**Award Number:** 15JCOPS-23-GG-01830-LEMH
Solicitation Title: FY 2023 Law Enforcement Mental Health and Wellness Act (LEMHWA) Implementation Projects	
Federal Award Amount: $200,000.00	**Federal Award Date:** 10/13/23
Awarding Agency:	Office of Community Oriented Policing Services
Funding Instrument Type:	Grant
Opportunity Category: D **Assistance Listing:** 16.710 - Public Safety Partnership and Community Policing Grants	
Project Period Start Date: 10/1/23	**Project Period End Date:** 9/30/25
Budget Period Start Date: 10/1/23	**Budget Period End Date**: 9/30/25

Project Description:

The Fayetteville Police Department (FPD) will use LEMHWA funding to expand its peer support program by creating a new component by making nutrition as instructors available to FPD employees. The agency will continue to build their peer team with continuing education and by creating instructor, continue to coordinate with regional partners through further education and coordination. Training will include certifying peer team members to teach about stress, trauma, and critical incidents. The agency's regional goal is to provide information that will create resiliency in first responders that lead to longer careers, safer communities, and higher retention. LEMHWA funding will also allow FPD to expand their efforts to assist other agencies in creating peer teams, build internal instructors to provide training to other agencies at minimal costs, and continue to build and influence the Northwest Arkansas region through compassionate care for first responders.

Award Letter

October 13, 2023

Dear Mike Reynolds,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Community Oriented Policing Services (the COPS Office) has approved the application submitted by CITY OF FAYETTEVILLE for an award under the funding opportunity entitled 2023 FY 2023 Law Enforcement Mental Health and Wellness Act (LEMHWA) Implementation Projects. The approved award amount is $200,000.
Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by the COPS Office, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

HUGH CLEMENTS
COPS Director

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria.

These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Award Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Recipient Information

Recipient Name
FAYETTEVILLE, CITY OF

UEI
ZGAZNS4HKFY3

ORI Number

Street 1
100 W ROCK ST

Street 2

City
FAYETTEVILLE

State/U.S. Territory
Arkansas

Zip/Postal Code
72701

Country
United States

County/Parish

Province

Award Details

Federal Award Date
10/13/23

Award Type
Initial

Award Number
15JCOPS-23-GG-01830-LEMH

Supplement Number
00

Federal Award Amount
$200,000.00

Funding Instrument Type
Grant

Assistance Listing Number	Assistance Listings Program Title
16.710	Public Safety Partnership and Community Policing Grants

Statutory Authority

The Public Safety Partnership and Community Policing Act of 1994, 34 U.S.C. § 10381 et seq

[ ]
I have read and understand the information presented in this section of the Federal Award Instrument.

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title

2023 FY 2023 Law Enforcement Mental Health and Wellness Act (LEMHWA) Implementation Projects

Awarding Agency

COPS

Application Number

GRANT13837048

Grant Manager Name

CAMISHA AMAKER

Phone Number

202-514-0497

E-mail Address

Camisha.Amaker@usdoj.gov

Project Title

FY23 City of Fayetteville, AR, LEMHWA Project

Performance Period Start Date

10/01/2023

Performance Period End Date

09/30/2025

Budget Period Start Date

10/01/2023

Budget Period End Date

09/30/2025

Project Description

The Fayetteville Police Department (FPD) will use LEMHWA funding to expand its peer support program by creating a new component by making nutrition as instructors available to FPD employees. The agency will continue to build their peer team with continuing education and by creating instructor, continue to coordinate with regional partners through further education and coordination. Training will include certifying peer team members to teach about stress, trauma, and critical incidents. The agency's regional goal is to provide information that will create resiliency in first responders that lead to longer careers, safer communities, and higher retention. LEMHWA funding will also allow FPD to expand

their efforts to assist other agencies in creating peer teams, build internal instructors to provide training to other agencies at minimal costs, and continue to build and influence the Northwest Arkansas region through compassionate care for first responders.

[ ]
I have read and understand the information presented in this section of the Federal Award Instrument.

Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

A financial analysis of budgeted costs has been completed. All costs listed in the approved budget below were programmatically approved based on the final proposed detailed budget and budget narratives submitted by your agency to the COPS Office. Any adjustments or edits to the proposed budget are explained below.

Budget Clearance Date: 7/20/23 9:52 PM

Comments
No items

Budget Category	Proposed Budget	Change	Approved Budget	Percentages
Sworn Officer Positions:	$0	$0	$0	
Civilian or Non-Sworn Personnel:	$0	$0	$0	
Travel:	$83,756	$0	$83,756	
Equipment:	$0	$0	$0	
Supplies:	$39,960	$0	$39,960	
SubAwards:	$0	$0	$0	
Procurement Contracts:	$37,000	$0	$37,000	
Other Costs:	$39,284	$0	$39,284	
Total Direct Costs:	$200,000	$0	$200,000	
Indirect Costs:	$0	$0	$0	
Total Project Costs:	$200,000	$0	$200,000	
Federal Funds:	$200,000	$0	$200,000	100.00%

Match Amount:	$0	$0	$0	0.00%
Program Income:	$0	$0	$0	0.00%

Budget Category
Sworn Officer
Civilian Personnel
Travel
Equipment
Supplies
SubAwards
Procurement Contracts
Other Costs
Indirect Costs

[ ]
I have read and understand the information presented in this section of the Federal Award Instrument.

Other Award Documents

[ ]

I have read and understand the information presented in this section of the Federal Award Instrument.

No other award documents have been added.

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

1

Reporting Subawards and Executive Compensation

The recipient agrees to comply with the following requirements of 2 C.F.R. Part 170, Appendix A to Part 170 – Award Term:
I. Reporting Subawards and Executive Compensation
a. Reporting of first-tier subawards.

Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds $30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to http://www.fsrs.gov.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.

b. Reporting total compensation of recipient executives for non-Federal entities.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. The total Federal funding authorized to date under this Federal award equals or exceeds $30,000 as defined in 2 CFR 170.320;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at https://www.sam.gov.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports

filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

2. Non-Federal entity means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization; and,

iv. A domestic or foreign for-profit organization

3. Executive means officers, managing partners, or any other employees in management positions.

4. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. Subrecipient means a non-Federal entity or Federal agency that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

6. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

Restrictions on Internal Confidentiality Agreements: No recipient or subrecipient under this award, or entity that receives a contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts the lawful reporting of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information. Consolidated Appropriations Act, 2023, Public Law 117-328, Division E, Title VII, Section 742.

3

Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and COPS Office authority to terminate award): The recipient and subrecipient agree to comply with the requirements in 2 C.F.R. § 175.15(b) – Award Term:
I. Trafficking in persons.
a. Provisions applicable to a recipient that is a private entity.
1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
ii. Procure a commercial sex act during the period of time that the award is in effect; or
iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
A. Associated with performance under this award; or
B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by DOJ at 2 C.F.R. Part 2867.
b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
i. Associated with performance under this award; or
ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by DOJ at 2 C.F.R. Part 2867.
c. Provisions applicable to any recipient.
1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended 22 U.S.C. 7104(g), and
ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
d. Definitions. For purposes of this award term:
1. “Employee” means either:
i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. “Private entity”:
i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
ii. Includes:
A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.
4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

4

Duplicative Funding: The recipient understands and agrees to notify the COPS Office if it receives, from any other source, funding for the same item or service also funded under this award.

5

Termination: Recipient understands and agrees that the COPS Office may terminate funding, in whole or in part, for the following reasons:
(1) When the recipient fails to comply with the terms and conditions of a Federal award.
(2) When an award no longer effectuates the program goals or agency priorities, to the extent such termination is authorized by law.
(3) When the recipient agrees to the termination and termination conditions.
(4) When the recipient provides the COPS Office written notification requesting termination including the reasons, effective date, and the portion of the award to be terminated. The COPS Office may terminate the entire award if the remaining portion will not accomplish the purposes of the award.
(5) Pursuant to any other termination provisions included in the award.
2. C.F.R. § 200.340.

6

Award Owner’s Manual: The recipient agrees to comply with the terms and conditions in the applicable 2023 COPS Office Program Award Owner's Manual; DOJ Grants Financial Guide; COPS Office statute (34 U.S.C. § 10381, et seq.) as applicable; Students, Teachers, and Officers Preventing (STOP) School Violence Act of 2018 (34 U.S.C. § 10551, et seq.) as applicable; the requirements of 2 C.F.R. Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted by the U.S. Department of Justice in 2 C.F.R. § 2800.101; 48 C.F.R. Part 31 (FAR Part 31) as applicable (Contract Cost Principles and Procedures); the Cooperative Agreement as applicable; representations made in the application; and all other applicable program requirements, laws, orders, regulations, or circulars.

Failure to comply with one or more award requirements may result in remedial action including, but not limited to, withholding award funds, disallowing costs, suspending, or terminating the award, or other legal action as appropriate.

Should any provision of an award condition be deemed invalid or unenforceable by its terms, that provision will be applied to give it the maximum effect permitted by law. Should the provision be deemed invalid or unenforceable in its entirety, such provision will be severed from this award.

7

Authorized Representative Responsibility: The recipient understands that, in accepting this award, the Authorized Representatives declare and certify, among other things, that they possess the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accept (or adopt) all material requirements throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

8

Award Monitoring Activities: Federal law requires that recipients receiving federal funding from the COPS Office must be monitored to ensure compliance with their award conditions and other applicable statutes and regulations. The COPS Office is also interested in tracking the progress of our programs and the advancement of community policing. Both aspects of award implementation—compliance and programmatic benefits—are part of the monitoring process coordinated by the U.S. Department of Justice. Award monitoring activities conducted by the COPS Office include site visits, enhanced office-based grant reviews, alleged noncompliance reviews, financial and programmatic reporting, and audit resolution. As a COPS Office award recipient, you agree to cooperate with and respond to any requests for information pertaining to your award. This includes all financial records, such as general accounting ledgers and all supporting documents. All information pertinent to the implementation of the award is subject to agency review

throughout the life of the award, during the close-out process and for three-years after the submission of the final expenditure report. 34 U.S.C. § 10385(a) and 2 C.F.R. §§ 200.334 and 200.337.

9

Contract Provision: All contracts made by the award recipients under the federal award must contain the provisions required under 2 C.F.R. Part 200, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. Please see appendices in the Award Owner's Manual for a full text of the contract provisions.

10

Assurances and Certifications: The recipient acknowledges its agreement to comply with the Assurances and Certifications forms that were signed as part of its application.

11

Conflict of Interest: Recipients and subrecipients must disclose in writing to the COPS Office or pass-through entity, as applicable, any potential conflict of interest affecting the awarded federal funding in 2 C.F.R. § 200.112.

12

Debarment and Suspension: The recipient agrees not to award federal funds under this program to any party which is debarred or suspended from participation in federal assistance programs. 2 C.F.R. Part 180 (Government-wide Nonprocurement Debarment and Suspension) and 2 C.F.R. Part 2867 (DOJ Nonprocurement Debarment and Suspension).

13

Employment Eligibility: The recipient agrees to complete and keep on file, as appropriate, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form (I-9). This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States. Immigration Reform and Control Act of 1986 (IRCA), Public Law 99-603.

14

Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information: Recipients and subrecipients agree not to discharge, demote, or otherwise discriminate against an employee as reprisal for the employee disclosing information that he or she reasonably believes is evidence of gross mismanagement of a federal contract or award, a gross waste of federal funds, an abuse of authority relating to a federal contract or award, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or award. Recipients and subrecipients also agree to provide to their employees in writing (in the predominant native language of the workforce) of the rights and remedies provided in 41 U.S.C. § 4712. Please see appendices in the Award Owner's Manual for a full text of the statute.

15

Equal Employment Opportunity Plan (EEOP): All recipients of funding from the COPS Office must comply with the federal regulations pertaining to the development and implementation of an Equal Employment Opportunity Plan. 28 C.F.R. Part 42 subpart E.

16

False Statements: False statements or claims made in connection with COPS Office awards may result in fines, imprisonment, debarment from participating in federal awards or contracts, and/or any other remedy available by law. 31 U.S.C. § 3729-3733.

17

Federal Civil Rights: The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by the Department based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition—
a. the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil

Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1681); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
b. the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); section 1407(e) of the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (34 U.S.C. § 12291(b)(13)), which will apply to all awards made by the Office on Violence Against Women, also may apply to an award made otherwise;
c. the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
d. on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.
The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by the Department based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), 38 (regarding faith-based or religious organizations participating in federal financial assistance programs), and 46 (human subjects protection).

18

Mandatory Disclosure: Recipients and subrecipients must timely disclose in writing to the Federal awarding agency or pass-through entity, as applicable, all federal criminal law violations involving fraud, bribery, or gratuity that may potentially affect the awarded federal funding. Recipients that receive an award over $500,000 must also report certain civil, criminal, or administrative proceedings in SAM and are required to comply with the Term and Condition for Recipient Integrity and Performance Matters as set out in 2 C.F.R. Part 200, Appendix XII to Part 200. Failure to make required disclosures can result in any of the remedies, including suspension and debarment, described in 2 C.F.R. § 200.339. 2 C.F.R. § 200.113.

19

Reports/Performance Goals: To assist the COPS Office in monitoring and tracking the performance of your award, your agency will be responsible for submitting semi-annual programmatic performance reports that describe project activities during the reporting period and quarterly Federal Financial Reports using Standard Form 425 (SF-425). 2 C.F.R. §§ 200.328 - 200.329. The performance report is used to track your agency’s progress toward implementing community policing strategies and to collect data to gauge the effectiveness of increasing your agency’s community policing capacity through COPS Office funding. The Federal Financial Report is used to track the expenditures of the recipient’s award funds on a cumulative basis throughout the life of the award.

20

Recipient Integrity and Performance Matters: For awards over $500,000, the recipient agrees to comply with the following requirements of 2 C.F.R. Part 200, Appendix XII to Part 200 – Award Term and Condition for Recipient Integrity and Performance Matters:
A. Reporting of Matters Related to Recipient Integrity and Performance
1. General Reporting Requirement
If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report
Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the

Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures
Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency
During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions
For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

21

System for Award Management (SAM) and Universal Identifier Requirements: The recipient agrees to comply with the following requirements of 2 C.F.R. Part 25, Appendix A to Part 25 – Award Term:

I. System for Award Management and Universal Identifier Requirements
A. Requirement for System for Award Management
Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

B. Requirement for Unique Entity Identifier
If you are authorized to make subawards under this Federal award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.

2. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

C. Definitions
For purposes of this term:

1. System for Award Management (SAM) means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM internet site (currently at https://www.sam.gov).

2. Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.

3. Entity includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following, for purposes of this part:

a. A foreign organization;

b. A foreign public entity;

c. A domestic for-profit organization; and

d. A Federal agency.

4. Subaward has the meaning given in 2 CFR 200.1.

5. Subrecipient has the meaning given in 2 CFR 200.1.

22

Additional High-Risk Recipient Requirements: The recipient agrees to comply with any additional requirements that may be imposed during the award performance period if the awarding agency determines that the recipient is a high-risk recipient. 2 C.F.R. § 200.208.

23

Allowable Costs: The funding under this award is for the payment of approved costs for program-specific purposes. The allowable costs approved for your agency's award are limited to those listed in your agency’s award package. In accordance with 2 C.F.R. § 200.400(g), the recipient must forgo any profit or management fee. Your agency may not use award funds for any costs not identified as allowable in the award package.

24

Computer Network Requirement: The recipient understands and agrees that no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography. Nothing in this requirement limits the use of funds necessary for any federal, state, tribal, or local law

enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Consolidated Appropriations Act, 2023, Public Law 117-328, Division B, Title V, Section 527.

25

Domestic preferences for procurements: Recipient agrees that it, and its subrecipients, to the greatest extent practicable, will provide a preference for the purchase, acquisition, or use of goods, products, and materials produced in, and services offered in, the United States. 2. C.F.R. § 200.322 and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers, January 25, 2021.

26

Extensions: Recipients may request an extension of the award period to receive additional time to implement their award program. Such extensions do not provide additional funding. Only those recipients that can provide a reasonable justification for delays will be granted no-cost extensions. Extension requests must be received prior to the end date of the award. 2 C.F.R. §§ 200.308(e)(2) and 200.309.

27

Copyright: If applicable, the recipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this award in accordance with 2 C.F.R. § 200.315(b). The COPS Office reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use the work, in whole or in part (including create derivative works), for Federal Government purposes, and to authorize others to do so. The COPS Office also reserves the right, at its discretion, not to publish deliverables and other materials developed under this award as a U.S. Department of Justice resource.

Products and deliverables developed with award funds and published as a U.S. Department of Justice resource will contain the following copyright notice:

"This resource was developed under a federal award and may be subject to copyright. The U.S. Department of Justice reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use the work for Federal Government purposes and to authorize others to do so. This resource may be freely distributed and used for noncommercial and educational purposes only."

28

Evaluations: The COPS Office may conduct monitoring or sponsor national evaluations of its award programs. The recipient agrees to cooperate with the monitors and evaluators. 34 U.S.C. § 10385(b).

29

Human Subjects Research: The recipient agrees to comply with the provisions of the U.S. Department of Justice's common rule regarding Protection of Human Subjects, 28 C.F.R. Part 46, prior to the expenditure of Federal funds to perform such activities, if applicable. The recipient also agrees to comply with 28 C.F.R. Part 22 regarding the safeguarding of individually identifiable information collected from research participants.

30

Requirement to report actual or imminent breach of personally identifiable information (PII).

The recipient (and any subrecipient at any tier) must have written procedures in place to respond in the event of an actual or imminent breach (as defined in OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of personally identifiable information (PII) (as defined in 2 C.F.R. 200.1) within the scope of a COPS Office grant-funded program or activity, or 2) uses or operates a Federal information system (as defined in OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to the recipient's COPS Office Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

31

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment: Recipient agrees that it, and its subrecipients, will not use award funds to extend, renew, or enter into any contract to procure or obtain any

covered telecommunication and video surveillance services or equipment as described in 2 CFR §200.216. Covered services and equipment include telecommunications or video surveillance services or equipment produced or provided by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); or an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of China. The use of award funds on covered telecommunications or video surveillance services or equipment are unallowable.
2. C.F.R. § § 200.216 & 471. See also Section 889 of the John S. McCain National Defense Authorization Act of Fiscal Year 2019, Public Law 115-232.

32

Modifications: Award modifications are evaluated on a case-by-case basis in accordance with 2 C.F.R. § 200.308(f). For federal awards in excess of $250,000, any modification request involving the reallocation of funding between budget categories that exceed or are expected to exceed 10 percent (10%) of the total approved budget requires prior written approval by the COPS Office. Regardless of the federal award amount or budget modification percentage, any reallocation of funding is limited to approved budget categories. In addition, any budget modification that changes the scope of the project requires prior written approval by the COPS Office.

33

The Paperwork Reduction Act Clearance and Privacy Act Review: Recipient agrees, if required, to submit all surveys, interview protocols, and other information collections to the COPS Office for submission to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act (PRA). Before submission to OMB, all information collections that request personally identifiable information must be reviewed by the COPS Office to ensure compliance with the Privacy Act. The Privacy Act compliance review and the PRA clearance process may take several months to complete. 44 U.S.C. §§ 3501-3520 and 5 U.S.C. § 552a.

34

Public Release Information: The recipient agrees to submit one copy of all reports and proposed publications resulting from this award ninety (90) days prior to public release. Any publications (written, curricula, visual, sound, or websites) or computer programs, whether or not published at government expense, shall contain the following statement:

"This project was supported, in whole or in part, by federal award number [YYYY-XX-XXXX] awarded to [Entity] by the U.S. Department of Justice, Office of Community Oriented Policing Services. The opinions contained herein are those of the author(s) or contributor(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. References to specific individuals, agencies, companies, products, or services should not be considered an endorsement by the author(s), contributor(s), or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

The Internet references cited in this publication were valid as of the date of publication. Given that URLs and websites are in constant flux, neither the author(s) nor the COPS Office can vouch for their current validity."

35

Sole Source Justification: Recipients who have been awarded funding for the procurement of an item (or group of items) or service in excess of $250,000 and who plan to seek approval for use of a noncompetitive procurement process must provide a written sole source justification to the COPS Office for approval prior to obligating, expending, or drawing down award funds for that item or service. 2 C.F.R. § 200.325(b)(2).

36

Supplementing, not Supplanting: State, local, and tribal government recipients must use award funds to supplement, and not supplant, state, local, or Bureau of Indian Affairs (BIA) funds that are already committed or otherwise would have been committed for award purposes (hiring, training, purchases, and/or activities) during the award period. In other words, state, local, and tribal government recipients may not use COPS Office funds to supplant (replace) state, local, or BIA funds that would have been dedicated to the COPS Office-funded item(s) in the absence of the COPS Office award. 34 U.S.C. § 10384(a).

37

Travel Costs: Travel costs for transportation, lodging and subsistence, and related items are allowable with prior approval from the COPS Office. Payment for allowable travel costs will be in accordance with 2 C.F.R. § 200.475.

38

Training Guiding Principles: Any training or training materials developed or delivered with award funding provided by the Office of Community Oriented Policing Services is to adhere to the following guiding principles –

1. Trainings must comply with applicable law.
In developing and conducting training under the award, recipients (and any subrecipients) shall not violate the Constitution or any federal law, including any law prohibiting discrimination.

2. The content of trainings and training materials must be accurate, appropriately tailored, and focused.
The content of training programs must be accurate, useful to those being trained, and well matched to the program's stated objectives. Training materials used or distributed at trainings must be accurate, relevant, and consistent with these guiding principles.

3. Trainers must be well?qualified in the subject area and skilled in presenting it.
Trainers must possess the subject?matter knowledge and the subject?specific training experience necessary to meet the objectives of the training. In selecting or retaining a trainer, recipients (or subrecipients) should consider such factors as the trainer's resume and written materials, interviews with the trainer, observation of other trainings conducted by the trainer, feedback from other entities with which the trainer has worked, training participant feedback and evaluations, and the general reputation of the trainer.

4. Trainers must demonstrate the highest standards of professionalism.
Trainers must comport themselves with professionalism. While trainings will necessarily entail varying teaching styles, techniques, and degrees of formality, as appropriate to the particular training goal, professionalism demands that trainers instruct in the manner that best communicates the subject matter while conveying respect for all.

[ ]
I have read and understand the information presented in this section of the Federal Award Instrument.

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent

information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official	Name of Approving Official	Signed Date And Time
COPS Director	HUGH CLEMENTS	9/13/23 12:50 PM

Authorized Representative

FY23 CPA Project Narrative

Law Enforcement Mental Health and Wellness Act

City of Fayetteville, Arkansas

Project Narrative

4-18-2023

Program Abstract

The purpose of the Peer-to-Peer Support Program is to provide all Fayetteville Police Department (FPD) employees the opportunity to receive tangible emotional support through times of personal and professional crisis, and to help anticipate and address potential difficulties. The FPD is determined to pursue the newest and most innovative knowledge, research, and understanding to ensure the best possible outcomes for the employees serving the community of Fayetteville. The FPD strives to create and build regional partnerships with other agencies and community members to provide a healthy and safe community to live and work.

Chief Mike Reynolds has worked to enhance the department based on the six pillars of The President's Task Force on 21st Century Policing to include building trust and legitimacy, training and education for employees, and officer wellness and safety. Without a doubt, the wellness and resiliency of the agency is critical for not only the employees but also for the community in which they serve.

The FPD has not been immune to the national debate about law enforcement's role in society, excessive use of force, deadly force and response to calls. This issue has been a topic of discussion in Fayetteville for several years. Additionally, the FPD employees have responded to adversity during the COVID-19 pandemic, the murder of an FPD officer, and many other critical incidents. Consequently, the public's attention and this national debate continue to erode the wellbeing, resiliency, and drive to continue in the law enforcement profession.

In late 2020, the FPD created the Peer-to-Peer Support Program and made it available to all FPD employees. A relationship with the Springdale Police Department, Rogers Police Department, and Washington County Sheriff's Office was created, and the FPD assisted with creating and implementing their peer programs. In 2021, the FPD peer team was utilized for 237.75 hours within the FPD and assisted surrounding agencies for another 241 hours. In 2022, the FPD peer team was utilized for 186 hours within the FPD and surrounding agencies for 58 hours, assisting over 130 first responders with individual defusing and debriefings. The FPD worked with collaborating agencies to respond to a mass casualty event involving children, an officer murdered/killed in the line of duty, officer involved shootings, and children deaths in Northwest Arkansas and Northeast Oklahoma. We are creating a new component by making nutrition and physical fitness instructors available to FPD employees. We will also continue to build on our peer team with continuing education and by creating instructors. We will continue to coordinate with our regional partners through further education and coordination. Training will include certifying peer team members to teach about stress, trauma, and critical incidents. Our regional goal is to provide information that will create resiliency in first responders that lead to longer careers, safer communities, and higher retention.

If funded, the FPD would expand their efforts to assist other agencies in creating peer teams, build internal instructors to provide training to other agencies at minimal costs, and continue to build and influence the Northwest Arkansas region through compassionate care for first responders.

Proposal Narrative
Protecting the Protectors

Summary

The Fayetteville Police Department (FPD) was established in 1870. Since that time, many officers have served the community with pride, professionalism, and distinction. The operational components of the department are designed to carry out the mission of the FPD. Our mission statement says:

> This department through progressive thinking, credible, efficient, and responsive actions will provide our citizens with a safe and healthy community in which to live and work. We will provide impartial enforcement of all criminal and traffic laws. We will strive to interact and form a partnership with the citizens to provide education so they can learn ways of reducing opportunities for crime to occur.

Today, the FPD is a full-service law enforcement agency. Police Chief Mike Reynolds is the chief executive officer (CEO) of the department and has ultimate control over the appointment and supervision of all employees. He also is responsible for the direction, planning, training, and regulation of discipline within the police department. All operational components report to the Deputy Chief, who then reports directly to the Chief. The agency is comprised of five major components to include Patrol Division, Criminal Investigation Division, Administration Division, Records Division, and the Central Dispatch Center.

The City of Fayetteville became a City of First Class on June 20, 1905, with 5,000 inhabitants, and it is the location of the county seat of Washington County, Arkansas. As of 2021, the United State Census Bureau estimated Fayetteville had a population of 93,949. Consequently, this is the largest city in the Northwest Arkansas (NWA) area, and the second largest city in the state of Arkansas. Additionally, Fayetteville has been named by numerous publications as one of the top cities in the nation based upon a variety of quality-of-life metrics. The larger metropolitan area currently has a population of 566,1000 people and it is expected to grow to over 1 million residents by the year 2040. Along with this significant growth, challenges have occurred in providing adequate resources and services to this increased population.

As a result, the FPD has also shown steady growth since the early 1990s when the department had less than seventy sworn officers. The department has grown rapidly since that time to 154 sworn positions and 53 civilian positions. Similar to other police departments across the country, FPD has struggled to cope with the increasing demand, particularly responding to increased levels of violence, critical incidents, and call volume.

In 2020, Chief Reynolds tasked members of the FPD to develop a wellness and resiliency component for the employees of the department. A Peer-to-Peer Support Program was created and implemented in December 2020. A policy was developed which outlines program processes, certifications, protections, and confidentialities. The protections and confidentialities mirrored Arkansas Code Annotated §16-40-106 which outlines privileged communications made to a

certified peer team member. The peer program selected ten members of the department to complete introductory training utilized by members of the department for emotional support, stress management, and training regarding their daily jobs and critical incidents. The team increased in 2021 to fifteen members. This team's makeup is of sworn personnel from every division, and it currently has two civilian employees from the Central Dispatch Center and the Property and Evidence Division. From December 2020 to December 2022, the team had 224 hours with 329 separate sessions with FPD employees. The topics for discussion with the peer team were anxiety, response to calls, retention, family violence, work performance, sickness, death, marriage difficulties, anger, critical incidents, family, finances, use of force, suicide, and inability to sleep. During meetings with the peer team members, 38 employees were referred to a mental health employee assistance program or mental health professional, and 39 employees were referred to the peer team by a supervisor. The peer team has a hotline for all FPD employees that is monitored 24-hours a day, seven days a week by peer team members.

The FPD peer team has assisted surrounding small-town agencies within Northwest Arkansas, portions of Central Arkansas, and Northeast Oklahoma with critical incident response, defusing, debriefings, and individual peer discussions. The FPD peer team spent 299 hours between 2020 and 2022 with the following agencies: Siloam Springs Police and Fire Departments, Prairie Grove Police and Fire Departments, Farmington Police Department, Pea Ridge Police and Fire Departments, Johnson County Sheriff's Office, Central Emergency Medical Services, Rogers Police and Fire Departments, Westville Police Department, Benton County Sheriff's Office and the West Fork Police Department. These agencies encountered officer involved shootings, officers killed in the line of duty, officer suicide, officers assaulted and seriously wounded, infant/children deaths, and mass casualty events.

The FPD was not immune to the national debate about defunding law enforcement, their role in society, excessive use of force, deadly force and response to calls. This issue has been a topic of discussion in Fayetteville for several years. Consequently, the public's attention and this national debate continue to erode the wellbeing, resiliency, and drive to continue in the law enforcement profession. In 2021, the FPD had a record year for officers leaving the department with 16.8%, followed by 14% of the workforce leaving in 2022 due to retirement, resignation, and termination. The Chief conducted exit interviews on all employees leaving the agency. Many discussed the similar items of contention for leaving: increased and too cumbersome of a work volume, stress, and leaving law enforcement for new professions. This is a resounding theme in Northwest Arkansas and across the nation.

Officer involvement, training, and mental wellness create an environment for their ability to serve the community with a better understanding of their emotions, thoughts, and processes. Employees that are trained in stress management, accumulated stress, reaction to critical incidents, and mental wellness and resiliency creates an environment to better understand the community we serve, and the obstacles many community members experience themselves. Our community demands a high caliber of professionalism from FPD officers. Based on a 2020

municipal survey of the largest 25 cities within the state of Arkansas, the FPD has the second largest city by population, but was ranked 24 out of 25 for officers per 1,000 inhabitants. The average for the 25 largest cities was 2.26 officers per 1,000 inhabitants whereas the FPD averaged 1.55 officers per 1,000 inhabitants. The same survey showed that FPD officers had the second highest total crime burden per officer.

Continuing education for the peer team would further expand the team's knowledge but more importantly, it will create the ability to certify to sustain the FPD peer team and its regional partners. The goal would be to provide certification and training to new peer team members under the stipulations and guidelines of Arkansas Code Annotated §16-40-106 to protect communications between a peer team member and first responders. The ability to certify and train would not be localized to the new peer team members at the FPD, but also our regional partners, and new peer teams in the Northwest Arkansas region, to include smaller and more rural agencies. The FPD peer team's initiative would help reduce a significant burden from the entire department and region, as training would benefit all employees on how to understand and manage stress. Training would create more informed employees and supervisors on how to notice and assist employees that are struggling with accumulated stress and critical incidents. All employees would have a more accessible way of reaching out to the peer team and other assistance when in need. The peer team would also be better educated and informed on how to teach and develop other peer teams members on how to handle critical incidents, accumulated stress, and how to circumvent the ill effects the personnel at their respective agencies.

Since the inception of the FPD's peer team, three other law enforcement agencies in Northwest Arkansas have partnered with the FPD. The Springdale Police Department, the Rogers Police Department and the Washington County Sheriff's Office have created a co-response model when surrounding agencies call requesting assistance after critical incidents. Eleven agencies have reached out to our team in the past two years for assistance involving critical incidents at their agencies. These interactions have continued well past the initial debriefing. These agencies continue to reach out to the FPD peer team for assistance with the long-term effects of these critical incidents. To date, five agencies in the Northwest Arkansas region have reached out for guidance and assistance in creating peer teams for their agencies. These requests demonstrate the need throughout the region for additional peer support. Due to the low numbers of available certifying instructors in our area, the need and cost to find and provide these types of instructors is too significant for most small and rural agencies to fund. Funding the training for three instructors would create sustainability in our agency, with our regional partners and by establishing new peer team members across the region for minimal to no costs.

In 2021, the Arkansas State Legislature passed House Bill 1680 that required a law enforcement officer involved in a critical incident to participate in a debriefing by a mental health professional or a certified peer support member. It also requires the law enforcement agency to assist an officer having been involved in a critical incident to obtain additional services that may assist the officer having been involved in a critical incident. There are currently 29 law enforcement agencies in the Northwest Arkansas area, and only six have peer teams. The FPD peer team has

assisted our regional partners with training, experience, leadership, and implementation of these other four peer teams. The other peer teams are the Springdale Police Department, the Rogers Police Department, the Washington County Sheriff's Office and the Benton County Sheriff's Office. Police Departments across the state have reached out to the FPD peer team for assistance. There is still a significant need for peer teams in the State of Arkansas to include the Northwest Arkansas region. This new legislation has only increased the workload and the expectations of the FPD peer team and their regional partners.

In 2021, the four regional peer teams developed a quarterly family-based training and discussion panel termed Critical Conversations. This training is hosted by each individual agency once a year where topics of concern for families in law enforcement are discussed. This has continued and has proven to be well-liked by families.

In 2023, with the LEMHWA grant funding, the FPD peer team will launch the Lighthouse Mental Health and Wellness Application. This will be available for all FPD employees and family members. This application will be utilized to increase information and agency-wide notifications on mental health, physical fitness, workouts, nutrition, and a list of vetted therapist. The peer team is also working on creating podcasts referencing all of these topics to send out on the application monthly.

The FPD peer team will continue to collect data on hours utilized at their own agency and separately when utilized at other agencies. This information is kept separate from the main FPD network to maintain complete confidentiality. This is done with equipment funded through the LEMHWA grant. Topics discussed during the time with peer team members will continue to be collected, analyzed, and reoccurring themes will be discussed in training. This training is conducted through the agency's computer document software system (PowerDMS), where all employees attend mandatory training that requires a signature, during patrol briefings, staff meetings, officer refresher training, online training, Critical Conversations, and through the Lighthouse Mental Health and Wellness application.

The FPD peer team has continued to be utilized by FPD employees and by surrounding agencies. Due to swing shifts, conflicting schedules and other circumstances, the peer team has begun to utilize an I Pad for face-to-face contact with individuals experiencing critical incidents and/or crisis. This "Telemed" option has proven to be a superior form of communication so peer team members can visually assess body language, emotions, etc. It would be imperative this communication be completely separate from the FPD's network to maintain trust and confidentiality in the employees the peer team serves. This equipment will be used to create podcasts and other training for our agency.

If the FPD was selected for the grant, law enforcement agencies throughout the region would have an educational resource available they would access for in-person meetings, guidance, lessons learned, demonstrations of techniques, best practices, training, and certification. The FPD

is a progressive law enforcement agency, and this program could remove roadblocks for other agencies in creating their own peer team programs.

The funding from this grant would allow the FPD peer team access to critical training and equipment that is currently not in the budget.

Goals and Objectives

Goal 1: Increase collaboration with stakeholders

- Objective #1.1 – Host one Critical Conversation for each year of the 24-month grant period. A flyer will be created for this event and the three partnering agencies will be invited.
- Objective #1.2 – The FPD peer team will conduct joint training once a year for the 24-month grant period with partnering peer teams.
- Objective #1.3 – The FPD peer team members will attend staff meetings and briefings bi-annually for short training and informational purposes.
- Objective #1.4 – The FPD peer team leader will meet bi-annually with the peer team leaders from surrounding agencies.
- Objective #1.5 – The FPD peer team leader will meet with agencies in Northwest Arkansas to assist with creating and implementing department peer teams.
- Objective #1.6 – The FPD peer team International Critical Incident Stress Foundation Inc. (ICISF) instructors will implement certified training for regional agencies.

Goal 2: Continued Training for the FPD peer team

- Objective #2.1 – The FPD will select four peer team members to complete and pass the University of Maryland Baltimore County (UMBC) Certification in Critical Incident Stress Management Test. This is a precursor to attending all instructor courses.
- Objective #2.2 – The FPD will strive to send four current peer team members to the ICISF instructor courses on Individuals in Crisis and Group Crisis Intervention.
- Objective #2.3 – The FPD will strive to send the four ICISF instructors to the 2025 ICISF World Congress
- Objective #2.4 – The FPD will strive to send six FPD peer team members to the International Association of Chiefs of Police Conference (IACP) in Boston, Massachusetts in 2024.

Goal 3: Education for FPD Employees

- Objective #3.1 - The FPD will strive to send six FPD employees to the Concerns of Police Survivors National Conference between 2024 and 2025.
- Objective #3.2 – The FPD will strive to send four employees to the Arkansas Law Enforcement Assistance Program (ALEAP).

- Objective #3.3 – The FPD peer team will hold bi-annual training for FPD employees held during briefing and staff meetings.
- Objective #3.4 – The FPD will host an expert to instruct on emotional intelligence to agency leaders and instructors.
- Objective #3.5 – The FPD will provide one-on-one and group training for nutrition and dietician services by a certified nutritionist.
- Objective #3.6 – The FPD will provide one-on-one coaching and group created workouts and yoga sessions by certified instructors.

Goal 4: Response to Critical Incidents

- Objective #4.1 – The FPD peer team will respond to all officer involved shootings or officers seriously injured in the line of duty.
- Objective #4.2 – The FPD peer team will hold critical incident debriefings for officer-involved shootings, officers seriously injured in the line of duty, infant/child deaths, and any requests for critical incident debriefings.
- Objective #4.3 – The FPD peer team will be available and will respond to other agency requests for assistance when possible.

Timeline

Activities	Responsible Staff	Timeline
Purchase 10 I Pad Pros with keyboard.	Administrative Supervisor, Program Administrator, Finance Manager, Task Manager	2024
Prepare and submit progress reports	Program Administrator	Quarterly through period of performance
Attend staff meetings and briefings	Program Administrator	Bi-Annually 2024, 2025
Meeting with regional peer team leaders	Program Administrator	Bi-Annually 2024, 2025
Host Critical Conversations	Program Administrator, Administrative Supervisor	2024, 2025
Training with regional peer teams	Program Administrator	2024, 2025

UMBC Certification and Critical Incident Stress Management Test	Program Administrator	2024, 2025
ICISF Instructor Courses	Program Administrator	2024, 2025
ICISF World Congress	Program Administrator	2025
Attend COPS Conference	Program Administrator	2024
Attend IACP Officer Safety and Wellness Symposium	Program Administrator	2024
ARLEAP	Program Administrator	2025
Training for FPD peer team, FPD employees	Program Administrator, Administrative Supervisor, Finance Manager and Task Manager	2024, 2025

Deliverables

With the implementation of this program, the FPD can achieve the goals and specific objectives. These funds will allow the department to collect data on time spent with employees with the peer team members, increase training and knowledge for all employees, and develop best practices after encountering critical incidents. Ultimately, this program will help promote training for current and new peer team members at the FPD and across the region. It will assist small and rural agencies to provide training to create their own peer teams and will promote wellness and resiliency in mental health, stress, and critical incidents regionally.

As far as our specific goals are concerned, the FPD will produce the following:

Deliverables for Goal 1:

1. Course outline, curriculum, and presentation for civilian and sworn law enforcement employees for peer training with our regional peer team partners.
2. Course outline and host information for Critical Conversations.

Deliverables for Goal 2:

1. Provide information regarding testing from UMBC Certification.
2. Provide certificates from peer team members that attend the ICISF instructor courses.
3. Provide certificates for all employees that attend the ICISF World Conference.
4. Provide certificates for all employees that attend the IACP Officer Safety and Wellness Symposium.
5. A summarized report detailing the number of hours and number of employees utilizing the peer team.

Deliverables for Goal 3:

1. Provide certificates for all employees that attend Concerns of Police Survivors (COPS) Law Enforcement Wellness and Trauma Conference.
2. Provide a course outline and roster of all FPD employees that attended the emotional intelligence instruction.
3. Provide a summarized report on all FPD employees that utilized services through the dietician or certified nutritionist.
4. Provide a summarized report on all FPD employees that utilized coaching for workouts and yoga sessions through certified instructors.

Stakeholder Experience and Capacity to Achieve Stated Outcomes

Key Personnel:

Program Administrator
Sergeant Stacy Dicus has worked for the FPD since 2007. During that time, she has worked multiple assignments to include patrol officer, criminal investigator, special events officer, first-line supervisor, administrative sergeant, Crisis Negotiation Team leader, and Peer-to-Peer Support Team leader. In 2019, she was promoted to the first-line supervisory rank of sergeant, where she was tasked with supervising 15 employees. She was moved to the administrative sergeant position where she was tasked with creating and coordinating the peer-to-peer team. Sergeant Dicus is a certified peer team member. She is the Program Administrator for the 2022-2024 LEMHWA Grant.

Administrative Supervisor
Captain William Brown has worked with the FPD since 1989. He has served as a patrol officer, public information officer, patrol sergeant, patrol lieutenant, administrative lieutenant, criminal investigations captain, and administrative captain during his career. Captain Brown holds a Bachelor's Degree in Criminal Justice from the University of Arkansas, and he is a graduate of both the FBI National Academy and the Police Executive Research Forum's Senior Management Institute for Police. Captain Brown is a certified peer team member.

Finance Manager
Support Services Manager Willie Newman has worked for the Fayetteville Police Department since 2006. Mr. Newman supervises the FPD's Records Division, and he is responsible for managing the operating budget for the FPD. During his 16 years at the FPD, Mr. Newman successfully applied for, and was awarded, numerous grants at the state and federal level. He currently administers and manages several federal grants, including the COPS hiring grant, Project Safe Neighborhood (PSN) Grant, the Edward Byrne Memorial Justice Assistance Grant (JAG), drug enforcement grants, and the Selective Traffic Enforcement Program (STEP).

Task Manager
Assistant Support Services Manager Tonyia Tannehill has extensive experience working within civilian roles throughout the public sector. Mrs. Tannehill facilitated the implementation of the social work internship program through personal relationships she developed with faculty members at the University of Arkansas. She has experience managing the grants that have been awarded to the FPD. Mrs. Tannehill received a Bachelor of Arts in Criminology from Arkansas State University.

Key Partnerships:

Gap Relief
Gap Relief is a 501c3, not-for-profit organization in the state of Arkansas that exists to train and support key community leaders who are impacted by stress and trauma in their line of work. Their demographic sectors include first responders, military, non-profit leaders, clergy, educators, and medical professionals. They are highly trained Licensed Professional Counselors

with years of experience in the realms of trauma recovery and resiliency. Gap Relief is able to offer not only long-term trauma counseling, but also acute crisis response, trauma-informed consultation regarding organizational policies and procedures, critical incident debriefing, and strategic planning and pre-crisis preparation. In addition, Gap Relief offers training and consultation on a variety of topics including, but not limited to: personal and organizational resiliency, the impact of stress and trauma (and how to recover from its impact), reducing organizational liability, and increasing intervention strategies for engaging trauma and mental illness in the community.

Kade Curry (Springdale Police Department)

Kade Curry currently serves as Wellness Unit Coordinator for the Springdale Police Department. He owns and operates Anchor Wellness Services LLC, and contracts work as a Clinical Mental Health Provider at Gap Relief Counseling. He holds a bachelor's degree in Biology from Hardin-Simmons University, a Masters of Divinity from Logsdon School of Theology and a Masters in Clinical Mental Health from John Brown University. He is also a Board-Certified Chaplain.

Ozark Guidance Center (OGC)
Ozark Guidance Center is a private Commission on Accreditation on Rehabilitation Facilities (CARF) non-profit behavioral health center that is committed to meeting the needs of the individual, family, and community for positive mental health outcomes. The organization operates several facilities within Fayetteville, and it is contracted as the Employee Assistance Program through the City of Fayetteville.

University of Arkansas Medical Sciences (UAMS)
The University of Arkansas Medical Sciences Employee Assistance Program provides consultation service, assessments, short-term counseling, information and referral for employees who experience personal distress or trauma. The organization operates several facilities in the State of Arkansas, including Fayetteville, and is contracted as the Employee Assistance Program through the Fayetteville Police Department as an additional Employee Assistance Program for all employees.

Springdale Police Department
The Springdale Police Department (SPD) is located north of the City of Fayetteville and is part of the Northwest Arkansas region. The department currently has a peer team that works closely with the FPD. Their team leader is Wellness Coordinator and Licensed Associate Counselor Kade Curry.

Washington County Sheriff's Office
Washington County has 13 incorporated municipalities, including Fayetteville, the county seat, and Springdale. The Washington County Sheriff's Office currently has a peer team that works closely with the FPD. Their team leader is Sergeant Brad Cavender, and he is currently assigned to the Patrol Division.

Rogers Police Department
The Rogers Police Department is located in Benton County and is north of the City of

Springdale. The Rogers Police Department currently has a peer team that works closely with the FPD. Their team leader is Lieutenant Brad Abercrombie, and he is currently assigned to the Patrol Division.

2023 Community Policing Programs

Budget Narrative Template

The COPS Office is providing this template as a voluntary tool to assist your organization or agency in developing your budget narrative, which is required by this program. Instructions are in italics. If you choose to use this template, please make sure to delete the instructions before submitting so that they do not count against you in the page count.

For more information about the budget narrative requirements, please see the appropriate solicitation materials at https://cops.usdoj.gov/grants.

FY23 CPA Budget Narrative Template

Law Enforcement and Mental Health and Wellness Act

City of Fayetteville, Arkansas

Budget Narrative

4-19-2023

Sworn personnel (base salary and fringe benefits)

Not applicable.

Civilian personnel (base salary and fringe benefits)

Not applicable.

Travel - $83,756

The travel and training proposed within this budget narrative will provide for instructor certification and development specific to enhancement and continued success for the Fayetteville Police Department's Wellness and Resiliency Program. Specialized and instructor certifications will be obtained by multiple peer team members through the International Critical Incident Stress Foundation (ICISF) to focus on employee mental health issues for both civilian and sworn employees. Maintaining multiple certified peer team members and obtaining instructor certifications is critical to the expansion and continuation of our Wellness and Resiliency Program to insure adequate availability within our department for employees in times of crisis. Courses required for the ICISF certifications include Critical Incident Stress Management for Individuals and Critical Incident Stress Management for Group Intervention. Attendance at the ICIFS World Congress will allow peer team members to connect in person and attend presentations specific to critical incident stress and providing peer support. Attendance at the International Association of Chiefs of Police (IACP) Officer Safety and Wellness Symposium will allow peer team members to develop comprehensive officer safety and wellness strategies. Peer team members will also participate in the annual Concerns of Police Survivors Law Enforcement Wellness and Trauma Programs.

The following itemized budget narrative will detail the financial resources necessary to enhance our wellness and resiliency program:

ICISF Approved Instructor Candidate Program for Individuals in Crisis certification will be in-person training at a regional location to be determined. For budgetary purposes, we have identified Baltimore, Maryland as a potential location for this certification course. We plan to obtain six (6) certifications within our current peer team. This certification requires completion of a 5-day course with registration costs of $850 per attendee for a total of $3,400. Lodging in the amount of $7,200 is based upon nightly rate of $300 per night, including tax for four (4) rooms for six (6) nights. Per Diem costs in the amount of $1,932 are based on seven (7) days of travel and attendance at $69 per day for six (6) peer team members. Airfare is calculated at $750 per round trip ticket for 4 (four) attendees at a total of $3,000. The total grant funds needed for this certification is $15,532.

ICISF Approved Instructor Candidate Program for Group Intervention certification will be in-person training at a regional location to be determined. For budgetary purposes, we have identified Baltimore, Maryland as a potential location for this certification course. We plan to obtain six (6) certifications within our current peer team. This certification requires completion of a 5-day course with registration costs of $850 per attendee for a total of $3,400. Lodging in the amount of $7,200 is based upon nightly rate of $300 per night, including tax for four (4) rooms for six (6) nights. Per Diem costs in the amount of $1,932 are based on seven (7) days of travel and attendance at $69 per day for six (6) peer team members. Airfare is calculated at $750 per round trip ticket for 4 (four) attendees at a total of $3,000. The total grant funds needed for this certification is $15,532.

ICISF Approved Instructor Certification dues are required at $95 per year for 4 instructors for a three-year period. The cost for 4 instructors to maintain 3 years of certification is a total cost of $1,140.

Fees for the University of Maryland Baltimore County (UMBC) Certification in Critical Incident Stress Management test is $295 for four (4) individuals for a total of $1,180. This test is a pre-certification to becoming an instructor through ICISF.

ICISF World Congress is an in-person conference at a regional location to be determined. For budgetary purposes, we have identified Baltimore, Maryland as a potential location for this conference. We plan to send four (4) attendees to this conference, at a registration fee of $800 per person for a total of $3,200. Lodging in the amount of $4,800 is based upon a nightly rate of $300 per night, including tax for four (4) rooms for four (4) nights. Per Diem costs in the amount of $1,380 are based on five (5) days of travel and attendance at $69 per day for four (4) peer team members. Airfare is calculated at $750 per round trip ticket for 4 (four) attendees at a total of $3,000. The total grant funds needed for this certification is $12,380.

The International Association of Chief of Police Officer Safety and Wellness Symposium will be held in Boston, Massachusetts in 2024. Registration fees are $850 for each attendee. Six (6) peer team members total registration is $5,100 for the four day conference. Lodging in the amount of $7,200 is based upon a nightly rate of $300 per night, including tax for six (6) rooms for four (4) nights. Per Diem costs in the amount of $2,070 are based on five (5) days of travel and attendance at $69 per day for six (6) peer team members. Airfare is calculated at $750 per round trip ticket for 6 (six) attendees at a total of $4,500. The total grant funds needed for this certification is $16,170.

Attendance at the 2024 Concerns of Police Survivors conference for six (6) peer team members will be held at a location to be determined. Registration for the four-day conference is $400 per person for a total of $2,400. For budgetary purposes, the location of Orlando, Florida was utilized. Lodging in the amount of $7,200 is calculated for six (6) rooms at $300 per night. Total airfare in the amount of $4,500 is for six round-trip tickets. Per diem in the amount of $2,070 includes 5 days of travel and conference participation at the rate of $69 per day. The total grant funds needed to attend this conference is $16,170.

Attendance at the Arkansas Law Enforcement Assistance Program (ARLEAP) is a three-day program that will be held in state, and a city vehicle will be utilized for transportation to the conference. Per diem for four attendees for four days is calculated at $69 per day for a total of $552, and total lodging for four rooms for 4 nights totals $2,400. The total grant funds needed to attend this program is $2,952.

Equipment

Not applicable.

Supplies - $39,960

Peer team members will use an I-pad with cellular service for Telemed sessions. The total cost of I-pads is approximately $1,500 each, and eighteen (15) I-pads will be purchased. The total cost of the Ipads is $27,000. Cellular service, at the rate of $30 per month for two years for the fifteen Ipads is a total cost of $12,960.

Sub-awards

Not applicable.

Procurement contracts - $37,000

The procurement contracts identified are necessary to provide mental health resources and awareness to peer team members and supervisors during times of crisis. All procurement contracts will be with local mental and behavioral licensed professionals based upon the City of Fayetteville's Procurement Policy. These procurement contracts include Gap Relief (on call status), Gap Relief Emotional Intelligence for Instructors, peer team therapy sessions, nutrition and dietician services to promote physical wellness, and the services of a personal trainer and/or yoga instructor. Detailed budgetary expenses are as follows:

Gap Relief (on call status). This service provides 24/7 access to professional counselors for on-site support following critical incidents and coordinating additional emergency psychological support as needed. The cost of crisis response is on an as needed basis and the projected cost of this service is $2,800.00.

Total cost of $9,200 for Gap Relief Emotional Intelligence for Instructors. Two instructors teaching two one-day classes for all Fayetteville Police Department Instructors at $2,300 per day.

Total cost of $10,000 for counseling sessions. This will utilize $175 per hour for approximately 55 hours of services.

Total cost of $5,000 for a nutritionist/dietician services. $150 per hour for training or one on-one meetings for a total of 33 sessions.

Total cost of $10,000 for a personal trainer/yoga instructor. Three instructors will do in person classes for Fayetteville Police Department attendees at the rate of $150 per hour for physical fitness and/or yoga. This will allow for 22 sessions during the grant period of two years.

Other costs - $39,284

Peer team member overtime and employee in crisis overtime are included as other costs. This overtime is essential in providing support without a financial burden on peer team members and employees in crisis.

Overtime for all peer team members is budgeted at $60 per hour for an average of 22 hours per month throughout the grant period for a total of 480hours resulting in total overtime costs of $31,680.

Fringe benefits for peer team member overtime is a percentage of 27.45% of the overtime hourly rate ($60) based on Medicare rate of 1.45% and retirement rate of 26.00%. Total fringe benefit costs are approximately $8,696.10.

Indirect costs

Not applicable.

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1171

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Paul Becker, Chief Financial Officer

FROM: Waylon Abernathy, Bond Projects & Construction Dir

DATE:

SUBJECT: **Resolution authorizing a Real Estate Purchase Contract with Reindl Properties, Inc. for the Construction of a mixed-use building on the Ramble/Cultural Arts Corridor Civic Plaza**

RECOMMENDATION:
Staff recommends approval of a resolution authorizing the mayor to sign the Real Estate Purchase Contract that includes terms of the development agreement with Reindl Properties, Inc., for the land sale of approximately .5 acres in the amount of $1,247,455.00 and authorize the mayor to execute all closing documents.

BACKGROUND:
Schematic design for the Ramble Civic Plaza, a 2019 voter approved downtown revitalization project, focused on the West Avenue civic space. The vision for the civic space was completed in January 2019, following a series of public design charettes. The design chosen by participants who engaged in the process consists of a gathering and event lawn, public plaza, garden spaces, and a civic promenade, with two buildings bordering the site on the north and south ends, as bookends of the plaza. The southern building will be integral to the site, as a backdrop for what will become a stage and performance area for the plaza. Additionally, the building will provide public restrooms accessible from the Razorback Greenway and Civic Plaza storage space within the ground floor.

A Request for Proposals (RFP) process solicited competitive development proposals for a public private partnership to build the southern anchor building on the West Avenue Civic Plaza. The RFP asked for an approximately 14,300 square foot building footprint with a height limit of seven stories and three primary facades. Additionally, the city requested that the building be constructed of high-quality and lasting materials that are complimentary to the overall aesthetic of the site and the emergent Arts and Entertainment District. The RFP, issued in August 2021, was advertised on several platforms, including on the Costar website which provides market-leading research on commercial real estate properties in nearly all markets and sub-markets. The RFP was downloaded by over 100 interested parties. A non-mandatory pre-proposal conference held in September, 2021 was attended by over 30 participants.

Additional Background:
Key to the design and planning of the overall spaces are the public private partnerships that can help activate the space and provide a mixed use, sales tax generating, downtown development project to complement the city's investment in The Ramble. Partners are both private developers and philanthropic support efforts.

Initial design for this transformative project was made possible by a 2017 grant from the Walton Family Foundation's Design Excellence Program. Award-winning landscape architects Nelson Byrd Woltz (NBW) were selected to design the corridor with the primary goals of:

- Increasing public access and strengthening the surrounding neighborhood,
- Leveraging the connected trail network,
- Demonstrating a commitment to sustainability, and
- Embodying an innovative spirit, encouraging visitors and residents to engage with the space in new ways.

There are five primary elements included in plans for the Cultural Arts Corridor bond project: The West Avenue Civic Space, West Avenue streetscapes, The Fay Jones Woods, The Razorback Greenway, and a new parking deck one block north of the corner of West Ave. and Dickson Street. In April 2019, citizens of Fayetteville voted to authorize a $31,685,000 bond for construction of the Cultural Arts Corridor Improvements.

Arts Corridor improvements to the Fay Jones Woods, the southern portion of the Razorback Regional Greenway, and the southern portion West Ave. began in September 2020 with construction completed in September, 2022. Construction of the new parking deck began in January 2022 with completion planned in October of 2023. In June 2021, after a 5-month public renaming process, the City announced The Ramble as the new name for the Cultural Arts Corridor.

On October 26, 2021, the City of Fayetteville accepted proposals for the southern anchor building on the Civic Plaza. One proposal was received from Reindl Properties that included a project team with a passion for high-quality construction, human-scaled design, craftsmanship, efficiency, and love of community. Their team includes:

- Brian Reindl - Developer and owner of the adjacent Metro Building along with several other properties in and around downtown Fayetteville.
- Rob Sharp - Architect and designer of several Fayetteville projects including: Three Sisters Building, Mill District, The Dickson Building and most recently the Network Building, which was designed to be the first net zero mixed-use building in Fayetteville.

The LOI specifies that the final development agreement includes a termination and buy back clause requiring Reindl properties to start construction on the new building within 12 months of the completion of the Civic Space. Also, Reindl Properties met with organizations for additional community input on the ways in which the proposed building will interact with the plaza and civic space.

As indicated in the LOI renderings, the proposed mixed-use building will be substantial and striking. The building's proposed uses will increase the liveliness of the adjacent Civic Plaza and attract visitors to the downtown. Hotel guests will eat, shop and recreate in the area, providing benefit to many existing local businesses. Initial analysis shows that the project would provide approximately $300,000 per year in sales and HMR taxes to the City plus another $63,000 per year in property tax to the City of Fayetteville for the general fund, library and fire and police departments. The construction impact of this $40 million construction project will approximately yield another $175,000 in sales tax revenue.

On October of 2022, Council passed Resolution 256-22 Authorizing the Mayor to Sign the Letter of Intent Defining Development Agreement terms with Reindl Properties Inc., for a Public Private Partnership for Construction of the Mixed-Use building at the Ramble Civic Plaza.

DISCUSSION:

Since the approval of the Resolution:

- City staff and design consultants with Nelson Byrd Woltz have worked with Reindl Properties to finalize the building footprint in relationship to the trail relocation and relative to the final design of the Civic Plaza.
- Staff has worked with Reindl Properties to secure independent third-party appraisals.

The City provided to Reindl a list of 5 appraisal firms with experience in commercial real estate. From that list, Reindl selected three firms. The 3 firms provided certified property value reports. The average of the 3 was used for the agreed to values.

- Major terms and conditions for a proposed Agreement are included in this Real Estate contract as Drafted by Vicki Bronson of Connors and Winters Law Firm.

BUDGET/STAFF IMPACT:

Revenues will be recognized after the closings. Net proceeds from this real estate contract will be applied to the Restrooms/Storage located in the building, and Civic Plaza Improvements.

ATTACHMENTS: Copy of SRF-Real Estate Purchase Agreement South Civic Plaza (#3), Real Estate Purchase Contract (City Reindl) Redline 9-27-23 (002) (#4), Exhibit 1 (#5), Apprasials and Summary South Civic Plaza (#6), 601 W Center St Deed (#7), 256-22 RESOLUTION (#8), Exhibit 2 South Elevation (#9), Exhibit 3 Fay Park Hotel - North Rendering (#10), Exhibit 3 Fay Park Hotel - City Storage (#11), Exhibit 3 Fay Park Hotel - City Toilets (#12), 20231012 REVISED Exhibit 3 Fay Park Hotel level 1 (#13), 20231012 REVISED Exhibit 3 Fay Park Hotel Level 2 (#14), 20231012 REVISED Exhibit 2 Fay Park Hotel - South Rendering (#15), 20231012 Attachment Fay Park Hotel Progression Summary (#16), REAL ESTATE PURCHASE CONTRACT - revised 10-12-23 (#17), COF Letter with Parking Study (#18), Hotel Valet Lot Layout (#19), Survival of Contractual Obligations, Representations, and Agreements as Restrictive Covenants (#20), REAL ESTATE PURCHASE CONTRACT (City Reindl) revised 10-17-23 clean (#21), Ramble Hotel Letter of Support (#22)

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

File #: 2023-1171

Resolution authorizing a Real Estate Purchase Contract with Reindl Properties, Inc. for the Construction of a mixed-use building on the Ramble/Cultural Arts Corridor Civic Plaza

A RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN A REAL ESTATE PURCHASE CONTRACT WITH REINDL PROPERTIES, INC. FOR THE SALE OF APPROXIMATELY 0.5 ACRES OF CITY PROPERTY IN THE SOUTH END OF THE CIVIC PLAZA FOR THE AMOUNT OF $1,247,455.00

WHEREAS, in October 2022, the City Council approved Resolution 256-22 authorizing the Mayor to sign the Letter of Intent Defining Development Agreement terms with Reindl Properties Inc. for a Public Private Partnership for Construction of the Mixed-Use building at the Ramble Civic Plaza; and

WHEREAS, Mayor Jordan recommends that the City Council approve the terms of the sale set out in the real estate purchase contract negotiated with Reindl Property, Inc.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a real estate purchase contract with Reindl Properties, Inc., a copy of which is attached to this Resolution, for the land sale of approximately 0.5 acres in the amount of $1,247,455.00, and further authorizes the Mayor to execute all closing and other documents necessary to effectuate the sale.

City of Fayetteville Staff Review Form

2023-1171

Item ID

10/17/2023

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

Wade Abernathy	9/29/2023	FACILITIES MANAGEMENT (140)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Adopting an Ordinance authorizing the mayor to sign the Real Estate Purchase Contract the includes the terms of the development agrement with Reindl Properties, Inc. for the South Civic Plaza land sale of approximately .5 acres in the amount of $1,247,455.00 and authorize a Trail Easement purchase in the amount of $259,084.00

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	Total Amended Budget	$	-
	Expenses (Actual+Encum)	$	-
	Available Budget	$	-
Does item have a direct cost?	Item Cost	$	-
Is a Budget Adjustment attached?	Budget Adjustment	$	-
	Remaining Budget	$	-

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 256-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

REAL ESTATE PURCHASE CONTRACT

THIS **REAL ESTATE PURCHASE CONTRACT** (this "**Contract**") is made and executed as of the 29th day of September, 2023, by and between **REINDL PROPERTIES, INC**. and or Affiliates ("**Buyer**") and **CITY OF FAYETTEVILLE, ARKANSAS** ("**Seller**") as follows:

1. THE PROPERTY

For the price and upon and subject to the terms, conditions and provisions set forth in this Contract, Seller shall sell and convey to Buyer and Buyer shall purchase from Seller that certain real estate owned by Seller located adjacent to West Avenue and Spring Street in Fayetteville, Washington County, Arkansas, (the "**Property**"), in the approximate location as depicted on Exhibit 1 attached hereto, the exact legal description to be determined by survey, together with all Seller's rights, title and interest in all public and private streets, roads, avenues, alleys and passageways, and all and singular the estates, rights, privileges, easements and appurtenances belonging or in any way appertaining to the Property.

2. PURCHASE PRICE

Purchase Price. The purchase price for the Property ("**Purchase Price**") shall be One Million Two Hundred Forty-seven Thousand Four Hundred Fifty-five Dollars ($1,247,455.00,) to be paid in cash at Closing.

3. DEED

On the Closing Date, Seller shall execute a deed to sell and convey to Buyer good and marketable title to the Property by special warranty deed in the form reasonably prescribed by Buyer (the "**Deed**"), subject to no liens, claims, or encumbrances ("**Encumbrances**"), except (a) a restriction concerning Prohibited Uses as defined in Paragraph 31; and (b) liens for ad valorem taxes that are not yet due and payable and (c) those title and survey exceptions either waived or approved in writing by Buyer after Buyer's review of the Commitment, Survey (as those terms are hereinafter defined), and legible copies of all title exception documents identified on the Commitment and Survey (the "**Permitted Exceptions**"). Title to the Real Property as aforesaid shall be insured by the Title Company as provided in Section 5.

4. SURVEY

Buyer will order an ALTA survey (the "**Survey**") within five (5) days of the execution of this Contract. Buyer and Seller will each pay one half of the cost of the Survey. The Survey will include the location and boundaries of the Property and the Public Easement (defined and described in paragraph 30). The Survey and the boundary lines of the areas surveyed therein shall be subject to the mutual agreement of Buyer and Seller.

5. TITLE INSURANCE

Commitment and Title Policy. Within ten (10) business days after the date of this Contract, Seller will order a preliminary title insurance commitment (the "**Commitment**") from

Bronson Abstract Company, Fayetteville, Arkansas (the "**Title Company**") pursuant to which the Title Company shall agree to issue to Buyer, an ATLA owner's policy of title insurance (the "**Title Policy**") in the amount of the Purchase Price, insuring marketable fee simple title to the Real Property in Buyer upon recording of the Deed.

Seller's Title Documents. Seller shall, at Seller's sole expense, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered to the Title Company, on or before the Closing Date, such affidavits and other documents approved by the Seller, as the Title Company shall require as a condition to issuance of the Title Policy in the form herein provided (collectively, "**Seller's Title Documents**").

Buyer's Title Documents. Buyer shall, at Buyer's sole expense, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered to the Title Company, on or before the Closing Date, such affidavits and other documents approved by Buyer, as the Title Company shall require as a condition to issuance of the Title Policy in the form herein provided (collectively, "**Buyer's Title Documents**").

6. TITLE AND SURVEY DEFECTS

Buyer shall have ten (10) days from the receipt of the Title Commitment and copies of documents constituting exceptions to title and the Survey to examine the same and to specify to Seller in writing any matters which Buyer finds objectionable (the "**Encumbrances**").

Seller shall have thirty (30) days to cure or remove all Encumbrances at its cost and expense. If Seller fails to cause all the Encumbrances to be removed within such 30-day period or if Seller notifies Buyer of its decision not to cure or remove some or all of the Encumbrances, Buyer's remedy shall be to:

(i) Terminate this Agreement by giving Seller written notice thereof;

(ii) Agree to extend additional time to Seller to cure or remove all Encumbrances; or

(iii) Elect to purchase the Property subject to the Encumbrances and the Encumbrances not so removed or cured shall be deemed Permitted Exceptions and the Purchase Price shall not be reduced by any amount.

7. INVESTIGATION BY BUYER

Buyer has the right to conduct such due diligence as Buyer deems necessary in Buyer's sole discretion from the date of the execution of this agreement and continuing through five (5) business days prior to Closing; provided, however, Buyer may not conduct any intrusive testing in the subsurface soil or take any bore samples without the prior, written consent of the Seller. If Buyer, in its sole discretion is not satisfied with the results of its due diligence, Buyer may terminate this Contract at any time prior to Closing by providing written notice to Seller, whereupon this Contract shall be terminated and neither party shall have any further obligation to the other party.

8. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer the following through the date hereof and as of the Closing Date to the best of Seller's knowledge:

8.1 Except as disclosed to Buyer in writing there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property in any way.

8.2 Seller represents and warrants that at the time of acceptance hereof and at Closing, Seller is not a "foreign person" as such term is defined in Section 1445(f) of the Internal Revenue Code of 1954.

8.3 There are no actions, suits, lawsuits, proceedings, or claims affecting any part of the Property, or affecting Seller with respect to the ownership, occupancy, use, or operation of any part of the Property pending in or before any court, agency, commission, or board.

8.4 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against Seller.

8.5 Seller has not received notice from any governmental authority, stating that the Property is currently in violation of any zoning, environmental, or other land use regulations or in violation of any required licenses, registrations, certificates, permits, approvals, or other governmental authorizations relating to the use and operation of the Property. If Seller receives such a notice prior to Closing, Seller shall promptly notify Buyer of such a notice and deliver a copy thereof to Buyer.

8.6 Seller has not received any notice relating to its period of ownership of the Property that the Property is in violation of any applicable governmental law, regulation, or requirement relating to environmental or occupational health and safety matters or Hazardous Substances ("Environmental Laws"). As used in this Agreement, the term "Hazardous Substances" means any and all substances, materials, and wastes which are regulated as hazardous or toxic under applicable local, state, or federal law or which are classified as hazardous or toxic under applicable Environmental Laws.

8.7 Seller has not stored, processed, or disposed of hazardous or toxic substances on the Property.

8.8 No underground storage tanks are located on the Property.

For the purposes hereof, the term "Seller's Knowledge" means the actual knowledge of _____, without any duty of inquiry or investigation.

BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN ANY CLOSING DOCUMENT DELIVERED BY SELLER, (A) BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER IN CONNECTION WITH THE PROPERTY OR THIS TRANSACTION, (B) SELLER WILL SELL AND CONVEY TO BUYER, AND BUYER WILL ACCEPT THE PROPERTY "AS IS", "WHERE IS", AND "WITH ALL FAULTS" ON THE CLOSING DATE, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR

REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY SELLER OR ANY THIRD PARTY, AND (C) SELLER DOES NOT, BY THE EXECUTION AND DELIVERY OF THIS AGREEMENT, AND SELLER WILL NOT, BY THE EXECUTION AND DELIVERY OF ANY DOCUMENT OR INSTRUMENT EXECUTED AND DELIVERED IN CONNECTION WITH CLOSING, MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE WHATSOEVER, WITH RESPECT TO THE PROPERTY AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED.

9. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller the following through the date hereof and as of the Closing Date to the best of Buyer's knowledge:

9.1 Buyer represents and warrants that at the time of acceptance hereof and at Closing, Buyer is not a "foreign person" as such term is defined in Section 1445(f) of the Internal Revenue Code of 1954.

9.2 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against Buyer.

9.3 Buyer has full authority to enter into this Contract and fulfill all its obligations pursuant therewith.

"Buyer's Knowledge" means the actual knowledge of Brian Reindl.

10. TAXES AND ASSESSMENTS

No tax prorations will occur because Seller is not subject to real estate taxes. Buyer is responsible for paying all real property taxes and assessments due and payable after the date of Closing.

11. CLOSING COSTS AND ADJUSTMENTS

Seller's Costs. Seller shall pay the cost of (1) one-half of the documentary stamps; (2) the cost of the owner's portion of the title insurance policy; (3) one-half the Title Company's closing fee and document preparation fee; (4) the Title Company's title search fee; (5) all certificates, instruments and documents which Seller is required to deliver or cause to be delivered; (6) one-half of the Survey; (8) one-half of the cost of appraisals required in connection with the Purchase Price of the Property or in connection with the Public Easement as provided in this Contract; and (7) its legal fees and expenses.

Buyer's Costs. Buyer shall pay the cost of (1) one-half of the documentary stamps; (2) one-half the Title Company's closing fee and document preparation fees; (3) the cost of any loan policy of title insurance including all endorsements required by Buyer's lender; (4) all certificates, instruments and documents which Buyer is required to deliver or cause to be delivered; (5) Buyer's legal fees and expenses; (6) one half of the Survey; and (7) one-half of the cost of any third appraisal required in connection with the Purchase Price of the Property or in connection with the Public Easement as provided in this Contract.

12. CONDEMNATION AND CASUALTY

If, prior to the Closing Date, all or any part of the Property shall be condemned by governmental or other lawful authority such that the remaining property is insufficient for Buyer to construct the Mixed Use Building (as defined below), Buyer shall have the option, exercised by delivery to Seller of written notice of such election on or before the fifteenth (15th) business day following the date on which Buyer receives from Seller written notice of such condemnation of either (a) completing this transaction, in which event (i) there shall be no reduction of the Purchase Price, (ii) Seller shall have no duty to repair or restore, (iii) Seller shall pay to Buyer all condemnation proceeds received by Seller with respect to such condemnation, and (iv) Seller shall assign to Buyer all rights of Seller in and to such condemnation proceeds, or (b) terminating this Contract.

13. LEASES AND OTHER AGREEMENTS

During the period from the date of this Contract to and including the Closing Date, Seller shall not, without the prior written consent of Buyer enter into a lease of the Property that has a term extending beyond the Closing Date.

14. CLOSING

Closing Date. Provided all conditions to closing set forth in this Contract have been satisfied or waived by Buyer and Seller, and this Contract has not been terminated in accordance with the provisions herein set forth, the transaction contemplated herein shall close within thirty (30) days of the satisfaction or fulfillment of all conditions of closing, or such other date as is mutually agreeable to Seller and Buyer, PROVIDED, however, that if Closing does not occur on or before _____ , Seller may, in its sole discretion, terminate this Contract and neither party shall have any further obligations to the other party. Such date for the closing of title is herein called the "**Closing Date**" or such occurrence is called the "**Closing**" or "**closing**".

Seller's Deliverables. On or before the Closing Date, Seller shall deliver or cause to be delivered to the Title Company the following: (a) Special Warranty Deed; and (b) Seller's Closing Statement and such other documents as Title Company may require at Closing and which are approved by the Seller.

Buyer's Deliverables. On or before the Closing Date, Buyer shall deliver or cause to be delivered to the Title Company the following: (a) by federal wire transfer of funds to the Title Company's escrow account an amount equal to (i) the balance of the Purchase Price due at closing, adjusted as herein provided, plus (ii) the aggregate amount of closing costs for which Buyer is responsible as provided herein, all as shown on Buyer's closing statement; (b) and Buyer's Closing Statement and such other documents as Title Company may require at Closing.

15. POSSESSION

Exclusive possession of the Property shall be delivered to Buyer on the Closing Date.

16. BROKERAGE

Seller hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction. Buyer hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction.

17. SURVIVAL

Except as otherwise set forth herein, all warranties, representations, covenants, obligations,
and agreements contained in this Contract shall survive the closing hereunder and the transfer and conveyance of the Property and any and all performances hereunder for a period of six (6) months.

18. TIME

Time is of the essence of this Contract.

19. NO WAIVER

Except as herein expressly provided, no waiver by a party of any breach of this Contract or of any warranty or representation hereunder by the other party shall be deemed to be a waiver of any other breach by the other party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Contract or of any representation or warranty hereunder by such other party, whether or not the first party knows of such breach at the time it accepts such payment or performance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by the first party while the other party continues to be so in default.

20. INSTRUMENTS IN WRITING

No agreement, consent, approval, notice, amendment, modification, understanding, or waiver of or with respect to this Contract or any agreement, instrument, or document entered into pursuant to or with respect to this Contract, or any term, provision, covenant, or condition hereof or thereof, nor any approval or consent given under or with respect to any of the foregoing, shall be effective for any purpose unless contained in a writing signed by the party against which such agreement, amendment, modification, understanding, waiver, approval or consent is asserted.

21. NOTICES

Any and all notices, requests, demands, or other communications hereunder shall be deemed to have been duly given if in writing and if transmitted by hand delivery with receipt therefor, by facsimile delivery (with confirmation by hard copy), by overnight courier, or by registered or certified mail, return receipt requested, first class postage prepaid addressed as follows (or to such new address as the addressee of such a communication may have notified the

sender thereof) (the date of such notice shall be the date of actual delivery to the recipient thereof):

If to Buyer: Reindl Properties, LLC
Attn: Brian Reindl
509 W Spring St, Ste 310
Fayetteville, AR 72701
greaterproductions@gmail.com

With copy to:
Reed Law Firm, P.A.
3301 S. Market St, Ste 211
Rogers, AR 72758
chris@reedlaw-planning.com

If to Seller:
City of Fayetteville
Attn: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701
Mayor@fayetteville-ar.gov

With a copy to: Vicki Bronson
Conner & Winters, LLP
4375 N. Vantage Dr., Suite 405
Fayetteville, AR 72703
vbronson@cwlaw.com

Either party may designate a different address or addresses for itself by notice similarly given. Any notice given by registered or certified mail shall be deemed to have been given on the third day after the same is deposited in the mail, and any notice not so given shall be deemed to have been given upon receipt of the same by the party to whom the same is to be given.

22. ENTIRE AGREEMENT

This Contract contains the entire agreement with respect to the transactions contemplated herein, and there are no other terms, conditions, promises, understandings, statements, or representations, express or implied, concerning the same, and neither party is relying on any representation or statement not specifically contained herein.

23. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Arkansas.

24. ESTOPPEL

Each party confirms and agrees that (a) it has read and understood all of the provisions of this Contract; (b) it has negotiated with the other party at arm's length with equal bargaining power; and (c) it has been advised by competent legal counsel of its own choosing.

25. JOINT PREPARATION

This Contract is deemed to have been jointly prepared by the parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any party, but shall be interpreted according to the application of the rules of interpretation for arm's length agreements.

26. ASSIGNMENT

Neither party may assign this contract without the prior written consent of the other party.

27. WAIVER OF JURY TRIAL

TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST THE OTHER PARTY ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS CONTRACT.

28. ATTORNEYS FEES

If either party is required to bring litigation to enforce its rights under this contract, the prevailing party shall be entitled to recover its attorney's fees and costs, including expert witness fees.

29. CONTINGENCIES

In addition to any other conditions or contingencies contained herein, the parties' obligations to close on this transaction are conditioned upon satisfaction of the following conditions on or prior to Closing:

A. Buyer and Seller's approval of the Survey.

B. Buyer and Seller's approval and execution of a Development Agreement concerning the Mixed-Use Building as more particularly described in Paragraph 31.

C. Buyer and Seller's approval and Buyer's execution of the Public Easement, as more particularly described in Paragraph 30.

D. Buyer's execution and delivery to Seller of a perpetual easement for the use of the City Restrooms and Storage Space as provided in Paragraph 31.

30. ADDITIONAL CONSIDERATION

As additional consideration for the transactions contemplated herein Buyer agrees to grant a permanent easement to Seller for pedestrian walking and biking trails ("**Public Easement**") located across real property currently owned by Buyer adjacent to the Property. The exact location of the Public Easement shall be determined by the Survey. In consideration for Buyer's conveyance of the Public Easement, Seller will pay Buyer Two Hundred Fifty-nine Thousand Eighty-four Dollars ($259,084.00), which represents the fair market value as determined by the

parties' appraisals and which shall be deducted from the Purchase Price at Closing. A reconciliation of the final price will be done with final survey and closing documents.

31. DEVELOPMENT OF THE MIXED-USE BUILDING

A material condition of Seller's agreement to sell the Property to Buyer is for Buyer to develop and construct a Mixed-Use Building ("Building") on the Property as described in that certain Letter of Intent executed between the parties dated effective November 9, 2022. The approval of a Development Agreement by Buyer and Seller concerning the design, construction, and use of the Building and allocation of any shared costs associated with the construction of the City Restrooms and Storage Space is an express condition to the Buyer and Seller's obligations under this Contract. The Development Agreement shall incorporate, at a minimum, the following terms:

A. Buyer will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces, and must contain a minimum of one restaurant, café, or coffee shop at ground level. The Building may include additional uses as necessary to meet the financial goals of the project if approved by Seller. The following Use Units *may* be allowed, subject to the Seller's prior approval in conjunction with the Seller's typical processes and procedures for considering and approving zoning, development, licenses, and permits, including conditional use restrictions:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

Provided, however, that nothing contained in this Contract is intended to be nor may be construed to be a promise or agreement that Seller will approve any of the specific uses described above. The uses permitted are subject to Seller's prior approval according to Seller's typical processes and procedures for considering and determining permitted uses. In addition, certain uses which may be allowed under the zoning categories described above require a conditional use permit, including, but not limited to Unit 35: Outdoor Music Establishments. Because of the proximity to the Civic Space (Seller's property adjacent to the Property a/k/a the Ramble) as well as the Walton Arts Center and other local businesses, the use of amplified music on the Property requires specific approval by Seller in advance and is subject to all reasonable conditions which Seller requires, including, but not limited to prohibiting the use of amplified music after 10:00 p.m. Nothing in this Contract is intended to be nor may be construed to be a waiver or release of any of Seller's requirements or conditions for receiving a conditional use permit for any use that may be allowed under the zoning categories stated above.

Further provided, none of the following uses will be permitted on the Property (the "**Prohibited Uses**") at any time: crematorium; mausoleum; funeral home; furniture repair and refinishing; taxidermist; vape shops; body piercing/tattoo; gunsmith; animal hospital; animal day care; day care; bail bonding agencies; hospital; vehicle sales; convalescent home; boarding/rooming housing (other than is typically associated with hotel use); dormitory;

fraternity/sorority housing; and slot car track. Any deed from the Seller conveying the Property to Buyer will contain a restriction against the Prohibited Uses and the restriction will be a restriction that runs with the Property for a minimum of 75 years.

B. As befits its prominent location, the Building will be a substantial and attractive building. The Building's design, plans and specifications, including, but not limited to exterior finishes, and site development are subject to Seller's development review process, ordinances, and rules and must be approved by Fayetteville City Council. Nothing in this Contract is intended to or may be construed as a waiver of any of Seller's ordinances, rules, or regulations.

C. The Building will have three primary facades; one facing the Civic Space to the north, one facing the vacated Spring Street right-of-way to the south, and the third facing West Avenue to the east. All primary facades will be attractive, well-proportioned, and constructed of high-quality materials in accordance with the plans and specifications.

D. The Building shall be designed and built in substantial compliance with the drawings, depictions, and concepts on the attached Exhibit 2 which depict the minimum standards for materials, design, and architectural features. Any significant deviation from exterior design reflected on Exhibit 2 may not be approved by Fayetteville City Council.

E. The design and construction of the Building shall comply with all local, state, and federal building codes, rules, regulations, and laws, including those of Seller.

F. Buyer must present its application for Planned Zoning District (PZD) Review approval, along with all required documents no later than July 1, 2024. The Building and associated improvements are subject to approval pursuant to City of Fayetteville Development Review codes, processes, and procedures, including review by Planning Staff, Planning Commission, and City Council. Documents shall include all building facades, floor plans of all levels, infrastructure improvements, multi-use trail details, and all other requirements of City of Fayetteville codes.

G. Notwithstanding anything contained herein to the contrary, if Buyer does not secure a Building Permit for the Building within twelve (12) months of substantial completion of Seller's Civic Space, then this Contract and all agreements pertaining to this Contract shall be null and void and neither party shall have any obligations to the other party.

H. If Buyer fails to either (a) commence construction of the Building within sixty (60) days of Seller issuing a Building Permit or (b) complete construction of the Building within twenty-four (24) months of issuance of the Building Permit, then Seller at its sole discretion shall have the absolute and unconditional right to buy the Property back from Buyer, and any improvements made as of that date. If Seller elects to exercise its rights under this paragraph, the purchase price Seller will pay Buyer will be the original Purchase Price Buyer paid Seller for the Property, plus the fair market value of the completed improvements on the Property as determined by a third-party real estate appraiser, less all amounts paid by Seller for construction or construction estimates for the City Restrooms and Storage Space. The provisions for selection of appraisers contained in Paragraph 30 also apply to this Paragraph.

I. The Building must be designed and constructed to provide a ground floor that is open and inviting to the public on the north side to accentuate and facilitate the use of the Civic

Space. The hotel lobby shall be located on the ground floor and shall be open and inviting. Additionally, a bar, restaurant or café and retail uses will be provided on the ground floor.

J. Buyer agrees to make a good faith effort to purchase building supplies and materials locally to support sales tax revenue for Seller.

K. Buyer must provide all parking required by Seller's parking codes and requirements at Buyer's cost. Buyer must provide the amount of valet parking to Building guests that is usual and typical for the size of the Building. As a condition of this Contract and prior to Closing, Buyer must own or have a written lease for sufficient property to provide parking as required by Seller's parking requirements, including but not limited to City Code sections 172.05 and 156.03C(5). To the extent Seller has any excess parking spaces available Seller agrees to lease the excess parking spaces to Buyer at current market rates. Seller makes no representations that it has any parking spaces available to lease to Buyer.

L. All Building loading recycling, and solid waste and associated receptables must be located on the west side of the Building. No such activities will be permitted from or facing any public street.

M. The Building design and construction will incorporate sufficient air filtering to promote indoor air quality.

N. The Building will be designed and constructed to provide an efficient and properly designed envelope that will prevent air and water infiltration and reduce thermal bridging. The Building will implement the use of smart energy-management systems to decrease energy use in the Building, including but not limited to the installation of smart systems to avoid heating and cooling vacant rooms.

O. Buyer and Seller will coordinate design consultants on designing bicycle, pedestrian, automotive, and landscape infrastructure on all sides of the Building. The amount of the costs of those improvements and an agreement as to which costs will be paid by Seller and which will be paid by Buyer are a condition of this Contract and a condition of Closing. Once the costs for these improvements are established, Buyer and Seller agree to pay their pro-rata share of such costs.

P. Seller agrees to pay one half of the cost of extending water and sanitary sewer to the Building's site to provide water and sewer to the City Restrooms. Once the costs for these improvements are established, Seller agrees to pay that amount to Buyer. The amount of such costs must be reasonable and must be approved by Seller in advance in writing.

Q. Seller will assist Buyer in coordinating burial of existing power lines to the extent necessary; however, Seller has no obligation to incur any costs associated with burying overhead power lines.

R. Buyer is responsible for providing all water, sewer, electrical, cable, telephone, gas, or other utilities to the Building. Seller has no obligation to incur any costs associated with Buyer's installation of utilities except for the costs associated with extending water and sewer to the Building site, if any, for the City Restrooms as described above. If it is necessary for Seller to grant utility easements across its property to provide utilities to the Property, Seller agrees to grant a utility easement, provided however, that the location of the easement and any utility lines and equipment are subject to Seller's prior approval.

S. The Building shall contain public restrooms at street level, accessible from the Frisco Trail to serve trail and other public space users (the "City Restrooms"). The Building shall also contain a storage space for storing equipment associated with the planned performance area of the Civic Space and such other items which City desires ("Storage Space"). In addition:

i. All City Restrooms must comply with the Americans with Disabilities Act.

ii. Buyer shall be responsible for constructing the City Restrooms and Storage Space to a "white box" finish, subject to Seller's approval of the design. The City Restrooms and Storage Space contain a minimum of 1,600 square feet. The Storage Space shall be located on the west side of the Building for convenient access to the City Space. The approximate location of the City Restrooms and Storage Space are shown on Exhibit 3, attached.

iii. The costs of construction of the City Restrooms as a white box finish and the Storage Space, including the pro-rata share of the cost of foundations, structure, roof, and exterior walls as well as the electrical rough in, plumbing, and HVAC equipment and services, and other elements to be paid by the Seller agreed to prior to commencement of construction of the Building. Buyer is responsible for completing and delivering the City Restrooms in a white box finish and Seller is responsible for contracting for and paying the costs to finish out the interior of the City Restrooms as it deems appropriate with a contractor of its choice.

iv. The Seller shall have exclusive use, control, possession, and right to the City Restrooms and Storage Space pursuant to a perpetual exclusive easement to be granted by Buyer, the form of which must be agreed to by the parties and executed prior to or at Closing. Restrooms and storage to be maintained and serviced by the Seller.

v. In addition to the City Restrooms, the Building must contain separate public restrooms at ground level for the use of the Building's patrons as required by all Seller, state, and federal ordinances, rules, and regulations.

T. The Building shall contain a street level "back of house" space to be used by event organizers in the approximate location as shown on Exhibit 3.

U. Buyer, at its expense, will implement, install, and maintain landscaping on the Property as required by Seller pursuant to plans developed by Seller's landscape design architects.

V. Seller shall maintain exclusive control of all of Seller's property and exterior spaces adjacent to the Building and Property. Should Buyer desire to use any Seller property, the use must be coordinated with Seller and anchor institutions adjacent to the area, (e.g., Walton Arts Center, TheatreSquared, etc.) and any other group selected by the Seller to represent its interests in creating a lively and attractive park and Civic Plaza. Buyer must apply for use of Seller's property in the same manner as any other member of the public.

W. The Building shall provide a location for the display of local art, to be coordinated between Buyer and local arts organizations, schools, or the Seller.

X. All other terms and conditions as the parties may agree.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

BUYER:

REINDL PROPERTIES, INC.

By: _____

Brian Reindl

Date: 09/29/2023

SELLER:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Lioneld Jordan, Mayor

Date: _____

ATTEST:

By: _____

Kara Paxton, City Clerk-Treasurer

EXHIBIT 1

Drawing of appropriate location of the Property

EXHIBIT 2

Conceptual Building design and materials

EXHIBIT 3

Depiction of approximate location of City Restrooms, Storage Space,

and back of house space

Exhibit 1

BUILDING ENVELOPE TO STAY 3'-0" CLEAR OF EDGE OF PROPOSED GREENWAY

PROPERTY SALE

PROPOSED LOT SPLIT BOUNDARY

EXISTING PROPERTY LINE

LIMIT OF WORK FOR CIVIC SPACE CONSTRUCTION

GREENWAY ALIGNMENT AND EASEMENT

Restrocted use property included in the total sales agreement.

PROPOSED LOT SPLIT
DEVELOPER AGREEMENT
JULY 19, 2022

0 10' 20' 40'

N

Abernathy, Waylon

From: Abernathy, Waylon
Sent: Tuesday, November 29, 2022 4:01 PM
To: Norton, Susan
Subject: List of appraisal firms for South Civic Plaza Site
Attachments: APPRAISE.LST.2022.doc

Attached is the list of appraisers that I received from our Land Agent.
It includes appraisal firms that I had already researched that would be better suited for this type of project. (I omitted one from the original list).
Bryan and I discussed the strategy of the City providing a list of 5 firms, in which he would select 3. We would engage all 3 and take the average appraised value.
This seems like a fair approach to me.

Wade Abernathy
Director of Bond Projects and Facilities
City of Fayetteville
wabernathy@fayetteville-ar.gov
T 479-575-8361

CITY OF FAYETTEVILLE ARKANSAS

APPRAISERS LIST

	Quote	Time	Comments
Avaluations, LLC P.O. Box 2991 Fayetteville, AR 72702 Phone (479) 695-1371 Email: avalue@cox-internet.com			
HCA Principal Commercial Appraisals ATTN: Zach J. Holland PO Box 1501 Fayetteville, AR 72702 479-276-2149 holland@hollandcommercialappraisals.com			
The Real Estate Consultants ATTN: Mark Risk P.O. Box 747 118 N. East Avenue Fayetteville, AR 72702 PHONE: 479-442-0762 MOBILE: 479-530-2250 FAX: 479-442-6586 mrisk@trecinc.net			
Reed & Associates, Inc. ATTN: Tom Reed 3739 N. Steele Blvd., Suite 140 Fayetteville, AR 72703 PHONE: 479-521-6313 treed@reedappraisal.biz khampton@reedappriasal.biz			RFQ20-05 Resolution 104-21
Ferstl Valuation Services Attn: J T Ferstl 101 W Mountain, Ste 210A&B Fayetteville, AR 72701 PH: 479-595-0245 jtferstl@ferstlvs.com			

Narrative _____ Easement _____ Photos Required _____
Form _____ Fee Simple _____ Notify Owner _____
Letter _____ Other _____ Federal Project _____

COMMENTS: _____

South Plaza Property Apprasials Comparison and Average																							
			Holland Commercial Appraisers					**Ferstl Valuaton Services**					**The Real Estate Consultants**						**Average**				
Tract A Hotel Property																							
Value				1,150,000					1,240,011					1,075,000					1155004				
Square Feet				21,927					21,927					21,927									
Price/Square Feet				$54.00					$54.91					$49.01					52.64				
Tract B Limited Use Land																							
Value				58,000					60,952					99,000					92,451 (Based on 2196 square f				
Squae Feet				2196					1100					2196									
Price/Square Feet				$26.41					$54.91					$45.00					42.10667				
Tract C Permanet Trail Easement																							
Value				270,000					385,000					220,000					259,084 (Based on 5220 square				
Suare Feet				5220					6988					5220									
Price/square Feet				$51.75					$55.00					$42.15					49.63333				

eet)
feet)

EXECUTIVE SUMMARY

PHYSICAL CHARACTERISTICS	
Reindl Properties, Inc / Civic Plaza	Property Name
N West Ave	Street Address
Fayetteville	City
AR	State
72701	Zip
0.50	Acres - Land (Tract A)
21,927	SqFt - Land
0.05	Acres - Land (Tract B)
2,196	SqFt - Land
0.12	Acres - Land (Tract E)
5,220	SqFt - Land
MSC; Main Street Center	Zoning

VALUE INDICATIONS	
8 Months	Exposure Time
1/26/2023	Effective Date
$ 1,150,000	**Tract A Indicated Value** Hotel
$ 58,000	**Tract B Indicated Value** Restrictive use
$ 270,000	**Tract E Indicated Value** TRAIL

$54/sq.ft
$26.41/sq.ft
$151.75/sq.ft

Civic PlazaThe subject consists of three adjacent tracts of land in downtown Fayetteville's entertainment district. All three tracts are part of parent tracts expected to be split up.

Tract A +/-21,927 SqFt – future hotel site.

Tract B +/-2,196 SqFt – limited use land; no permanent structures allowed

Tract E +/-5,220 SqFt permanent easement to re-rout the current Greenway / Frisco Trail.

The three tracts are currently being used as paid public parking, but the city has plans to turn the parking lot into a city park and there is a planned hotel to be constructed on Tract A.

We are appraising the tracts under the hypothetical condition that the lot splits have already occurred as described by the client. See further extraordinary assumptions and hypothetical conditions on the following page.

APPRAISERS:
Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

This analysis is based upon market indicated data, trends, and values as of the date of this report. The appraisers cannot anticipate unforeseen future market variations and or a change including new competitive properties in the marketing area. The appraisers signing this appraisal report have no knowledge concerning the presence or absence of environmental contamination. If such is present, the value of the property may be adversely affected, and a reanalysis at additional cost to estimate the effects of such.

This appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan. The following table conveys the final opinions of value developed in this appraisal report. This value is subject to the hypothetical conditions and extraordinary assumptions stated within the appraisal report.

1 – Hotel 2 – RESTRICTED USE

MARKET VALUE CONCLUSION

VALUATION SCENARIO	INTEREST APPRAISED	DATE	VALUE
21,927 sq.ft. Tract A / Tract B Market Value 1,110 sq.ft.	Fee Simple	February 10, 2023	$1,265,000 = $54.91/sq.ft.
6,488 sq.ft. Tract C - Acquisition Value	Fee Simple	February 10, 2023	$385,000 = $55/sq.ft.

TRAIL 1

If there are any specific questions or concerns regarding the attached Appraisal Report, or if Ferstl Valuation Services can be of additional assistance, please contact our office.

Sincerely,

FERSTL VALUATION SERVICES

Brad Tharp, MAI, SRA
Certified General Appraiser
Arkansas License No. 3734
Expiration Date: 6/30/2023
btharp@ferstlvs.com

J.T. Ferstl, J.D., MAI
Certified General Appraiser
Arkansas License No. 1750
Expiration Date: 6/30/2023
jtferstl@ferstlvs.com

Stephen Tharp, SRA
Certified Residential Appraiser
Arkansas License No. 4331
Expiration Date: 06/30/2023
stharp@ferstlvs.com

EXECUTIVE SUMMARY

PROPERTY IDENTIFICATION

Name	Commercial Land
Property	Land - Commercial Land
Address	N West Avenue
City, State Zip	Fayetteville, Arkansas 72701
County	Washington County
MSA	Fayetteville-Springdale-Rogers, AR-MO MSA
Market / Submarket	Northwest Arkansas / Downtown Fayetteville
Geocode	36.065022,-94.166167
Census Tract	05-143-011302

SITE DESCRIPTION

Number of Parcels	3 Hotel Restricted use				TRAIL 6,988 sq.ft		
Parcel Numbers	765-01743-003, 765-01743-002, 765-01743-004						
Property	Tract A		Tract B		Tract C - Before		Tract C - After	
Land Area	Square Feet	Acres	Square Feet	Acres	Square Feet	Acres	Square Feet	Acres
Total	21,927	0.50	1,110	0.03	16,988	0.39	10,000	0.23
Zoning	Main Street Center (MSC)		Main Street Center (MSC)		Main Street Center (MSC)		Main Street Center (MSC)	
Shape	Irregular		Irregular		Irregular		Irregular	
Topography	Level		Level		Level		Level	
Flood Zone	Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)	

EASEMENT DESCRIPTION

Property Type	Greenway Easement	
Land Area	Square Feet	Acres
Total	5,520	0.13

QUALITATIVE ANALYSIS

Site Quality	Average
Site Access	Average
Site Exposure	Average
Site Utility	Average

HIGHEST & BEST USE

Proposed Construction	No
As Vacant	Commercial

EXPOSURE & MARKETING TIME

Exposure Time	12 Months or Less
Marketing Time	12 Months or Less

There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, and north of Metro District. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. The property is within Census Tract No. 05-143-011302.

Section I – Executive Summary

RESTRICTED USE ESST

Salient Facts & Conclusions

Property:	A part of the SW1/4 of the NE ¼ of Section 16, Township 16 North, Range 30 West, City of Fayetteville, AR. West Ave. South of Dickson St.
County:	Washington
Parcel #(s):	Pt. of Parcel #765-01743-002
Fee Owner:	City of Fayetteville
Subject Location:	S. West Ave., south of Dickson St. - Fayetteville, AR 72701
Estate Appraised:	Fee Simple
Size:	Site – 2,196 Sq Ft.
Effective Date:	March 1st, 2023 - The Date of Inspection
Utilities:	All Municipal Utilities Are Available
Zoning:	Main Street Center
Highest and Best Use:	Assemblage with adjoining property

Value Indications:		
	Market Data Approach	$99,000 – $45 / sq.ft.
	Cost Approach	NA
	Income Approach	NA

Final Estimate of Market Value: **$99,000**

Note:
This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report without the preparer's written permission does so at their own risk.

Section I – Executive Summary

Salient Facts & Conclusions

TRAIL

Property:	A part of the SW1/4 of the NE ¼ of Section 16, Township 16 North, Range 30 West, City of Fayetteville, AR. West Ave. South of Dickson St.
County:	Washington
Parcel #(s):	Pt. of Parcel #765-01743-004
Fee Owner:	City of Fayetteville
Subject Location:	East of the Frisco Railway, south of Dickson St. - Fayetteville, AR 72701
Estate Appraised:	Fee Simple
Size:	Site – 5,220 Sq Ft.
Effective Date:	March 1st, 2023 - The Date of Inspection
Utilities:	All Municipal Utilities Are Available
Zoning:	Main Street Center
Highest and Best Use:	Assemblage with adjoining property

Value Indications:			
	Market Data Approach	$220,000	$42.15 / sq. ft.
	Cost Approach	NA	
	Income Approach	NA	

Final Estimate of Market Value: **$220,000**

Note:

This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report without the preparer's written permission does so at their own risk.

Section I – Executive Summary

HOTEL

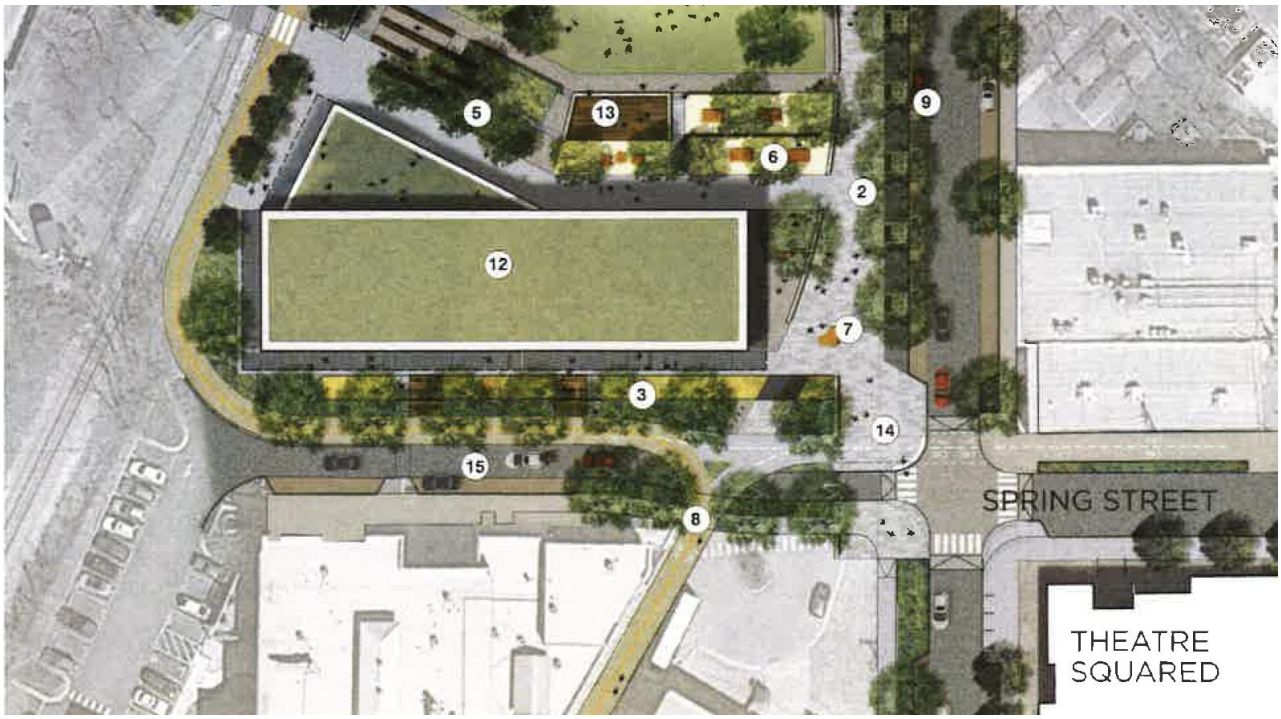
Salient Facts & Conclusions

Property:	A part of the SW1/4 of the NE ¼ of Section 16, Township 16 North, Range 30 West, City of Fayetteville, AR. West Ave. South of Dickson St.		
County:	Washington		
Parcel #(s):	Pt. of Parcel #765-01743-002		
Fee Owner:	City of Fayetteville		
Subject Location:	West Ave., south of Dickson St. - Fayetteville, AR 72701		
Estate Appraised:	Fee Simple		
Size:	Site – 21,927 Sq Ft.		
Effective Date:	March 1st, 2023 - The Date of Inspection		
Utilities:	All Municipal Utilities Are Available		
Zoning:	Main Street Center (MSC)		
Highest and Best Use:	Assemblage with adjoining property		
Value Indications:	Market Data Approach	$1,075,000	$49.02/Sq. Ft
	Cost Approach	NA	
	Income Approach	NA	

Final Estimate of Market Value: **$1,075,000**

Note:
This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report without the preparer's written permission does so at their own risk.

HOLLAND COMMERCIAL APPRAISALS
AND VALUATION SERVICES



CIVIC PLAZA LANDS
N WEST AVE | FAYETTEVILLE, ARKANSAS 72701
EFFECTIVE DATE | JANUARY 26, 2023

Prepared For:
Wade Abernathy, Director of Bond Projects and Facilities
City of Fayetteville
N West Ave, Fayetteville, AR 72701

HOLLAND COMMERCIAL APPRAISALS AND VALUATION SERVICES

February 21, 2023

Wade Abernathy, Director of Bond Projects and Facilities
City of Fayetteville
N West Ave
Fayetteville, AR 72701

RE: Reindl Properties, Inc. / Civic PlazaCivic Plaza
N West Ave
Fayetteville, Arkansas 72701

Dear Mr. Abernathy:

As you requested, we have appraised the property above for the purpose of rendering an opinion of the "market value" of the **Fee Simple interest**. We have not appraised this property within the last three years.

The property was inspected and photographed January 26, 2023. The following report contains our research, findings, analysis, and resulting conclusions. This appraisal report conforms to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation. This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

The subject property has no known significant natural, cultural, recreational, or scientific value. The appraisers signing this report have no knowledge concerning the presence or absence of toxic materials, asbestos, and/or urea formaldehyde foam insulation in existing improvements; if such is present, the value of the property may be adversely affected, and a reanalysis at additional cost necessary to estimate the effects of such.

Our opinion of the market value of the **Fee Simple** interest in the subject **(Tract A)** property as of:

January 26, 2023 is: **$1,150,000**

Our opinion of the market value of the **Fee Simple** interest in the subject **(Tract B)** property as of:

January 26, 2023 is: **$ 58,000**

Our opinion of the market value of the **Fee Simple** interest in the subject **(Tract E)** property as of:

January 26, 2023 is: **$ 270,000**

Respectfully submitted,

Zach J. Holland
AR CG 2911



Dallas Bartholomew
AR RA 4412



The data included in this report was researched, paid for, and compiled by HCA. It is copyrighted property of HCA. Payment for this report does not include the rights to copy or use the data within.

Certification

I certify that, to the best of my knowledge and belief:

1. *The statements of fact contained in this report are true and correct.*
2. *The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.*
3. *I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.*
4. *I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.*
5. *I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.*
6. *My engagement in this assignment was not contingent upon developing or reporting predetermined results.*
7. *My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.*
8. *My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice as well as the State of Arkansas.*
9. *To the best of the appraiser's ability, the analysis, opinions, and conclusions were developed, and the report was prepared in accordance with the appraisal standards of the appropriate federal banking regulatory agencies.*
10. *Dallas Bartholomew made a personal inspection of the property that is the subject of this report. Zach Holland was not present for the inspection.*
11. *No one provided significant real property appraisal assistance to the persons signing this certification.*
12. *The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.*
13. *The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.*
14. *As of the date of this report, Zach Holland has completed the Standards and Ethics Education Requirements for Candidates of the Appraisal Institute.*



Zach J. Holland
AR CG 2911





Dallas Bartholomew
AR RA 4412



EXECUTIVE SUMMARY

PHYSICAL CHARACTERISTICS	
Reindl Properties, Inc / Civic Plaza	Property Name
N West Ave	Street Address
Fayetteville	City
AR	State
72701	Zip
0.50	Acres - Land (Tract A)
21,927	SqFt - Land
0.05	Acres - Land (Tract B)
2,196	SqFt - Land
0.12	Acres - Land (Tract E)
5,220	SqFt - Land
MSC; Main Street Center	Zoning

VALUE INDICATIONS	
8 Months	Exposure Time
1/26/2023	Effective Date
$ 1,150,000	**Tract A Indicated Value**
$ 58,000	**Tract B Indicated Value**
$ 270,000	**Tract E Indicated Value**

Civic PlazaThe subject consists of three adjacent tracts of land in downtown Fayetteville's entertainment district. All three tracts are part of parent tracts expected to be split up.

Tract A +/-21,927 SqFt – future hotel site.

Tract B +/-2,196 SqFt – limited use land; no permanent structures allowed

Tract E +/-5,220 SqFt permanent easement to re-rout the current Greenway / Frisco Trail.

The three tracts are currently being used as paid public parking, but the city has plans to turn the parking lot into a city park and there is a planned hotel to be constructed on Tract A.

We are appraising the tracts under the hypothetical condition that the lot splits have already occurred as described by the client. See further extraordinary assumptions and hypothetical conditions on the following page.

APPRAISERS:
Zach J Holland, AR CG 2911
Dallas Bartholomew, AR RA 4412

EXECUTIVE SUMMARY

Extraordinary Assumptions

Extraordinary Assumption: *an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.* [1] An extraordinary assumption may be used in an assignment only if:

- *It is required to properly develop credible opinions and conclusions.*
- *The appraiser has a reasonable basis for the extraordinary assumption.*
- *Use of the extraordinary assumption results in a credible analysis.*[2]

We make the following extraordinary assumption for this appraisal assignment:

Minimal supporting documentation was provided. No dates for implementation of the lot splits and easement were provided. The city provided surveys for Tract A and Tract B; however, no survey was available for Tract E (the permanent easement), nor was any specific definition of the type of easement. The easement size was given by email. We assume that all the tract sizes are accurate based on the information that was given to us from the client, and we assume that all land sizes and characterizes are as provided in the mapping and emails sent from the client. Furthermore, we assume that all land divisions can and will be approved and made by the city. We assume the trail easement is a permanent surface easement that effectually relegates the land as unbuildable and unusable by the owner. We assume that no further damages to the properties, parking, or landscaping will occur due to the moving of the trail or splitting of the tracts. The City of Fayetteville typically repairs any damage to site improvements, and it is assumed that any necessary reparations for damage to or loss of parking is negotiated privately between the parties. Mr Abernathy indicated that a move or trade for parking spots is underway.

We value the lands as vacant, stable, commercial, development land, and we have no reason to expect otherwise; however, the current parking lot was built over an existing creek, and substantial drainage preparation was made to develop the current parking lot. We make no special consideration for removing the current improvements or directing drainage underneath. We assume that the ground is stable for large-scale development and no extraordinary demolition or subsurface costs are required for development of Tract A.

The use of this Extraordinary Assumption and Hypothetical Condition might have affected the assignment results.

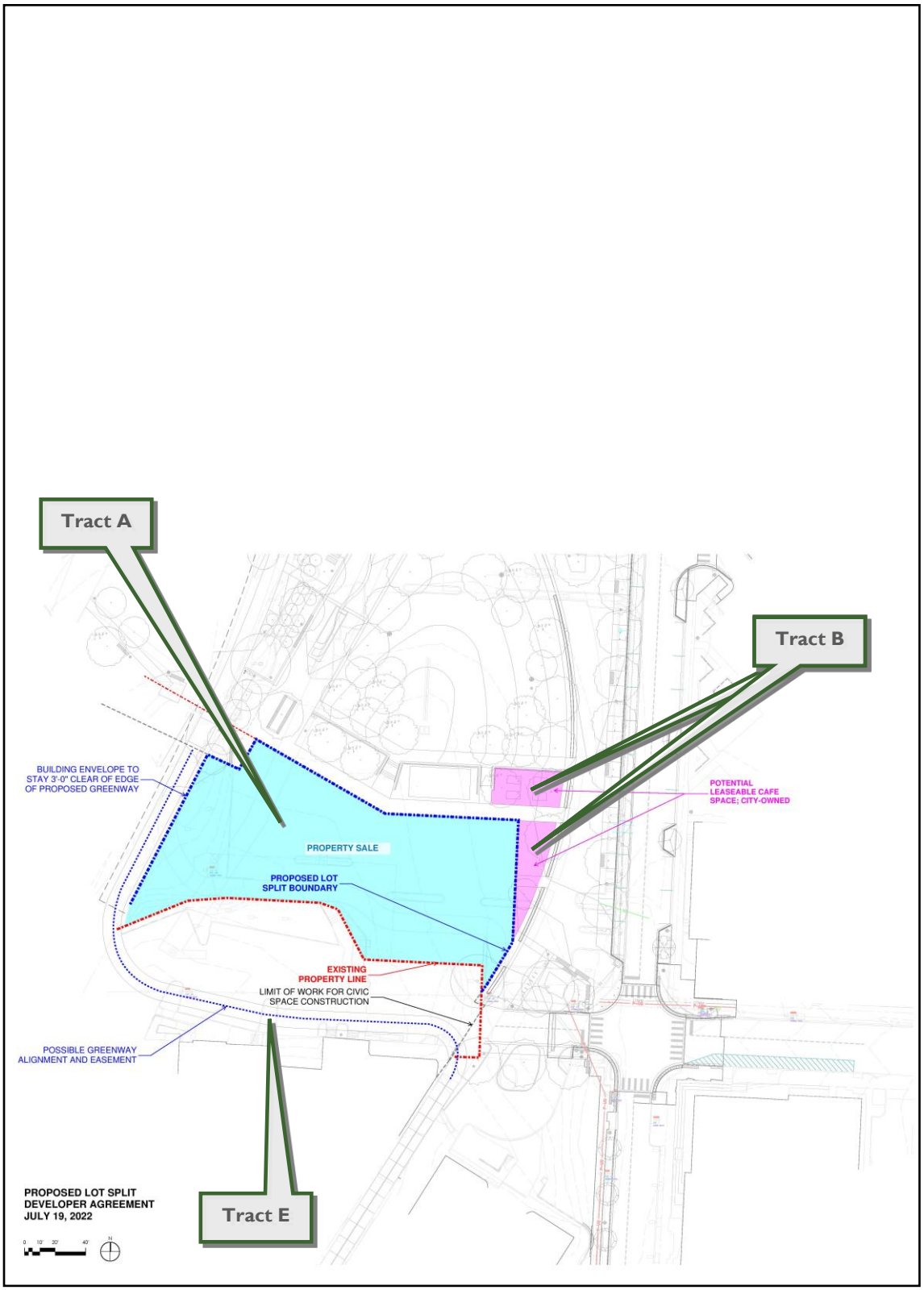
1 ASB. Uniform Standards of Professional Appraisal Practice (USPAP 2020-2021). The Appraisal Foundation. Page 4.
2 ASB. Uniform Standards of Professional Appraisal Practice (USPAP 2020-2021). The Appraisal Foundation. Page 17.

Hypothetical Conditions

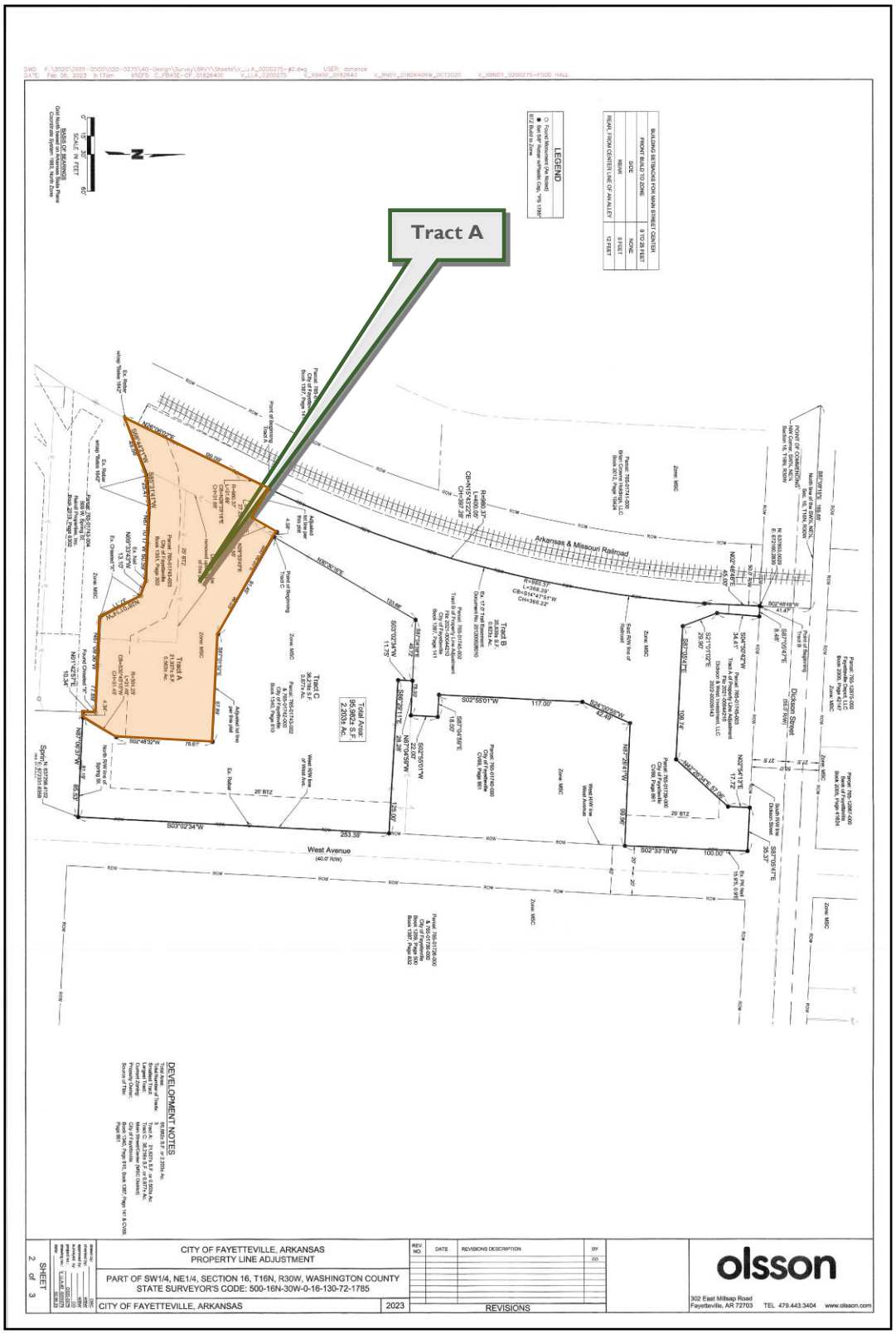
Hypothetical Condition: *a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.*[3]

For the purposes of appraising the values of all divided lands as requested by the client, **we applied the hypothetical condition that the land splits have already been approved, filed, and have already occurred as of the effective date of the appraisal.**

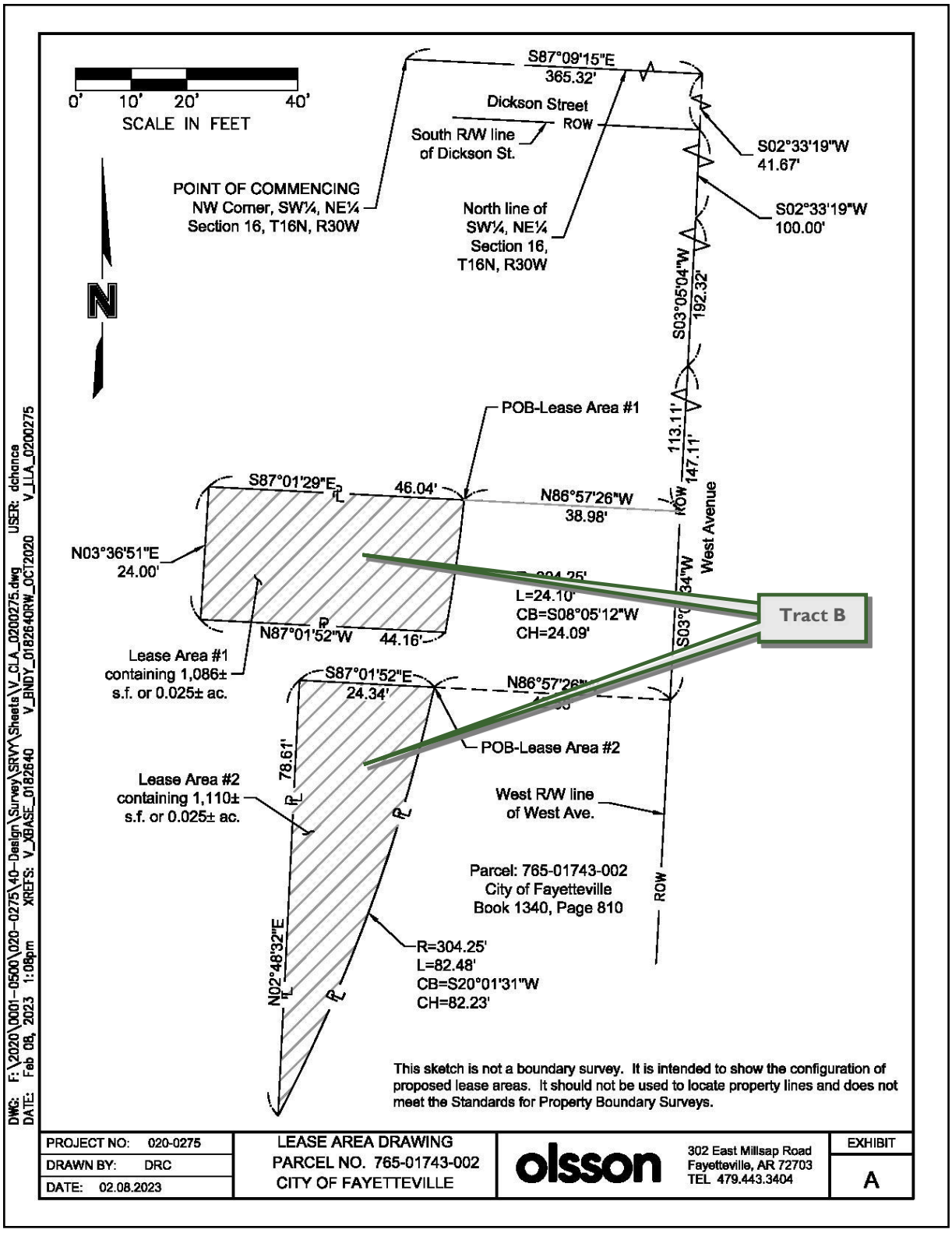
3 ASB. Uniform Standards of Professional Appraisal Practice (USPAP 2020-2021). The Appraisal Foundation. Page 4.


Tract A
Tract B
Tract E
BUILDING ENVELOPE TO STAY 3'-0" CLEAR OF EDGE OF PROPOSED GREENWAY
PROPERTY SALE
PROPOSED LOT SPLIT BOUNDARY
POTENTIAL LEASEABLE CAFE SPACE; CITY-OWNED
EXISTING PROPERTY LINE
LIMIT OF WORK FOR CIVIC SPACE CONSTRUCTION
POSSIBLE GREENWAY ALIGNMENT AND EASEMENT
PROPOSED LOT SPLIT
DEVELOPER AGREEMENT
JULY 19, 2022

LAYOUT



SURVEY (TRACT A)



SURVEY (TRACT B)

x

Legal Description:

Tract A

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tracts of land recorded in the Washington County Recorder's Office in Book 1340 at Page 810 and in Book 1351 at Page 302, more particularly described as follows:

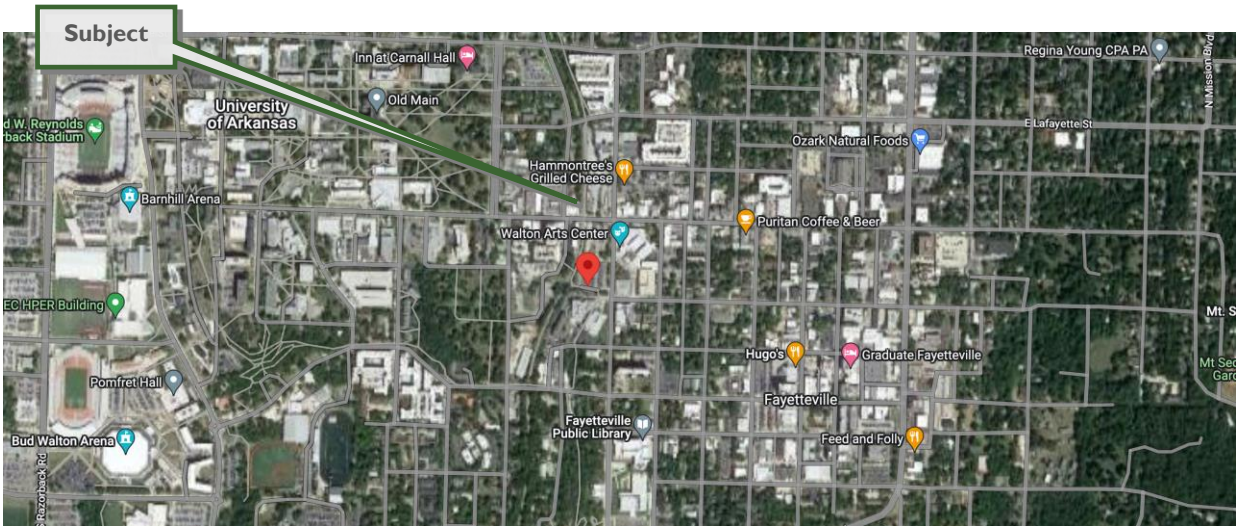
COMMENCING at the Northwest corner of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87°09'15"E, along the North line of said Quarter Quarter, a distance of 165.65 feet; thence departing said North line S02°48'48"W, a distance of 41.47 feet to the point of intersection of the East Right-of-Way line of Arkansas & Missouri Railroad, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line S02°48'48"W along said East Right-of-Way line, a distance of 45.00 feet; thence continuing along said East Right-of-Way line, along a tangent curve to the right having a radius of 980.37 feet, and a Chord that bears S14°47'51"W, an arc length of 368.39 feet for a POINT OF BEGINNING; thence departing said East Right-of-Way line S60°10'51"E, a distance of 27.29 feet; thence N29°53'40"E, a distance of 22.55 feet; thence S60°06'20"E, a distance of 96.03 feet; thence S87°01'52"E, a distance of 87.89 feet; thence S02°48'32"W, a distance of 78.61 feet; thence along a non-tangent curve to the right having a Radius of 304.25 feet and a Chord that bears S30°45'15"W, an arc distance of 31.46 feet to a point in the North Right-of-Way line of Spring Street, as now established; thence N87°06'37"W along said North Right-of-Way line, a distance of 4.34 feet; thence departing said North Right-of-Way line N01°42'57"E, a distance of 10.34 feet to a found chiseled "X"; thence N87°09'36"W, a distance of 77.69 feet to a found chiseled "X"; thence N28°01'14"W, a distance of 37.11 feet to a found chiseled "X"; thence N69°33'43"W, a distance of 13.10 feet to a found nail; thence N87°10'17"W, a distance of 60.59 feet to a found rebar with cap, "Bates 1642"; thence S85°31'41"W, a distance of 25.47 feet to a found rebar with cap, "Bates 1642"; thence S68°44'21"W, a distance of 49.88 feet to a found rebar with cap, "Bates 1642" in said East Right-of-Way line of Arkansas & Missouri Railroad; thence N26°06'02"E along said East Right-of-Way line, a distance of 99.09 feet; thence continuing along said East Right-of-Way line, along a tangent curve to the left having a Radius of 980.37 feet and a Chord that bears N26°29'16"E, an arc distance of 31.66 feet to the POINT OF BEGINNING, containing 21,927 square feet or 0.503 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

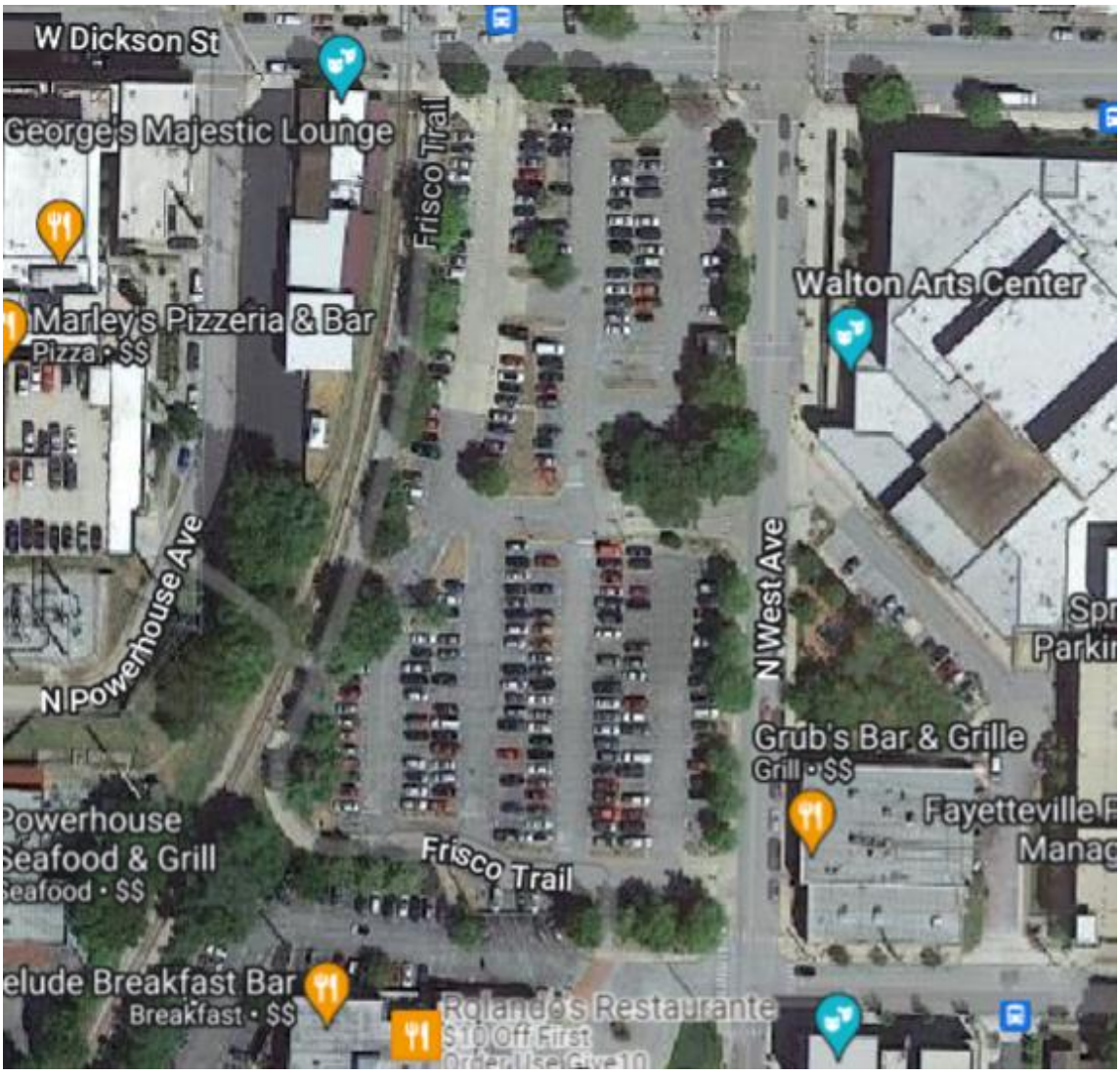
Tract B

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tract of land recorded in the Washington County Recorder's Office in Book 1340, at Page 810, more particularly described as follows: COMMENCING at the Northwest corner of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87°09'15"E, along the North line of said Quarter, a distance of 365.32 feet; thence departing said North line S02°33'19"W, a distance of 41.67 feet to the point of intersection of the West Right-of-Way line of West Avenue, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line, along said West Right-of-Way line the following three (3) courses: S02°33'19"W, a distance of 100.00 feet; thence S03°05'04"W, a distance of 192.32 feet; thence S03°02'34"W, a distance of 113.11 feet; thence departing said West Right-of-Way line N86°57'26"W, a distance of 38.98 feet to the POINT OF BEGINNING; thence along a nontangent curve to the right having a Radius of 304.25 feet and a Chord that bears S08°05'12"W, an arc distance of 24.10 feet; thence N87°01'52"W, a distance of 44.16 feet; thence N03°36'51"E, a distance of 24.00 feet; thence S87°01'29"E, a distance of 46.04 feet to the POINT OF BEGINNING, containing 1,086 square feet or 0.025 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tract of land recorded in the Washington County Recorder's Office in Book 1340, at Page 810, more particularly described as follows: COMMENCING at the Northwest corner of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87°09'15"E, along the North line of said Quarter, a distance of 365.32 feet; thence departing said North line S02°33'19"W, a distance of 41.67 feet to the point of intersection of the East Right-of-Way line of West Avenue, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line, along said West Right-of-Way line the following three (3) courses: S02°33'19"W, a distance of 100.00 feet; thence S03°05'04"W, a distance of 192.32 feet; thence S03°02'34"W, a distance of 147.11 feet; thence departing said West Right-of-Way line N86°57'26"W, a distance of 42.55 feet to the POINT OF BEGINNING; thence along a nontangent curve to the right having a Radius of 304.25 feet and a Chord that bears S20°01'31"W, an arc distance of 82.48 feet; thence N02Åã48'32"E, a distance of 78.61 feet; thence S87°01'52"E, a distance of 24.34 feet to the POINT OF BEGINNING, containing 1,110 square feet or 0.025 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

SUBJECT PROPERTY SATELLITE IMAGERY





PERSONAL INSPECTION PHOTOGRAPHS









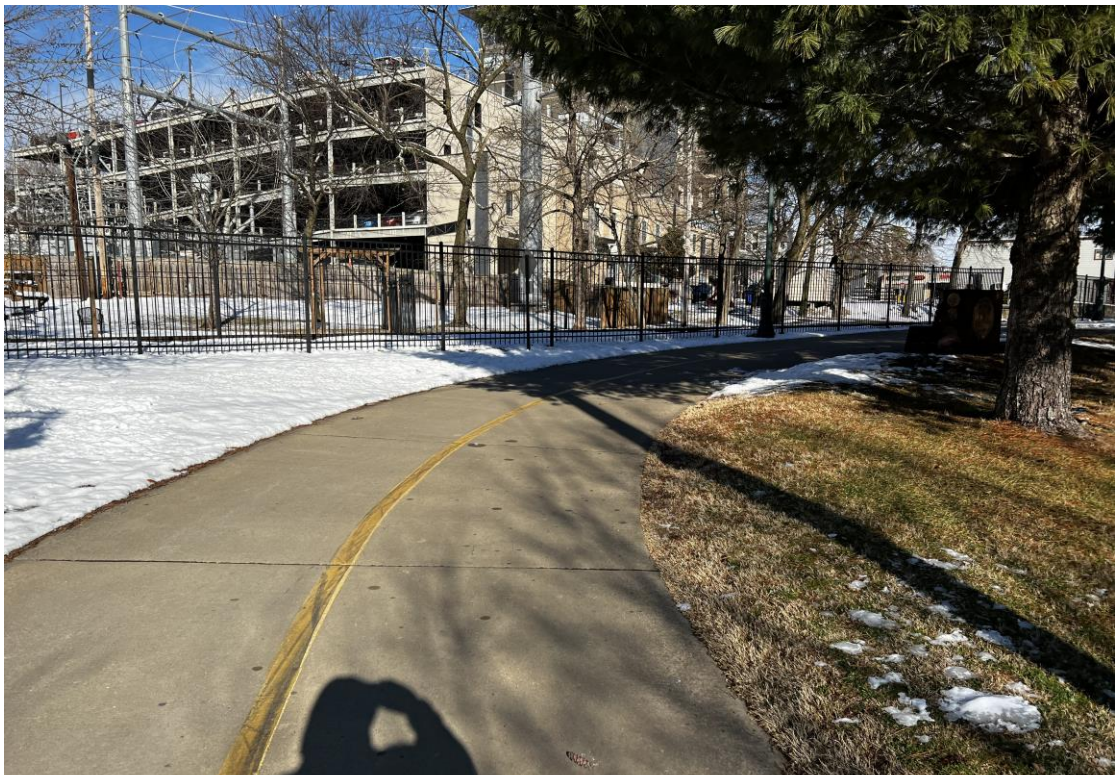




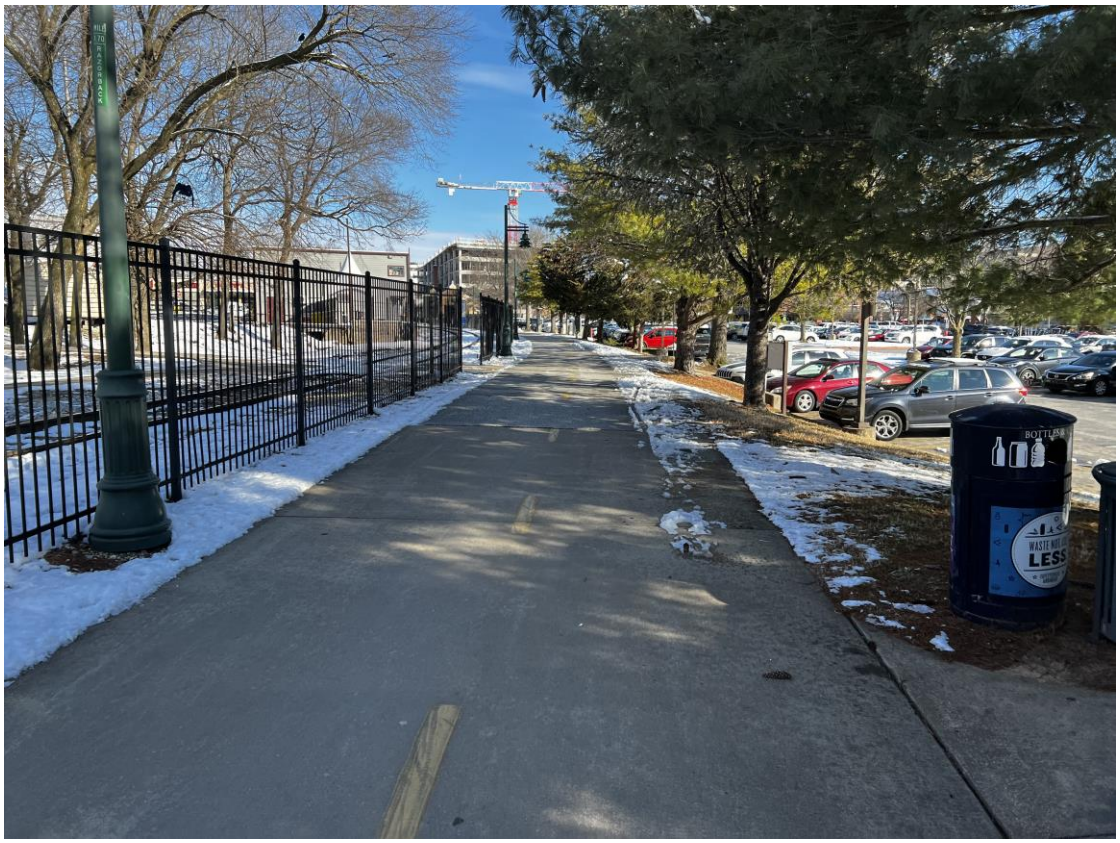

469 WNF


FREE DOWNTOWN
PARKING
METRO
DISTRICT





FRISCO TRAIL CURRENTLY






METRO DISTRICT


881.9
681.9


681.9

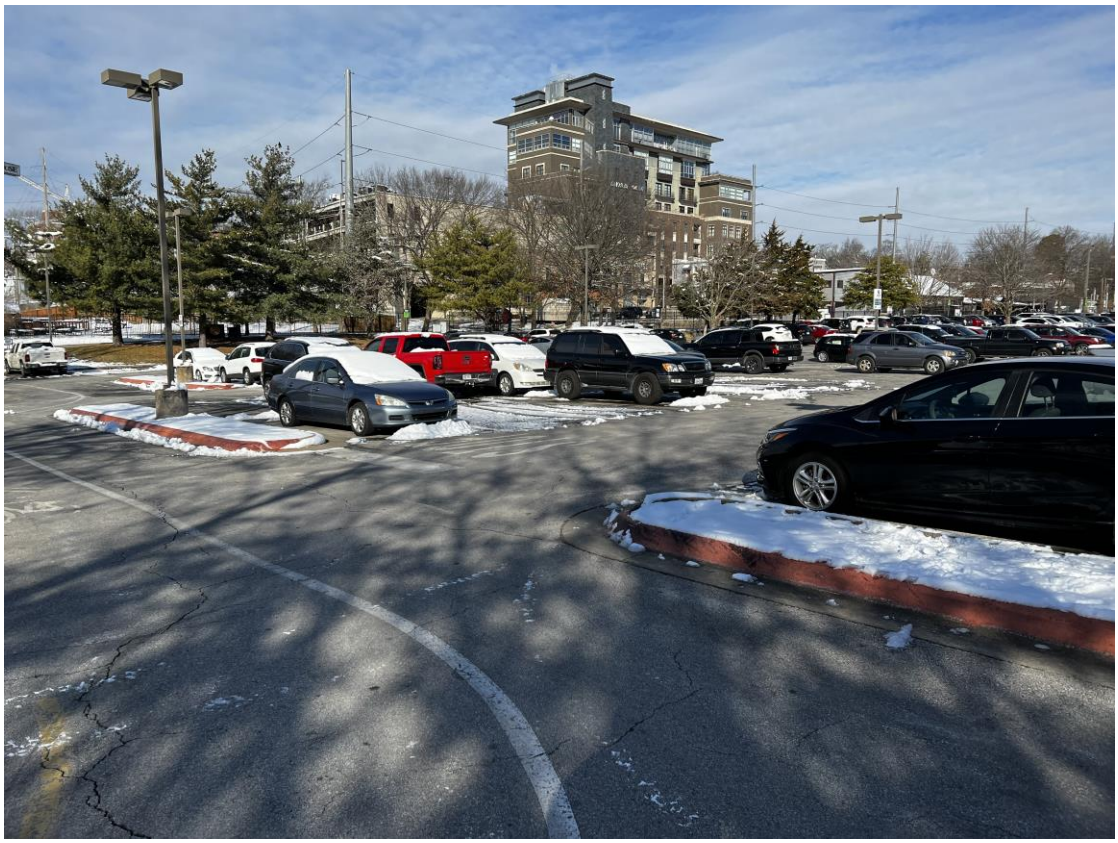


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Introduction and Overview

Purpose of this Appraisal

The purpose of the appraisal is to render an opinion of the market value of the lands as if split into the defined tracts.

Property Rights Appraised

The **fee simple estate** is defined as follows: *Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.* [4]

Easement is defined as follows: *A non-possessory interest one has in the property of another for a specific purpose.* [5]

Personal Property / Intangible Assets

Personal Property: *any tangible or intangible article that is subject to ownership and not classified as real property, including identifiable tangible objects that are considered by the general public as being "personal," such as furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; and intangible property that is created and stored electronically such as plans for installation art, choreography, emails, or designs for digital tokens.*[6] No personal property values were included in this appraisal. No Intangible assets were included in this appraisal.

Client and Intended User

City of Fayetteville is the "client/intended user" with regard to this appraisal report, and this appraisal report is prepared for the sole and exclusive use of the appraiser's client. No third parties are authorized to rely upon this report without the express written consent of the appraiser.

Intended Use

City of Fayetteville intends to use the appraisal in determining and supporting land purchases and ownership structuring.

4 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: Author. 90.
5 International Right of Way Association. (2014). Course 403 Easement Valuation
6 ASB. Uniform Standards of Professional Appraisal Practice (USPAP 2020-2021). The Appraisal Foundation. Page 5.

Appraiser Competency

The appraisers signing this report are competent to prepare appraisal reports for the subject property type.

Zach J Holland, Candidate for Designation, Appraisal Institute, has been performing commercial appraisals since 2007. He is a certified general appraiser in Arkansas and Oklahoma. He has appraised many office, retail, industrial, hotel/motel, special purpose, multifamily, subdivision, shopping center and other commercial properties throughout the entire state of Arkansas and into the multistate region including Oklahoma, Mississippi, Missouri, Louisiana, and Tennessee. He has provided expert testimony in federal court. He serves as Principal Appraiser at HCA and reviews appraisals of contractors and trainees. He is on designation paths to MAI and General Review designations of the Appraisal Institute. He has completed the continuing education program for the state licensing board and the Appraisal Institute. He has completed the IRWA course 404 on Right of Way appraising.

Dallas Bartholomew, RA 4412, is a Registered Apprentice with the State of Arkansas. He has appraised and assisted in the appraisal of many property types throughout central and northwest Arkansas, including income-producing residences, condemnations, commercial land, industrial land, residential land, warehouses, mini-storage warehouses, office/warehouses, professional offices, medical offices, religious facilities, event centers, bowling alleys, car washes, neighborhood shopping centers, retail/warehouses, and retail stores.

Date of Valuation

Effective Date: *the date to which an appraiser's analyses, opinions, and conclusions apply; also referred to as date of value.* [7]

The estimate and opinion of value is applied as of **January 26, 2023**.

Date of Report

Date of the Report: *The date on which the report is transmitted to the client* [8]

The date of this report is **February 21, 2023.**

7 ASB. Uniform Standards of Professional Appraisal Practice (USPAP 2020-2021). The Appraisal Foundation. Page 4.
8 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: 59.

Definition of Value

This appraisal has been prepared in accordance with the Federal Deposit Insurance Corporation (FDIC) Final Rules, 12 CFR Part 323.2(f), which incorporates the following market value definition.

Market Value is: *The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:*[9]

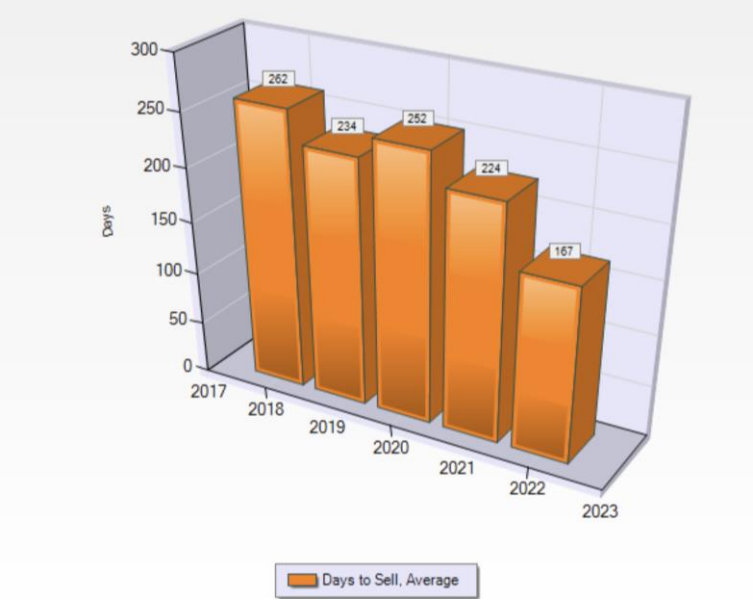
- *Buyer and seller are typically motivated*
- *Both parties are well informed or well advised, and acting in what they consider their own best interests*
- *A reasonable time is allowed for exposure in the open market*
- *Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto*
- *The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

Estimated Reasonable Exposure

Exposure Time: *an opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.* [10]

Based on historical average days-on-market of similar properties in the market area [11] and on our experience and knowledge of the neighborhood, we estimate exposure time for the subject property to be within **8 months** at the appraised value.

Time frame is from Jan 2018 to Dec 2022
County is one of 'Benton', 'Washington'
Property Type is 'Land'
Results calculated from 10,940 listings



9 Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA). Interagency Appraisal and Evaluation Guidelines (2010). USA
10 ASB. Uniform Standards of Professional Appraisal Practice (USPAP 2020-2021). The Appraisal Foundation. Page 4.
11 nwa.mlsmatrix.com

Scope of this Appraisal

This appraisal is completed in phases; general data collection and analysis, neighborhood data collection and analysis, subject property data collection and analysis, highest and best use analysis, market data collection, verification and analysis, valuation, and report preparation. Each phase is performed as applicable to the property and market.

1) General Data Collection and Analysis

This phase includes collection of data relating to national, regional, and local trends, and identification and analysis of the social, governmental, and environmental forces affecting the market value of the subject property.

2) Neighborhood Data Collection and Analysis

This phase entails visiting the subject neighborhood; collecting data related to growth trends, demographics, physical characteristics, available utilities, public improvements and services, etc.; and analyzing the impact on the subject property.

3) Subject Property Data Collection and Analysis

In this phase, we inspect the subject property, interview the owner, engineer and other pertinent professionals available to obtain and review maps and site plans. Upon inspection, we ask owners, managers, and/or tenants about the property condition and recent updates. We collect information about real estate taxes, zoning and other governmental factors. We analyze the functionality, condition, etc. of the subject property. We cannot guarantee that the property is free of encroachments or easements, and we recommend further investigation and an ALTA survey. Our conclusion of value is based upon the assumption that there are no hidden or unapparent conditions of the property that might impact the buildability. We recommend due diligence be conducted through the local building department or municipality to investigate buildability and whether property is suitable for intended use. Roofs, interior framework, and foundations are not always visible and sometimes can only be assumed to be in similar condition to the visible areas of the building. We recommend an inspection by a professional building inspector. We make no representations, guarantees or warranties.

4) Market Data Collection and Analysis

In this phase, we obtain and verify comparable sales data for vacant land and improved properties from public records and from personal interviews. We collect market data related to construction costs, depreciation, etc. from a variety of sources. All data is verified when possible. We attempt to interview parties to the transactions to shed light on details of the property and

sale and/or lease. County records in this market are typically dependable sources of comparable sales data, but, at a minimum, we find two sources of comparable price and size by cross-referencing tax records, deeds, MLS, subscription sales databases, GIS data, commercial listings, and local press. Comparable leases are typically provided by property owners, but they frequently prefer the details remain confidential, relegating us to divulge only property type, general location and characteristics if we wish to include the details of the rental rate and other terms. Leases from public sources often include less details or are asking rates, but they are also included in order to provide non-confidential, detailed lease comparables as well as provide an estimate of the current asking rates.

5) Highest and Best Use Analysis

In highest and best use analysis, we analyze all compiled data to determine: supply and demand, legal uses, physically possible uses, feasible uses, and that use which is maximally productive for the site as vacant and/or improved. The appraisers utilize inferred market analysis. The projections utilized are based on the appraisers' experience with other similar properties in the market area and the market studies at our disposal. If unforeseeable changes in the market or subject property occur, the highest and best use and value may be impacted.

6) Valuation

In the valuation phase, we utilize the Sales Comparison Approach as it is the most common and preferred method of land valuation when adequate comparable sales are available.

7) Report Preparation

In the final phase, we prepare a narrative appraisal report, a Real Estate Appraisal Report under Standards Rule 2-2, as defined in the Uniform Standards of Professional Appraisal Practice, USPAP, a complete appraisal performed under Standards Rule 1 of the USPAP.

Subject Property Details

Ownership and Marketing History

Research of MLS and Washington County Public Records indicates that parent tracts 765-01743-004 and 765-01743-003 are owned by **The City of Fayetteville** while parent tract 765-01743-004 is owned by **Reindl Properties, Inc (Brian Reindl).** There are no sales on record in the past three. No sales contracts were provided; however, it is our understanding that one of the purposes of this appraisal is to determine the value of Tract A and B for future sale to Reindl Properties will include trading Tract E to the City of Fayetteville and transferring Tract B under a limited use deed. We found no evidence of active listings.

Assessor records report the current ownership and sale history as follows:

Parent Tract Parcel # 765-01743-002

Deed Transfers
Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

View Image	Deed Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
	9/27/1989	1340	810	Warr. Deed	0.00	$0	CITY OF FAYETTEVILLE, ARKANSAS	N/A	N/A
	10/9/1986	1196	827	Warr. Deed	58.30	$53,000	MCBRIDE DISTRIBUTING CO INC	Unval.	N/A
	1/1/1985	1196	824	Warr. Deed	0.00	$0	SUGG, JOHM G SR ETAL TRUSTEE	N/A	N/A

Parent Tract Parcel # 765-01743-003

Deed Transfers
Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

View Image	Deed Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
	1/19/1990	1351	302	Warr. Deed	0.00	$0	CITY OF FAYETTEVILLE, ARKANSAS	N/A	N/A
	1/1/1985	1351	300	Warr. Deed	66.00	$60,000	SUGG, JOHN G SR; SUGG, ANN W; SUGG	Unval.	N/A

Parent Tract Parcel # 765-01743-004

Deed Transfers

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

View Image	Deed Date	File Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
	3/6/2019	3/8/2019	2019	6302	Quit Claim	N/A	N/A	REINDL PROPERTIES INC	N/A	Land Only
	12/18/2018	N/A	2019	587	Survey	N/A	N/A	METRO DISTRICT CONDOMINIUMS HPR	N/A	Land Only
	11/8/2011	N/A	2011	32091	Redem Deed	N/A	N/A	METRO DISTRICT CONDOMINIUMS HPR	N/A	N/A
	7/20/2011	N/A	2011	11424	CompLaw	N/A	N/A	METRO DISTRICT CONDOMINIUMS HPR	N/A	N/A
	8/5/2005	N/A	2005	53850	Survey	N/A	N/A	METRO DISTRICT LLC	N/A	N/A
	5/23/2005	N/A	2005	22872	Warr. Deed	25439.70	$7,709,000	METRO DISTRICT LLC	Additional Properties	Improved
	1/14/2005	N/A	2005	2536	Warr. Deed	N/A	N/A	REINDL PROPERTIES INC	N/A	Land Only
N/A	11/1/2004	N/A	2004	50264	Survey	N/A	N/A	REINDL PROPERTIES INC	Inc. Additional Prop.	Land Only

Assessment and Tax Data

In Arkansas, real estate is assessed by the county tax assessor and the tax collected by the county collector for the city and the county. There is no state real property tax. Assessment is based upon 20% of the assessor's appraised valuation and the current assessment rate as established by the County quorum court and public vote. A rate of 57.95 mills had been established for the City of Fayetteville, Washington County, Arkansas. The combined appraisal and assessment has been taken directly from the county tax assessor's office data, for the subject parcel:

Parent Tract Parcel # 765-01743-002

Market and Assessed Values

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	N/A	N/A	N/A
Building	N/A	N/A	0
Totals	N/A	N/A	N/A

Taxes

Estimated Taxes:	0	
Homestead Credit:	0	Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Parent Tract Parcel # 765-01743-003

Market and Assessed Values

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	N/A	N/A	N/A
Building	N/A	N/A	0
Totals	N/A	N/A	N/A

Taxes

Estimated Taxes:	0	
Homestead Credit:	0	Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Parent Tract Parcel # 765-01743-004

Market and Assessed Values

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	69,300	13,860	13,860
Building	0	0	0
Totals	69,300	13,860	13,860

Taxes

Estimated Taxes:	728	
Homestead Credit:	0	Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

A search for delinquent taxes on the subject property did not return any results.

SITE DESCRIPTION

Census Tract: Block 2018, Block Group 2, Census Tract 113.02, Washington County, Arkansas.

Abutting Land Uses: North: City Parking; South: Retail; East: Restaurant/Bar; West: Bike Trail/Railroad/Restaurant/Bar

Size of the Site: Tract A: +/-21,927 Square Feet, or +/-0.50 Acres.
Tract B: +/-2,196 Square Feet, or +/-0.05 Acres.
Tract E: +/-5,220 Square Feet, or +/-0.12 Acres.

Shape of the Site: Irregular.

Soils: No soil test or analysis was available to the appraisers and no responsibility is taken for the soil conditions. The soil appears to be stable for the improvements.

Topography: Mostly level. There is a slight slope on the south side of the property.

Flood Status: The subject property site **does not** appear to be located within a flood hazard zone of the 100-year flood boundary per Flood Insurance Rate Map Community Panel #05143C0210F, effective 05/16/2008, a portion of which map is included below.

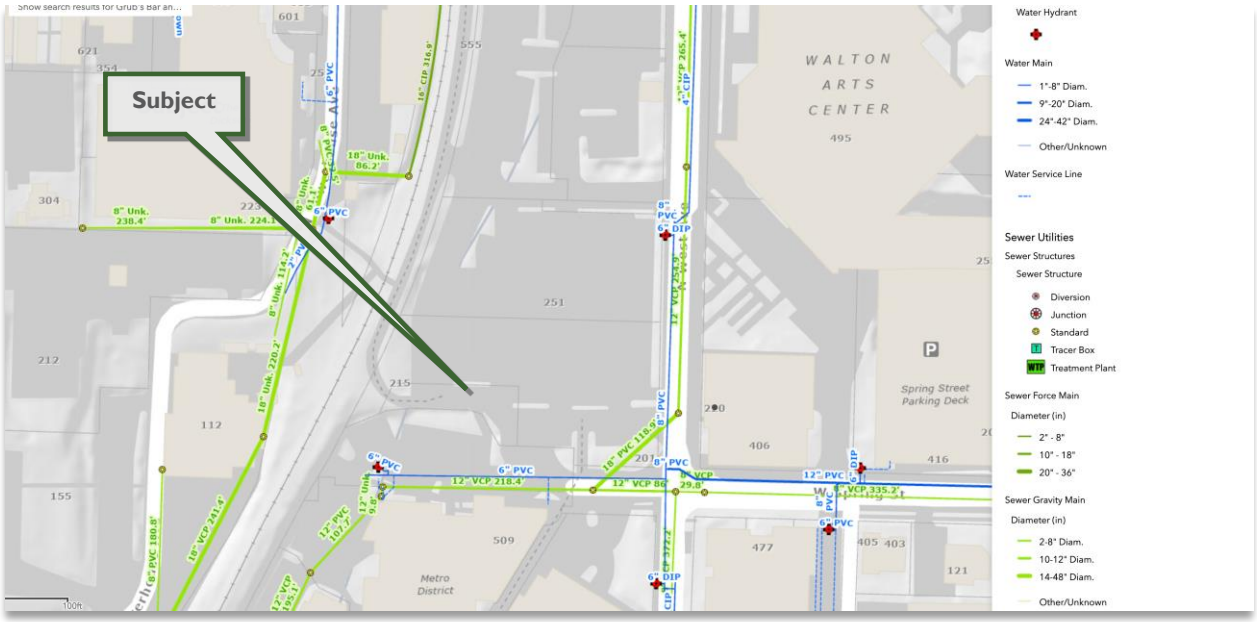


Traffic counts: There is no traffic data at the subject site.

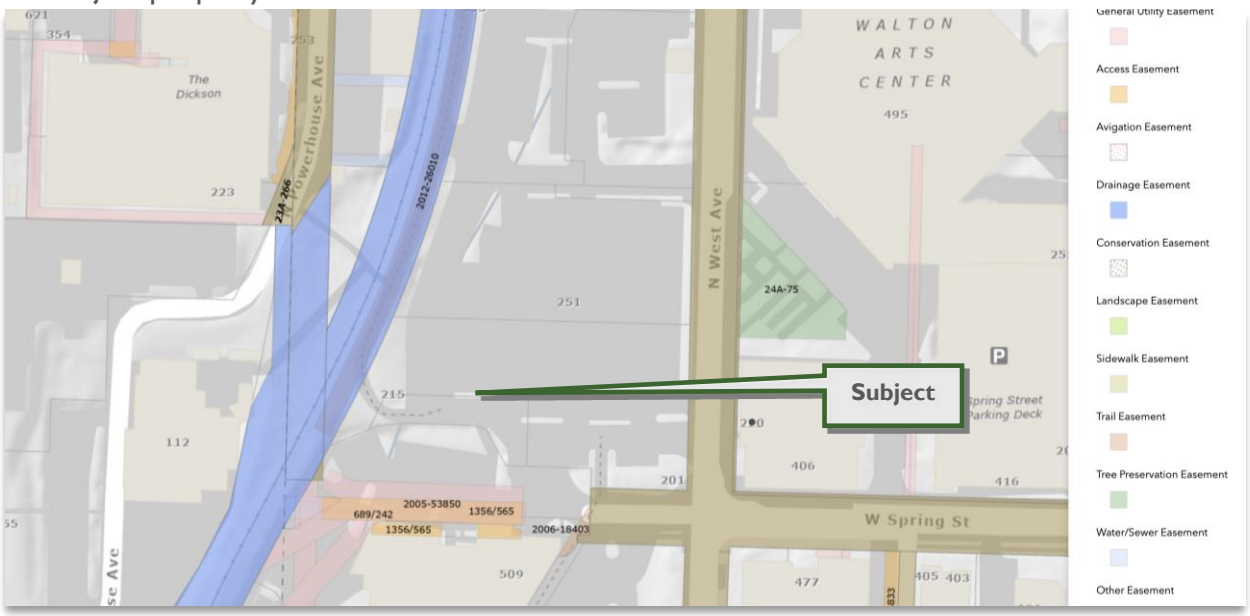
Streets (Ingress/Egress): N West Ave is a two-lane, asphalt-paved, road with moderate to heavy traffic. W Spring St Ln is a two-lane, asphalt-paved road with light traffic offering secondary access to the back of the site. The streets are typical city streets with concrete curbs and gutters.

Site Description, Continued

Utilities: The subject property has all utilities available at street side.



Easements/Encroachments: The property appears to be subject to typical utility easements and road right-of-ways. We assume that there are no adverse easements or encroachments on the subject property.



Site Description, Continued

Zoning: The subject property is zoned MSC; Main Street Center. If additional information is required, please contact the local planning and/or zoning office. We assume that the information obtained from zoning maps and ordinances is accurate. **It should be noted that this particular zoning allows for up to 7-stories to be constructed.**



Earthquake Hazard: USGS National Seismic Hazard Maps predict increased likelihood of a major earthquake event along the New Madrid fault line in northeastern Arkansas, which could have physical effects in northwest Arkansas and greater regional and national effects including loss of power and a halt of supplies traveling along I-40. Earthquake insurance is generally not required by lenders in Northwest Arkansas, and, at this point there is no indication of earthquake likelihood or magnitude that could be applied to valuation models, but it is worth noting for the client's benefit that considering earthquake insurance for many properties in Arkansas would be prudent.

Environmental Issues: We performed a general condition inspection, and during the inspection we did not note any evidence of contamination or underground tanks; however, we are not qualified to determine whether the site is or has ever been contaminated by hazardous materials. If the client has concerns or any evidence of contamination, we recommend an inspection by a qualified contamination and environmental expert with the proper tools to test soil, etc. We did not note any conditions that led us to believe the site is unfit for its intended use.

Demographics & Market Identification

Local Covid-19 Effects and Outlook:

ARVEST BANK SKYLINE REPORT - NORTHWEST AR - FIRST HALF 2020.[12]

Mervin Jebaraj, the director of the Center for Business and Economic Research (CBER) at the Sam M. Walton College of Business at the University of Arkansas, indicated ***the real estate market in Northwest Arkansas has weathered the economic fallout from the COVID-19 pandemic well.***

"So far the pandemic has not seemed to hurt the real estate market in the region, ***and the three areas measured by these reports continue to reflect a consistent balance between supply and demand,"*** *he said. "Part of that consistency is a continued contraction in the supply of homes for sale across the region, which continues to drive home prices higher."*

In the first half of 2020, the number of homes listed for sale decreased 48.8% from the first half of 2019 – from 2,357 to 1,206. Simultaneously, available lots on which to build new homes fell to 3,896 – its lowest point since the inception of the Skyline Report in 2004.

"It is possible that the pandemic may have suppressed, or delayed, individuals from listing their homes for sale, but the historic low interest rates for mortgages is enticing many consumers to want to purchase," Jebaraj said. "Until more inventory is available, it will be difficult for homebuyers to find a home to buy."

In the multifamily market, vacancy rates increased from 3.5% in first half of 2019 to 4.8% as a result of construction of new developments being completed and new units entering the market. Average rent prices for multifamily units increased 4.7% from the first half of 2019 to $729.82. The pace of multifamily construction will remain strong in the near term, as $481.5 million in building permits have been issued in the past year, a record high for the Skyline Report.

In the commercial real estate market, the overall vacancy rate across all submarkets fell from 11.0% to 10.8% compared to the first half of 2019.

"So far the office submarket has remained stable despite the increase in employees working from home," Jebaraj said. ***"At this point it seems that even if the work-from-home trend continues, it will likely not have a significant impact on office space in the region, as any potential loss from remote work will be offset by the need for more space per employee.*** *We are hearing that many high-density open space plans will likely transition to more cubicles, walls and lower density for safety reasons."*

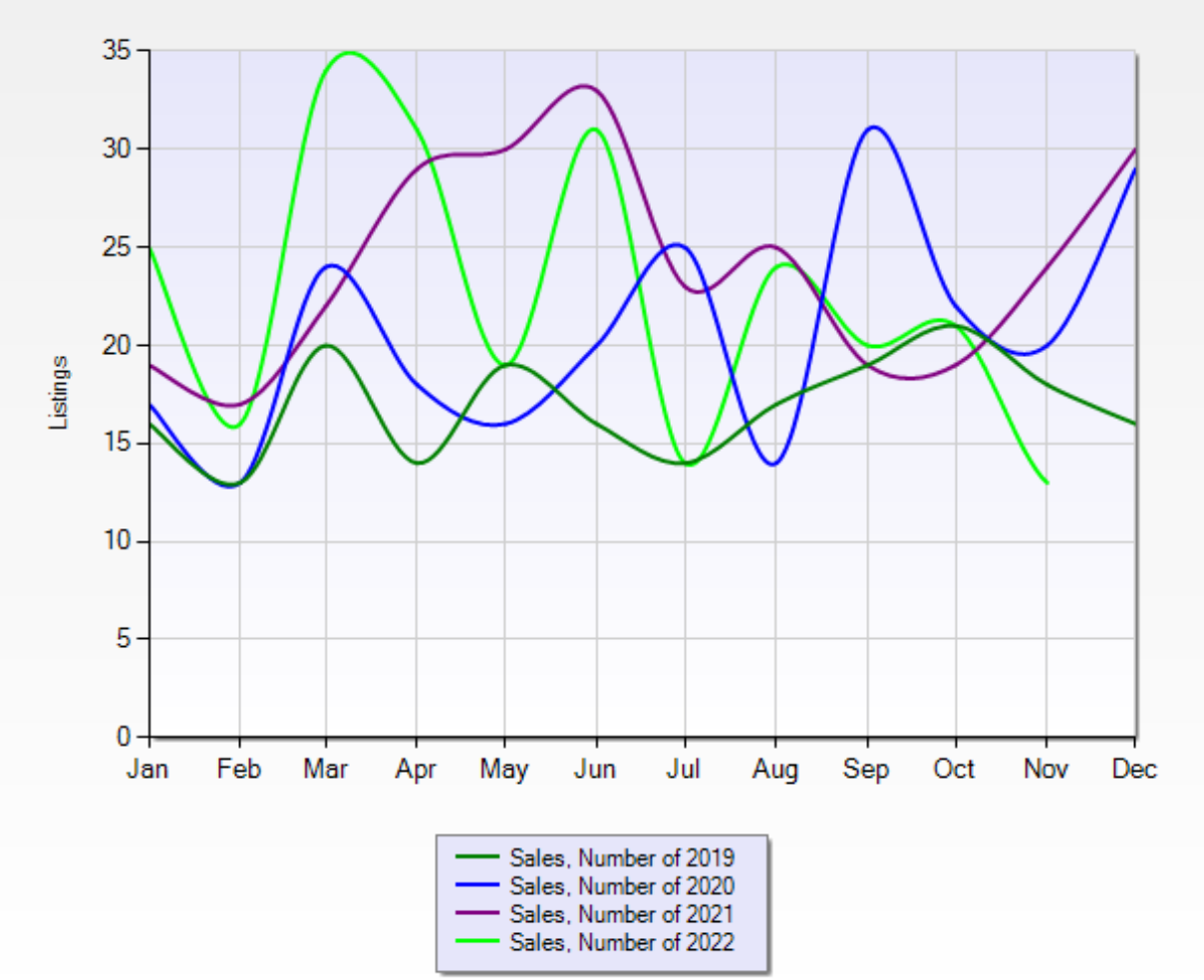
The retail submarket vacancy rate rose from 9.4% in the first half of 2019 to 10.6%.

[12] https://share.arvest.com/newsroom/nwa-real-estate-market-remains-healthy-amid-pandemic/

"With many retail establishments feeling the impact of the pandemic, it isn't surprising to have a small increase year-over-year in this submarket, and we will be watching this particular area closely in the coming months," Jebaraj said. "It is also important to note that, for the most part, this report doesn't include the majority of restaurant properties since many restaurants have standalone structures and are not renting space from retail developers."

"In the midst of the pandemic economy, we are pleased to see that the overall real estate market in the region remains healthy," said Brad Crain, president for Arvest in Benton County. "We are certainly seeing strong activity in our mortgage division as customers are entering the homebuying market and seeking refinancing of their current homes as a result of low interest rates."

NWA COMMERCIAL SALES VOLUME



nwa.mlsmatrix.com

CONCLUSION:

At this point, **sales are keeping pace with pre-Covid years in Northwest Arkansas**, and neither prices nor vacancy rates have been heavily impacted by the pandemic in the region. Historically, due to large employers, especially for the size of the market, Northwest Arkansas has weathered economic downturns better than most of the US. We anticipate some eventual increases in vacancy, (depending on specific locations and property types), but we are not yet fully convinced that NWA will experience the long-term losses and decline anticipated by some economists focusing on larger markets and markets with more risk.

Local owners are reporting 3-month rent deferrals in some cases with deferred rent extending the end of lease terms by an equal period. Many owners are taking advantage of low interest rates to use refinancing to bridge loan payment timing and to offset losses with lower interest payments.

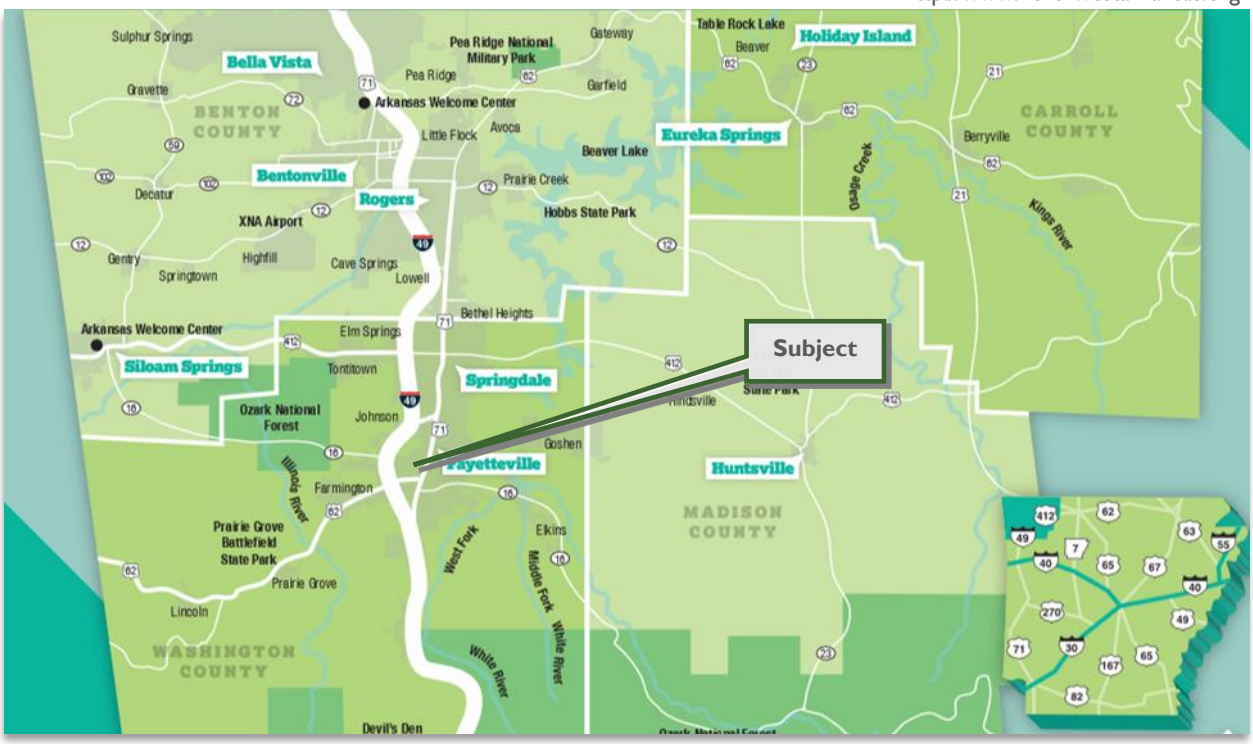
Mervin Jebaraj, Center for Business & Economic Research at the U of A's Walton College of Business predicts that the trucking and manufacturing industries will be the first to take economic injury in Northwest Arkansas, and they are linked to the degree that slow shipping of materials and parts further slows manufacturing.

We are awaiting solid data on which to base any real changes. In the meantime, **we project stable to increasing prices**, with only some property types warranting additional pandemic consideration if based on pre-pandemic market data. Adjustments will be considered specifically for each property type and location. Some of those considerations **may include increased vacancy, higher cap rates or a small downward comparable sale price adjustment for market conditions.** The affected local property types currently include hospitality, lodging and large retail, particularly malls.

Despite nationally surveyed declines, locally, land prices are mostly unaffected by the pandemic at this point, and the continued strength of the local commercial market since the pandemic gives us no cause to project change of course until the market prices and/or sales volume dip.

Northwest Arkansas

http://www.northwestarkansas.org



The industrialization and urbanization of the state have made agriculture secondary. The rapid growth of retail giant **Wal-Mart** and several other companies based in Arkansas contributed to the shift away from agricultural dominance, but agricultural companies maintain a significant presence in the state. A great deal of the state's growth is in food processing. **Poultry is the largest food processing segment in the state** thanks to such companies as **ConAgra, Hudson Foods, Simmons Foods, and Tyson Foods**. Tyson Foods, headquartered in Springdale, is the state's largest food processing firm and is one of America's largest producers, processors, and marketers of chicken and other meat products. Trucking distribution is another industry of note in Arkansas including, **JB Hunt**, one of the nation's largest trucking distributors.

Wal-Mart was founded in 1962, with the opening of the first Wal-Mart discount store in Rogers, AR. Wal-Mart now serves customers at more than 8,650 retail units under 55 different banners in 15 countries. Wal-Mart employs more than 2 million people worldwide.

Arkansas' manufacturing base is diverse including products from every major Standard Industrial Classification (SIC) code category for manufacturing except one - tobacco and tobacco related products. Labor unions are strong in transportation, utilities, construction, and the heavy industries. However, most of the state's labor force is unorganized.

Demographics & Market Identification

Washington County is located in the Northwest corner of the State of Arkansas, which encompasses a large portion of the **Fayetteville-Springdale-Rogers MSA,** a commercial center for northwest Arkansas and the **headquarters for retail giant, Wal-Mart/Sam's Club**. A majority of the modern workforce works in manufacturing, retail, or education industries with major employers including Wal-Mart, Tyson (among other large poultry processors), University of Arkansas, other local colleges and primary schools, JB Hunt Trucking, and there is a substantial medical community employing many local residents.

The population of the Fayetteville-Springdale-Rogers MSA has seen tremendous growth since 2000. Much of the growth has been attributed to the parallel growth of retailers Wal-Mart, Tyson, and other local businesses which expanded rapidly over the last three decades.

The county is located within the Ozark Mountain range. Topography ranges from slightly sloping and level to extremely hilly. Most of the county is rocky with soils in the county varying widely from some crop/ pastureland to bottomland or wetland areas along the significant watersheds.

Health Care: Virtually all health care needs are served within the MSA including many new, modern facilities. There are multiple hospitals, medical parks, specialized clinics, and doctor's offices within 45 minutes of most residential and commercial areas including the subject location.

Education: Benton and Washington Counties have a number of public schools with grades from kindergarten to 12th grade. Fayetteville School District year-in and year-out ranks among the top three public school districts in the state for academics, arts/cultural and athletics. Springdale's HAR-BER High School, is ranked among the best high schools in the State of Arkansas. Benton County reportedly offers the highest teacher pay in the state.

Northwest Arkansas also offers post-secondary educational opportunities including Northwest Arkansas Community College and two four-year institutions within a 30-mile radius: the University of Arkansas at Fayetteville and John Brown University in Siloam Springs. **The University of Arkansas is based in Fayetteville with a student body of over 24,000 and employing approximately 4,000 faculty and staff.**

Transportation: There are approximately thirteen motor freight carriers that have service in the Bentonville and Northwest Arkansas area including, but not limited, to JB Hunt, P.A.M., Cannon Express and Willis-Shaw.

Demographics & Market Identification

Northwest Arkansas Regional Airport-(XNA) provides commercial air carrier service to the region. American Airlines, Delta Airlines, Continental, and U.S. Air serve the region. The airport is located at the southwest border of the Bentonville city limits and has an 8,800-foot runway. XNA is also serviced with a Regional Jet Center that caters to non-commercial air services. The Regional Jet Center is a state-of-the-art service with meeting spaces and pilot accommodations.

Recreation: Northwest Arkansas is located at the foothills of the Ozark Mountains, and there are many outdoor recreation opportunities throughout the region. Cultural opportunities in Fayetteville, Rogers and Bentonville include theaters which accommodate large touring plays, ballets, and musical acts. The University of Arkansas draws and supports cultural activities of all variety. The most notable recent addition to the area is Crystal Bridges Museum in Bentonville.

Crystal Bridges is a world-class museum opened in 2012: the first of its kind in the region, and the museum and resulting hotels and tourism are sure to have profound impact on Benton County.

"'It is unprecedented what she is doing," says Julian Zugazagoitia, director of the Nelson-Atkins Museum in Kansas City, Mo., the closest major art museum to Bentonville. Zugazagoitia says his museum expects to benefit in a spike of visitors as patrons drawn to Crystal Bridges explore regional options. "I hope for a Bilbao effect" in Bentonville, he says, referring to the Guggenheim outpost that opened in Spain in 1997, transforming a little-known Basque city into a major cultural hub.' [13]

Crystal Bridges Museum of American Art attracted 600,000 visitors in 2018 By the end of 2019, it was fast approaching 5 million visitors since its 2011 opening.

The museum in Bentonville is the centerpiece of Northwest Arkansas' thriving, growing arts scene. A study completed in 2017 by Americans for the Arts showed the arts and culture industry in the region generated $131.2 million in economic activity in 2015. That was way beyond the $45 million in activity noted five years earlier.

The opening of Crystal Bridges in 2011, the Walmart AMP outdoor music venue in 2014, **Scott Family Amazeum** children's museum in 2015 and the expansion of the Walton Arts Center in 2016 are widely recognized as major factors in the dramatic increase in economic impact created by arts and culture amenities.

The impact of the arts in the region is sure to increase more as the incredible **TheatreSquared** opened in Fayetteville in August 2019 and **The Momentary**… in Bentonville in February 2020.[14]

13 Washington Post
14 http://www.nwacouncil.org/northwest-arkansas

It is worth noting some of the awards granted in recent years, in order to display the growing awareness of the area which is contributing to the population increases:

RECOGNITION AND AWARDS



https://nwacouncil.org/wp-content/uploads/2022/07/NWAC_AnnualReport221.pdf

Fastest-Growing Economy through 2021 - According to a report by IHS Global Insight for the U.S. Conference of Mayors. The region's economic growth rate will rank No. 5 nationally through 2021. Only four U.S. regions — two in Utah and two in Florida — are expected to see their economies grow at a faster rate. The 3.9 percent annual growth rate predicted for Northwest Arkansas will push the region's economy past $30 billion.

Top 100: Northwest Arkansas is on pace to be one of the nation's 100 largest MSAs, a Northwest Arkansas Council analysis shows. Reaching Top 100 status matters because many national publications and researchers focus on the Top 100 when they compare regions. Some think tanks, including the Brookings Institution, focus economic rankings on the Top 100.[15]

[15] http://www.nwacouncil.org/news/2018/3/22/analysis-northwest-bentonville-fayetteville-arkansas-census-top-100-population

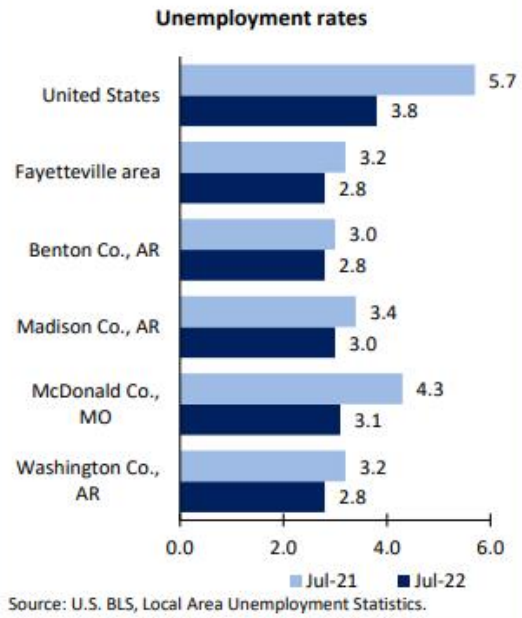
Economy

Fayetteville, AR-MO, Area Economic Summary

Updated September 01, 2022

This summary presents a sampling of economic information for the area; supplemental data are provided for regions and the nation. Subjects include **unemployment, employment, wages, prices, spending,** and **benefits**. All data are not seasonally adjusted and some may be subject to revision. Area definitions may differ by subject. For more area summaries and geographic definitions, see www.bls.gov/regions/economic-summaries.htm.

Unemployment rates for the nation and selected areas



Source: U.S. BLS, Local Area Unemployment Statistics.

Average weekly wages for all industries by county

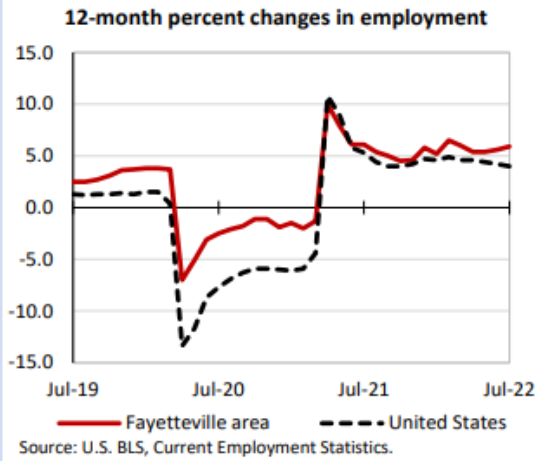
Fayetteville area, fourth quarter 2021

(U.S. = $1,418; Area = $1,220)



Source: U.S. BLS, Quarterly Census of Employment and Wages.

Over-the-year changes in employment on nonfarm payrolls and employment by major industry sector

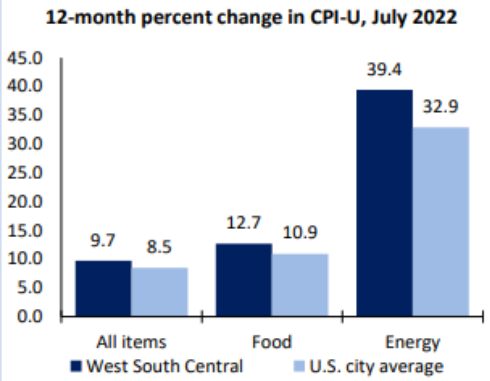


Source: U.S. BLS, Current Employment Statistics.

Fayetteville area employment (number in thousands)	Jul. 2022	Change from Jul.2021 to Jul. 2022	
		Number	Percent
Total nonfarm	284.5	15.8	5.9
Mining, logging, and construction	14.1	0.0	0.0
Manufacturing	31.9	1.0	3.2
Trade, transportation, and utilities	62.6	3.9	6.6
Information	2.2	0.1	4.8
Financial activities	9.3	0.3	3.3
Professional and business services	59.4	6.8	12.9
Education and health services	31.1	1.5	5.1
Leisure and hospitality	27.5	0.6	2.2
Other services	10.1	0.1	1.0
Government	36.3	1.5	4.3

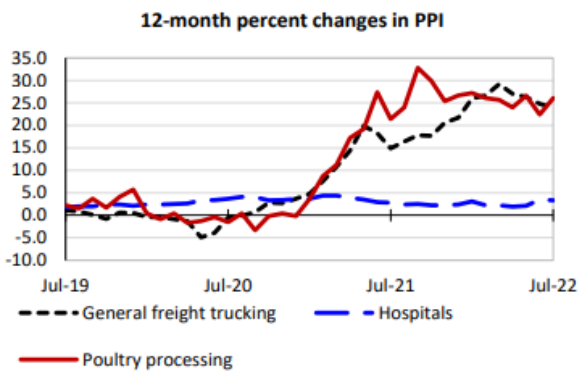
Source: U.S. BLS, Current Employment Statistics.

Over-the-year change in the prices paid by urban consumers for selected categories



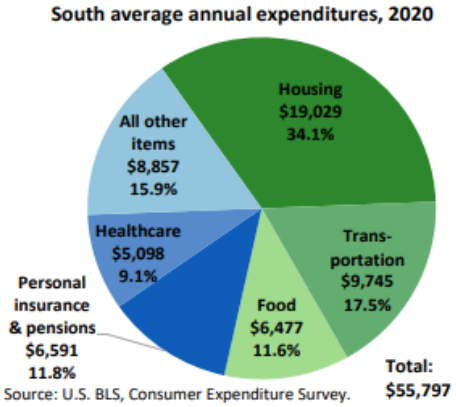
Source: U.S. BLS, Consumer Price Index.

Over-the-year changes in the selling prices received by producers for selected industries nationwide



Source: U.S. BLS, Producer Price Index.

Average annual spending and percent distribution for selected categories



Source: U.S. BLS, Consumer Expenditure Survey.

Average hourly wages for selected occupations

Occupation	Fayetteville area	United States
All occupations	$24.80	$28.01
Human resources managers	67.38	65.67
Accountants and auditors	35.87	40.37
Registered nurses	32.39	39.78
Construction laborers	17.27	21.22
Retail salespersons	14.29	15.35
Cooks, fast food	12.03	12.25

Source: U.S. BLS, Occupational Employment and Wage Statistics, May 2021.

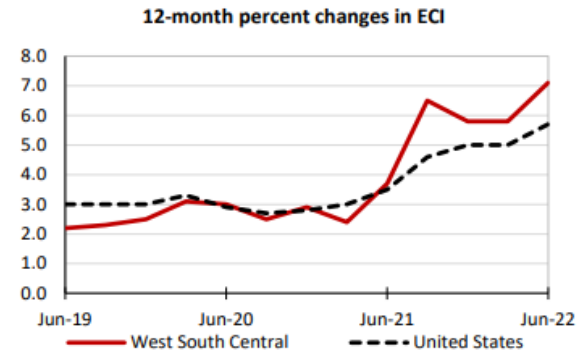
Employer costs per hour worked for wages and selected employee benefits by geographic division

Private industry, March 2022	West South Central (1)	United States
Total compensation	$34.38	$38.61
Wages and salaries	25.02	27.19
Total benefits	9.36	11.42
Paid leave	2.40	2.88
Vacation	1.21	1.47
Supplemental pay	1.32	1.37
Insurance	2.16	2.93
Retirement and savings	1.01	1.33
Legally required benefits	2.47	2.91

(1) The states that compose the West South Central census division are: AR, LA, OK, and TX.

Source: U.S. BLS, Employer Costs for Employee Compensation.

Over-the-year changes in wages and salaries



Source: U.S. BLS, Employment Cost Index.

https://www.bls.gov/regions/southwest/summary/blssummary_fayetteville_ar_mo.pdf

Unemployment rates in the area are considerably lower than state and national averages. This market area has **relatively high incomes** as compared to the state averages, and much of the high earning levels associated with this area result from the Wal-Mart Corporate Headquarters located in Bentonville.

The Center for Business and Economic Research (CBER) in the Sam M. Walton College of Business at the University of Arkansas, in collaboration with the Northwest Arkansas Council, releases the State of the Northwest Arkansas Region Report. The annual report is a benchmarking tool used to evaluate the economic performance of Northwest Arkansas and compares it to peer regions, including Austin, Texas; Des Moines, Iowa; Madison, Wis.; Durham-Chapel Hill, N.C.; Raleigh, N.C., and Provo-Orem, Utah.

nwa STATE OF THE REGION REPORT 2021

Northwest Arkansas Economic Indicators

Indicator	Most Recent Annual Data	Previous Year	% Change from Previous Year	
Population Estimate, July 2020	548,634	535,746	2.4%	▲
Real GDP (millions of chained 2012 dollars), 2019	$23,863	$23,727	0.6%	▲
Average Annual Unemployment Rate, 2020	4.5%	2.6%	1.9%	▲
Total Nonfarm Employment, 2020	261,700	264,600	-1.1%	▼
Average Annual Wages, 2020	$50,470	$47,600	6.0%	▲
Business Establishments, 2020	14,129	13,741	2.8%	▲
R&D Expenditures (in thousands), 2019	$180,225	$175,498	2.7%	▲
Average Domestic Airfare, 2020	$374	$485	-22.9%	▼

Peer Region Overview

Indicator	Fayetteville-Springdale-Rogers-MSA	Austin-Round Rock-Georgetown MSA	Des Moines-West Des Moines MSA	Madison MSA	Durham-Chapel Hill MSA	Raleigh-Cary MSA	Provo-Orem MSA
Population Growth, 2019-2020	2.4%	3.0%	1.1%	0.7%	1.1%	2.0%	2.4%
Real GDP Growth, 2018-2019	0.6%	3.1%	0.7%	2.6%	4.6%	3.0%	5.8%
Annual Unemployment Rates, 2020	4.5%	6.2%	5.5%	4.9%	6.1%	6.4%	3.7%
Nonfarm Employment Growth, 2020	-1.1%	-2.9%	-4.6%	-5.5%	-4.0%	-3.4%	0.0%
Average Annual Wages, 2020	$50,470	$57,830	$55,660	$57,680	$64,430	$56,720	$49,980
Business Establishment Growth, 2020	2.8%	4.7%	2.1%	2.2%	6.1%	7.2%	5.0%
R&D Expenditures (millions), 2019	$180.2	$696.1	$358.5	$1,297.3	$1,153.8	$1,226.5	$601.1
Average Domestic Airfare, 2020	$374	$286	$303	$360	$289	$289	$330

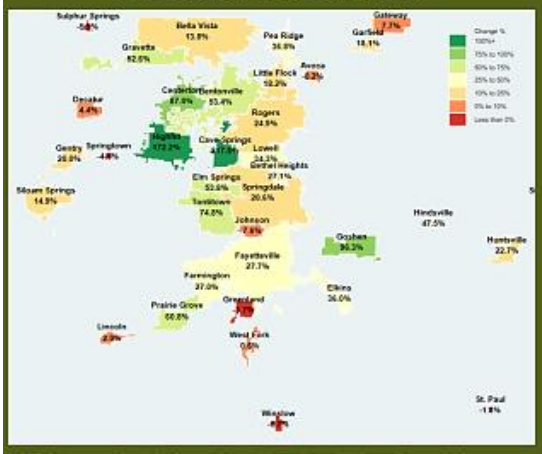
The colors represent how the Fayetteville-Springdale-Rogers MSA compares to peer regions.

Ranking Scale: 1st | 2nd | 3rd | 4th | 5th | 6th | 7th

As population growth outpaced housing production between 2010 and 2020, the average price of homes in Benton and Washington counties reached record highs in the first half of 2021. In Benton County, the average price was $311,333, 14.3% higher than a year ago and 42.4% higher than five years ago. In Washington County, the average price was $297,343, which was 24.3% higher than a year ago and 46.7% higher than five years ago. Similar price increases were observed in the cities within the counties as well.

2010 - 2020

POPULATION CHANGES BY CITY



HOUSING PRODUCTION BY CITY



NOTE: Data comes from the Census Bureau's 2000, 2010, and 2020 Decennial Census

LARGEST EMPLOYERS[16]

Northwest Arkansas' Big Three Fortune 500 companies — Walmart, Tyson Foods and J.B. Hunt — are the region's largest employers. Walmart is building a world-class new headquarters in Bentonville. Tyson Foods opened a new technology hub in downtown Springdale, and J.B. Hunt has made multiple expansions in the region in recent years.

Walmart (Fortune 1) is about twice as big as No. 2 Amazon in terms of revenue. Walmart employs 2.2 million around the world, and that's almost equal to the combined employment of Kroger, Home Depot, Lowe's, McDonald's, Target, Walgreens and Starbucks. Tyson Foods (Fortune 79), by revenue, would be the largest company in far larger metropolitan areas: Denver, Kansas City, Las Vegas, Miami, Orlando, Phoenix, Portland, Salt Lake City and Tampa. J.B. Hunt (Fortune 346) is bigger than JetBlue, Ceasars Entertainment and Hershey.

MAJOR EMPLOYERS

Rank	Company	# of Employees
1	Wal-Mart Stores Inc.	>25,000
2	University of Arkansas	6,750
3	Tyson Foods Inc.	4,300
4	J.B. Hunt Transportation Services Inc.	>3,000
5	George's Inc.	2,500
6	Washington Regional Medical Center	2,200
7	Mercy Health System of NWA	1,850
8	Northwest Medical Center	1,600
9	Twin Rivers Group	1,600
10	Serco	1,600
11	Tyson Chick-N-Quick Plant	1,200
12	Cargill Corp.	1,200
13	Pinnacle Healthcare	1,100
14	Arvest Operations	1,050
15	Crossland Construction	975

Source: Rogers-Lowell Area Chamber of Commerce

[16] https://www.nwacouncil.org/northwest-arkansas

NWA Historical Trends:

The NWA real estate market went through a correction period from 2009 to 2013, like much of the nation. There was excessive supply introduced into the local market from 2003 to 2007 combined with the national recession that followed.

Prices had been high for the state and region, but they were somewhat protected by the fact that they were still relatively low as compared to national averages, especially for MSA's experiencing similar economic and population growth. Prices declined, but overall, as long-term investments, most properties held or quickly recaptured their value, due to a thriving, diverse local economy including Wal-Mart, JB Hunt, Tyson, and the University of Arkansas among others.

Partially completed subdivisions were hit hard and many were abandoned. The local multifamily market weathered the recession relatively well and was among the first to resume construction. It is worth noting that economists are beginning to predict a potential repeat of a national recession. Some local overbuilding has been noted, but population increases have sustained.

> *"If the markets go down, it could bring on another recession. The housing market has been an important element of economic activity. If people start to get pessimistic about housing and pull back and don't want to buy, there will be a drop in construction jobs and that could be a seed for another recession. By the way, we're overdue for another recession." – Economist Robert Shiller; October 2018*

NWA Current Indicators:

The **Arvest Skyline Report** is our primary source for local industry and submarket profiles. It is a biannual analysis of the latest commercial, single-family residential and multifamily residential property markets in Benton and Washington counties. The report is sponsored by Arvest Bank and conducted by the Center for Business and Economic Research (CBER) in the Sam. M. Walton College of Business at the University of Arkansas. CBER researchers aggregated and analyzed data from local governments, property managers, visual inspections and the business media to provide a complete picture of the status of property markets in the two counties.

Positive Factors

- *Continued population growth in the MSA.*
- *Construction of the new Walmart Home Office.*
- *Growth of existing businesses creating demand for new Class A office space.*
- *Growth in the healthcare sector creating demand for new Medical Office space.*
- *Development of mixed use live-work-play communities.*
- *Leveraging the trail system as a selling point for commercial space.*
- *Continuing creation of amenities in Northwest Arkansas.*
- *Increasing attention to the MSA by national investors.*
- *Continuing media coverage of Northwest Arkansas as a good place to work and live.*

Negative Factors

- *Increased construction costs and skilled labor shortage.*
- *Impact of Walmart Home office on construction costs.*
- *Lease rate increases outpacing small firm's ability to pay.*
- *Potential overbuilding of Class A office.*
- *Shift to work stations leading to less office demand.*
- *Overhang of existing class B and C retail space.*
- *Overbuilding of the student housing market around the University of Arkansas.*
- *Possible overbuilding of nonstudent multifamily housing in Benton County.*
- *Infrastructure costs.*

Arvest Skyline Report; 2022 – First Half

- *Arvest Bank recently released Skyline Reports on residential and multifamily real estate in Northwest Arkansas for the first half of 2022. The two most important numbers in the reports are 2.3% and 26.8%. The first,* ***2.3%, is the overall vacancy rate for multifamily housing units.*** *The second,* ***26.8%, is the increase in the average selling price of homes listed through MLS compared to one year ago.***

  According to Mervin Jebaraj, director of the Center for Business and Economic Research (CBER) at the Sam M. Walton College of Business at the University of Arkansas, the 2.3% overall vacancy rate for apartments is so low as to be "functionally zero." In CBER's discussions with multifamily developers, many apartment complexes in Northwest Arkansas now have waiting lists. This is further illustrated when looking closer at the vacancy rates by apartment size, where the most popular units are one-bedrooms with a vacancy rate of 0.8% and two-bedrooms with a rate of 1.0%. ***Low inventories are also driving up lease rates, which rose 12.0% from the first half of 2021*** *and 61.3% since the first half of 2012.*

- *The market for residential single-family homes saw an increase in available inventory with 1,193 homes listed for sale on MLS compared to 642 one year ago, an increase of 85.8%. But this did nothing to slow down the continued increase in home prices as the average selling price of a home listed on MLS rose 26.8% from a year ago, from $304,235 to $385,821. From a decade ago, this average selling price has risen 128.4%, far outpacing the national rate of inflation in the last decade of 29.04%.*

  "The Northwest Arkansas region is being challenged to provide affordable housing options for the continued increase in population," Jebaraj said. "The pace of new home construction is slowing because of supply chain issues as builders are having difficulty getting new homes completed because of a lack of appliances, while some new subdivisions can't get the approvals they need because they can't get the transformers needed to provide electricity. Hopefully these are temporary issues that will get resolved soon. However, ***offering more affordable housing than other desirable metros is a competitive advantage that we are beginning to lose with the pace of price increases.***

Arvest Skyline Report; 2021 – Second Half

- *During the second half of 2021, the* ***overall vacancy rate for commercial real estate dropped to 8.3%,*** *the lowest overall vacancy rate since the inception of the Skyline Report. There was 636,552 square feet of space added to the market and 862,106 square feet of space absorbed, resulting in positive net absorption of 225,554 square feet.*

- *All major categories of commercial space demonstrated strength,* ***led by the warehouse sector*** *where 445,365 square feet of new space entered the market and 578,544 square feet were absorbed, resulting in positive net absorption of 133,179 square feet.* ***The vacancy rate for warehouse space was 5.3%,*** *which is almost half the peak of 10.3% in the first half of 2019.*

  "The warehouse sector in Northwest Arkansas seems to be benefiting from the continued growth in e-commerce as almost 2 million square feet of new space has been added over the past five years, while still maintaining low vacancy," said Mervin Jebaraj, director of the Center for Economic and Business Research (CBER) at the Sam M. Walton College of Business at the University of Arkansas and lead researcher for the Skyline Report. "To see the vacancy rate well under 10% indicates a healthy sector."

- *The office sector had a relatively small amount of new space added, 116,280 square feet, while 235,032 were absorbed, resulting in positive net absorption of 118,752 square feet. While the amount of new space added was relatively small for the overall office sector, all the space added was for medical office space, a smaller submarket.* ***The vacancy rate for office space was 10.0%.***

  "Since the onset of the pandemic there has been a great deal of uncertainty regarding the office space market as businesses have been adjusting to the realities of a more remote workforce," Jebaraj said. "What the data is showing in the Northwest Arkansas office market is that this submarket remains strong and balanced."

- *Commercial building permit data over the past 12 months has been historically high, with more than $1 billion in permits issued, but 69.4% of that total is permits issued for Walmart facilities, primarily the company's new campus development.*

  "This report indicates that commercial real estate developers in the region are doing a nice job of developing the right kind of space in the right places," said Gene Gates, senior vice president and commercial loan manager for Arvest in Fayetteville. "I know our commercial lending group is working closely with Arvest clients to provide the capital needed for the region to continue intelligent development that will meet the growing needs as Northwest Arkansas continues to grow and expand."

Arvest Skyline Report; 2020 – First Half

- *In the commercial real estate market, the overall vacancy rate across all submarkets fell from 11.0% to 10.8% compared to the first half of 2019.*
- *The percentage of new-construction sales was 28.5%, the highest rate since the report began, mostly on the lack of existing homes offered for sale.*
- *The number of listed homes in the two-county area was down nearly 50%, to 1,206, when compared with the first half of 2019. During the same period, the number of lots available to build new homes in active subdivisions stood at 3,896, down more than 50% when compared with the same period in 2015 and the lowest number since the report began in 2004.*

Arvest Skyline Report; 2019 – Second Half – Subdivisions

- *There were 1,857 building permits issued in Benton and Washington Counties from July 1 to Dec. 30, 2019. Benton County accounted for 1,121 of the residential building permits, while Washington County accounted for 735.*
- *24,831 lots were in the 426 active subdivisions identified by the Skyline Report researchers in the second half of 2019*
- *In 74 out of 426 active subdivisions, no new construction or progress in existing construction has occurred during the last year.*
- *During the second half of 2019, 1,461 new houses in 426 active subdivisions became occupied, down 7.4% from 1,576 in the first half of 2019.*
- *Using the absorption rate from the past twelve months implies that there was a 23.3 supply of remaining lots in active subdivisions in Northwest Arkansas at the end of the second half of 2019.*
- *An additional 8,985 residential lots have received either preliminary or final approval in Northwest Arkansas. Adding these proposed lots to those in active subdivisions yields 58.9 months of remaining lot inventory.*
- *According to the Assessor' databases, 64.9 percent of houses in Benton County and 62.2 percent of houses in Washington County were owner-occupied*
- *From July 1-Dec. 31, 2019, there were 4,910 houses sold in Benton and Washington County. This is an increase of 3.3 percent from the 4.747 sold during the same time period in the previous year.*
- *The average sale price of a house in Benton County was $264,383 in the second half of 2019. In Washington County, the average sale price was $241,413*
- *There were 1,812 houses listed for sale in the MLS database as of Dec. 31, 2019, at an average list price of $379,342*

Market Area Identification

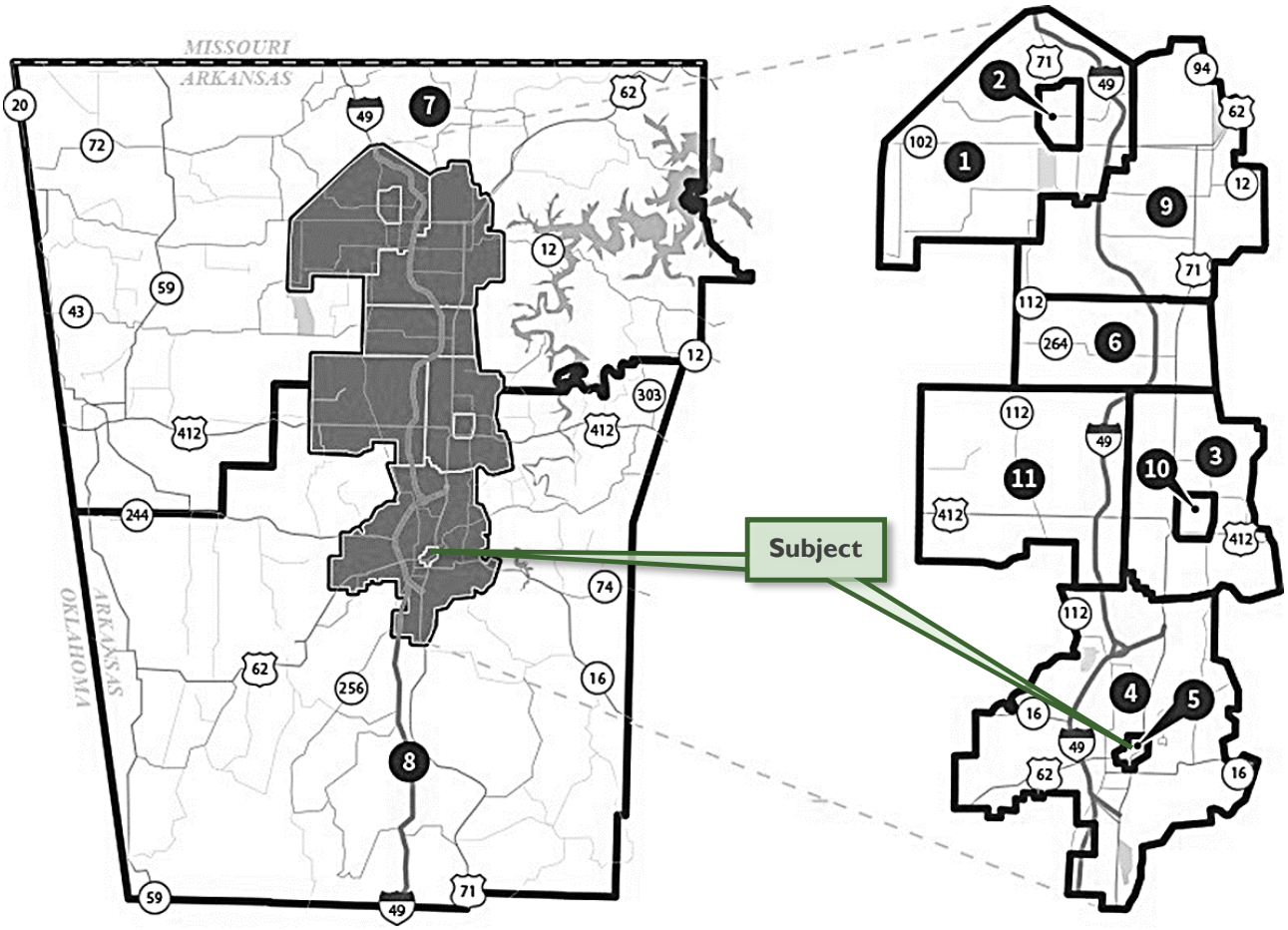
Market area is defined as: *The geographic region from which a majority of demand comes and which the majority of competition is located. Depending on the market, a market area may be further subdivided into components such as primary, secondary, and tertiary market areas, or* ***the competitive market area may be distinguished from the general market area.***[17]

A market area can encompass one or more neighborhoods or districts or both. The investigation begins with the subject property and proceeds outward, identifying all relevant actual and potential influences on the property's value that can be attributed to the property's location.

The appraiser extends the search far enough to encompass all of the influences the market indicates will affect a property's value. When no more factors that would affect the value of the subject property and of surrounding properties are found, the boundaries for analysis are set. [18]

We define the subject market area as the City of Fayetteville CBD, and we will search the area for comparable data. This is the area in which investors and/or buyers would search for similar properties to purchase for investment or use.

17 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: Author. 139.
18 Appraisal Institute. (2020). The Appraisal of Real Estate (15th ed.). Chicago, IL: Author. 139.



1 Bentonville
2 Bentonville CBD
3 East Springdale
4 Fayetteville
5 Fayetteville CBD
6 Lowell
7 Outlying Benton Cty
8 Outlying Washington Cty
9 Rogers
10 Springdale CBD
11 West Springdale

Map courtesy of Fayetteville Flyer

MARKET AREA MAP

The subject neighborhood is also described below for the clients' benefit in understanding the immediate surroundings and the characteristics we will seek out in comparable property neighborhoods within the market area.

Neighborhood is: *A group of complementary land uses; a congruous grouping of inhabitants, buildings, or business enterprises.*[19]

A neighborhood exhibits a greater degree of uniformity than the larger surrounding area. A neighborhood will generally exhibit a more homogenous landscape with regard to building types, building styles, and building ages than would be found in the larger surrounding area. Social, economic, and governmental forces operating within a neighborhood further define it.

The subject's **neighborhood is Central Fayetteville near the U of A Campus Area**. **W Dickson St** is an established commercial and entertainment district that runs East/West through the neighborhood. **N West Ave** runs North/South through the neighborhood. **W Dickson St and N West Ave** are considered the entertainment district in Fayetteville containing many local bars, restaurants, and music venues.

The neighborhood also contains a mix of small single-family rental homes and multi-family rentals (apartment complexes, townhomes, condos). **Much of the neighborhood's multi-family housing is marketed to University of Arkansas students.** The University of Arkansas is walkable from the neighborhood and most of the neighborhood has U of A bus stops. The Razorback Greenway makes walking and biking an easy mode of transportation through the neighborhood, to downtown, onto campus, and beyond.

The neighborhood is essentially fully developed and there is little undeveloped land with frontage in the neighborhood, however, redevelopment of old properties or tear downs of old structures has become common practice. The existing commercial properties range from old structures in average condition to brand new. There have been several tear-downs of old multi-family complexes with expensive redevelopment due to rapidly increasing student body and leaps in upper limits of student rents brought in by out of state student tenants and parents with high incomes. There are several older, well-established landmarks and newer revitalization projects near the subject that include: The Fayetteville Library recently completed an expansion project to the south, the Mill District to the south, The Fayetteville Square at the center, Dickson St Entertainment District to the north, The Walton Arts Center across the street to the east, and the University of Arkansas to the west.

19 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: Author. 156.

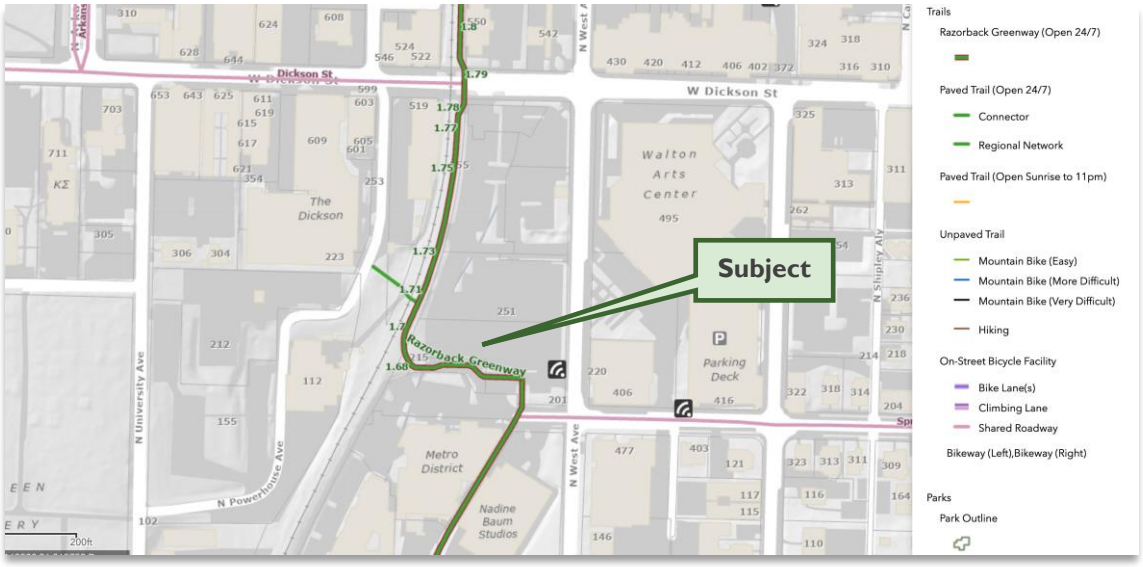
The subject is part of a city project called "Civic Plaza" which is part of a larger city project called "The Ramble". The city is investing over $31 million developing The Ramble which include improvements to the Fay Jones Woods to the subjects south, a new 300-space parking deck to the subject north, and Civic Plaza. Civic Plaza will consist of a gathering and event lawn, public plaza, garden spaces, and a civic promenade. Future city plans also include a hotel on the subject site and a new mixed-use building to the subject's north. The subject also benefits from walkability to many of Dickson St's and N West Ave's restaurants, retail stores, bars, and music venues. **Multiple sporting venues are also walkable, including Bud Walton Arena, Reynolds Stadium, Bogle Park, Razorback Field, and John McDonnel Field.**

The U of A's rapidly increasing student body and opportunity has been recognized by out of state investors. Some of the nation's largest real estate investment groups have purchased or developed student housing in the area.

University of Arkansas

- 29,068 students enrolled
- 96 undergraduate majors
- 97 master's degree programs
- 1,490 faculty
- 3,350 staff

The **Razorback Greenway** bike trail is also easily accessible from most of the neighborhood, and business have sprung up around it, including a new entertainment district off of Poplar St in the northern part of the neighborhood.



FAYETTEVILLE PUBLIC LIBRARY NOW OPEN AFTER EXPANSION



Today's the day. Fayetteville Public Library officials on Tuesday announced they have official reopened the library to the public after completion of a major expansion project.

Officials said the new facility has been cleared by the City Board of Health to reopen, with limits on capacity and other restrictions in place due to the COVID-19 pandemic. The library will limit capacity to 200 patrons, with access to the building limited to only the library's main entrance on West Mountain Street and South School Avenue. Patrons should limit their visits to one hour, and study and meeting rooms will remain closed at this time.

Library officials said policies and restrictions are subject to change depending on the state of the pandemic and other factors. "After touring the space late last year and referencing CDC guidelines, we arrived at our recommendations that address most needs of FPL and its patrons," said Marti Sharkey, Fayetteville Public Health Officer. "The space is large enough to allow for social distancing and has a state-of-the-art HVAC system. We feel very good about its ability to open during the pandemic while limiting the number of patrons." The facility, paid for in part by a $26.5 million millage increase approved by voters in 2016, is packed with more amenities including an expanded children's library, a 700 seat performance hall, a test kitchen, an innovation center with a recording studio, photo studio, and video studio, a movement studio, more an 100,000 books, and countless others. We wrote about some of the new features last week.

"The reopening of the Blair Library and its expansion project marks the end of a venture that began as a dream almost a decade ago," said David Johnson, executive director of FPL. "I look forward to welcoming the community back to its library and can't wait to see people's reactions and how they use these spaces in ways that we never could have imagined." Story times, book clubs, and other programs will remain virtual for now. Curbside pickup for all resources will continue, as well as book concierge services, officials said. The library is open 9 a.m. until 8 p.m. Monday-Thursday, 9 a.m. until 5 p.m. on Friday and Saturday, and 1 p.m. until 5 p.m. on Sunday. For more information, or to reserve items, visit faylib.org.[20]

[20] https://www.fayettevilleflyer.com/2021/01/19/fayetteville-public-library-now-open-after-expansion/

Civic Plaza



The civic space is a key element of the City's Cultural Arts Corridor, now known as The Ramble, which links some of Fayetteville's cultural and natural attractions with the downtown area and entertainment district. The City is investing over $31 million in the development of the Ramble, financed through the passage of a larger $226 million public infrastructure bond issue in 2019. The three major elements of the Ramble are the Fay Jones Woods with streetscape and trail improvements, a new 300-space parking deck located at West Ave. and Dickson St., and the civic space with anchor buildings for this site.

About the Site

The design for the civic space consists of a gathering and event lawn, public plaza, garden spaces, and a civic promenade, midway between the downtown square and the University campus, and adjacent to the Razorback Regional Greenway, ensuring that this project will contribute to creating a dynamic and experiential place.

The site currently consists of a surface parking lot. A new replacement parking deck will be constructed at the corner of West Ave. and Dickson St. to more efficiently serve the parking needs of the Ramble and the Dickson St. Entertainment District. The civic space is scheduled for construction, beginning with the civic plaza, once the parking deck is complete in 2023. There will be two buildings to anchor the civic plaza, a south building and a north building.

About the South Building

The City's intention is to make sure that development of the southern anchor building on the civic plaza will be both beautiful and of exceptional architectural quality and materiality befitting this extraordinary location. Ultimately, the City envisions this building as a model demonstration of high quality urban design that will set the standard for future downtown development.

To that end, the City issued a Request for Proposals on Aug. 29, 2021 for development of the southern building. Proposals were accepted on Oct. 26, 2021. City staff have worked with Reindl Properties on a hotel and mixed-use concept that will come before the City Council in October 2022. View the Letter of Intent.

About the North Building

The North Building will be a part of the development agreement negotiated with the replacement parking deck. More details for the mixed-use building on the north end of the civic plaza will be available soon! [21]

[21] https://www.fayetteville-ar.gov/4051/Civic-Plaza

Demographics & Market Identification

CULTURAL ARTS CORRIDOR

The Cultural Arts Corridor received a new name in June 2021 as a result of a public renaming campaign. Once the project is complete, it will be known as **The Ramble**. Additionally, assets within The Ramble that offer distinct experiences have received new names or have retained existing, historical names.



WHAT IS THIS PROJECT?

The Cultural Arts Corridor is a dynamic new 50-acre outdoor public space that will help to revitalize Fayetteville's downtown area and create a destination for residents and visitors alike. Linking the City's key cultural institutions—including the Walton Arts Center, TheatreSquared, Nadine Baum Studios, Fayetteville Public Library, and the University of Arkansas' Art and Design District—the corridor will showcase and celebrate local arts culture. It will also enhance civic space and serve as a catalyst for additional development and density in the downtown area, increasing bike trails and connections, and improving streets and walkability. This project is part of a Bond package approved by Fayetteville voters in April 2019.

The plan for this transformative project is made possible by a grant from the Walton Family Foundation's Design Excellence Program. Award-winning landscape architects Nelson Byrd Woltz (NBW) were selected to design the corridor.

PROJECT HIGHLIGHTS

There are five primary elements included in plans for the Cultural Arts Corridor bond project: **The West Avenue Civic Space, West Avenue streetscapes, The Fay Jones Woodland, The Razorback Greenway**, and a new **parking deck** at the corner of West and Dickson streets. The work will be conducted in two phases.

WHAT IS THE CURRENT STATUS?

Updated 10/13/2022

- **Fay Jones Woods**: Complete
- **West Avenue Streetscapes**:
  - South St. to Center St. is complete



- Center St. to Meadow St. is underway
- Meadow St. to Dickson St. work will begin soon, with completion expected in March 2023.

- **Razorback Greenway Improvements (CAC):** Greenway trail to Spring St. will begin soon.

WHEN WILL IT BE COMPLETED?

Replacement Parking:
Location: Depot lot at the NW corner of Dickson St. & West Ave.
Phase One Bond funding: $10 mil.

- Design and Bidding: Summer 2020 - Summer 2021
- Construction: Begins January 2022

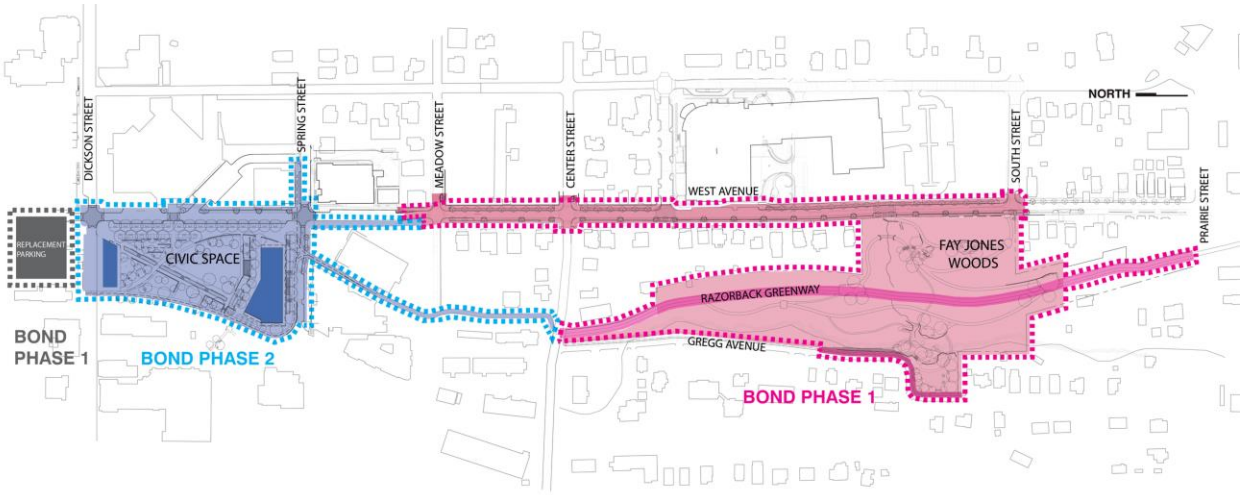
Fay Jones Woods, Streetscapes and Trails
Phase One Bond funding: $10.3 mil.

- Construction: Spring 2020 - May 2022

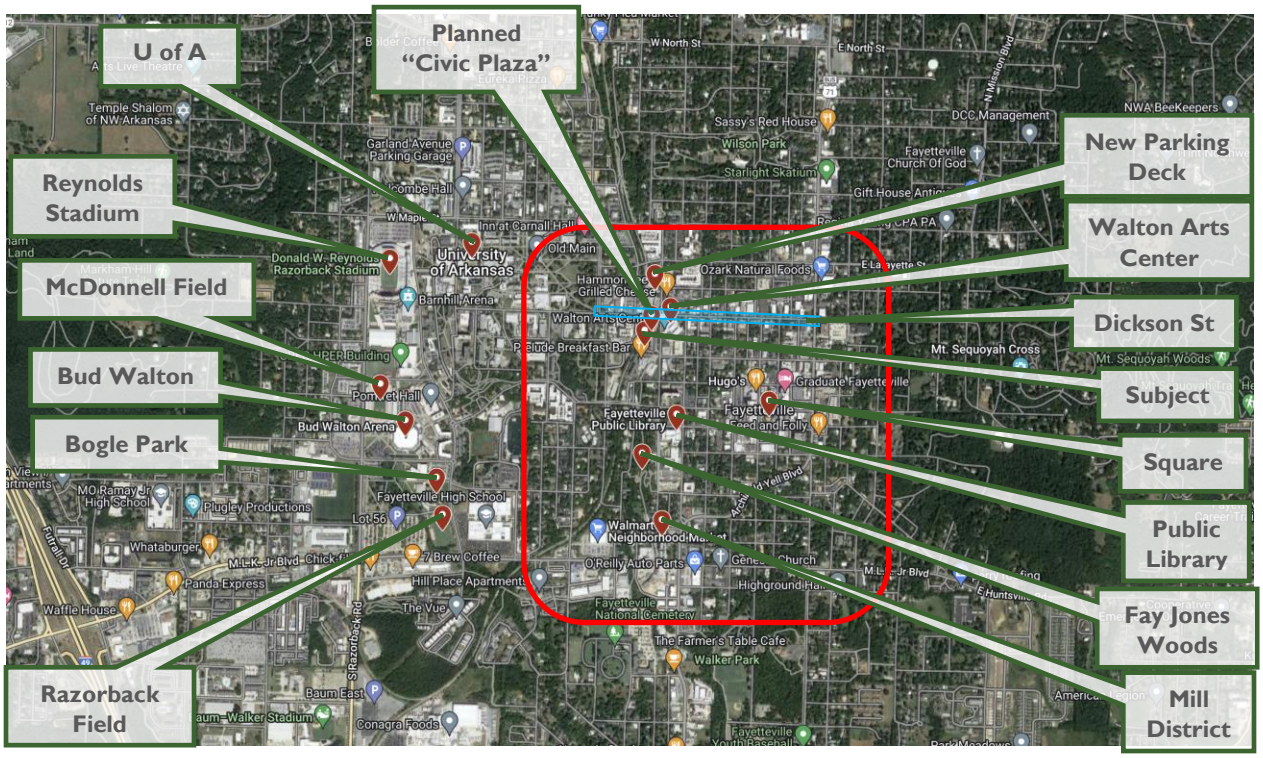
West Avenue Civic Plaza: Design only (Construction in Phase Two after completion of replacement parking)
Phase One Bond funding: $500,000

- Design and Bidding: Summer 2021 - Fall 2022
- Construction: Fall 2022 - Spring 2024

PHASE MAP AND TIMELINE



Demographics & Market Identification



NEIGHBORHOOD

Neighborhood Outlook: Current prices are stable to increasing. We expect that the neighborhood will continue to be a stable to increasing area, due to the high demand and continued expansion within the entertainment district, arts corridor, Razorback Greenway, and University of Arkansas.

Analysis and Conclusions

HIGHEST AND BEST USE ANALYSIS

Highest and Best Use is: *The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.* [22]

The theoretical focus of highest and best use analysis is on the potential uses of the land as though vacant. In practice, however, the contributory value of the existing improvements and any possible alteration of those improvements are also important in determining highest and best use and, by extension, in developing an opinion of the market value of the property.

In the analysis of highest and best use of land as though vacant, we ask the following questions:

- Should the land be developed or left vacant?
- If left vacant, when would future development be financially feasible?
- If developed, what kind of improvements should be built?

The analysis of the highest and best use of the real estate as improved answers a different question than the analysis of the land as though vacant:

- Should the existing improvements on the property be maintained in their current state, should they be altered in some manner to make them more functionally efficient, or should they be demolished to create a vacant site for a different use?
- If renovation or redevelopment is warranted, when should the renovations or redevelopment occur? [23]

Typically, when the value of a property as improved is greater than the value of the land as though vacant, the highest and best use is "as improved". Sometimes, a property's existing use may represent an interim use in which case the value equals the land value for the proposed highest and best use plus the contributory value of the current improvements until the proposed highest and best use is later achieved. Property owners redeveloping a parcel of land sometimes remove an improvement even when the value of the property as improved exceeds the value of the vacant land. The costs of demolition and any remaining improvement values are taken into consideration when testing the financial feasibility of redevelopment.

Four steps are applied in the following order to determine the appraiser's highest and best use opinion:

Physically Possible; Legally Permissible; Financially Feasible; Maximally Productive

22 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: Page 109.
23 Appraisal Institute. (2020). The Appraisal of Real Estate (15th ed.). Chicago, IL: Page 308

HIGHEST AND BEST USE ANALYSIS continued:

Physically Possible:

The availability and capacity of public utilities appear to be adequate for the subject property, and the land is located outside of the flood hazard area. No subsoil study was provided the appraiser and it is assumed that the subsoil conditions will not make utilization of the site restrictive or costly and that the site's potential future use is not affected. Alternative uses that would require a larger site are physically prohibited.

"As vacant," the subject property could be developed as any number of uses that would not be limited by the property's size and shape, terrain or by the availability of utilities.

Legally Permissible:

The property is subject to zoning restrictions and is labeled MSC; Main Street Center.

"As vacant," the subject property could legally be put into service for any use consistent with this zoning classification or the future land use plans of the city.

Note: This appraisal is subject to the owner having all applicable permits from local authorities, state authorities and other bodies that have jurisdictional authority over the subject property.

Financially Feasible:

There may be numerous uses for the subject property. All uses that are expected to produce a positive return, after expenses, are regarded as economically feasible.

A comprehensive marketability or feasibility study was not requested nor performed in conjunction with this report. The appraisers utilize inferred market analysis. The projections utilized are based on our experience with other similar properties in the market area and the market studies at our disposal.

"As vacant": Given immediate neighborhood trends, a number of commercial, arts-related, public space, retail, restaurant, or bar uses considered feasible, as well as parking.

HIGHEST AND BEST USE ANALYSIS continued:

Maximally Productive:

The physically possible, legally permissible, and financially feasible use that results in the highest present value is the Maximally Productive Use. This assumes maximized profitability. Maximum profitability is somewhat subjective depending on ownership knowledge, management ability, management costs, changes in supply as well as other fluctuations in income and expenses, but it can be narrowed to a reasonable conclusion which also considers the risk of the use.

"As vacant": Given immediate neighborhood trends; the immediate, maximally productive use is commercial land as an investment pending development for uses that maximize the building area. Considering the surrounding arts buildings, entertainment district and university draw; and also considering the small number of downtown hotel rooms, hotel use meets the criteria to be considered the highest and best use.

THE VALUATION PROCESS

The **Valuation Process** is: *A systematic procedure an appraiser follows to provide answers to a client's questions about real property value.* [24]

The number of steps depends on the intended use of the assignment results, the nature of the property, the scope of work, and the availability of data. In assignments to develop an opinion of market value, the ultimate goal of the valuation process is a well-supported value conclusion that reflects all of the pertinent factors that influence the market value of the property being appraised given the intended use and users. To achieve this goal, an appraiser studies a property from three different viewpoints, which are referred to as the approaches to value.

The three approaches to value typically used in the valuation process are briefly introduced below:

1. In the **cost approach,** value is indicated by the current cost of reproducing or replacing the improvements (including indirect costs and entrepreneurial incentive), less depreciation, plus land value.

2. In the **sales comparison approach,** value is indicated by analysis of sales of comparable properties appropriately adjusted for differences from the subject property.

3. In the **income capitalization approach,** value is indicated by the present value of a property's earning power, based on the capitalization of income.

From the approaches applied, the appraiser develops separate indications of value for the property being appraised. To complete the valuation process, the appraiser integrates the information drawn from market research, data analysis, and the application of the approaches to reach a value conclusion. This conclusion may be presented as a single point estimate of value or, if the assignment permits, as a range within which the value may fall (or as a relationship to a point referenced from a benchmark amount). The effective integration of all the elements in the process depends on the appraiser's skill, experience, and judgment.[25]

One or more approaches to value may be used depending on which approaches are necessary to produce credible assignment results, given the intended use. As explained in the scope of work, **this appraisal utilizes the Sales Comparison Approach to value the subject property as it is the most common and preferred method of land valuation.**

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24 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: Page 243.
25 Appraisal Institute. (2020). The Appraisal of Real Estate (15th ed.). Chicago, IL: Page 30.

LAND VALUE

The **Sales Comparison Approach**: *In the sales comparison approach, an opinion of market value is developed by comparing properties similar to the subject property that have recently sold, are listed for sale, or are under contract (i.e., for which purchase offers and a deposit have been recently submitted). A major premise of the sales comparison approach is that an opinion of the market value of a property can be supported by studying the market's reaction to comparable and competitive properties.*[26]

To apply the sales comparison approach, appraisers follow a systematic procedure:[27]

- ***Research the competitive market for information on properties that are similar*** *to the property being appraised and that have been sold recently, or were listed for sale, or are under contract. Information on agreements of sale, options, listings, and bonafide offers may also be collected. The characteristics of the properties such as property type, date of sale, size, physical condition, location, and land use constraints should be considered. The goal is to find a set of comparable sales or other evidence such as property listings or contracts as similar as possible to the subject property to ensure they reflect the actions of similar buyers. Market analysis and highest and best use analysis set the stage for the selection of appropriate comparable sales.*

- ***Verify the information*** *by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length market considerations. Verification should elicit additional information about the properties such as buyer and seller motivations, economic characteristics (if the property is income-producing), value component allocations, and other significant factors as well as information about the market to ensure that comparisons are credible.*

- ***Select the most relevant units of comparison*** *used by participants in the market (e.g., price per acre, price per square foot, price per front foot, price per dwelling unit, price per lot or proposed lot, price per room) and develop a comparative analysis for each unit. The goal is to define and identify a unit of comparison that explains or mirrors market behavior.*

- *Look for differences between the comparables being considered and the subject property using all appropriate elements of comparison. Then* ***adjust the price of each comparable****, reflecting how it differs to equate it to the subject property or eliminate that property as a comparable. This step typically involves using the most similar properties and then adjusting for any remaining differences. If a transaction does not reflect the actions of a buyer who would also be attracted to the subject property, an appraiser should be concerned about comparability and the wisdom of relying on that comparable as a basis for comparison.*

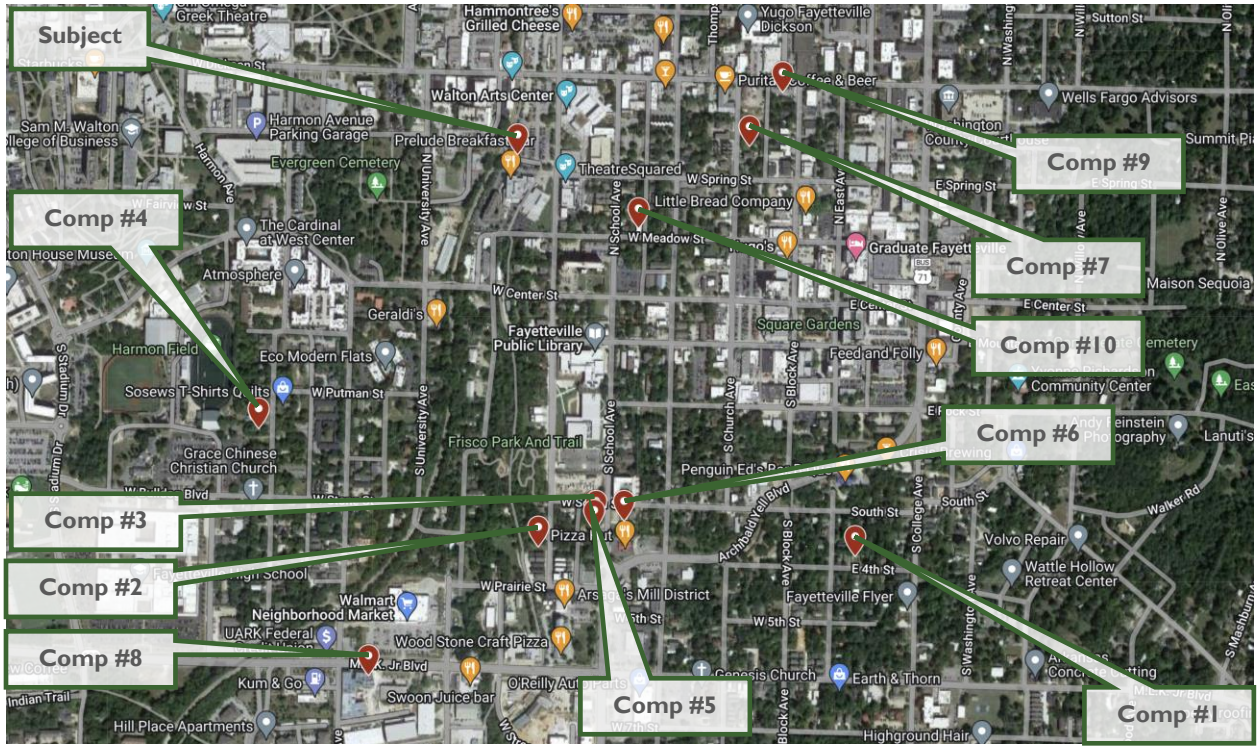
- ***Reconcile the various value indicators*** *produced from the analysis of comparable into a value indication from the sales comparison approach. A value can be expressed as a single point estimate, as a range of values, or in terms of a relationship (e.g., more or less than a given amount).*

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26 Appraisal Institute. (2020). The Appraisal of Real Estate (15th ed.). Chicago, IL: Page 351.
27 Appraisal Institute. (2020). The Appraisal of Real Estate (15th ed.). Chicago, IL: Page 355.

Land Value, continued

The Sales Comparison Approach is the most common and preferred method of land valuation when adequate comparable sales are available.



COMPARABLE LAND SALES MAP

Downtown vacant land in and around the CBD and entertainment district is rare. Most development sites are redevelopments of existing structures. We include the best sales available throughout the downtown area, but they consist of a variety of zoning and uses. Adjustments will be applied to account for differences.

Land Value, continued

LAND COMPARABLE #1

Comparable Property Sale

Vacant Land	18 E 4th St	Fayetteville	AR	72701

Physical Characteristics

County Parcel	765-07012-000			
Property Type	Vacant Land			
Property Sub Type	Dev Potential			
Planned Use	Unknown			
Zoning	NC; Neighborhood Conservation			
Land Area	0.16	Acres		
Land Area	6,970	SqFt		
Front Feet		'		
Flood Status	Zone X			
Traffic Counts	N/A	VPD		
			Utilities	All Utilities Available



Sale Details

Closed/Listing/Pending	Recorded		Fee Simple/Leased Fee	Fee Simple
Sale Date	5/23/22			
Sale Price	$ 175,000	$/SqFt	MLS #	1215541
Price/Acre	$ 1,093,750.00	$ 25.11		
Asking Price	$ 185,900			
Sale to List	94%			
DOM	40			
Price Adjustment	$ -			
Adjusted Price	$ -	$/SqFt		
Adj Price / Acre	$ -	$ -		
Previous Sale Date	N/A	0.0	Yrs since sale	Price Change/Year
Previous Sale Price	N/A	$ -	Price Change	0.0%



Buyer & Seller

Recorded Buyer	Stephen Charles & Katie Diane Day	Recorded Seller	John J & Jessica L Felty
True Buyer	Stephen Charles & Katie Diane Day	True Seller	John J & Jessica L Felty
Contact		Contact	

Comments and Verification

Source: County Records and MLS report similar details for the property and sale.
We verified and compliled the most reliable details from each source.
Attempted to reach buyer but was unsuccessful.
Great location in South Fayetteville just blocks to many amenities and town square. Level lot in growing area. Lot is nestled in established neighborhood with new and quaint older homes. Development opportunity.

LAND COMPARABLE #2

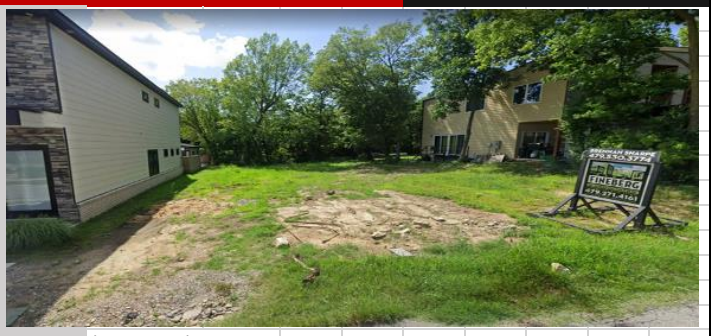
Comparable Property Sale

Downtown Land	357 S West Ave	Fayetteville	AR	72701

HCA HOLLAND COMMERCIAL APPRAISALS AND VALUATION SERVICES

Physical Characteristics

County Parcel	765-05530-000			
Property Type	Vacant Land			
Property Sub Type	Downtown Land			
Planned Use	Unknown			
Zoning	DG; Downtown Genteral			
Land Area	0.12	Acres		
Land Area	5,227	SqFt		
Flood Status	Zone X			
Traffic Counts	N/A			



Utilities All Utilities Available

Sale Details

Closed/Listing/Pending	Recorded			Property Rights	Fee Simple	
Listing Date	3/22/21					
Sale Price	$ 155,000			MLS #	1115245	
Asking Price / Acre	$ 1,291,667	$ 29.65	per SqFt			
Asking Price	$ 155,000			Deed #	2021-00011283	
Sale to List	100%					
DOM						
Adjusted Price	$ -					
Adj Price / Acre	$ -	$ -	per SqFt			
Deed						
Previous Sale Date	N/A	0.0	Yrs since sale		Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change		0.0%	



Buyer & Seller

Recorded Buyer	Chris & April Copeland	Recorded Seller	Next Adventure Enterprises, LLC
True Buyer	Chris & April Copeland	True Seller	Roy Blair
Contact		Contact	

Comments and Verification

Source: MLS and County Records report similar details for the property and sale.

We verified and compliled the most reliable details from each source.

Attemtped to reach buyer but was unsuccessful

Flat & Level Lot, Development Potential, Backs up to Fayetteville Trail System, Two blocks off S School/ Downtown General Zoning, Minutes from Fayetteville Square, University of Arkansas, and Dickson Street

Land Value, continued

LAND COMPARABLE #3

Comparable Property Sale

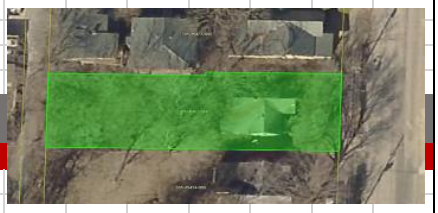
Downtown Land	307 S School Ave	Fayetteville	AR	72701

Physical Characteristics

County Parcel	765-05473-000			
Property Type	Vacant Land			
Property Sub Type	Multifamily Land			
Planned Use	Townhouses			
Zoning	DG; Downtown General			
Land Area	0.16	Acres		
Land Area	6,970	SqFt		
Flood Status	Zone X			
Traffic Counts	3,300			
			Utilities	All Utilitites Available.







Sale Details

Closed/Listing/Pending	Recorded		Property Rights	Fee Simple
Sale Date	10/12/20			
Sale Price	$ 165,000		MLS #	1147431
Price / Acre	$ 1,031,250	$ 23.67 per SqFt		
Asking Price	$ 179,500		Deed #	2020-00036829
Sale to List	92%			
DOM	68			
Adjusted Price	$ 180,000			
Adj Price / Acre	$ 1,125,000	$ 25.83 per SqFt		
Deed				
Previous Sale Date	N/A	0.0 Yrs since sale		Price Change/Year
Previous Sale Price	N/A	$ -	Price Change	0.0%

Buyer & Seller

Recorded Buyer	Eric and Katy Siebert	Recorded Seller	Patricia S. Galvez
True Buyer	Eric and Katy Siebert	True Seller	Patricia S. Galvez
Contact		Contact	

Comments and Verification

Source: MLS, Buyer, and Sales Contract report similar details for the property and sale.
Great investment property zoned DG (Downtown General). Build multi-family, shops, church, school, daycare, café, etc.
Sold with old house on property. Adjusted price by cost to have house removed.

Land Value, continued

LAND COMPARABLE #4

Comparable Property Sale

Multi-Family Land	111 S Duncan Ave	Fayetteville	AR	72701

Physical Characteristics

County Parcel	765-14437-000			
Property Type	Vacant Land			
Property Sub Type	Dev Potential			
Planned Use	Unknown			
Zoning	RMF-40; Residential Multi-Family			
Land Area	0.25	Acres		
Land Area	10,890	SqFt		
Flood Status	Zone X			
Traffic Counts	1,700			
			Utilities	All Utilities Availab





Sale Details

Closed/Listing/Pending	Recorded		Property Rights	Fee Simple	
Sale Date	9/16/19				
Sale Price	$ 235,000		MLS #	1118906	
Price / Acre	$ 940,000	$ 21.58 per SqFt			
Asking Price	$ 249,000		Deed #	2019-00028377	
Sale to List	94%				
DOM	80				
Adjusted Price	$ 250,000				
Adj Price / Acre	$ 1,000,000	$ 22.96 per SqFt			
Deed					
Previous Sale Date	N/A	0.0	Yrs since sale	Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change	0.0%	

Buyer & Seller

Recorded Buyer	Fayetteville School District #1	Recorded Seller	Beverly Norton & Michael Jeffrey Walker
True Buyer	Fayetteville School District #1	True Seller	Beverly Norton & Michael Jeffrey Walker
Contact		Contact	

Comments and Verification

Source: County Records and MLS report similar details for the property and sale.
We verified and compliled the most reliable details from each source.
Attempted to reach buyer but was unsuccessful.
Location, Location, Location! Situated within WALKING distance of the University and Fayetteville High School. Zoned Residential Multi-family - Forty Units per Acre (able to build residential or multi-family). Also being sold as residential, see MLS 1118901.
Property sold with old single-family home sitting on property. Adjsuted price based on cost to have building removed.

Land Value, continued

LAND COMPARABLE #5

Comparable Property Sale

Vacant Land	307 S School Ave	Fayetteville	AR	72701

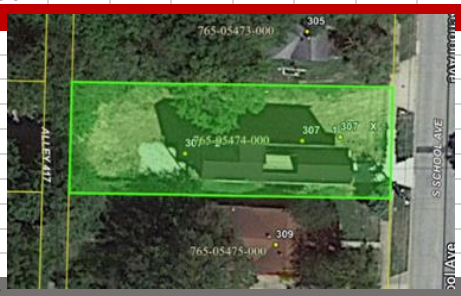
Physical Characteristics

County Parcel	765-05474-000			
Property Type	Vacant Land			
Property Sub Type	Redevelopment of Old Home			
Planned Use	Single-Family Home			
Zoning	DG; Downtown General			
Land Area	0.17	Acres		
Land Area	7,405	SqFt		
Flood Status	Zone X			
Traffic Counts	3,700			
			Utilities	All Utilities Available



Sale Details

Closed/Listing/Pending	Recorded		Property Rights	Fee Simple	
Sale Date	6/28/19				
Sale Price	$ 170,000		MLS #	1107401	
Price / Acre	$ 1,000,000	$ 22.96	per SqFt		
Asking Price	$ 187,000		Deed #	2019-00019444	
Sale to List	91%				
DOM	121				
Adjusted Price	$ 185,000				
Adj Price / Acre	$ 1,088,235	$ 24.98	per SqFt		
Deed					
Previous Sale Date	N/A	0.0	Yrs since sale	Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change	0.0%	



Buyer & Seller

Recorded Buyer	Chris Hill	Recorded Seller	Carol Christine Paschal Rosebeary
True Buyer	Chris Hill	True Seller	Carol Christine Paschal Rosebeary
Contact		Contact	

Comments and Verification

Source: County Records and MLS report similar details for the property and sale.
We verified and compliled the most reliable details from each source.
Attempted to reach buyer but was unsuccessful.
Location, Location! Priced at land only and home of no value. This lot is located in the Downtown Master Plan. Home is of no value and is priced for land only. Close to new extension of Fayetteville Public Library. Also the new development on Prairie and West Ave ,Bike Trail and the Arts District. The lot is 50x150 and has an alley in back.
Property sold with old single-family home on it. Adjusted price based on the cost to have home removed.

Land Value, continued

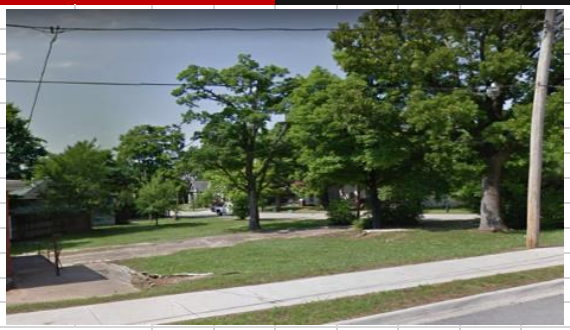
LAND COMPARABLE #6

Comparable Property Sale

Downtown Land	304 S School Ave	Fayetteville	AR	72701

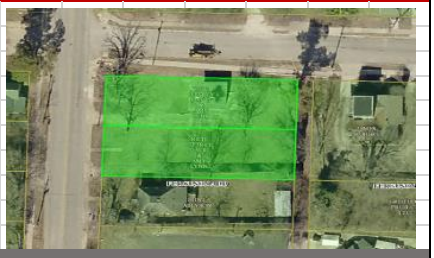
Physical Characteristics

County Parcel	765-05470-000, 765-05471-000			
Property Type	Vacant Land			
Property Sub Type	Downtown Land			
Planned Use	Unknown			
Zoning	DG; Downtown General			
Land Area	0.34	Acres		
Land Area	14,810	SqFt		
Flood Status	Minimal			
Traffic Counts	Slopes away from street			
			Utilities	All Utilties Available



Sale Details

Closed/Listing/Pending	Closed	Recorded		Property Rights	Fee Simple	
Sale Date	4/17/19					
Sale Price	$ 330,000			MLS #	1079534	
Price / Acre	$ 970,588	$ 22.28	per SqFt			
Asking Price	$ 375,000			Deed #	2019-00010798	
Sale to List	88%					
DOM	344					
Adjusted Price	$ 345,000					
Adj Price / Acre	$ 1,014,706	$ 23.29	per SqFt			
Deed						
Previous Sale Date	N/A		0.0 Yrs since sale		Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change		0.0%	



Buyer & Seller

Recorded Buyer	Jeffrey David & Amy Lynn Rich	Recorded Seller	Victoria G Mayo
True Buyer	Jeffrey David & Amy Lynn Rich	True Seller	Victoria G Mayo
Contact		Contact	

Comments and Verification

Source: MLS and County Records report similar details for the property and sale.
Attempted to reach the buyer but was unsucessful.
Beautiful lot located near downtown Fayetteville. Currently Zoned Downtown General. Many great development opportunities!
Adjusted $15,000 for removal of single family home, not worth anything.

Land Value, continued

LAND COMPARABLE #7

Comparable Property Sale

Downtown Land	212 N Church Ave	Fayetteville	AR	72701

Physical Characteristics

County Parcel	765-01672-001				
Property Type	Vacant Land				
Property Sub Type	Downtown Land				
Planned Use	Unknown				
Zoning	MSC; Main Street Center				
Land Area	0.27	Acres			
Land Area	11,761	SqFt			
Flood Status	Zone X				
Traffic Counts	N/A				
			Utilities	All Utilities Available	



Sale Details

Closed/Listing/Pending	Closed	Recorded	Property Rights	Fee Simple	
Sale Date	12/28/18				
Sale Price	$ 360,000		MLS #	1049455	
Price / Acre	$ 1,333,333	$ 30.61	per SqFt		
Asking Price	$ 475,000		Deed #	2018-00038226	
Sale to List	76%				
DOM	570				
Adjusted Price					
Adj Price / Acre	$ -	$ -	per SqFt		
Deed					
Previous Sale Date	N/A	0.0	Yrs since sale	Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change	0.0%	



Buyer & Seller

Recorded Buyer	John T Canterbury		Recorded Seller	Mark Zweig, Inc
True Buyer	John T Canterbury		True Seller	Mark Zweig, Inc
Contact			Contact	

Comments and Verification

Source: MLS and County Records report similar details for the property and sale.
Attempted to reach buyer but was unsucessful.
One of the premier lots in the Downtown Fayetteville area located less than a block from Dickson Street and a few blocks from the Downtown Square and the Fayetteville Public Library. Approximately .27 acre flat lot with alley access for a rear garage and ready for the perfect custom home.

Land Value, continued

LAND COMPARABLE #8

Comparable Property Sale

Commercial Land	641 MLK Jr Blvd	Fayetteville	AR	72701

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Physical Characteristics

County Parcel	765-13013-000, 765-13013-001				
Property Type	Vacant Land				
Property Sub Type	Dev Potential				
Planned Use	Arts District				
Zoning	I-1; Heavy Commercial & Light Industrial				
Land Area	0.32	Acres			
Land Area	13,939	SqFt			
Flood Status	Zone X				
Traffic Counts	25,000				
			Utilities	All Utilities Available	

Sale Details

Closed/Listing/Pending	Recorded		Property Rights	Fee Simple	
Sale Date	2/28/18				
Sale Price	$ 500,000				
Price / Acre	$ 1,562,500	$ 35.87	per SqFt		
Asking Price			Deed #	2018-00005695	
Sale to List					
DOM					
Adjusted Price	$ 515,000				
Adj Price / Acre	$ 1,609,375	$ 36.95	per SqFt		
Deed					
Previous Sale Date	N/A	0.0	Yrs since sale	Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change	0.0%	

Buyer & Seller

Recorded Buyer	Board of Trustees of the U of A	Recorded Seller	Eliot H & Jo Ann Kaminsky
True Buyer	Board of Trustees of the U of A	True Seller	Eliot H & Jo Ann Kaminsky
Contact		Contact	

Comments and Verification

Source: County Records

Property sold with old rundown buildings on property which has since been torn down. Adjusted price based on cost to have buildings removed.

Property to be new site of Windgate Studio and Design Center.

LAND COMPARABLE #9

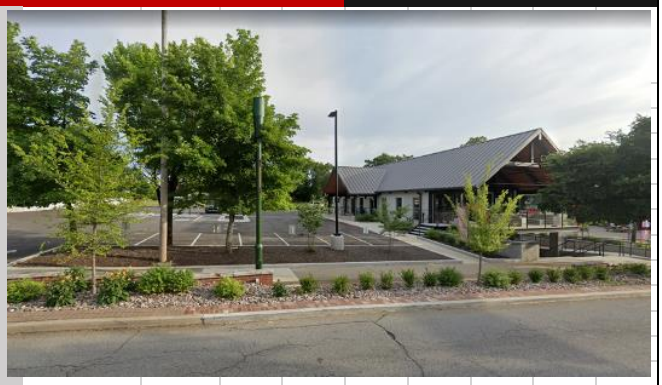
Comparable Property Sale

Vacant Land	299 N Block Ave	Fayetteville	AR	72701

HCA HOLLAND COMMERCIAL APPRAISALS AND VALUATION SERVICES

Physical Characteristics

County Parcel	765-01669-000; 765-01670-000; 765-01668-000; 765-01666-000; 765-01667-000				
Property Type	Vacant Land				
Property Sub Type	Redevelopment				
Planned Use	Retail/Parking				
Zoning	MSC; Main Street Center				
Land Area	1.42	Acres			
Land Area	61,855	SqFt			
Flood Status	Zone X				
Traffic Counts	7,600				
			Utilities	All Utilities Available	



Sale Details

Closed/Listing/Pending	Recorded		Property Rights	Fee Simple	
Sale Date	6/23/17				
Sale Price	$ 4,400,000		MLS #	1041772	
Price / Acre	$ 3,098,592	$ 71.13 per SqFt			
Asking Price			Deed #	2017-00019901	
Sale to List					
DOM	101				
Adjusted Price	$ 4,415,000				
Adj Price / Acre	$ 3,109,155	$ 71.38 per SqFt			
Deed					
Previous Sale Date	N/A	0.0	Yrs since sale	Price Change/Year	
Previous Sale Price	N/A	$ -	Price Change	0.0%	



Buyer & Seller

Recorded Buyer	151 Dickson Development, LLC	Recorded Seller	Collier Diversification Specialties, LLC
True Buyer	151 Dickson Development, LLC	True Seller	C. Mel Collier
Contact		Contact	

Comments and Verification

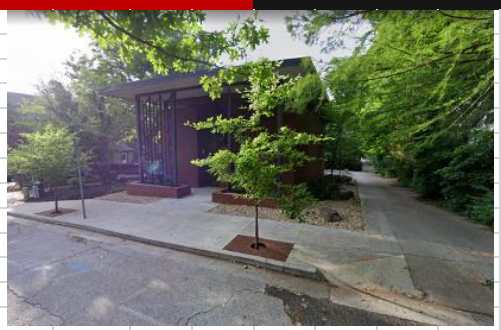
Source: County Records, Appraiser, and MLS report similar details for the property and sale.
We verified and compliled the most reliable details from each source.
Attempted to reach buyer but was unsuccessful.
Property has +/-324 Ft of frontage on Dickson St.
This land sold with a former office building (building shell) that has no contributory value and a paved parking area. Adjusted price based on cost to have building removed. Building was gutted and remodeled into a retail store.

Land Value, continued

LAND COMPARABLE #10

Comparable Property Sale

Vacant Land	322 W Meadow St	Fayetteville	AR	72701





Physical Characteristics

County Parcel	765-01770-000			
Property Type	Vacant Land			
Property Sub Type	Dev Potential			
Planned Use	Broadcast Facility			
Zoning	DG; Downtown General			
Land Area	0.14	Acres		
Land Area	6,098	SqFt		
Flood Status	Zone X			
Traffic Counts	N/A			
			Utilities	All Utilities Available

Sale Details

Closed/Listing/Pending	Recorded		Property Rights	Fee Simple
Sale Date	5/15/17			
Sale Price	$ 225,000		MLS #	1047994
Price / Acre	$ 1,607,143	$ 36.89 per SqFt		
Asking Price	$ 225,000		Deed #	2017-00015559
Sale to List	100%			
DOM	1			
Adjusted Price	$ -			
Adj Price / Acre	$ -	$ - per SqFt		
Deed				
Previous Sale Date	N/A	0.0 Yrs since sale	Price Change/Year	
Previous Sale Price	N/A	$ - Price Change	0.0%	

Buyer & Seller

Recorded Buyer	Jane Hunt Meade	Recorded Seller	David Lee & Ronda Lynn Chuoke
True Buyer	Jane Hunt Meade	True Seller	David Lee & Ronda Lynn Chuoke
Contact		Contact	

Comments and Verification

Source: County Records and MLS report similar details for the property and sale.
We verified and compliled the most reliable details from each source.
Attempted to reach buyer but was unsuccessful.
Sold Before Print
Broadcast studio now sits on this propety, was constructed in 2019.

Land Value, continued

Adjustments to Comparable Sales are: *Mathematical changes made to market data to facilitate comparison or understanding. When dollar adjustments are used, individual differences between comparable properties and the subject property are expressed in terms of plus or minus dollar amounts. With percentage adjustments, individual differences are reflected in plus or minus percentage differentials.*[28]

Due to the uncommon subject characteristics of downtown land in the center of the fully built-up entertainment district, no perfect data or matched-pairs were available, so we use qualitative adjustment. We judge the properties on a scale of poor; fair; average; good; excellent, and we apply a 5% adjustment to each level of disparity, based on the range displayed by the comparable set. It is a method of relative adjustment used by our peers and approved by the Appraisal Institute. This method has proven, over time, to reach reasonable market-guided results, given proper selection and verification of the comps and using the appraisers' experience in the local market.

The goal is not to reach perfect adjusted price points for each property but to account for qualitative differences and narrow the resulting range of prices to a range that offers a reliable and credible value indication. Therefore, the comparable selection and weighting will be as important to the final valuation as adjustments.

Adjustment grid to follow:

28 Appraisal Institute. (2015). The Dictionary of Real Estate Appraisal (6th ed.). Chicago, IL: Author. 4-5.

Land Value, continued

LAND COMPARABLE SALES ADJUSTMENT GRID:

Element of Comparison	Subject	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5
Sale Price		$ 175,000	$ 155,000	$ 180,000	$ 250,000	$ 185,000
Real Property Rights Conveyed		Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Sales Price		$ 175,000	$ 155,000	$ 180,000	$ 250,000	$ 185,000
Conditions		Typical	Typical	Typical	Typical	Typical
Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Sale Price		$ 175,000	$ 155,000	$ 180,000	$ 250,000	$ 185,000
Financing		Typical	Typical	Typical	Typical	Typical
Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Price		$ 175,000	$ 155,000	$ 180,000	$ 250,000	$ 185,000
Size (SqFt)	21,927	6,970	5,227	6,970	10,890	7,405
Adjusted Price	$ / SqFt	$ 25.11	$ 29.65	$ 25.82	$ 22.96	$ 24.98
Market Conditions (Time)	1/26/23	5/23/2022	3/22/2021	10/12/2020	9/16/2019	6/28/2019
Elasped time	(Years)	0.68	1.85	2.29	3.36	3.58
Adjustment	5%		$ 2.74	$ 2.96	$ 3.86	$ 4.48
Adjusted Price	$ / SqFt	$ 25.11	$ 32.40	$ 28.78	$ 26.82	$ 29.46
Location	Excellent	Inferior	Inferior	Inferior	Inferior	Inferior
Adjustment		30%	25%	20%	25%	20%
Frontage / Visibility	Good	Inferior	Inferior	Inferior	Inferior	Inferior
Adjustment		25%	20%	15%	20%	15%
Zoning	MSC	Inferior	Inferior	Inferior	Inferior	Inferior
Adjustment	7 stories	25%	10%	10%	15%	10%
Net Adjustments		80%	55%	45%	60%	45%
Final Adjusted Price	$ / SqFt	$ 45.19	$ 50.21	$ 41.73	$ 42.91	$ 42.72

Element of Comparison	Subject	Comp #6	Comp #7	Comp #8	Comp #9	Comp #10
Sale Price		$ 345,000	$ 360,000	$ 515,000	$ 4,415,000	$ 225,000
Real Property Rights Conveyed		Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Sales Price		$ 345,000	$ 360,000	$ 515,000	$ 4,415,000	$ 225,000
Conditions		Typical	Typical	Typical	Typical	Typical
Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Sale Price		$ 345,000	$ 360,000	$ 515,000	$ 4,415,000	$ 225,000
Financing		Typical	Typical	Typical	Typical	Typical
Adjustment		$ -	$ -	$ -	$ -	$ -
Adjusted Price		$ 345,000	$ 360,000	$ 515,000	$ 4,415,000	$ 225,000
Size (SqFt)	21,927	14,810	11,761	13,939	61,855	6,098
Adjusted Price	$ / SqFt	$ 23.30	$ 30.61	$ 36.95	$ 71.38	$ 36.90
Market Conditions (Time)	1/26/23	4/17/2019	12/28/2018	2/28/2018	6/23/2017	5/15/2017
Elasped time	(Years)	3.78	4.08	4.91	5.60	5.70
Adjustment	5%	$ 4.40	$ 6.25	$ 9.07	$ 19.98	$ 10.52
Adjusted Price	$ / SqFt	$ 27.70	$ 36.86	$ 46.02	$ 91.35	$ 47.42
Location	Excellent	Inferior	Inferior	Inferior	Similar	Inferior
Adjustment		20%	15%	10%		10%
Frontage / Visibility	Good	Inferior	Inferior	Superior	Superior	Inferior
Adjustment		10%	15%	-5%	-25%	15%
Zoning	MSC	Inferior	Similar	Similar	Similar	Inferior
Adjustment	7 stories	10%				10%
Net Adjustments		40%	30%	5%	-25%	35%
Final Adjusted Price	$ / SqFt	$ 38.78	$ 47.91	$ 48.32	$ 68.51	$ 64.02

Land Value, continued

Property Rights: In all cases, an estate equivalent to the fee simple estate was conveyed. In this portion of the analysis, the value indication sought is the market value of the fee simple estate of the land. Thus, no adjustments are required.

Conditions of Sale: In all sales, conditions were considered similar, therefore no adjustment was required.

Financing: All sale prices are considered to represent cash or cash equivalent sale prices and no adjustments are typically required.

Expenses Immediately Following Sale: One consideration that must be taken into account when developing a sales comparison approach are expenses immediately following sale. The principle behind this being the purchaser knew prior to the consummation of sale said expenses would have to be exerted and thus the grantee took this into account in the purchase price. These expenditures are typically figured into the sale price and explained in the comp sheet.

Market Conditions (Time) Adjustment: Overall, the land market in NWA has steadily appreciated since 2017. We use an appreciation rate of **5%** per year based on MLS average price changes.

Location: The subject is a very rare location in the middle of the entertainment district. Even among downtown properties, this is a superior location amongst large draws like Walton Arts Center, Theater Squared and several bars and restaurants. All of the Comps, except Comp #9 are less centrally located in the Downtown/Dickson St area making them inferior when compared to the central location of the subject. We made the necessary qualitative adjustments to all other comps.

Frontage/Visibility/Access: Similarly, virtually all of the comps have lower traffic counts and less foot traffic making them inferior when compared to that of the subject. Only Comps #8 and #9 are superior by comparison, due to the high traffic counts along MLK and the corner location and access of Comp #9. We made the necessary qualitative adjustments.

Zoning: The subject is zoned MSC; Main Street Center. All of the comps have some potential crossover or substitute uses with the subject. Comp #1 and Comp #4 are zoned for residential and multi-family uses making them inferior. We made the necessary qualitative adjustments. The subject's zoning allows for structures of up to 7-stores to be constructed, which also makes it superior to most other downtown zoning. All but Comps #9, #8, and #7 have more restrictive zoning requirements.

Land Value, continued

(Other Comparisons: Utilities: No adjustments were necessary. All properties have typical city utilities. **Topography / Flood:** For the most part, the subject and comps have similar topography. No adjustments were needed. **Size Adjustment:** The comps display no size discount for downtown land in this size range.)

CONCLUSION:

We weight the sales based on the most similar location, zoning and overall potential use.

Value Indicated by Weighted Average Analysis			
Comp	$ / SqFt	% Weighting	Value Contribution
Comp #1	$ 45.19	5%	$2.26
Comp #2	$ 50.21	10%	$5.02
Comp #3	$ 41.73	5%	$2.09
Comp #4	$ 42.91	5%	$2.15
Comp #5	$ 42.72	5%	$2.14
Comp #6	$ 38.78	10%	$3.88
Comp #7	$ 47.91	15%	$7.19
Comp #8	$ 48.32	15%	$7.25
Comp #9	$ 68.51	25%	$17.13
Comp #10	$ 64.02	5%	$3.20
		100%	$52.29

Tract A:

Size	$ / SqFt	Value
21,927	$52.29	$ 1,146,604
	Tract A Value (Rounded)	$ 1,150,000

Tract B: According to the city client, permanent structures will be restricted on this land. Tracts of other sites in Northwest Arkansas with similar restrictions sold at discounts from 50% to 75%; therefore, we adjust the market price accordingly. (A comparison to local land leases indicates the minimal discount to be the most appropriate for the subject location and potential as a food truck or other similar use site.)

Size	$ / SqFt	Value
2,196	$52.29	$ 114,833
		$ 115,000
	Estimated Limited Use Adjustment	-50%
	Tract B Value (Rounded)	$ 57,500

Land Value, continued

Tract E: The following value is based on the size quoted by the city with only general locational details. If some portion of the subject proposed trail lies within city-owned land or easements, the land value would not necessarily be impacted but the expected compensation due to the trail easement could be lessened. The city further indicated that parking changes or loss of parking would be part of a separate negotiation; therefore, we did not consider any parking effects although they appear substantial. Given that these would be our primary concerns about the specific location of the trail, we valued the trail based on the size provided and the general locational characteristics. We did not specifically estimate compensation or damages. We did consider easement value versus fee simple value. Considering the high usage of the trail and the full-time surface usage along with the permanent trail improvements, the easement effectively restricts any use by the landowner; therefore, the loss of value due to the permanent easement is equivalent to the fee simple market value.

Size	$ / SqFt	Value
5,220	$52.29	$ 272,964
	Tract E Value (Rounded)	$ 270,000

Assumptions / Limiting Conditions

1. *Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to title that would adversely affect marketability or value. HCA is not aware of any title defects, nor has it been advised of any unless such is specifically noted in the report. HCA, however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject's title should be sought from a qualified title company that issues or insures title to real property.*

2. *Unless otherwise specifically noted in the body of this report, it is assumed: that the existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good useful condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that the improvements, as currently constituted, conform to all applicable local, state, and federal building codes and ordinances. HCA professionals are not engineers and are not competent to judge matters of an engineering nature. HCA has not retained independent structural, mechanical, electrical, or civil engineers in connection with this appraisal and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of HCA by ownership or management. Structural problems and/or building system problems may not be visually detectable. If negative findings are reported by engineering consultants, HCA reserves the right to amend the appraisal conclusions reported herein.*

3. *Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property was not observed by the appraisers. HCA. has no knowledge of the existence of such materials on or in the property. HCA., however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired. We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the appraisal.*

4. *All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report*

unless otherwise stated. Any existing or proposed improvements, on or off-site, as well as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to HCA. This report may be subject to amendment upon re-inspection of the subject subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.

5. *It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the appraisal report. Unless otherwise specifically noted in the appraisal report, HCA. has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, Assessor's Parcel Numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact on the conclusions reported. Thus, HCA. reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify HCA. of any questions or errors.*

6. *The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the American Dollar on that date. This appraisal is based on market conditions existing as of the date of this appraisal. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions which occur subsequent to the date of the appraisal. However, HCA will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.*

7. *HCA assumes no private deed restrictions limit the use of the subject.*

8. *Unless otherwise noted in the body of the report, it is assumed that there are no mineral deposit or subsurface rights of value involved in this appraisal, whether they be gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this appraisal report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.*

9. *HCA. is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.*

10. *The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.*

11. *Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. HCA does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of HCA.*

12. *Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of HCA to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.*

13. *Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.*

14. *This study may not be duplicated in whole or in part without the specific written consent of HCA nor may this report or copies hereof be transmitted to third parties without said consent, which consent HCA reserves the right to deny. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this appraisal was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of HCA which consent HCA reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security", as such terms are defined and used in the Securities Act of 1933, as amended. Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. HCA shall have no accountability or responsibility to any such third party.*

15. *Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.*

16. *The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or appraisal and are invalid if so used.*

17. *The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except*

as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report

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18. *No opinion is intended to be expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to HCA unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. HCA assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance.*

19. *Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor HCA. assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate appraisal/consulting profession if so desired.*

20. *HCA assumes that the subject analyzed herein will be under prudent and competent management and ownership; neither inefficient or super-efficient.*

21. *It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.*

22. *No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.*

23. *The Americans with Disabilities Act (ADA) became effective January 26, 1992. Notwithstanding any discussion of possible readily achievable barrier removal construction items in this report, HCA. has not made a specific compliance survey and analysis of this property to determine whether it is in conformance with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the ADA. If so, this fact could have a negative effect on the value estimated herein. Since HCA. has no specific information relating to this issue, nor is HCA qualified to make such an assessment, the effect of any possible non-compliance with the requirements of the ADA was not considered in estimating the value of the subject.*

24. *Client shall not indemnify Appraiser or hold Appraiser harmless unless and only to the extent that the Client misrepresents, distorts, or provides incomplete or inaccurate appraisal results to others, which acts of the Client approximately result in damage to Appraiser. Notwithstanding the foregoing, Appraiser shall*

have no obligation under this Section with respect to any loss that is caused solely by the active negligence or willful misconduct of a Client and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Appraiser. Client shall indemnify and hold Appraiser harmless from any claims, expenses, judgments or other items or costs arising as a result of the Client's failure or the failure of any of the Client's agents to provide a complete copy of the appraisal report to any third party. In the event of any litigation between the parties, the prevailing party to such litigation shall be entitled to recover, from the other, reasonable attorney fees and costs.

Addenda

PARENT PARCELS

Address: N West Ave, Fayetteville, Arkansas 72701

Legal Description:

Tracts 1 & 2 (Parcel #'s 765-01743-003 & 765-01743-002)

Part of Block 7 of the Original Town Plat of the City of Fayetteville, Washington County, Arkansas, and portion of West Spring Street vacated by Ordinance No. 1513 and being more particularly described as follows, to-wit: Beginning at a point South 89 degrees 50 minutes 30 seconds West 146.43 feet from the Southeast corner of said Block 7, thence North 00 degrees 09 minutes 30 seconds West 80.00 feet, thence South 89 degrees 50 minutes 30 seconds West 129.58 feet, thence South 24 degrees 05 minutes 44 seconds West 39.07 feet, thence South 25 degrees 41 minutes 44 seconds West 49.32 feet to the South line of Block 7, thence South 89 degrees 50 minutes 30 seconds West 17.72 feet along said South line to the Southwest corner of Block 7, thence South 00 degrees 09 minutes 30 seconds East 50.00 feet, thence North 89 degrees 50 minutes 30 seconds East 184.86 feet, thence North 00 degrees 09 minutes 30 seconds West 50.00 feet to the point of beginning, containing 0.48 acres, more or less.

A part of Block 7 of the Original Town Plat of the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Beginning at the Southeast corner of said Block 7, thence North 0 degrees 37 minutes 45 seconds West 261.71 feet, thence South 89 degrees 50 minutes 30 seconds West 125.00 feet, thence North 0 degrees 37 minutes 45 seconds West 11.75 feet, thence South 89 degrees 50 minutes 30 seconds West 52.00 feet, thence South 27 degrees 25 minutes 45 seconds West 150.58 feet, thence South 24 degrees 05 minutes 44 seconds West 65.80 feet, thence North 89 degrees 50 minutes 30 seconds East 129.58 feet, thence South 0 degrees 09 minutes 30 seconds East 80.00 feet, thence North 89 degrees 50 minutes 30 seconds East 146.43 feet to the point of beginning, containing 1.25 acres, more or less.

Tract 3 (Parcel # 765-01743-004)

Part of the Southeast Quarter of the Northwest Quarter of Section Sixteen (16), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas, and also a part of Block Seven (7), a part of Block Eight (8), a part of the right-of-way of Spring Street, a part of the vacated portion of Spring Street as per City Ordinance #1513, recorded in Deed Book 689 at Page 242, and a part of the vacated portion of Gregg Avenue as per City Ordinance #1070, recorded in Deed Book 465 at Page 275, all in the original Town (now City) of Fayetteville, Arkansas, as designated upon the original Plat of said Town on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and all being more particularly described as follows, to-wit: Beginning at a point which is North 86°51'59" West 83.92 Feet and North 02°05'12" East 18.00 Feet from the Northeast corner of said Block Eight (8) and running thence South 68°49'49" West 10.49 Feet; thence North 87°05'59" West 236.89 Feet; thence North 02°03'51" West 8.24 Feet; thence North 87°07'17" West 17.00 Feet; thence South 02°05'39" West 24.88 Feet; thence North 87°07'17" West 17.00 Feet; thence North 35°16'57" East 29.94 Feet; thence North 27°57'23" East 55.25 Feet; thence North 68°45'49" East 49.99 Feet; thence North 85°35'44" East 25.43 Feet; thence South 87°12'08" East 60.65 Feet; thence South 69°32'30" East 13.12 Feet; thence South 28°04'16" East 37.15Feet; thence South 87°10'24" East 77.68 Feet; thence South 02°05'12" West 42.45 Feet to the Point of Beginning, containing 0.39 acres, more or less.



PARENT TRACT COUNTY MAP

More Info / Map It	Parcel: 765-01743-002	RPID: 35997	Prev.Parcel:400026-000-00	Type: Ex. Government
Owner: CITY OF FAYETTEVILLE		Sub: FAYETTEVILLE ORIGINAL		S-T-R: 16-16-30
Address: N/A		City: Fayetteville		Block / Lot: 007 / N/A
Mail Address: 113 W MOUNTAIN ST FAYETTEVILLE, AR 72701		Assessed Value: 0		Acres: N/A
Legal: PART OF PARKING LOT PT OF BLOCK 7 WEST OF TRACKS 0.68A				

More Info / Map It	Parcel: 765-01743-003	RPID: 35998	Prev.Parcel:765-01743-000	Type: Ex. Government
Owner: CITY OF FAYETTEVILLE		Sub: FAYETTEVILLE ORIGINAL		S-T-R: 16-16-30
Address: N/A		City: Fayetteville		Block / Lot: 007 / N/A
Mail Address: 113 W MOUNTAIN ST FAYETTEVILLE, AR 72701		Assessed Value: 0		Acres: N/A
Legal: PARKING LOT N WEST AVE PT BLOCK 7 0.13A & PT VACATED WEST SPRING ST				

More Info / Map It	Parcel: 765-01743-004	RPID: 96573	Prev.Parcel:765-01743-000, 002 & 003	Type: Comm. Vacant
Owner: REINDL PROPERTIES INC		Sub: FAYETTEVILLE ORIGINAL		S-T-R: 16-16-30
Address: N/A		City: Fayetteville		Block / Lot: 008 / N/A
Mail Address: 509 W SPRING ST STE 460 FAYETTEVILLE, AR 72703		Assessed Value: 13,860		Acres: N/A
Legal: PT BLK 8 & PT BLK 7 PT SPRING ST RIGHT-OF-WAY 0.39A FURTHER DESCRIBED FROM 2019-6302 AS: Part of the Southeast Quarter of the Northwest Quarter of Section Sixteen (16), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas, and also a part of Block Seven (7), a part of Block Eight (8), a part of the right-of-way of Spring Street, a part of the vacated portion of Spring Street as per City Ordinance #1513, recorded in Deed Book 689 at Page 242, and a part of the vacated portion of Gregg Avenue as per City Ordinance #1070, recorded in Deed Book 465 at Page 275, all in the original Town (now City) of Fayetteville, Arkansas, as designated upon the original Plat of said Town on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and all being more particularly described as follows, to-wit: Beginning at a point which is North 86°51'59" West 83.92 Feet and North 02°05'12" East 18.00 Feet from the Northeast corner of said Block Eight (8) and running thence South 68°49'49" West 10.49 Feet; thence North 87°05'59" West 236.89 Feet; thence North 02°03'51" West 8.24 Feet; thence North 87°07'17" West 17.00 Feet; thence South 02°05'39" West 24.88 Feet; thence North 87°07'17" West 17.00 Feet; thence North 35°16'57" East 29.94 Feet; thence North 27°57'23" East 55.25 Feet; thence North 68°45'49" East 49.99 Feet; thence North 85°35'44" East 25.43 Feet; thence South 87°12'08" East 60.65 Feet; thence South 69°32'30" East 13.12 Feet; thence South 28°04'16" East 37.15Feet; thence South 87°10'24" East 77.68 Feet; thence South 02°05'12" West 42.45 Feet to the Point of Beginning, containing 0.39 acres, more or less.				

PARENT TRACT COUNTY PARCELS

The legal description was taken from county records, and no current ALTA survey was available. We assume the legal description is accurate, but it should not be utilized outside of this report. The conclusions contained in this report are contingent upon the results of a current and accurate ALTA survey.

Qualifications

ZACH J. HOLLAND

Certified General Appraiser

HCA Principal Commercial Appraiser
PO Box 701
Gentry, AR 72734
479-276-2149 Direct/Mobile
holland@hollandcommercialappraisals.com

EDUCATION

University of Arkansas - Walton College of Business *Fayetteville, AR*
BSBA International Economics and Business - Graduated 2001

Advanced Appraisal Education: AI Advanced Market Analysis and Highest & Best Use; AI Quantitative Analysis; AI Adv Income Capitalization; AI Appraisal Mathematics, Finance, & Statistics; AI Analyzing Tenant Credit Risk - Commercial Lease Analysis; AI Adv Spreadsheet Modeling; AI Adv Concepts and Case Studies; AI Income Capitalization; AI Report Writing and Case Studies; AI Practical Regression for MS Excel; AI Specialized Experience Full Credit; AI Case Studies in Complex Valuation; AI Examining Prop Rights and Implications in Valuation; AI General Review Theory; IRWA Course 403 Easement Valuation

Study Abroad - Benemerita Universidad Autonoma de Puebla *Puebla, Mexico* - Summer 2001

RELATED EXPERIENCE

CERTIFIED GENERAL APPRAISER (**AR CG 2911, OK 13094CGA**)

Current
HOLLAND COMMERCIAL APPRAISALS *Fayetteville, AR*

February 2006 to December 2017
FERSTL VALUATION SERVICES *Little Rock and Fayetteville, AR*

Trained and performed appraisals throughout central US multi-state region including office buildings, light-industrial facilities, hotels, medical facilities, retail centers, specialty properties, subdivisions, vacant land, residential properties, etc.

OFFICE MANAGER

April 2004 to June 2005
CROMWELL ARCHITECTS/ENGINEERS *Fayetteville, AR*

Generated and logged client correspondence, payment applications, Statement of Qualifications letters, hardware submittals, etc. Measured buildings for feasibility studies.

ADMINISTRATIVE ASSISTANT

June 1999 to June 2000
LINDSEY & ASSOCIATES REALTY *Fayetteville, AR*

OTHER

Zach Holland, Appraisal Institute, Candidate for Designation
REALTOR, Northwest AR Board of Realtors
Provided EXPERT TESTIMONY in federal court.

ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD
This is to certify that
Zachary Holland

License #: CG 2911

has complied with the requirements of
Arkansas Code Section ⍰17-14-201 et seq,;
and is the holder of a valid certificate.
This card is for identification purposes only.

6/30/2023
Expiration Date

Chairman

STATE OF ARKANSAS

APPRAISER LICENSING & CERTIFICATION BOARD

Attest That

ZACH J. HOLLAND

On this date was certified as a

STATE CERTIFIED GENERAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all the requirements of Arkansas Code Annotated, Section § 17-14-101 et seq., and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

JUNE 29, 2010
Date Issued

CG2911
Certificate Number

Chairman, AAL & CB

DALLAS J. BARTHOLOMEW

Registered Apprentice
HCA Commercial Appraiser
PO Box 1501
Fayetteville, AR 72702
479-387-4550 Direct/Mobile
dallas@hollandcommercialappraisals.com

EDUCATION

University of Arkansas – College of Education and Health Professions *Fayetteville, AR*
B.S. Kinesiology - Graduated 2013

Appraisal Education: Basic Appraisal Procedures, Basic Appraisal Principals, Appraisal Institute General Appraiser Income Approach/Part 1, Uniform Standards of Professional Practice 15-hr QE Course, Uniform Standards of Professional Practice 7-hr Update QE Course, Analyzing Operating Expenses CE, Using Your HP12C Financial Calculator CE

RELATED EXPERIENCE

REGISTERED APPRENTICE **(AR RA 4412)**

Current (May 1, 2017 to Present)
HOLLAND COMMERCIAL APPRAISALS *Fayetteville, AR*

Perform appraisals throughout the Northwest and Central Arkansas region including office buildings, light-industrial facilities, retail centers, vacant land, residential properties, etc.

Dallas Bartholomew, RA 4412, is a Registered Apprentice with the State of Arkansas. He has appraised and assisted in the appraisal of many property types throughout central and northwest Arkansas, including income-producing residences, condemnations, commercial land, industrial land, residential land, warehouses, mini-storage warehouses, warehouse-offices, professional offices, medical offices, ranches-farms, religious facilities, event centers, bowling alleys, car washes, neighborhood shopping centers, retail-warehouses, and retail stores.

STATE OF ARKANSAS

APPRAISER LICENSING & CERTIFICATION BOARD

Attest That

Dallas J Bartholomew

On this date was certified as a

REGISTERED APPRENTICE APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all requirements of Arkansas Code Annotated, Section §17-14-101 et seq., and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

12/16/2019
(Issued Date)

Cary C. Matthews
Chairman, AAL & CB

RA-4412
(Registration Number)

ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD
This is to certify that Dallas Bartholomew

License #: RA 4412

has complied with the requirements of Arkansas Code Section ⁄17-14-201 et seq,; and is the holder of a valid certificate.
This card is for identification purposes only.

12/31/2022
Expiration Date

Randy Minton
Chairman

ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD

This is to certify that
Dallas Bartholomew

License #: RA 4412

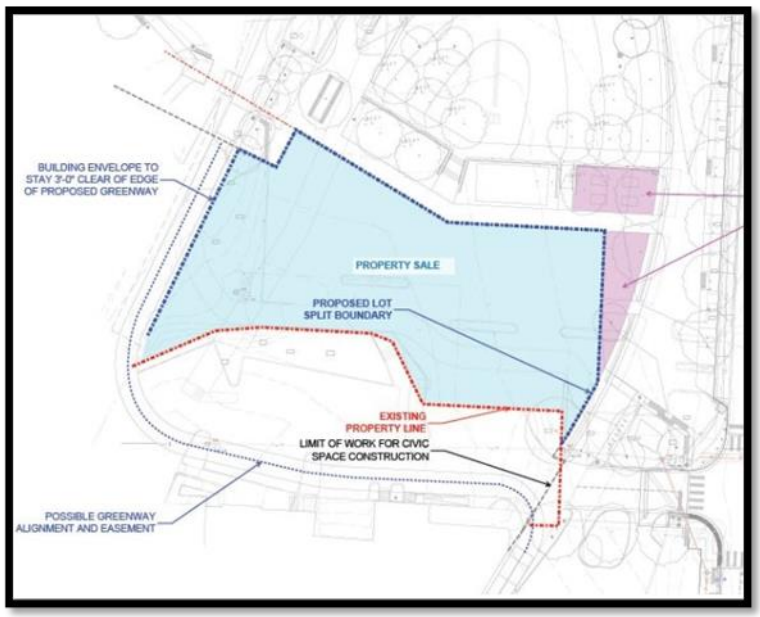
has complied with the requirements of Arkansas Code Section §17-14-201 et seq,; and is the holder of a valid certificate.
This card is for identification purposes only.

12/31/2023

Expiration Date

Chairman

Ferstl
VALUATION SERVICES



APPRAISAL REPORT

COMMERCIAL LAND
N West Avenue
Fayetteville, Arkansas 72701

Effective Date: February 10, 2023
Inspection Date: February 10, 2023
Date of Report: March 6, 2023

PREPARED FOR:
City of Fayetteville
Mr. Waylon Abernathy
Director of Bond Projects and Facilities
115 S Church Avenue
Fayetteville, Arkansas 72701

FERSTL VALUATION SERVICES
5905 Forest Place, Suite 100
Little Rock, Arkansas 72207
Internal File No: 12664

www.ferstlvaluationservices.com

FERSTL VALUATION SERVICES
5905 Forest Place, Suite 100
Little Rock, AR 72207
+1 (501) 375-1439

March 6, 2023

City of Fayetteville
Mr. Waylon Abernathy
Director of Bond Projects and Facilities
115 S Church Avenue
Fayetteville, Arkansas 72701

RE: Commercial Land
N West Avenue
Fayetteville, Arkansas 72701

Mr. Abernathy:

Ferstl Valuation Services is proud to present the attached appraisal report that satisfies the agreed upon scope of work with City of Fayetteville. There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, and north of Metro District. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. The property is within Census Tract No. 05-143-011302.

The purpose of this appraisal report is to develop an estimate of site value for three different tracts of land. Three properties are valued in this analysis and labeled Tract A, Tract B, and Tract C. This analysis provides a conclusion of market value for Tract A and Tract B. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. A conclusion of market value is developed for Tract C "before" and "after" the greenway easement affects the site. Consequently, three value conclusions are developed. This report conforms to the current Uniform Standards of Professional Appraisal Practice (USPAP), and the appraisal request of the client. City of Fayetteville is the only intended user of this report. No third parties are authorized to rely on this appraisal report without the express written consent of Ferstl Valuation Services.

Brad Tharp, MAI, SRA, J.T. Ferstl, J.D., MAI, and Stephen Tharp have not performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. This assignment was prepared as an Appraisal Report in accordance with USPAP Standards Rules 2, with the analysis stated within the document and representing a summarized level of analysis.

This analysis is based upon market indicated data, trends, and values as of the date of this report. The appraisers cannot anticipate unforeseen future market variations and or a change including new competitive properties in the marketing area. The appraisers signing this appraisal report have no knowledge concerning the presence or absence of environmental contamination. If such is present, the value of the property may be adversely affected, and a reanalysis at additional cost to estimate the effects of such.

This appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan. The following table conveys the final opinions of value developed in this appraisal report. This value is subject to the hypothetical conditions and extraordinary assumptions stated within the appraisal report.

MARKET VALUE CONCLUSION			
VALUATION SCENARIO	**INTEREST APPRAISED**	**DATE**	**VALUE**
Tract A / Tract B Market Value	Fee Simple	February 10, 2023	$1,265,000
Tract C - Acquisition Value	Fee Simple	February 10, 2023	$385,000

If there are any specific questions or concerns regarding the attached Appraisal Report, or if Ferstl Valuation Services can be of additional assistance, please contact our office.

Sincerely,

FERSTL VALUATION SERVICES



Brad Tharp, MAI, SRA
Certified General Appraiser
Arkansas License No. 3734
Expiration Date: 6/30/2023
btharp@ferstlvs.com



J.T. Ferstl, J.D., MAI
Certified General Appraiser
Arkansas License No. 1750
Expiration Date: 6/30/2023
jtferstl@ferstlvs.com



Stephen Tharp, SRA
Certified Residential Appraiser
Arkansas License No. 4331
Expiration Date: 06/30/2023
stharp@ferstlvs.com

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APPRAISER CERTIFICATION

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REPORT ADDENDA
Washington County Assessor Records
Property Information
Qualifications of Appraiser

EXECUTIVE SUMMARY

PROPERTY IDENTIFICATION

Name	Commercial Land
Property	Land - Commercial Land
Address	N West Avenue
City, State Zip	Fayetteville, Arkansas 72701
County	Washington County
MSA	Fayetteville-Springdale-Rogers, AR-MO MSA
Market / Submarket	Northwest Arkansas / Downtown Fayetteville
Geocode	36.065022,-94.166167
Census Tract	05-143-011302

SITE DESCRIPTION

Number of Parcels	3							
Parcel Numbers	765-01743-003, 765-01743-002, 765-01743-004							
Property	**Tract A**		**Tract B**		**Tract C - Before**		**Tract C - After**	
Land Area	**Square Feet**	**Acres**	**Square Feet**	**Acres**	**Square Feet**	**Acres**	**Square Feet**	**Acres**
Total	21,927	0.50	1,110	0.03	16,988	0.39	10,000	0.23
Zoning	Main Street Center (MSC)		Main Street Center (MSC)		Main Street Center (MSC)		Main Street Center (MSC)	
Shape	Irregular		Irregular		Irregular		Irregular	
Topography	Level		Level		Level		Level	
Flood Zone	Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)	

EASEMENT DESCRIPTION

Property Type	Greenway Easement	
Land Area	Square Feet	Acres
Total	5,520	0.13

QUALITATIVE ANALYSIS

Site Quality	Average
Site Access	Average
Site Exposure	Average
Site Utility	Average

HIGHEST & BEST USE

Proposed Construction	No
As Vacant	Commercial

EXPOSURE & MARKETING TIME

Exposure Time	12 Months or Less
Marketing Time	12 Months or Less

There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, and north of Metro District. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. The property is within Census Tract No. 05-143-011302.

The purpose of this appraisal report is to develop an estimate of site value for three different tracts of land. Three properties are valued in this analysis and labeled Tract A, Tract B, and Tract C. This analysis provides a conclusion of market value for Tract A and Tract B. Additionally, a conclusion of market value is developed for Tract C "before" and "after" a greenway easement affects the site. Consequently, three value conclusions are developed. This report conforms to the current Uniform Standards of Professional Appraisal Practice (USPAP), and the appraisal request of the client. City of Fayetteville is the only intended user of this report. No third parties are authorized to rely on this appraisal report without the express written consent of Ferstl Valuation Services.

MARKET VALUE CONCLUSION

VALUATION SCENARIO	INTEREST APPRAISED	DATE	VALUE
Tract A / Tract B Market Value	Fee Simple	February 10, 2023	$1,265,000
Tract C - Acquisition Value	Fee Simple	February 10, 2023	$385,000

HYPOTHETICAL CONDITIONS

The following hypothetical condition is included in this appraisal report:

- None.

Hypothetical Condition: A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of the analysis.[1]

EXTRAORDINARY ASSUMPTIONS

The following extraordinary assumptions are included in this appraisal report:

- This analysis assumes the sizes of the tracts used to develop a market value are accurate based on information provided or public records.
- A greenway easement will be located within the property described as Tract C. However, a survey was not provided, and the exact location is unknown. This analysis assumes the location of the easement used in this analysis is correct.
- This analysis assumes the tracts of land in this analysis have adequate ingress/egress.

The use of these extraordinary assumptions may have affected the assignment results.

Extraordinary Assumption: An assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.[2]

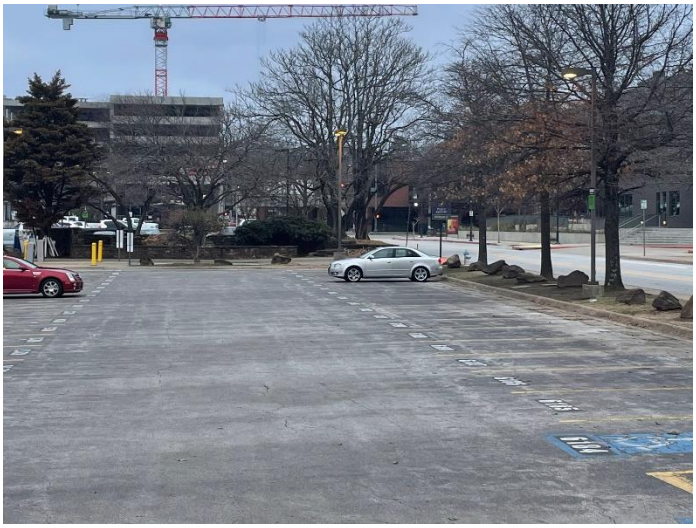
[1] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

[2] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

AERIAL MAP


W Lafayette St
N Arkansas Ave
N Gregg Ave
N West Ave
N Campbell Ave
N Rollston Ave
N Thompson Ave
W Dickson St
SUBJECT
N University Ave
N School Ave
N Shipley Aly
N Locust Ave
W Meadow St
W Center St
S West Ave
NW Arkansas Razorb
W Mountain St
Microsoft Corp | ©Maxar
300ft

SUBJECT PHOTOGRAPHS



Site View



Site View



Site View



Site View



Site View



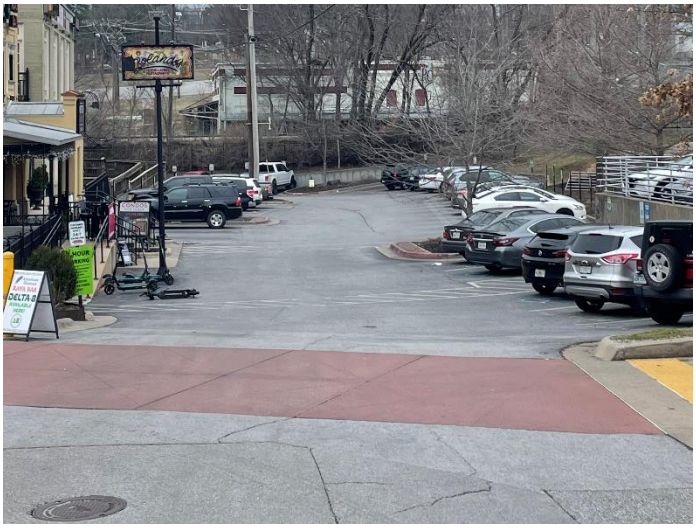
Site View



Site View



Site View



Site View



Site View



Spring Street View



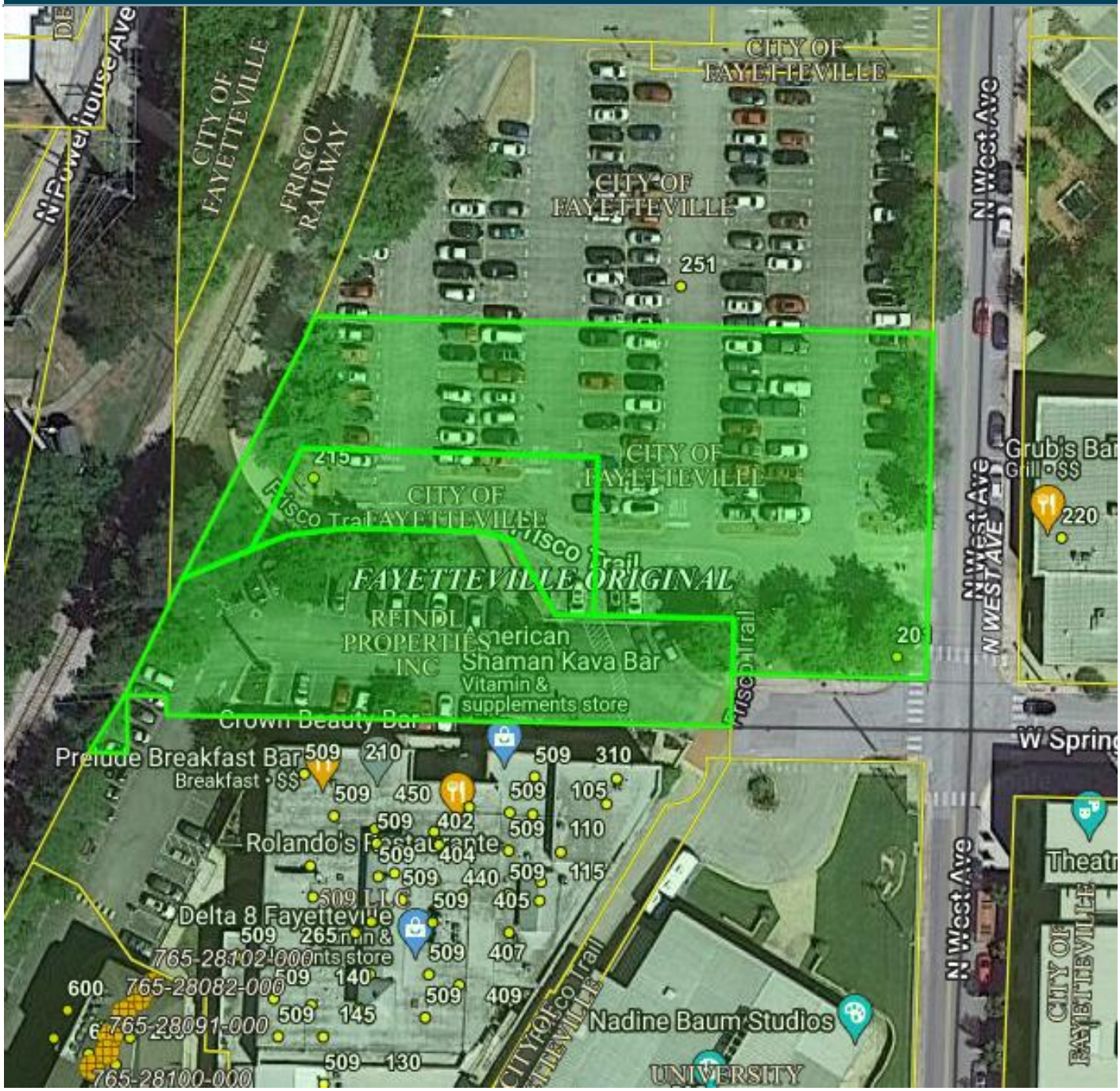
N West Avenue Street View

IDENTIFICATION OF ASSIGNMENT

PROPERTY IDENTIFICATION

There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, and north of Metro District. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. These tracts are located within the parcels highlighted below.

PROPERTY LOCATION MAP



CLIENT IDENTIFICATION

The client of this specific appraisal assignment is City of Fayetteville. The Engagement Letter can be found in the Report Addenda.

Client: The party or parties (i.e., individual, group, or entity) who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent.[3]

INTENDED USE

The intended use of this appraisal is to assist the client in making internal business decisions related to this asset. No other use is authorized for this appraisal report.

Intended Use: The use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.[4]

INTENDED USER

City of Fayetteville is the only intended user of this report. No third parties are authorized to rely on this appraisal report without the express written consent of Ferstl Valuation Services.

Intended User: The client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser on the basis of communication with the client at the time of the assignment.[5]

PURPOSE OF APPRAISAL

The purpose of this appraisal report is to develop opinions of the market value (fee simple) for Tract A and Tract B along with a "before" and "after " market value (fee simple) for Tract C. This report conforms to the current Uniform Standards of Professional Appraisal Practice (USPAP), and the appraisal request of the client.

PROPERTY RIGHTS

The property rights appraised constitute the fee simple interest. The subject property is vacant land.

Fee Simple Interest: Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat.[6]

Leased Fee Interest: The ownership interest held by the lessor, which includes the right to receive the contract rent specified in the lease plus the reversionary right when the lease expires.[7]

---

[3] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

[4] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

[5] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

[6] The Dictionary of Real Estate Appraisal, Seventh Edition, Appraisal Institute, Chicago, Illinois, 2022

[7] The Dictionary of Real Estate Appraisal, Seventh Edition, Appraisal Institute, Chicago, Illinois, 2022

DEFINITION OF MARKET VALUE

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming that the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.[8]

PERSONAL PROPERTY

Personal property is not included in this valuation.

Personal Property: Any tangible or intangible article that is subject to ownership and not classified as real property, including identifiable tangible objects that are considered by the general public as being "personal," such as furnishings, artwork, antiques, gems and jewelry, collectibles, machinery, and equipment; and intangible property that is created and stored electronically such as plans for installation art, choreography, emails, or designs for digital tokens.[9]

VALUE SCENARIO

This appraisal report develops opinions of the market value (fee simple) for Tract A and Tract B along with a "before" and "after " market value (fee simple) for Tract C.

As-Is Value: The estimate of the value of real property in its current physical condition, use, and zoning as of the appraisal date.[10]

Retrospective Value: A value opinion effective as of a specified historical date. The term does not define a type of value. Instead, it identifies a value opinion as being effective at some specific prior date. Value as of a historical date is frequently sought in connection with property tax appeals, damage models, lease renegotiation, deficiency judgments, estate tax, and condemnation. Inclusion of the type of value with this term is appropriate, e.g., "retrospective market value opinion."[11]

[8] Office of Comptroller of the Currency (OCC), Title 12 of the Code of Federal Regulation, Part 34, Subpart C -Appraisals, 34.42 (g); Office of Thrift Supervision (OTS), 12 CFR 564.2 (g); This is also compatible with the FDIC, FRS and NCUA definitions of market value.

[9] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

[10] The Dictionary of Real Estate Appraisal, Seventh Edition, Appraisal Institute, Chicago, Illinois, 2022

[11] The Dictionary of Real Estate Appraisal, Seventh Edition, Appraisal Institute, Chicago, Illinois, 2022

PROPERTY HISTORY - TRACT A / TRACT B

Tract A and Tract B are currently recorded in the name of City of Fayetteville. There are no sales or transfers for the three years prior to the effective date of this report. It appears these tracts were listed for potential sale. However, the details were not disclosed, and no listing data was found to disclose the details. It appears the City of Fayetteville is interested in working with developers with mutual interest for development of the site. No information was provided in relation to the property being under contract. A title search was not performed as part of this analysis.

PUBLIC RECORD HISTORY 765-01743-002

Parcel: **765-01743-002** ID: **35997**

Washington County Report

Property Owner	
Name:	CITY OF FAYETTEVILLE
Mailing Address:	113 W MOUNTAIN ST FAYETTEVILLE, AR 72701
Type:	(EG) Ex. Government
Over 65 Freeze:	No
Tax District:	(011) FAYETTEVILLE SCH, FAY
Size (Acres):	

Property Information	
Physical Address:	
Subdivision:	FAYETTEVILLE ORIGINAL
Block/Lot:	007 / --
S-T-R:	16 - 16 - 30

	🔗	9/27/1989	1340	810	Warr. Deed	0.00	$0	CITY OF FAYETTEVILLE, ARKANSAS		
	🔗	10/9/1986	1196	827	Warr. Deed	58.30	$53,000	MCBRIDE DISTRIBUTING CO INC	Unval.	
		1/1/1985	1196	824	Warr. Deed	0.00	$0	SUGG, JOHM G SR ETAL TRUSTEE		

PUBLIC RECORD HISTORY 765-01743-003

Parcel: **765-01743-003** ID: **35998**

Washington County Report

Property Owner	
Name:	CITY OF FAYETTEVILLE
Mailing Address:	113 W MOUNTAIN ST FAYETTEVILLE, AR 72701
Type:	(EG) Ex. Government
Over 65 Freeze:	No
Tax District:	(011) FAYETTEVILLE SCH, FAY
Size (Acres):	

Property Information	
Physical Address:	
Subdivision:	FAYETTEVILLE ORIGINAL
Block/Lot:	007 / --
S-T-R:	16 - 16 - 30

		1/19/1990	1351	302	Warr. Deed	0.00	$0	CITY OF FAYETTEVILLE, ARKANSAS		
		1/1/1985	1351	300	Warr. Deed	66.00	$60,000	SUGG, JOHN G SR; SUGG, ANN W; SUGG	Unval.	

PROPERTY HISTORY - TRACT C

Tract C is currently recorded in the name of Reindl Properties, Inc. There are no sales or transfers for the three years prior to the effective date of this report. To the best of our knowledge, the subject is not under contract and has not been listed for sale in the year prior to the effective date of this appraisal. A title search was not performed as part of this analysis.

PUBLIC RECORD HISTORY 765-01743-004

Parcel: **765-01743-004** ID: **96573**

Washington County Report

Property Owner	
Name:	REINDL PROPERTIES INC
Mailing Address:	509 W SPRING ST STE 460 FAYETTEVILLE, AR 72703
Type:	(CV) Comm. Vacant
Over 65 Freeze:	No
Tax District:	(011) FAYETTEVILLE SCH, FAY
Size (Acres):	

Property Information	
Physical Address:	
Subdivision:	FAYETTEVILLE ORIGINAL
Block/Lot:	008 / --
S-T-R:	16 - 16 - 30

		3/6/2019	2019	6302	Quit Claim			REINDL PROPERTIES INC		Land Only
		12/18/2018	2019	587	Survey			METRO DISTRICT CONDOMINIUMS HPR		Land Only
		11/8/2011	2011	32091	Redem Deed			METRO DISTRICT CONDOMINIUMS HPR		
		7/20/2011	2011	11424	CompLaw			METRO DISTRICT CONDOMINIUMS HPR		
		8/5/2005	2005	53850	Survey			METRO DISTRICT LLC		
		5/23/2005	2005	22872	Warr. Deed	25439.70	$7,709,000	METRO DISTRICT LLC	Additional Properties	Improved
		1/14/2005	2005	2536	Warr. Deed			REINDL PROPERTIES INC		Land Only
		11/1/2004	2004	50264	Survey			REINDL PROPERTIES INC	Inc. Additional Prop.	Land Only

REAL ESTATE TAXES

The subject's assessed values and property taxes as indicated by public record are summarized in the following table.

ASSESSMENT & TAXES

					TAX RATE	57.95
ASSESSOR PARCEL #	LAND	IMPROVEMENTS	TOTAL	EXEMPTIONS	TAXABLE	BASE TAX
765-01743-003	-	-	-	-	-	-
765-01743-002	-	-	-	-	-	-
765-01743-004	$69,300	$0	$69,300	$0	$13,860	$803

Source: Washington County Assessment & Taxation

Tract A and Tract B include tax exemptions due to being recorded under the City of Fayetteville as city owned property. Total real estate taxes for Tract C are estimated at $803 annually. Real estate taxes are estimated from the Washington County Assessor website. The land value assigned by the Washington County Assessor is below market value. If the client has concerns, a verification letter from the appropriate authority is recommended.

The Washington County Assessor has valued Tract C at $69,300, which is $4.08 per square foot. Three vacant land properties in the area were analyzed. The Washington County Assessor has valued these nearby tracts of land from $4.28 to $11.48 per square foot. This data indicates that Tract C is taxed similar to comparable properties in the market. Tract A and Tract B are exempt and have not recorded tax information.

TAX COMPARABLES

	COMP 1	COMP 2	COMP 3
Address	Dickson St	N Block Ave	224 N Chruch Ave
City	Fayetteville	Fayetteville	Fayetteville
Taxing Authority	Washington County	Washington County	Washington County
APN	765-01653-000	765-01667-000	765-01670-000
Square Feet	17,507	9,452	16,800
Assessor's Value	$75,000	$48,750	$192,900
Assessor's $/SF	$4.28	$5.16	$11.48
Assessed Total	$15,000	$9,750	$38,580
Assessed $PSF	$0.86	$1.03	$2.30
Millage Rate	57.95	57.95	57.95
Taxes Total	$869	$565	$2,236
Taxes $PSF	$0.05	$0.06	$0.13

EXPOSURE & MARKETING TIME

Marketing time and exposure time are both influenced by price. That is, a prudent buyer could be enticed to acquire the property in less time if the price were less. Hence, the time span cited below coincides with the value opinion(s) formed herein.

USPAP Standard rule 1-2(c)(iv) requires an opinion of exposure time, not marketing time, when the purpose of the appraisal is to estimate market value. In the recent past, the volume of competitive properties offered for sale, sale prices, and vacancy rates have fluctuated little. Sale concessions have not been prevalent.

EXPOSURE TIME

There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, and north of Metro District. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. Considering these factors, a reasonable estimate of exposure time for the subject property is 12 months or less.

Exposure Time: The estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.[12]

[12] The Dictionary of Real Estate Appraisal, Seventh Edition, Appraisal Institute, 2022.

The scope of work for this appraisal assignment is outlined below:

- The appraisal analyzes the regional and local retail area profiles including employment, population, household income, and real estate trends. The local area was inspected to consider external influences on the subject.
- The appraisal analyzes legal and physical features of the subject including site size, flood zone, site zoning, easements, encumbrances, site access, and site exposure.
- The appraisal includes a market analysis for improved retail properties using vacancy, absorption, supply, and rent data. Conclusions were drawn for the subject's competitive position given its physical and locational features, current market conditions and external influences.
- The appraisal includes a Highest and Best Use analysis and conclusions have been completed for the highest and best use for these tracts As Vacant. The analysis considered legal, locational, physical, and financial feasibility characteristics of the subject site.
- In selecting applicable approaches to value, the appraisers considered the agreed upon appraisal scope and assessed the applicability of each traditional approach given the subject's characteristics and the intended use of the appraisal. As a result, this appraisal developed an as-is market value (fee simple) for Tract A and Tract B along with a "before" and "after " market value (fee simple) for Tract C land value utilizing the Site Valuation.
- The assignment was prepared as an Appraisal Report in accordance with USPAP Standards Rules 2, with the analysis stated within the document and representing a summarized level of analysis.
- The authors of this report are aware of the Competency Rule of USPAP and meet the standards.

ASSISTANCE PROVIDED

No one provided real property appraisal assistance to the individuals signing this report.

SUBJECT PROPERTY INSPECTION

PROPERTY INSPECTION				
APPRAISER	**INSPECTED**	**EXTENT**	**DATE**	**ROLE**
Brad Tharp, MAI, SRA	No	N/A	N/A	Appraiser
J.T. Ferstl, J.D., MAI	No	N/A	N/A	Appraiser
Stephen Tharp, SRA	Yes	Site Only	February 10, 2023	Appraiser

SOURCES OF INFORMATION

The following sources were contacted to obtain relevant information:

INFORMATION PROVIDED	
Property Assessment & Tax	Washington County Assessor
Zoning & Land Use Planning	City of Fayetteville Zoning
Site Size	Client
Supply & Demand	CoStar
Flood Map	FEMA
Demographics	STDB On-Line
Comparable Information	MLS | Public Records | Confirmed by Local Agents
Operating Statements	Not Provided
Title Report	Not Provided
Phase I Environmental Report	Not Provided
Lease Documents	Not Provided
Deed	Washington County Assessor

The conclusions in this report are contingent upon the results of a current and accurate ALTA Survey by an engineer that are not in conflict with the information in this report. This appraisal is also subject to the extraordinary assumptions and hypothetical conditions stated on the following pages. The lack of items made available could affect the results of this analysis. As part of the general assumptions and limiting conditions, the subject is assumed to have no adverse easements or be impacted by adverse environmental conditions.

PRIOR SERVICES

Brad Tharp, MAI, SRA; J.T. Ferstl, J.D., MAI; and Stephen Tharp, SRA have not performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

HYPOTHETICAL CONDITIONS

The following hypothetical condition is included in this appraisal report:

- None.

Hypothetical Condition: A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of the analysis.[13]

EXTRAORDINARY ASSUMPTIONS

The following extraordinary assumptions are included in this appraisal report:

- This analysis assumes the sizes of the tracts used to develop a market value are accurate based on information provided or public records.
- A greenway easement will be located within the property described as Tract C. However, a survey was not provided, and the exact location is unknown. This analysis assumes the location of the easement used in this analysis is correct.
- This analysis assumes the tracts of land in this analysis have adequate ingress/egress.

The use of these extraordinary assumptions may have affected the assignment results.

Extraordinary Assumption: An assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.[14]

[13] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

[14] Uniform Standards of Professional Appraisal Practice, 2021-2022 ed., Appraisal Standards Board of the Appraisal Foundation.

APPRAISER COMPETENCY

Appraiser qualifications are available in the Report Addenda. The appraisers signing this document are competent to prepare this appraisal report.

Brad Tharp, MAI, SRA is a member of the Benton/Bryant Realtors Association. He earned a bachelor's degree in Environmental Science, and master's degree in Geographical Information Systems (GIS) from the University of Central Arkansas. Mr. Tharp is a licensed residential contractor and has built numerous single-family homes in Central Arkansas. He is a 2014 Nominating Committee Member, 2016 Finance Committee Member, and past President for the Arkansas Chapter of the Appraisal Institute. As of the date of this report, Brad Tharp, MAI, SRA has completed the continuing education program for Designated Members of the Appraisal Institute. As of the date of this report, he has also completed the Standards and Ethics Education Requirements for Candidates of the Appraisal Institute.

J.T. Ferstl, J.D., MAI has been preparing commercial appraisals since 2000. He is a licensed Real Estate Broker, Licensed Attorney, and Certified General Appraiser in the State of Arkansas. In 2008, he was appointed by the Little Rock Board of Directors, to a position on the Little Rock Planning Commission. He is also a past two-term president of the Arkansas Chapter of the Appraisal Institute. In 2017, he was elected to serve on the National Board of Directors of the Appraisal Institute beginning in 2018. He currently serves on the Little Rock Parks and Recreation Commission. As of the date of this report, J.T. Ferstl, J.D., MAI has completed the continuing education program for Designated Members of the Appraisal Institute.

Stephen Tharp, SRA has earned an associate degree from Pratt Community College, a bachelor's degree in interdisciplinary studies from Arkansas State University, and a master's degree from the University of Arkansas at Fayetteville. He is a Designated Member of the Appraisal Institute. He is currently serving on the Appraisal Institute Nominating Committee. As of the date of this report, he has completed the continuing education program for Designated Members of the Appraisal Institute.

REGIONAL RETAIL TRENDS

Retail rents in the Northwest Arkansas market were rising at a 4.7% annual rate during the first quarter of 2023, and have posted an average annual gain of 4.1% over the past three years. In addition to 960,000 SF that has delivered over the past three years (a cumulative inventory expansion of 2.8%), there is 380,000 SF currently underway. Vacancies were basically in line with the 10-year average as of 2023Q1, but trended slightly down over the past four quarters. Employment in the metro was recently increasing at an annual rate of 4.1%, or a gain of about 11,000 jobs. While a positive result, this does represent the weakest rate of job creation in the past twelve months, which at one point was as high as 6.0%.

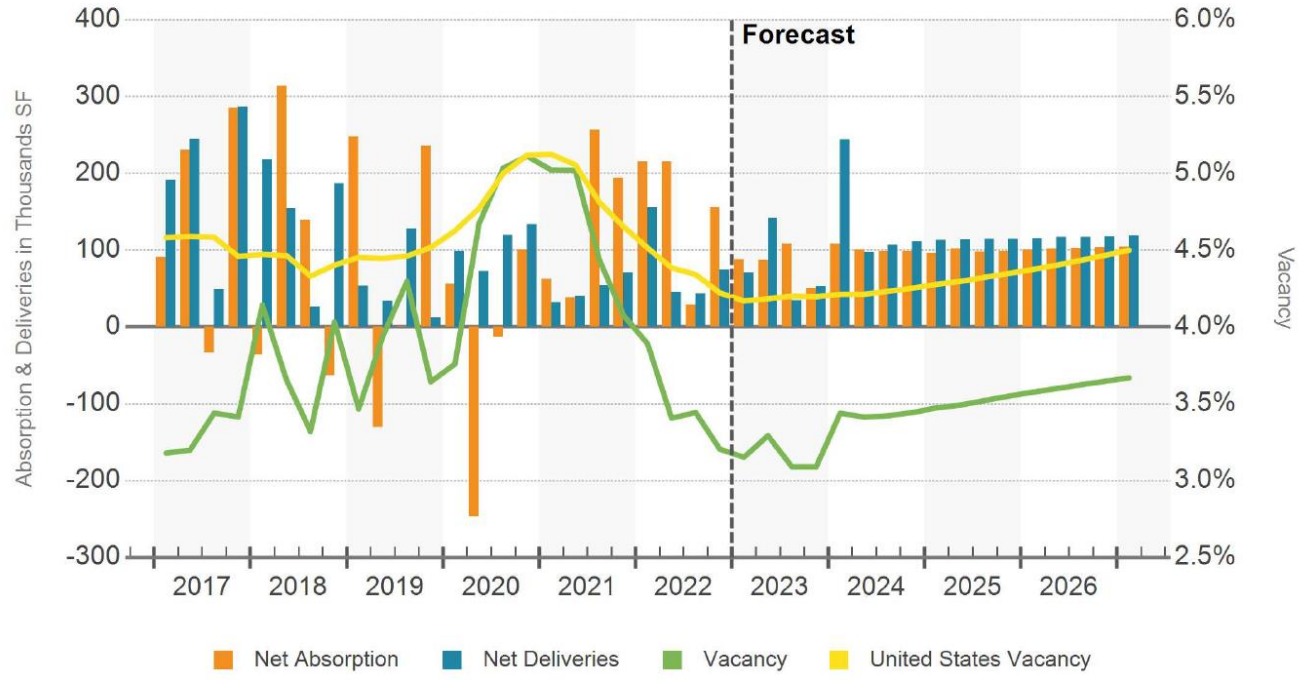
KEY INDICATORS

Current Quarter	RBA	Vacancy Rate	Market Rent	Availability Rate	Net Absorption SF	Deliveries SF	Under Construction
Malls	1,763,870	8.7%	$20.79	17.1%	0	0	134,183
Power Center	1,412,281	3.2%	$17.25	5.0%	0	0	0
Neighborhood Center	3,817,073	8.5%	$17.56	8.7%	(3,342)	0	0
Strip Center	2,300,638	3.8%	$16.62	4.1%	(614)	0	0
General Retail	25,995,577	2.3%	$16.93	2.7%	11,988	70,716	208,846
Other	261,991	0%	$18.68	0%	0	0	0
Market	**35,551,430**	**3.4%**	**$17.21**	**4.3%**	**8,032**	**70,716**	**343,029**

Annual Trends	12 Month	Historical Average	Forecast Average	Peak	When	Trough	When
Vacancy Change (YOY)	-0.6%	5.0%	3.5%	7.7%	2010 Q4	2.9%	2016 Q4
Net Absorption SF	499K	477,440	397,620	948,301	2016 Q4	(104,746)	2020 Q4
Deliveries SF	415K	471,439	461,299	856,409	2015 Q2	151,281	2012 Q2
Rent Growth	4.7%	1.1%	1.8%	5.8%	2022 Q3	-4.6%	2009 Q4
Sales Volume	$194M	$129.9M	N/A	$377.2M	2022 Q2	$21.1M	2009 Q4

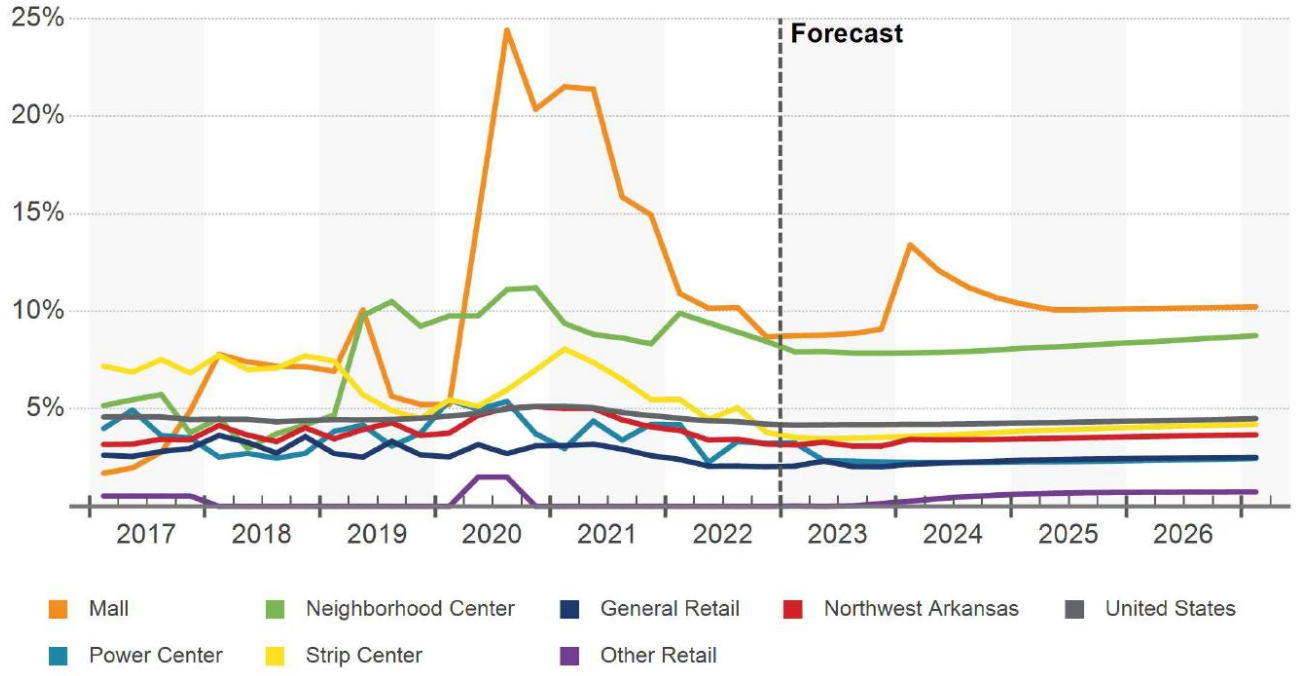
RETAIL LEASING

NET ABSORPTION, NET DELIVERIES & VACANCY

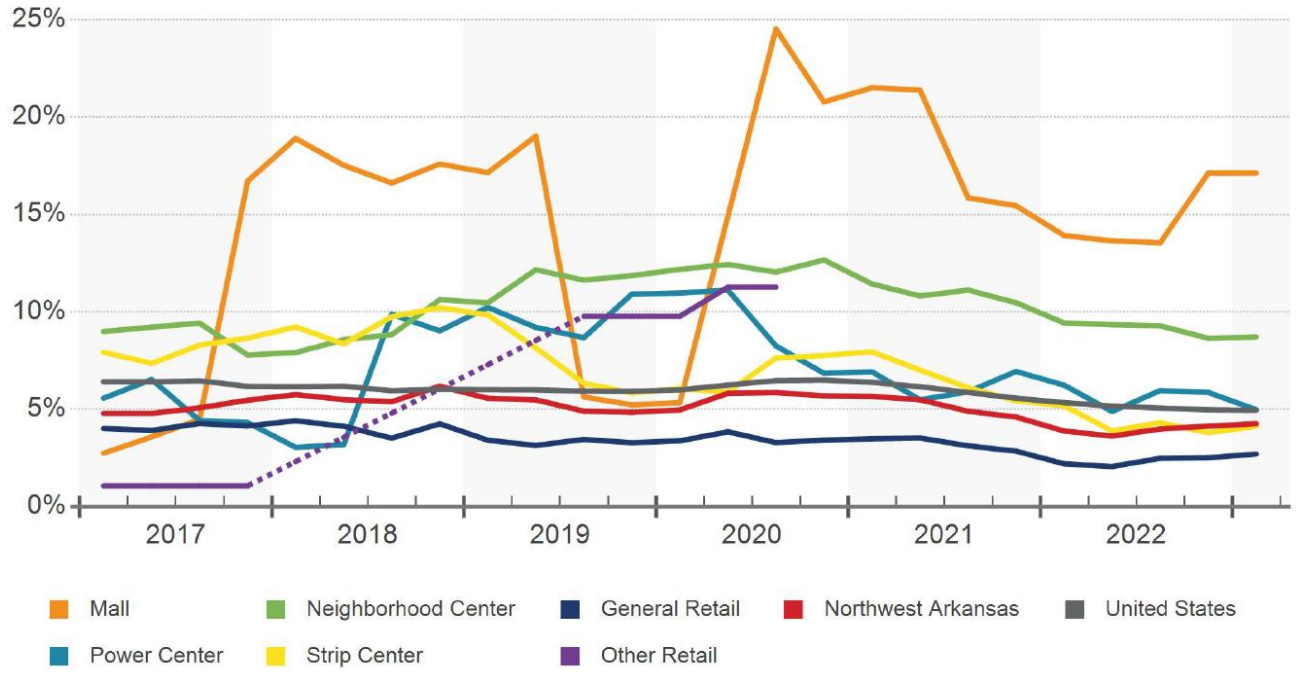


RETAIL LEASING

VACANCY RATE

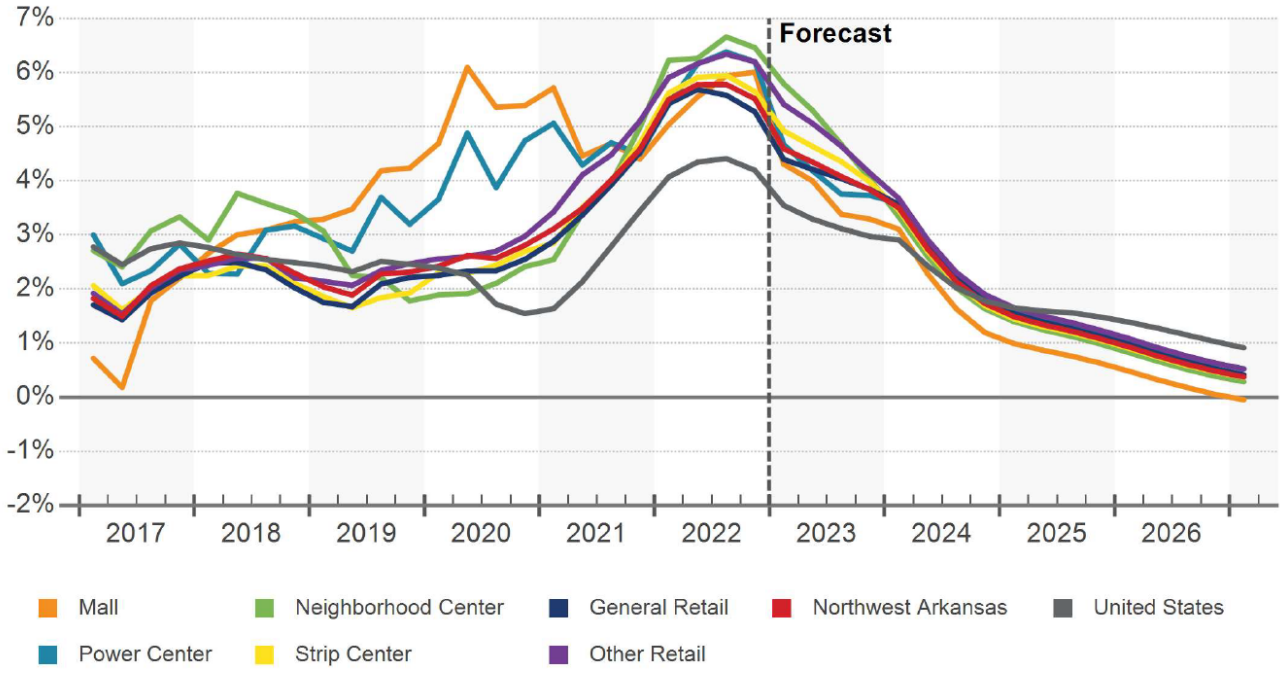


AVAILABILITY RATE

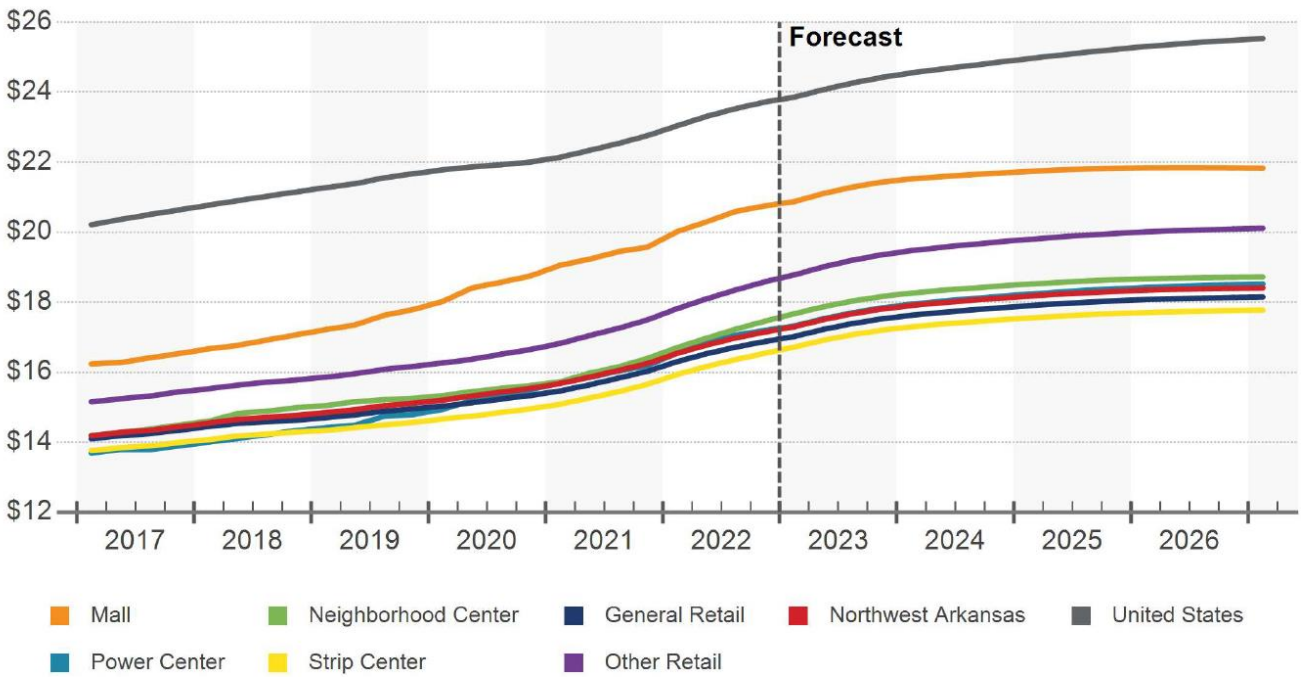


RETAIL RENT

MARKET RENT GROWTH (YOY)

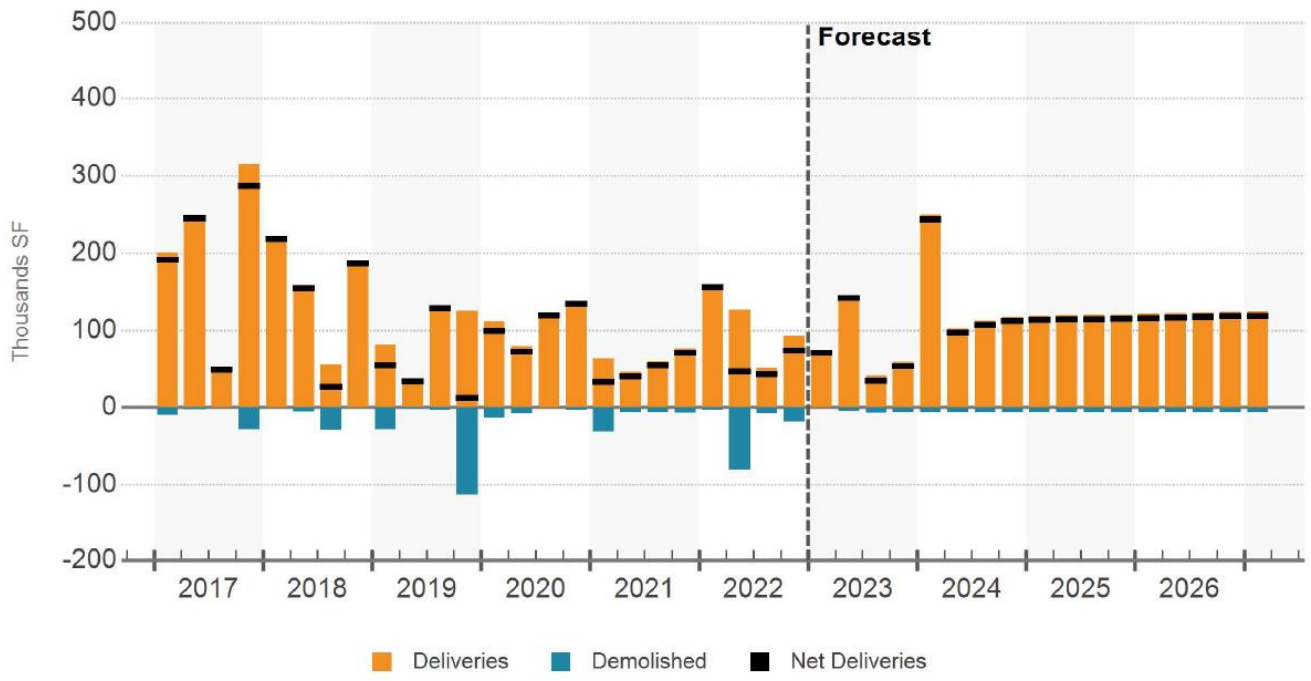


MARKET RENT PER SQUARE FEET



CONSTRUCTION

DELIVERIES & DEMOLITIONS



SUBMARKET CONSTRUCTION

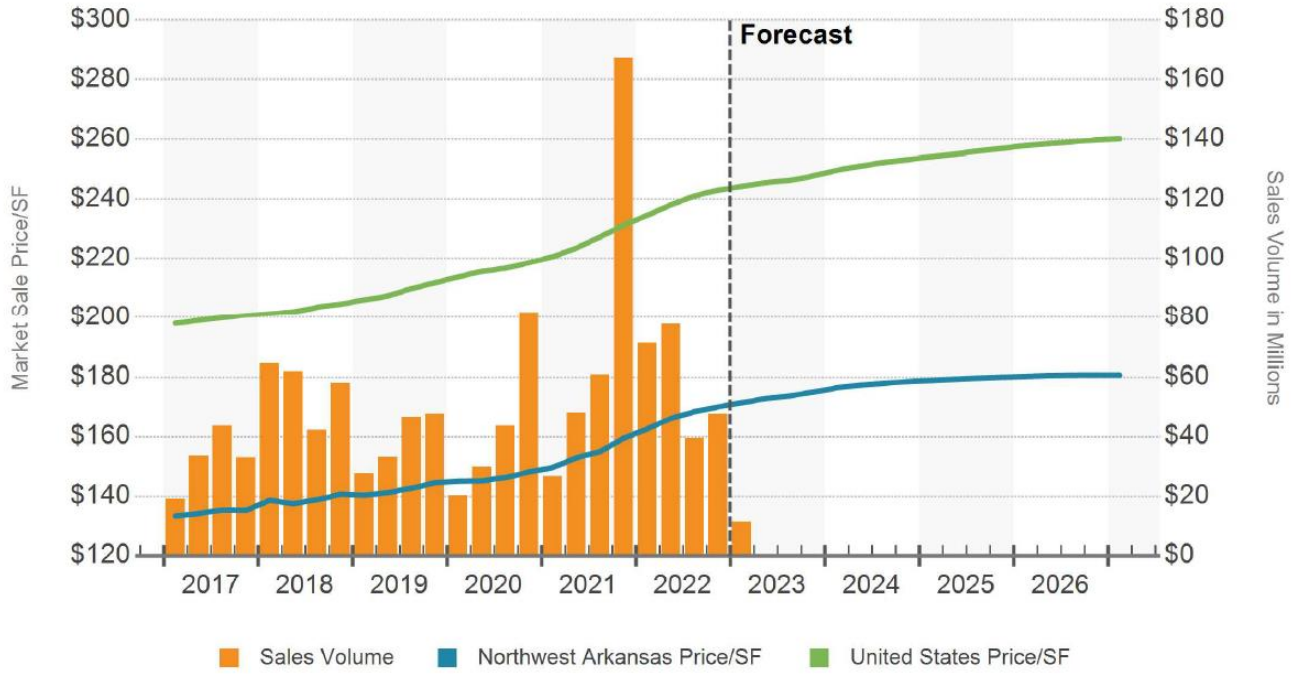
		Under Construction Inventory					Average Building Size		
No.	Submarket	Bldgs	SF (000)	Pre-Leased SF (000)	Pre-Leased %	Rank	All Existing	Under Constr	Rank
1	West Rogers	5	165	88	53.4%	5	23,834	33,079	2
2	Bentonville	8	72	63	87.5%	4	10,025	8,972	5
3	Downtown Fayetteville	1	62	0	0%	7	7,099	62,000	1
4	Greater Fayetteville	2	41	10	24.0%	6	12,597	20,261	3
5	Greater Springdale	4	27	27	100%	1	10,172	6,760	6
6	Outlying Washington Cnty	1	14	14	100%	1	7,563	13,800	4
7	Outlying Benton County	1	3	3	100%	1	8,518	2,500	7
8	East Rogers	0	-	-	-	-	9,310	-	-
9	Madison County	0	-	-	-	-	5,186	-	-
10	McDonald County	0	-	-	-	-	6,564	-	-
Totals		**22**	**383**	**204**	**53.3%**		**10,535**	**17,410**	

RETAIL SALES

Northwest Arkansas is a midsized retail market that saw 168 retail deals close in the past year, a solid performer among its peers. That was more of the same for the market, as deal flow kept pace with what was typical over the past five years. Annual sales volume has averaged $217 million over the past five years, and the 12-month high in investment volume hit $377 million over that stretch. In the past 12 months specifically, $202 million worth of retail assets sold. Deals involving general retail steered annual sales volume, accounting for $186 million of the metro's sum in the past 12 months.

Market pricing, derived from the estimated price movement of every single retail property in the metro, sat at $171/SF during the first quarter of 2023. That figure is an improvement over this time last year, and the price is a large discount to the overall average for the country. The market cap rate has dropped since last year and currently sits at 6.9%. This is the lowest cap rate that has been seen in Northwest Arkansas during the past five years, and it's close to the country's average.

SALES VOLUME & MARKET SALE PRICE PER SF



ECONOMY

In January 2020, the region had 272,400 employees and an unemployment rate of 2.9%. By April that year, the economy had lost 26,000 jobs, and the unemployment rate spiked to 8.1%. However, the economy came roaring back in the second half of 2020. The growth continued into 2022, adding 44,500 new jobs over the first three quarters, reaching 287,000. An unemployment rate of 2.2% makes it one of the tightest labor markets in the country.

Northwest Arkansas has evolved into a diversified economy that attracts highly skilled workers in various industries. Total non-farm employment has increased 30% over the last decade, while the U.S. grew by about 9%. The lion's share of employment growth has occurred in the professional and business services sector. For example, the state's largest law firm, Friday, Eldredge & Clark, LLP, known in the legal community as the "Friday Firm," has consolidated its offices in Northwest Arkansas. Tyson Foods has also announced a consolidation. The shift will bring 1,000 employees from Illinois and South Dakota. The first phase is expected to begin in 2023, followed by the groundbreaking of a new campus later that year. Walmart remains the regional corporate anchor and has propelled prosperity in the area. The retailer has attracted thousands of suppliers to the state, many of whom have set up Northwest Arkansas operations. These include household names like Procter & Gamble, Campbell Soup, and Hershey, earning Bentonville the nickname "Vendorville." In addition to Walmart, the region is also the headquarters for Tyson Foods and J.B. Hunt.

With the University of Arkansas, over 30,000 college students attend universities and colleges in Northwest Arkansas, fueling the metro-area company's talent-rich pipeline of potential employees. Combined with some of the lowest business costs in America, it has helped make the area a popular destination for corporate headquarters and, in turn, one of the premier regions for growth. The education sector plays a significant part in the area's economic success story. The University of Arkansas provides jobs for as many as 4,500 people. Education and health services have realized a combined expansion of nearly 1.5% in the past 12 months and have averaged almost 4.5% annual growth in the past five years.

NORTHWEST ARKANSAS EMPLOYMENT BY INDUSTRY IN THOUSANDS

	CURRENT JOBS		CURRENT GROWTH		10 YR HISTORICAL		5 YR FORECAST	
Industry	Jobs	LQ	Market	US	Market	US	Market	US
Manufacturing	33	1.3	2.95%	2.88%	2.07%	0.78%	-0.11%	-0.03%
Trade, Transportation and Utilities	62	1.1	1.33%	1.40%	2.60%	1.18%	0.39%	0.08%
Retail Trade	29	1.0	-0.02%	0.47%	2.47%	0.55%	0.50%	0.08%
Financial Activities	9	0.6	3.36%	1.52%	3.66%	1.40%	0.14%	0.09%
Government	41	1.0	3.24%	1.23%	2.96%	0.24%	1.54%	0.55%
Natural Resources, Mining and Construction	14	0.9	1.47%	3.07%	5.70%	2.45%	0.44%	0.23%
Education and Health Services	32	0.7	2.99%	3.59%	2.91%	1.72%	1.10%	0.54%
Professional and Business Services	60	1.4	6.69%	2.80%	4.28%	2.10%	1.08%	0.35%
Information	2	0.4	6.31%	5.05%	3.21%	1.34%	-1.67%	0.21%
Leisure and Hospitality	27	0.9	0.97%	5.66%	2.78%	1.37%	1.65%	1.07%
Other Services	10	0.9	2.35%	2.86%	4.61%	0.58%	0.45%	0.33%
Total Employment	**290**	**1.0**	**3.14%**	**2.71%**	**3.20%**	**1.29%**	**0.82%**	**0.38%**

Source: Oxford Economics
LQ = Location Quotient

LOCAL AREA DEMOGRAPHICS

The following information reflects the demographics for the subject's area.

LOCAL AREA DEMOGRAPHICS							
DESCRIPTION	**1 MILE**	**3 MILE**	**5 MILE**	**DESCRIPTION**	**1 MILE**	**3 MILE**	**5 MILE**
POPULATION TOTAL				HOUSEHOLDS			
2010 Census	14,525	49,863	80,290	2010 Census	4,748	21,239	33,415
2020 Census	17,335	60,795	101,398	2020 Census	5,497	25,628	42,351
2022 Estimate	17,946	62,735	105,018	2022 Estimate	5,708	26,463	43,893
2027 Projection	18,594	65,225	109,756	2027 Projection	6,010	27,583	45,969
Δ 2010-2020	19.35%	21.92%	26.29%	Δ 2010-2020	15.78%	20.66%	26.74%
Δ 2020-2022	3.52%	3.19%	3.57%	Δ 2020-2022	3.84%	3.26%	3.64%
Δ 2022-2027	3.61%	3.97%	4.51%	Δ 2022-2027	5.29%	4.23%	4.73%
Total Daytime Population	39,547	83,313	127,514	**HOUSEHOLDS BY INCOME (2022 ESTIMATE)**			
HOUSING UNITS				<$15,000	33.9%	20.1%	14.7%
Total (2022 Estimate)	6,854	29,945	48,680	$15,000 - $24,999	13.5%	15.2%	12.0%
Owner Occupied	15.2%	24.6%	35.5%	$25,000 - $34,999	10.5%	12.0%	10.2%
Renter Occupied	68.0%	63.8%	54.6%	$35,000 - $49,999	14.7%	14.3%	14.0%
Vacant Housing Units	16.7%	11.6%	9.8%	$50,000 - $74,999	9.8%	13.4%	14.3%
Total (2027 Projection)	7,246	31,402	51,271	$75,000 - $99,999	5.1%	8.2%	10.3%
Owner Occupied	15.7%	24.8%	35.7%	$100,000 - $149,999	6.2%	9.0%	13.3%
Renter Occupied	67.2%	63.1%	54.0%	$150,000 - $199,999	2.2%	3.0%	4.6%
Vacant Housing Units	17.1%	12.2%	10.3%	$200,000+	4.0%	4.7%	6.5%
AVERAGE HOUSEHOLD INCOME				**AVERAGE HOUSEHOLD SIZE**			
2022 Estimate	$52,128	$64,222	$79,271	2022 Estimate	1.99	2.09	2.22
2027 Projection	$59,991	$74,360	$90,814	2027 Projection	2.00	2.10	2.22
Δ 2022-2027	15.08%	15.79%	14.56%	Δ 2022-2027	0.50%	0.48%	0.00%
MEDIAN HOUSEHOLD INCOME				**MEDIAN HOME VALUE**			
2022 Estimate	$26,992	$37,112	$48,637	2022 Estimate	$311,935	$242,507	$246,049
2027 Projection Projectior	$31,518	$43,826	$57,521	2027 Projection	$377,322	$277,827	$275,502
Δ 2022-2027	16.77%	18.09%	18.27%	Δ 2022-2027	20.96%	14.56%	11.97%
PER CAPITA INCOME				**AVERAGE HOME VALUE**			
2022 Estimate	$17,978	$27,335	$33,203	2022 Estimate	$355,794	$301,514	$303,009
2027 Projection	$20,868	$31,701	$38,081	2027 Projection	$400,492	$348,963	$347,564
Δ 2022-2027	16.08%	15.97%	14.69%	Δ 2022-2027	12.56%	15.74%	14.70%

Source: Sites To Do Business Online

POPULATION

Esri estimates the 2022 population within the neighborhood 3-mile radius of the subject property at 62,735 representing a 3.19% change since 2020. The total trade area 5-mile radius around the subject is estimated to have a population of 105,018, which represents a 3.57% change since 2020. Looking forward, the population of the neighborhood 3-mile radius is forecasted to change to 3.97% by the year 2027. The population within the total trade area 5-mile radius is forecasted to change to 109,756 over the next five years. Overall, total area 5-mile radius population is expected to change by 4.51% over the next five years.

HOUSEHOLDS

Esri estimates that the number of households within the neighborhood 3-mile radius of the subject is 26,463, which is a 3.26% change since 2020. Within the total area 5-mile radius, the number of households is estimated to be 43,893 in 2020, a 3.64% change over the same period of time.

By the year 2027, Esri estimates that the number of households in the neighborhood 3-mile radius will change by 4.23% to 27,583, households. Additionally, households in the entire trade area are expected to change by 4.73% to 45,969 households over the next five years. The number of households in the neighborhood 3-mile radius of the subject changed 20.66% from 2010 to 2020; and since then, it has changed by 3.26%.

INCOME

According to Esri, the neighborhood 3-mile radius around the subject property has an estimated median household income of $37,112 and an average household income of $64,222. Esri reports that the total trade area 5-mile radius has a median household income of $48,637, and an average household income of $79,271. With 43,893 households currently in the total trade area 5-mile radius of the subject property, local effective buying income is estimated to be about $3,479,442,003.

CONCLUSION

Based on the Esri data presented above, the demographics in the subject neighborhood are considered average. Population growth has changed by 3.19% since 2020 and is expected to change 3.97% over the next 5 years within a the 3-mile radius. Average household incomes are average at an estimated $64,222, and the area is populated with 26,463 households within a 3-mile radius around the subject property. This area experienced the largest increase in population and households from the 2000 to 2010 period. The increasing trend has since stabilized.

SURROUNDING LAND USES

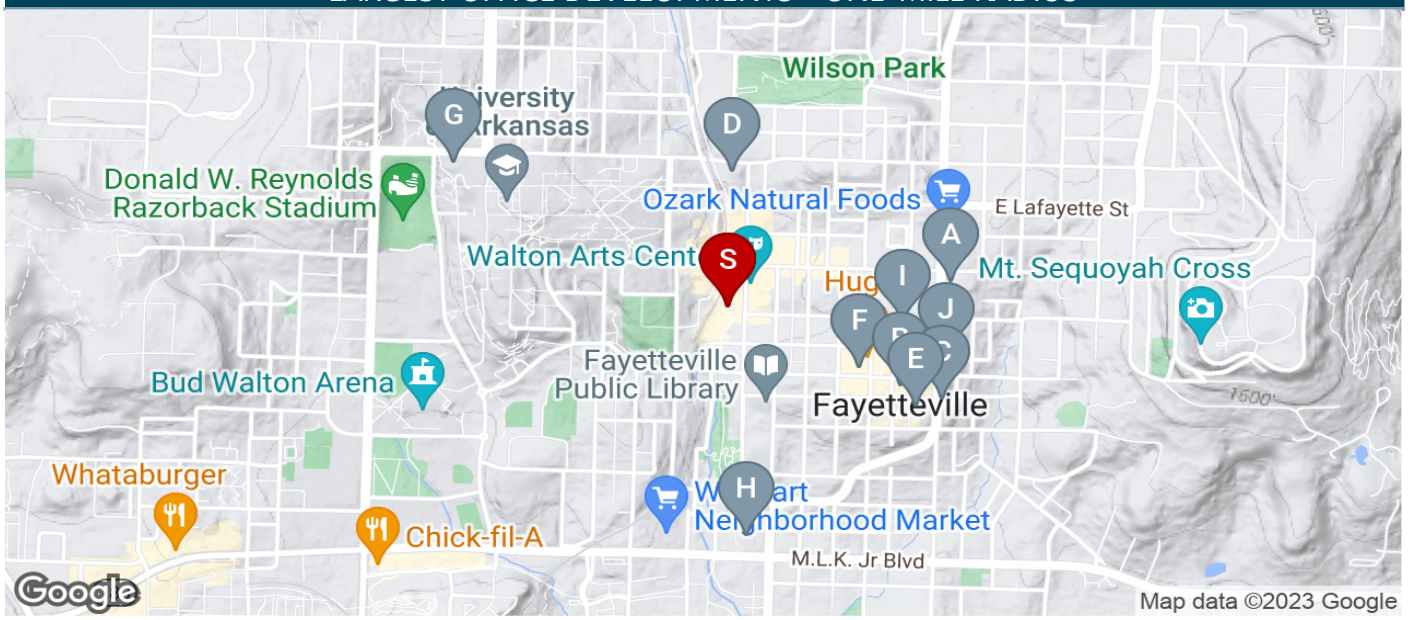
The following tables and maps highlight development within one (1) mile of the subject property.

OFFICE DEVELOPMENTS

LOCAL AREA OFFICE - ONE-MILE RADIUS				
CLASS	RBA	YEAR BUILT	PERCENT LEASED	PROPERTIES
A	141,425 SF	1969	100.0	2
B	733,392 SF	1970	86.6	48
C	607,028 SF	1949	98.7	68
TOTAL	1,481,845 SF	1960	92.9	119

Source: CoStar

LARGEST OFFICE DEVELOPMENTS - ONE-MILE RADIUS



PIN	NAME	ADDRESS, CITY	DIST TO SUBJ	RBA	BUILT	CLASS	%LEASED
A		280 N College Ave, Fayetteville	0.5 mi	144,706	N/A	B	100
B	East Square Plaza	1 E Center St, Fayetteville	0.4 mi	83,434	1972	A	100
C	Old Washington County Jail	90 S College Ave, Fayetteville	0.5 mi	82,526	1897	C	100
D		505 W Maple St, Fayetteville	0.3 mi	80,000	1951	B	0
E	JP Hammerschmidt Fed Building /	35 E Mountain St, Fayetteville	0.5 mi	64,186	1974	B	100
F		112 W Center St, Fayetteville	0.3 mi	57,991	1965	A	100
G		1125 W Maple St, Fayetteville	0.7 mi	45,000	N/A	C	100
H	The Mill	525 S School Ave, Fayetteville	0.5 mi	40,000	1950	C	94.67
I		138 N East Ave, Fayetteville	0.4 mi	37,500	N/A	B	100
J		70 N College Ave, Fayetteville	0.5 mi	35,524	1985	C	100

Source: CoStar

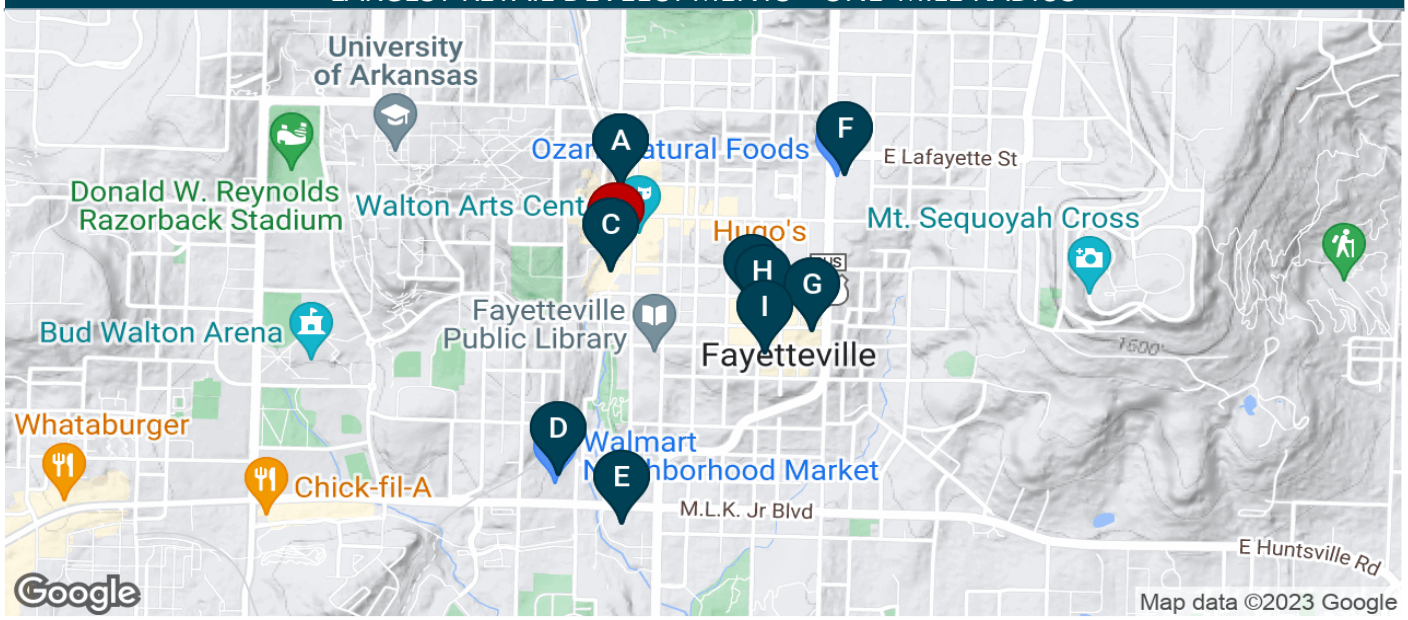
RETAIL DEVELOPMENTS

LOCAL AREA RETAIL - ONE-MILE RADIUS

SIZE	RBA	YEAR BUILT	PERCENT LEASED	PROPERTIES
<5,000 FT	291,732 SF	1968	93.6	99
>5,000 FT-<20,000 FT	656,857 SF	1958	97.5	71
>20,000 FT	496,682 SF	1981	72.8	14
TOTAL	1,445,271 SF	1969	88.3	185

Source: CoStar

LARGEST RETAIL DEVELOPMENTS - ONE-MILE RADIUS



PIN	NAME	ADDRESS, CITY	DIST TO SUBJ	RBA	BUILT	CLASS	%LEASED
A		548 W Dickson St, Fayetteville	0.2 mi	62,000	2023	A	0
B		548 W Dickson St, Fayetteville	0.2 mi	62,000	2023	A	0
C	Metro District Shoppes	509 W Spring St, Fayetteville	0.0 mi	57,493	2008	A	100
D	Walmart Neighborhood Market	557 S Government Ave, Fayetteville	0.5 mi	43,249	2016	B	100
E	South Yard	517 W Martin Luther King Blvd, Fayettevil	0.6 mi	39,006	1950	A	91.04
F		380 N College Ave, Fayetteville	0.5 mi	32,893	2010	B	100
G	Center Street Offices	31 E Center St, Fayetteville	0.5 mi	31,233	1935	B	100
H		26 W Center St, Fayetteville	0.4 mi	30,000	1955	B	75.08
I	Bradberry Building	21 W Mountain St, Fayetteville	0.4 mi	24,600	1925	C	100
J		13-23 N Block Ave, Fayetteville	0.3 mi	23,523	1930	C	100

Source: CoStar

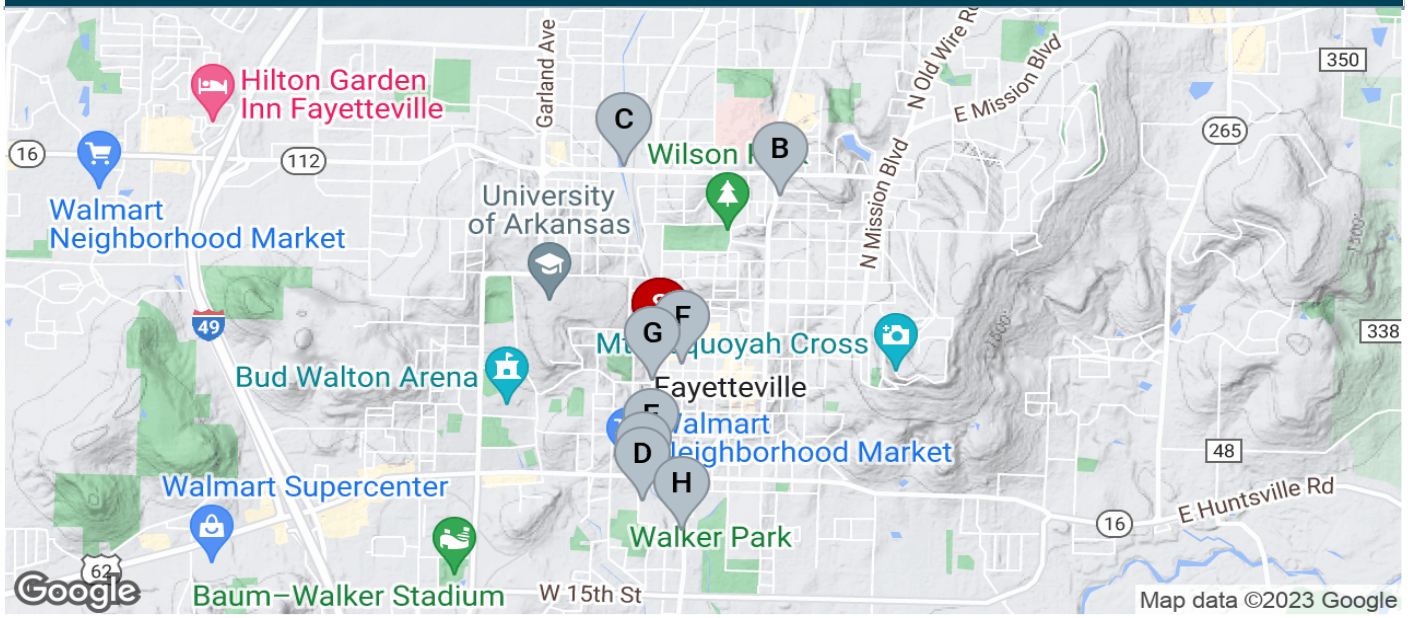
INDUSTRIAL DEVELOPMENTS

LOCAL AREA INDUSTRIAL - ONE-MILE RADIUS

TYPE	RBA	YEAR BUILT	PERCENT LEASED	PROPERTIES
Flex	1,916 SF	1990	100	1
Gen-Ind <25,000 FT	54,812 SF	1979	100	7
Gen-Ind >25,000 FT	0 SF	-	-	0
TOTAL	56,728 SF	1980	100.0	8

Source: CoStar

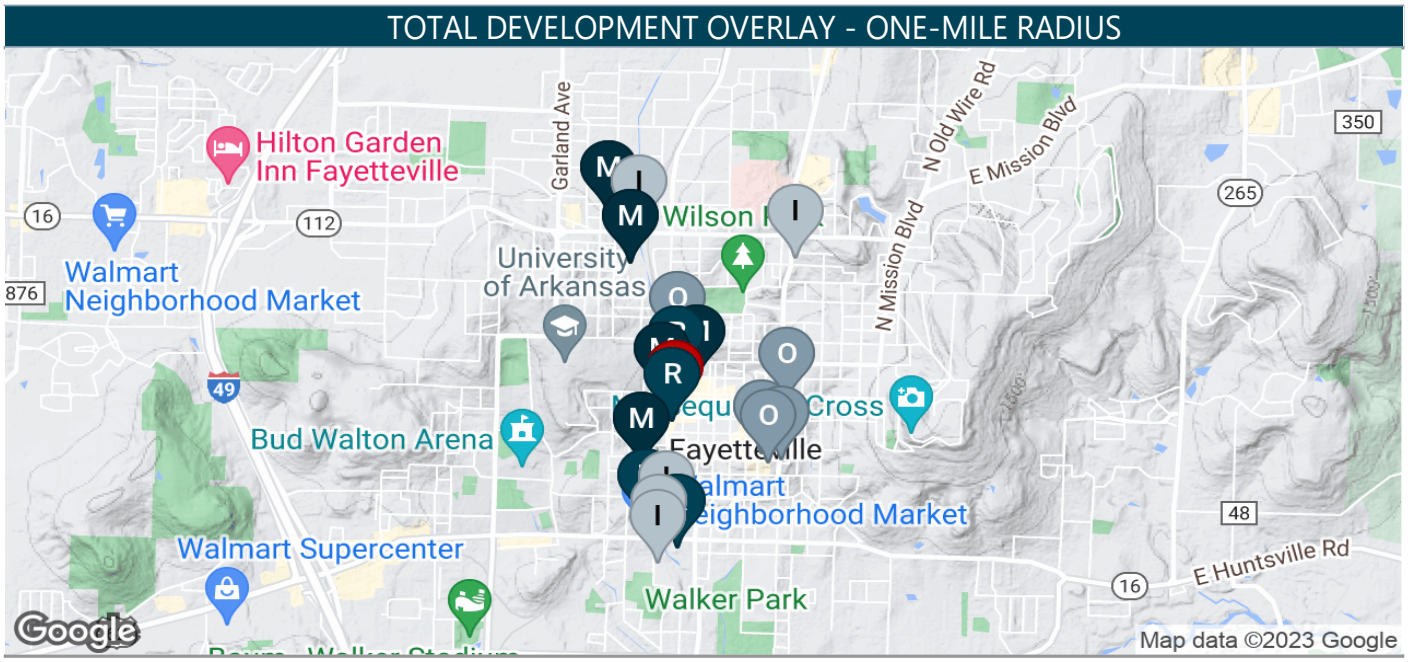
LARGEST INDUSTRIAL DEVELOPMENTS - ONE-MILE RADIUS



PIN	NAME	ADDRESS, CITY	DIST TO SUBJ	RBA	BUILT	TYPE	%LEASED
A	LifeSource	682 S Government Ave, Fayetteville	0.6 mi	16,000	1992	Industrial	100
B		928 N College Ave, Fayetteville	0.9 mi	8,828	1994	Industrial	100
C		700 W North St, Fayetteville	0.9 mi	7,808	N/A	Industrial	100
D		820 S Government Ave, Fayetteville	0.7 mi	6,516	1995	Industrial	100
E		513 W Prairie St, Fayetteville	0.5 mi	6,390	1955	Industrial	100
F		118 W School St, Fayetteville	0.1 mi	5,000	1962	Industrial	100
G		546 W Center St, Fayetteville	0.1 mi	4,270	1935	Industrial	100
H		1020 S School Ave, Fayetteville	0.9 mi	1,916	1990	Flex	100

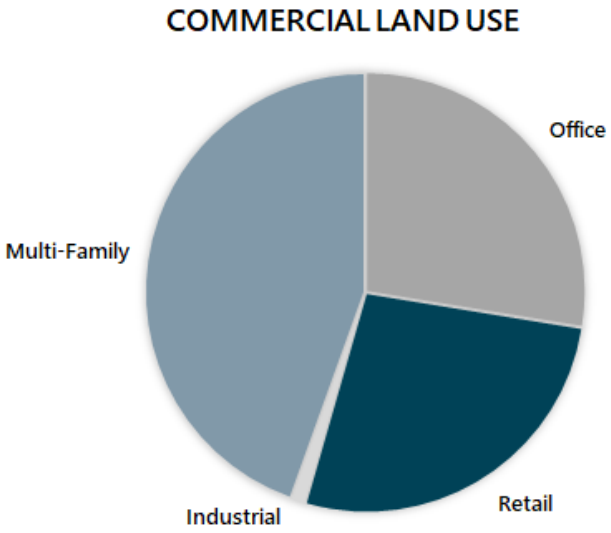
Source: CoStar

OVERALL DEVELOPMENT



Source: CoStar

The land use within the subject's local area neighborhood consists of a considerable amount of commercial property, comprised of a mix of many property types. The following chart illustrates the high concentration of multi-family, office, and retail properties in the immediate market area.



ECONOMIC INFLUENCES

The local area economic status is important to recognize as the measurement of income levels provides an indication of the ability of the area population to buy, rent and maintain property. The economic status of an area also provides an indication of the population's appetite for goods and services. Relevant economic information includes income levels, property ownership vs. rent, property rent levels, rent level trends, property vacancy and new construction. The majority of the housing units within the 1-mile area are renter-occupied.

GOVERNMENT INFLUENCE

Governmental considerations relate to zoning, building codes, regulations, flood plain restrictions, special assessment, and property taxes. Zoning in the area is mixed, including commercial, residential, and industrial designations. Zoning code is enforced by the municipality and enforcement in all areas of the City of Fayetteville is considered to be average. Building codes are in force and require a certain standard of construction quality and design. This is a typical influence on properties similar to the subject and falls in line with the zoning classification.

Property taxes in the area are established by Washington County and are assessed based on valuation. Considering the broad authority of the county administration, the assessments in the neighborhood are similar to other neighborhoods in the area. There are no known special assessments that affect property in the neighborhood.

TRANSPORTATION

The streets in the neighborhood is Dickson Street, W Spring Street, and N West Avenue. With the existing transportation system, most areas of Fayetteville are accessible from the subject neighborhood and access is considered average for the area. Overall, access within the neighborhood is average.

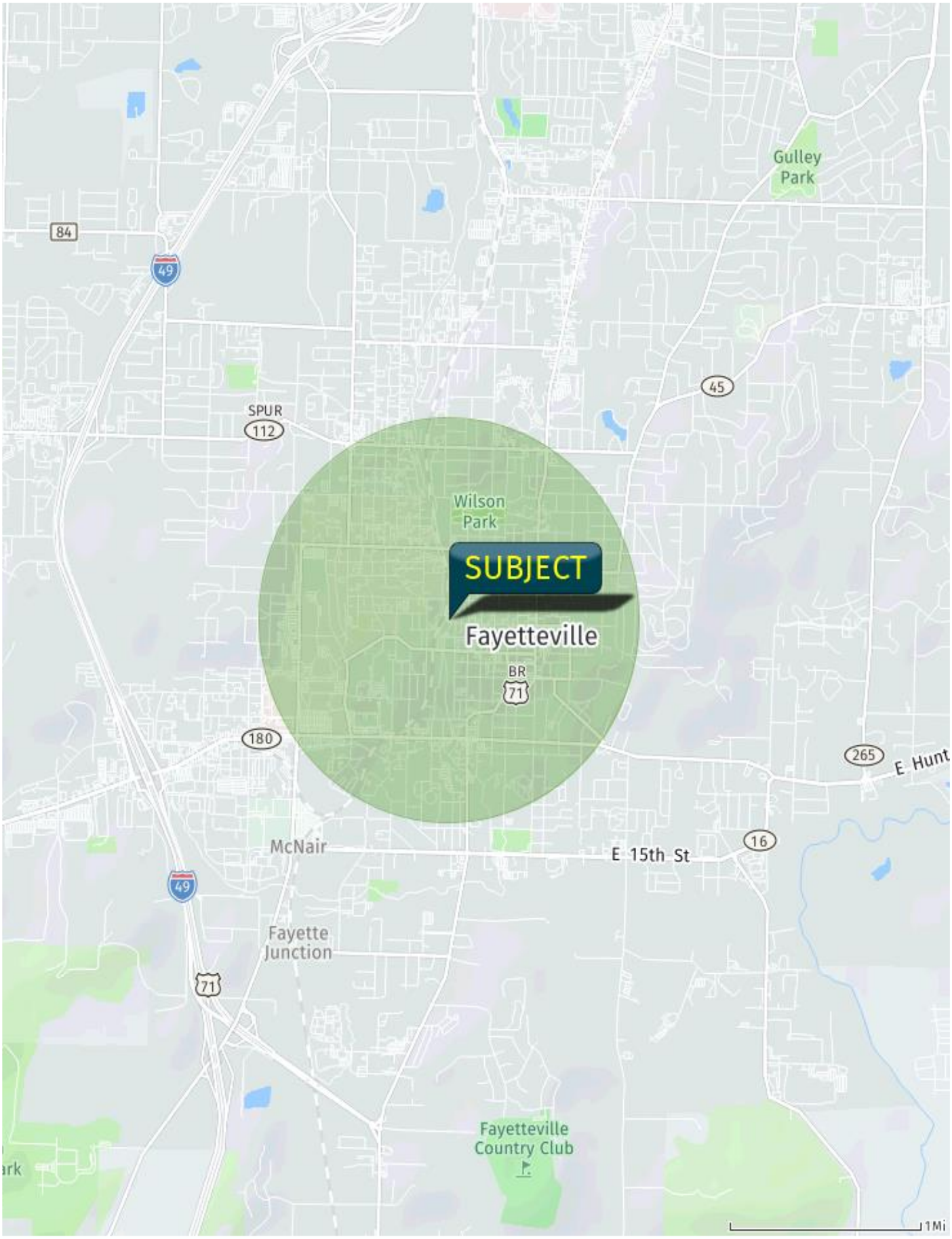
ENVIRONMENTAL INFLUENCES

The subject area is considered to be a typical neighborhood. There are no extraordinary topographical features or nuisances of hazards. Public utilities are available in most areas in quantities from public and private sources. The area has both public and private schools in adequate supply and quality.

LOCAL AREA SUMMARY

The market benefits from a diverse blend of residential, commercial, and community uses and close proximity to many recreational activities. The area did not suffer from the previous recession as seen in other parts of the Country due to the good livability factors associated with the region. The outlook for this market area is average into the foreseeable future.

LOCAL AREA MAP



DOWNTOWN FAYETTEVILLE



Downtown Fayetteville is highlighted by the Downtown and Dickson Street areas. Dickson Street is an arterial street leading to University of Arkansas to west and entertainment district to the east. Dickson Street is an entertainment area attracting visitors with unique boutiques, galleries, along with bars and restaurants. It is known as the heartbeat of Fayetteville. Downtown Fayetteville is also known for the amount of quality entertainment centered around the Historic Downtown Fayetteville Square. This area is referred to as Downtown Fayetteville or the Fayetteville Square. This area is the focal point of main activities that include shopping, restaurants, as well as historic buildings and modern offices. The aerial below provides an idea of the proximity for some of the major attractions in the market area which make the subject's location a desirable area.



LOCAL RETAIL TRENDS

In this section, market conditions which influence the subject property are analyzed. An overview of Retail supply and demand conditions for the Northwest Arkansas Market and Downtown Fayetteville Submarket. Key supply and demand statistics for the most recent quarter, last year, and historical averages over the past 10 years are summarized in the table below.

RETAIL MARKET AND SUBMARKET DATA SUMMARY (10 YEARS)					
		INVENTORY SUPPLY (SF)		VACANCY (%)	
QTR	YEAR	MARKET	SUBMARKET	MARKET	SUBMARKET
Q4	2022	35,616,150	1,189,944	3.2%	2.5%
Q3	2022	35,541,985	1,189,944	3.4%	1.3%
Q2	2022	35,483,197	1,189,944	3.4%	3.2%
Q1	2022	35,437,368	1,251,944	3.9%	8.4%
	2021	35,281,380	1,254,694	4.1%	4.5%
	2020	35,084,241	1,253,444	5.1%	3.5%
	2019	34,660,450	1,245,440	3.6%	2.1%
	2018	34,423,509	1,244,190	4.0%	1.6%
	2017	33,840,361	1,244,190	3.4%	1.7%
	2016	33,069,155	1,244,190	2.9%	1.2%
	2015	32,589,329	1,189,300	4.4%	1.2%
	2014	31,872,729	1,189,300	5.0%	6.3%
	2013	31,441,231	1,189,300	5.4%	6.9%
		RENT $/SF		NET ABSORPTION (SF)	
QTR	YEAR	MARKET	SUBMARKET	MARKET	SUBMARKET
Q4	2022	$18.87	$22.61	153,765	(14,060)
Q3	2022	$17.49	$17.94	43,223	22,121
Q2	2022	$17.02	$18.99	218,888	5,008
Q1	2022	$16.82	$18.94	213,036	(54,024)
	2021	$16.54	$20.61	558,209	(8,559)
	2020	$15.04	$25.41	(109,209)	(10,133)
	2019	$13.75	$24.35	362,242	(4,803)
	2018	$13.88	$16.16	353,290	1,641
	2017	$12.25	$15.69	565,460	(7,002)
	2016	$12.93	$17.87	952,401	54,631
	2015	$12.63	$15.95	871,587	60,378
	2014	$12.13	$13.82	549,058	7,008
	2013	$11.22	$6.99	522,050	21,900

Source: CoStar Property®

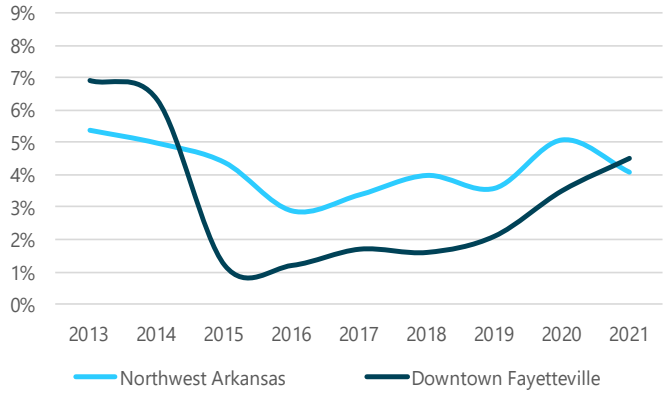
The Northwest Arkansas Market demonstrates relatively stable conditions. There has been little variance in supply over the last year. Vacancies have remained steady over the last year to the most recent figure at 3.2%. Asking rents remained relatively stable with an increase in the most recent quarter to $18.87.

The Downtown Fayetteville Submarket demonstrates mostly stable conditions as well. Vacancy had fluctuations between 1.3% and 8.4% throughout 2022. Asking rents were relatively stable ranging from a low of $17.94 per square foot to a high of $22.61 per square foot with the most recent 2022 figure at $22.61 per square foot.

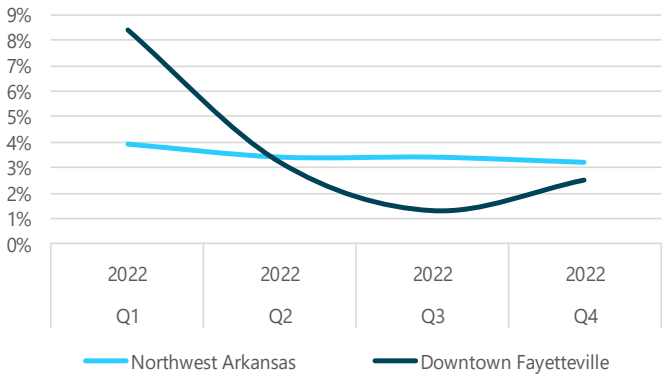
RETAIL VACANCY

The following figures provide visual illustration of the long-term and short-term Retail vacancy for the Northwest Arkansas Market and Downtown Fayetteville Submarket.

LONG TERM VACANCY



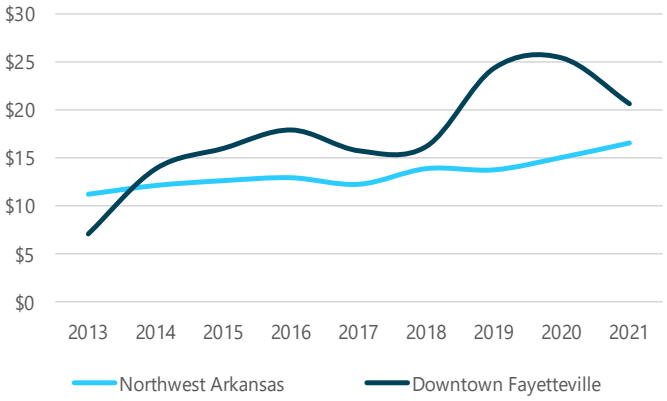
SHORT TERM VACANCY



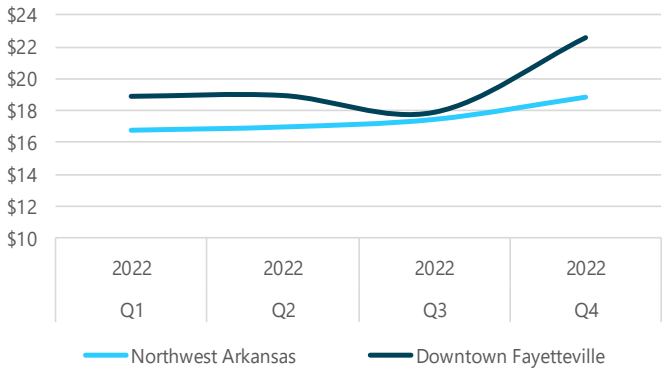
RETAIL RENTAL RATES

The following figures provide a visual illustration of rental Retail trends for the Northwest Arkansas Market and Downtown Fayetteville Submarket in the short and long-term:

LONG TERM RENT



SHORT TERM RENT



MARKET INTERVIEWS

As part of this analysis, recent transactions and trends were discussed with knowledgeable local brokers, agents, and owners. Of the participants that were interviewed, several brokers indicated they have seen minimal slowing.

SITE DESCRIPTION

There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, west of Frisco Railway, and north of Walton Arts Center. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. A preliminary title report was not available for review. The property is within Census Tract No. 05-143-011302.

Number of Parcels 3

Assessor Parcels 765-01743-003, 765-01743-002, 765-01743-004

Property	**Tract A**		**Tract B**		**Tract C - Before**		**Tract C - After**	
Land Area	Square Feet	Acres	Square Feet	Acres	Square Feet	Acres	Square Feet	Acres
Total Land Area	21,927	0.50	1,110	0.03	16,988	0.39	10,000	0.23
Corner	No		No		No		No	
Zoning	Main Street Center (MSC)		Main Street Center (MSC)		Main Street Center (MSC)		Main Street Center (MSC)	
Flood Zone	Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)	
Site Topography	Level		Level		Sloping		Sloping	
Site Shape	Irregular		Irregular		Irregular		Irregular	
Site Grade	At street grade		At street grade		At street grade		At street grade	
Site Quality	Average		Average		Average		Average	
Site Access	Average		Average		Average		Average	
Site Exposure	Average		Average		Average		Average	
Site Utility	Average		Average		Average		Average	
Utilities	Available		Available		Available		Available	

Easement Description		
See forthcoming section for Tract C "before" and "after" analysis in relation to Greenway Easement.	**Greenway Easement Size** Square Feet	Acres
	5,520	0.13

Site Access Ingress and egress is assumed to be accessible from W Spring Street for all tracts which is an asphalt road with adequate access.

Soils A detailed soils analysis was not available for review. Based on the development of the subject, it appears the soils are stable and suitable for the existing improvements.

Easements A preliminary title report was not available for review. A bike trial easement, known as Razorback Greenway, is located on Tract A. No adverse easements or encumbrances were noted. This appraisal assumes that there are no adverse easements present. If questions arise, further research is advised.

Hazardous Waste We have not conducted an independent investigation to determine the presence or absence of toxins on the subject property. If questions arise, the reader is strongly cautioned to seek qualified professional assistance in this matter. Please see the Assumptions and Limiting Conditions for a full disclaimer.

Flood Plain

Zone AE: Zone X (Unshaded). This is referenced by Panel Number 05143C0210F, dated April 02, 2008. Zone X (unshaded) is a moderate and minimal risk area. Areas of moderate or minimal hazard are studied based upon the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Local storm water drainage systems are not normally considered in a community's flood insurance study. The failure of a local drainage system can create areas of high flood risk within these zones. Flood insurance is available in participating communities, but is not required by regulation in these zones. Nearly 25% of all flood claims filed are for structures located within these zones. Minimal risk areas outside the 1% and 0.2% annual chance floodplains. No BFEs or base flood depths are shown within these zones. (Zone X (unshaded) is used on new and revised maps in place of Zone C.)

Site Rating

Overall, the subject site is considered good as a land site in terms of its location, exposure and access to employment, education and shopping centers, based on its location along a minor arterial.

Zoning

Main Street Center (MSC): A greater range of uses is expected and encouraged in the Main Street/Center. The Center is more spatially compact and is more likely to have some attached buildings than Downtown General or Neighborhood Conservation. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the Main Street/Center. The Center is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone. For a complete list of zoning requirements, please refer to the following link:

https://library.municode.com/ar/little_rock/codes/code_of_ordinances?nodeId=COOR_CH36ZO_ARTVDIRE_DIV5INDI_S36-320LIINDI

ZONING	
Designation	Main Street Center (MSC)
District	Fayetteville Downtown
Zoning Authority	City of Fayetteville
Current Use	Parking Lot
Current Use Legally Permitted	Yes
Parking Spaces Provided	47

Source: City of Fayetteville Planning & Zoning Department

Overlay District

The subject is located in Downtown Fayetteville in an overlay district. The purpose of this district adds restrictions for properties located in the Fayetteville Downtown Master Plan. The master plan provides policies and ordinances that are used as a guide for site and improvement modifications. For a complete list of zoning requirements, please refer to the following link:

https://www.fayetteville-ar.gov/729/Downtown-Master-Plan

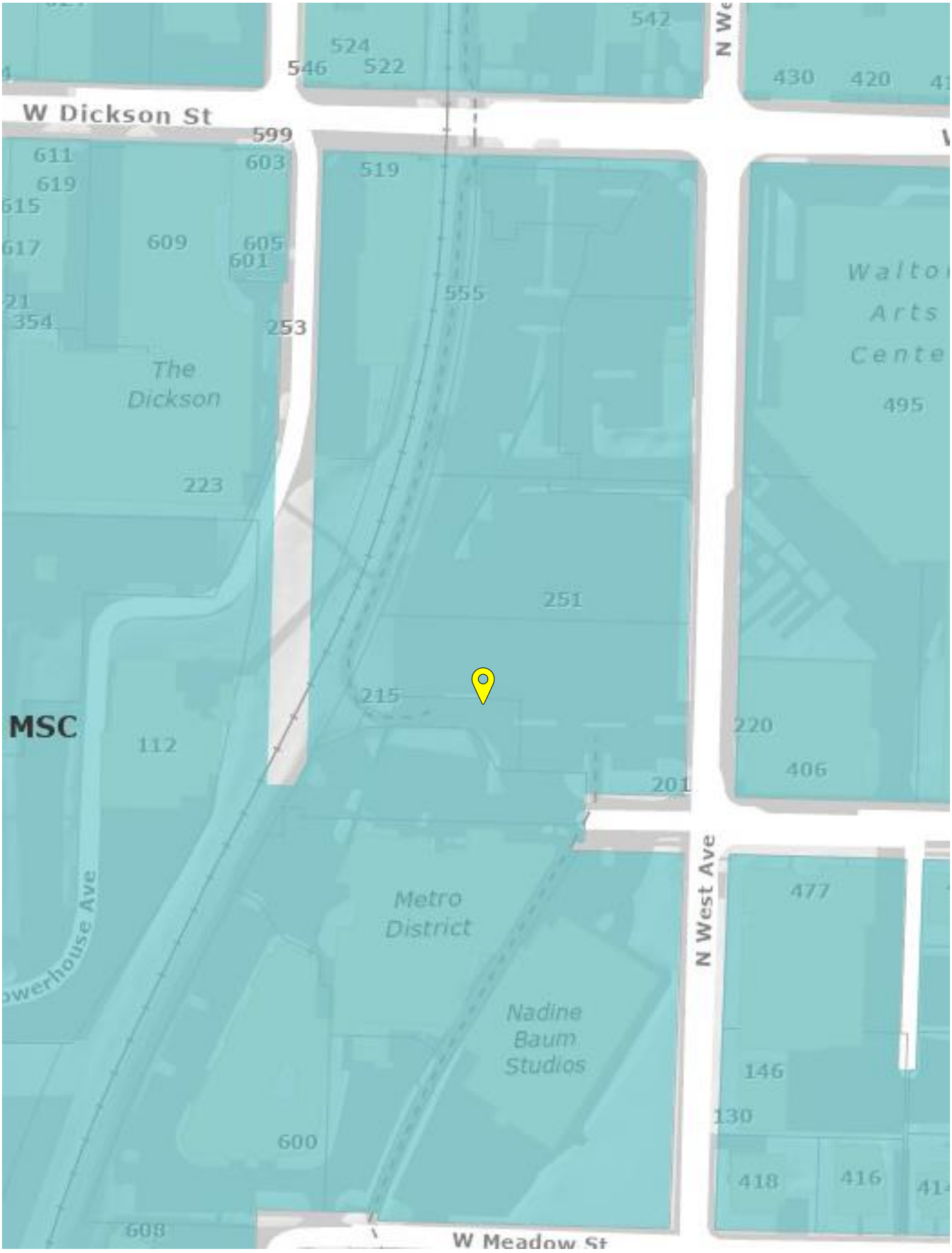
AERIAL MAP


N Powerhouse Ave
Frisco Trail
N West Ave
Frisco Trail
N West Ave

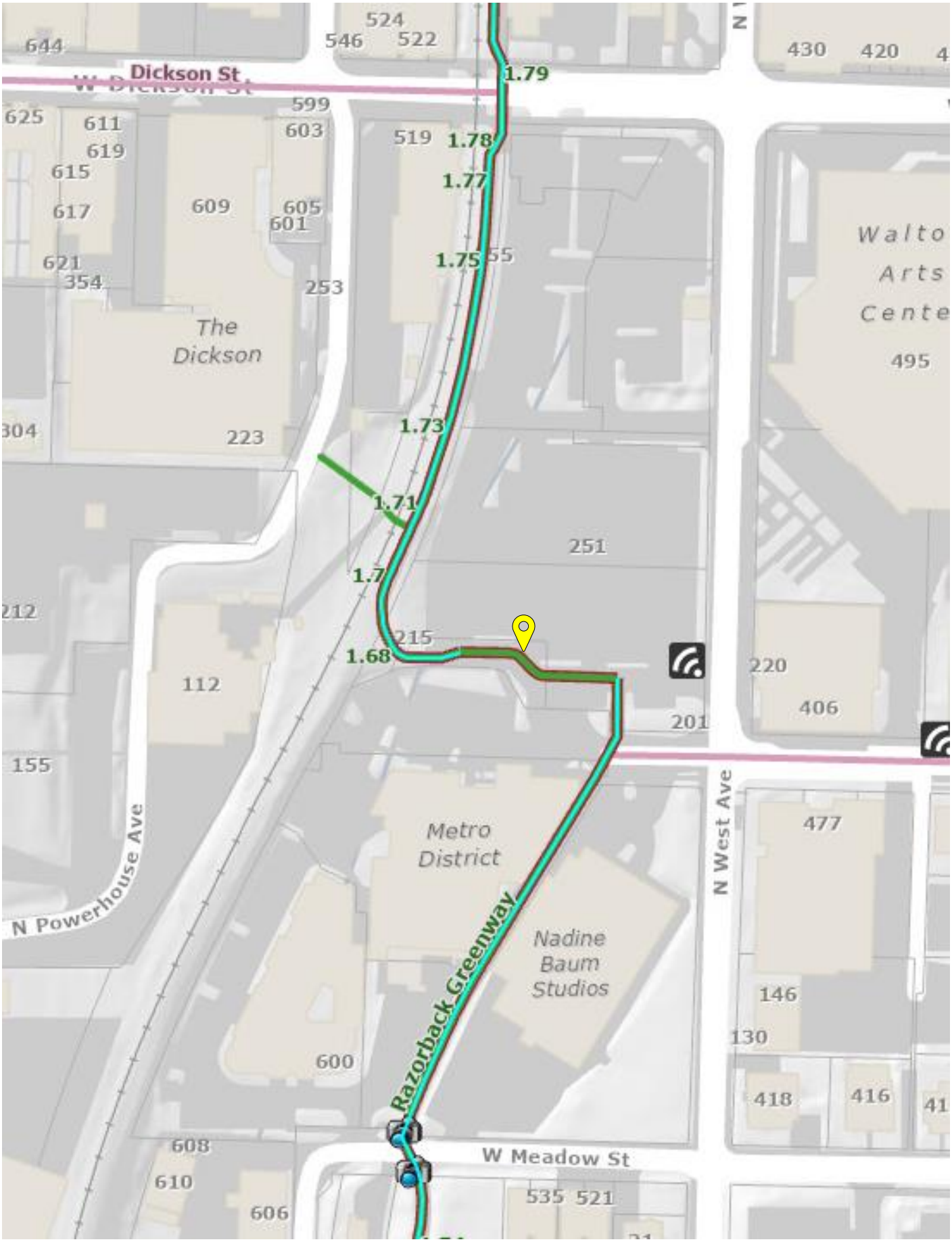
FEMA FLOOD MAP



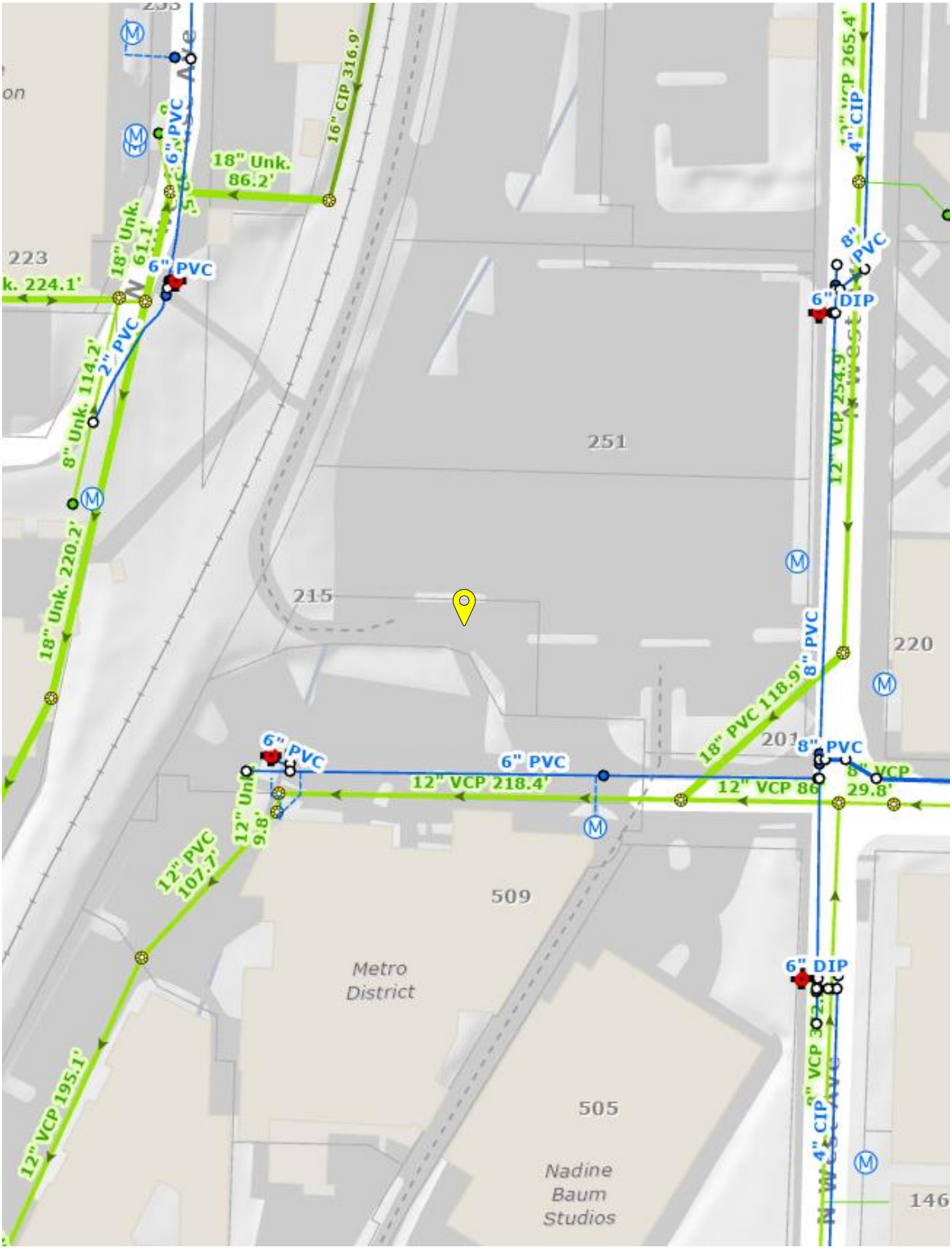
ZONING MAP


542
524
546
522
N We
430
420
W Dickson St
599
611
603
519
619
615
617
609
605
601
555
21
354
253
The
Dickson
Walto
Arts
Cente
495
223
251
215
MSC
112
220
406
201
N West Ave
477
Metro
District
Nadine
Baum
Studios
146
130
600
418
416
608
W Meadow St

GREENWAY EASEMENT – CURRENT LOCATION



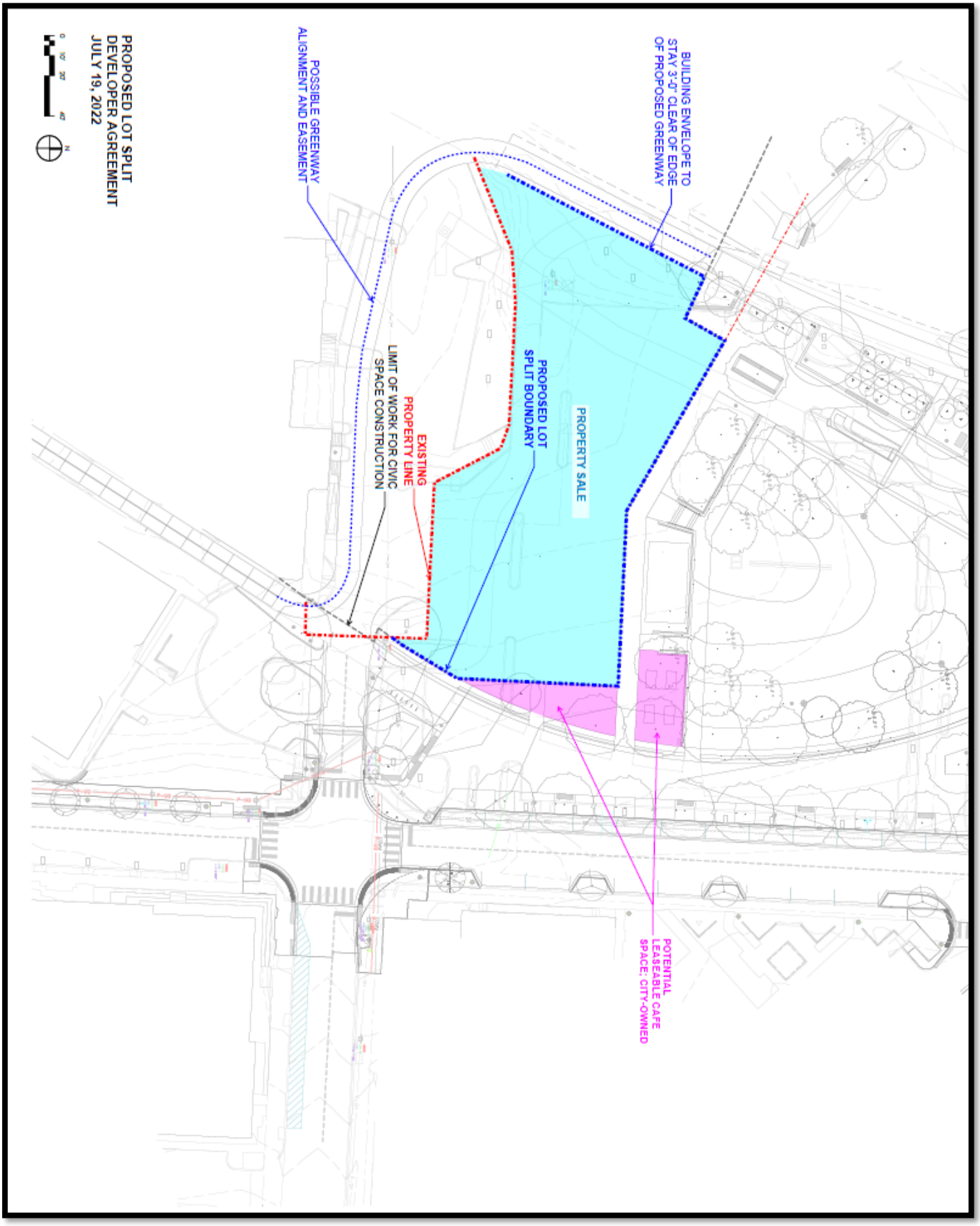
UTILITIES

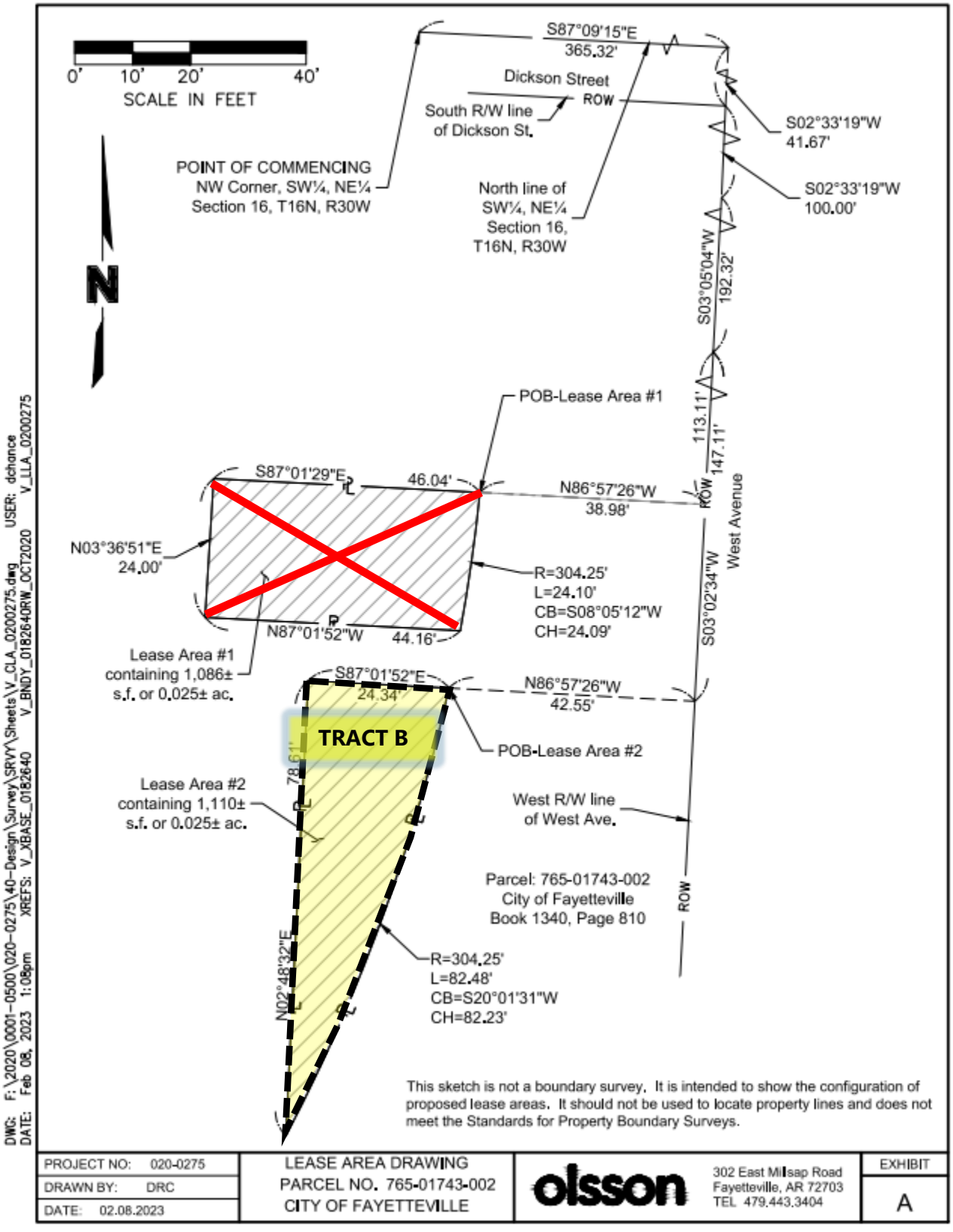

16" CIP 316.9'
18" Unk. 86.2'
6" PVC
18" Unk. 61.1'
6" PVC
223
k. 224.1'
2" PVC
8" Unk. 114.2'
18" Unk. 220.2'
251
215
6" PVC
6" PVC
12" VCP 218.4'
12" Unk 9.8'
12" PVC 107.7'
12" VCP 195.1'
509
Metro District
505
Nadine Baum Studios
4" CIP 265.4'
8" PVC
6" DIP
12" VCP 254.9'
220
18" PVC 118.9'
8" PVC
201
8" PVC
12" VCP 86
8" VCP 29.8'
6" DIP
3" VCP
4" CIP
146

PARCEL MAPS

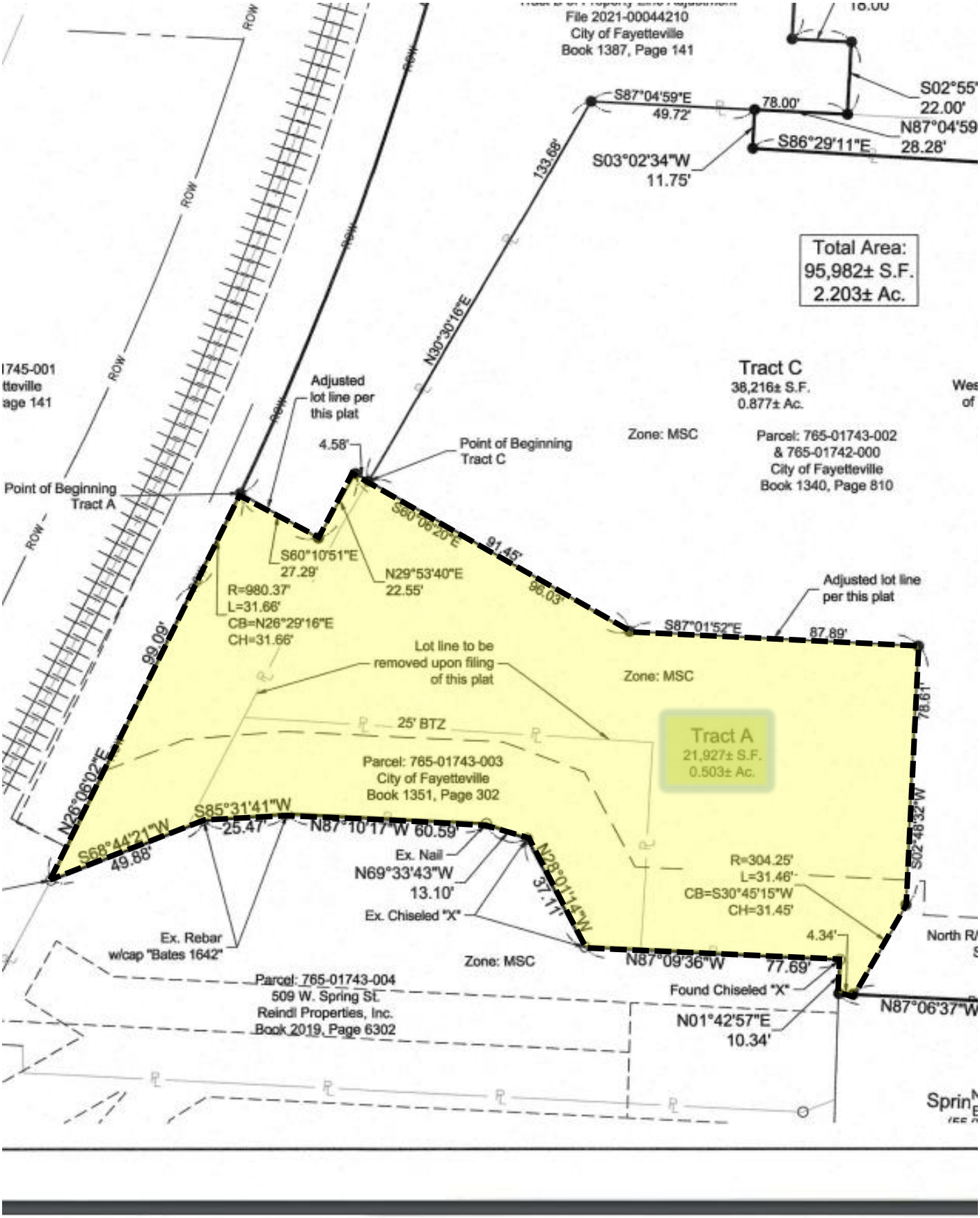

CROWNE HOLDINGS LLC
CITY OF FAYETTEVILLE
CITY OF FAYETTEVILLE
CITY OF FAYETTEVILLE
CITY OF FAYETTEVILLE
CITY OF FAYETTEVILLE
FRISCO RAILWAY
N Powell House Ave
N West Ave
251
215
CITY OF FAYETTEVILLE
Frisco Trail
FAYETTEVILLE ORIGINAL
REINDL PROPERTIES INC
Shaman Kava Bar
Vitamin & supplements store
Prelude Breakfast Bar
Breakfast · $$
Rolando's Restaurante
Delta 8 Fayetteville
765-28102-000
765-28082-000
765-28091-000
765-28100-000
765-28073-000
765-28083-000
765-28088-000
765-28097-000
Nadine Baum Studios
UNIVERSITY OF ARKANSAS
Community Creative Center
CITY OF FAYETTEVILLE Greenway
REINDL PROPERTIES INC
PROPERTIES LLC
509 LLC
N West Ave
N WEST AVE

AREAS OF ACQUISTION

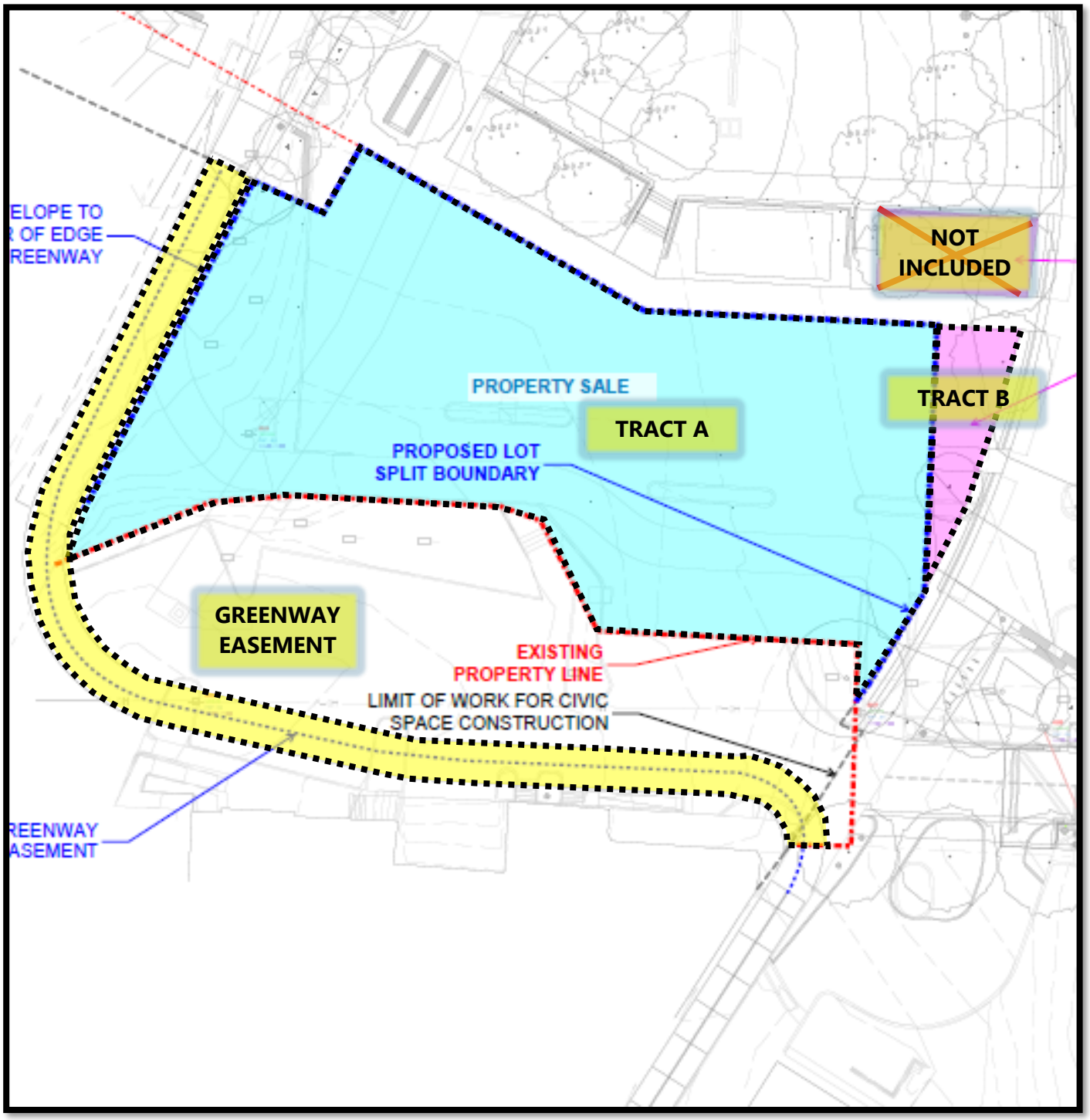



0' 10' 20' 40'
SCALE IN FEET
N
S87°09'15"E
365.32'
Dickson Street
ROW
South R/W line
of Dickson St.
POINT OF COMMENCING
NW Corner, SW¼, NE¼
Section 16, T16N, R30W
North line of
SW¼, NE¼
Section 16,
T16N, R30W
S02°33'19"W
41.67'
S02°33'19"W
100.00'
S03°05'04"W
192.32'
113.11'
147.11'
POB-Lease Area #1
S87°01'29"E
46.04'
N86°57'26"W
38.98'
ROW
West Avenue
S03°02'34"W
N03°36'51"E
24.00'
R=304.25'
L=24.10'
CB=S08°05'12"W
CH=24.09'
N87°01'52"W
44.16'
Lease Area #1
containing 1,086±
s.f. or 0.025± ac.
S87°01'52"E
24.34'
N86°57'26"W
42.55'
TRACT B
POB-Lease Area #2
78.61'
Lease Area #2
containing 1,110±
s.f. or 0.025± ac.
West R/W line
of West Ave.
Parcel: 765-01743-002
City of Fayetteville
Book 1340, Page 810
ROW
N02°48'32"E
R=304.25'
L=82.48'
CB=S20°01'31"W
CH=82.23'
This sketch is not a boundary survey. It is intended to show the configuration of proposed lease areas. It should not be used to locate property lines and does not meet the Standards for Property Boundary Surveys.
DWG: F:\2020\0001-0500\020-0275\40-Design\Survey\SRVY\Sheets\V_CLA_0200275.dwg USER: dchance
DATE: Feb 08, 2023 1:08pm XREFS: V_XBASE_0182640 V_BNDY_0182640RW_OCT2020 V_LLA_0200275
PROJECT NO: 020-0275
DRAWN BY: DRC
DATE: 02.08.2023
LEASE AREA DRAWING
PARCEL NO. 765-01743-002
CITY OF FAYETTEVILLE
olsson
302 East Millsap Road
Fayetteville, AR 72703
TEL 479.443.3404
EXHIBIT
A

AREAS OF ACQUISITION



AREAS OF ACQUISITION



A survey was not provided, and the exact location of the greenway easement is unknown. An opinion of market value for the effects of the greenway easement is provided in this analysis. The greenway easement is assumed to be located within Parcel Number 765-01743-004. This parcel is currently recorded in the name of Reindl Properties, Inc. A "before" and "after" market value of the site, identified as parcel number 765-01743-004, provides difference in value as a result of effects of the greenway easement. A forthcoming section provides additional information and aerial maps for the properties analyzed in this analysis.

TRACT A / TRACT B

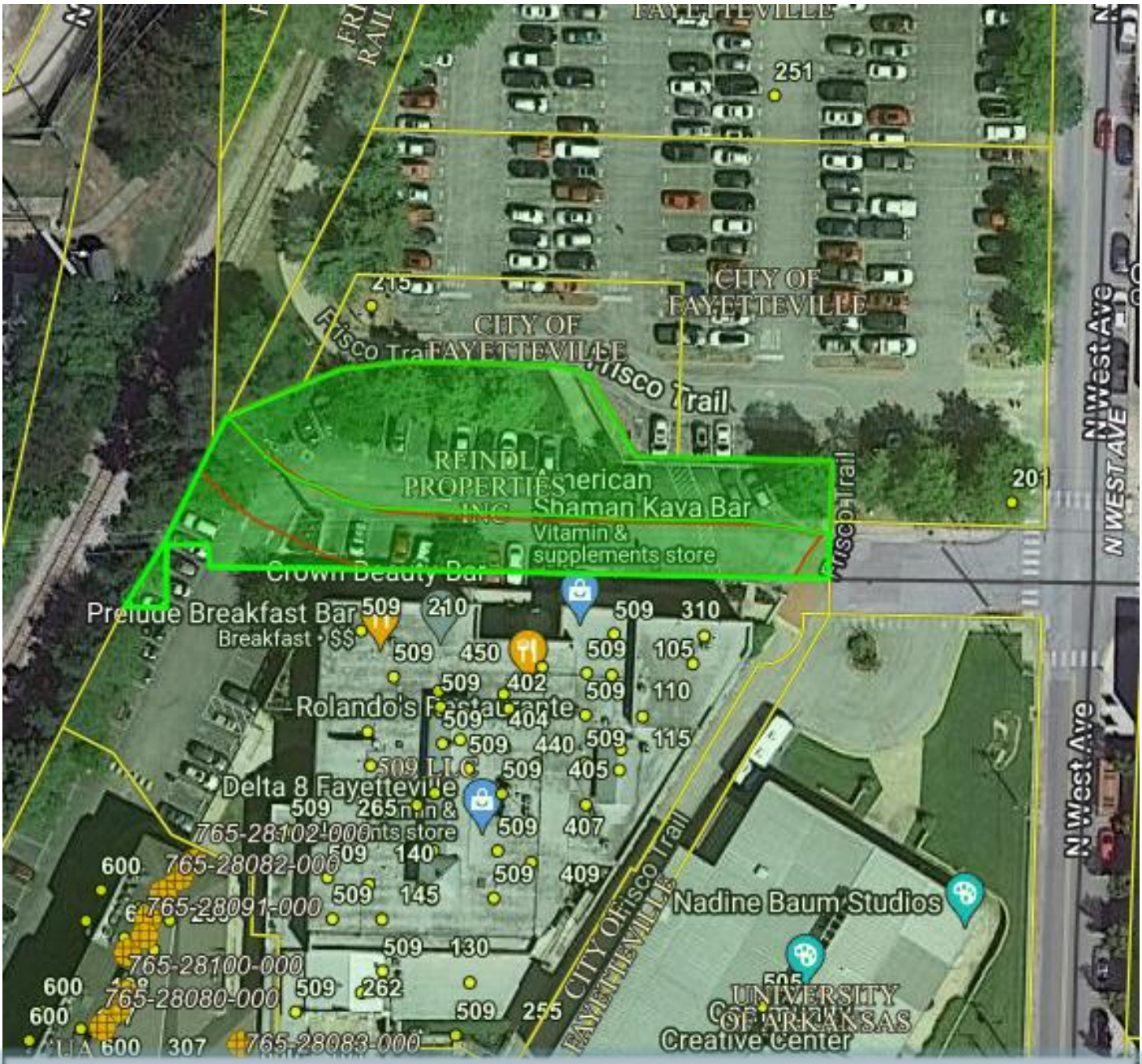
The area highlighted below includes Tract A and Tract B. These tracts are located in the downtown area of the city of Fayetteville, Washington County, Arkansas. Tract A includes approximately 21,927 square feet or 0.50 acres of land. Tract B includes approximately 1,110 square feet, or 0.03 acres of land. The size of these tracts are based on information provided by the client and assumed accurate. These tracts of land are assumed to have ingress/egress from W Spring Street. These tracts are currently used as parking lots for visitors of the Downtown Fayetteville area. The Frisco Trail borders Tract A to the west and runs through the southern part of the tract. Parking lots border the tracts to the north, south, and east. They are located in an area zoned Main Street Center (MSC) and are irregular in shape. These tracts has a topography that is mostly level. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. These tracts are part of a two larger or parent tracts. The Washington County Assessor identifies this property as Parcel Number 765-01743-003 and 765-01743-002. These tracts are currently owned by the city of Fayetteville with plans to sale them for redevelopment. Tract B will have deed restrictions. The deed restrictions Tract B will not allow this tract to be improved.



The area highlighted is for reference only. This area provides a general representation for the location of Tract A and Tract B and assumed correct.

TRACT C – BEFORE SITE SIZE

The area highlighted below includes Tract C. This tract will be affected by the proposed relocation of the Greenway Easement. Consequently, a "before" and after" opinion of market values are developed in this analysis. This tract is located in the downtown area of the city of Fayetteville, Washington County, Arkansas. Tract C includes approximately 16,988 square feet or 0.39 acres of land. The size is based on information provided by public records and assumed accurate. Ingress/egress is available from W Spring Street. This tract is currently used as parking for visitors of an area known as the Metro District. The Metro District is a mixed-use improvement and includes restaurants, offices, and lofts. Tract C is located in an area zoned Main Street Center (MSC) and is irregular in shape. The site has a topography that slopes away from W Spring Street. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. This tract includes one parcel identified by the Washington County Assessor as Parcel Number 765-01743-004. These tracts is currently recorded in the of Reindl Properties, Inc.



Tract C - "Before" Site Description

TRACT C – GREENWAY EASEMENT ASSUMED LOCATION

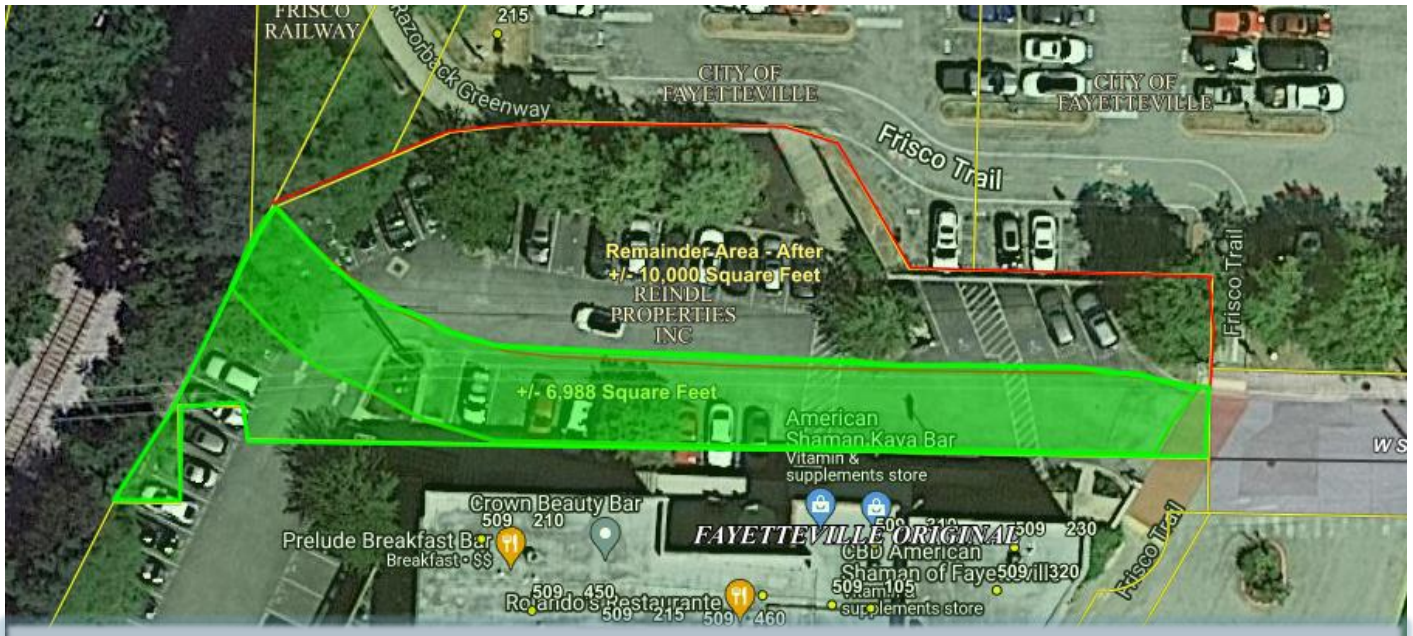
The following map provides the assumed location of the greenway location on Tract C. A survey was not provided to show the exact location. However, the estimated size and approximate location is provided. These estimates provide the basis for the location and size used in the aerial maps below. The areas outlined are for illustrative purposes only. The greenway easement is estimated to be approximately 5,520 square feet and illustrated below. These estimates are not actual survey's.

Tract C - Greenway Easement Assumed Location



The area highlighted is for reference only. This area provides a general representation for the location of the proposed easement and assumed correct.

The location of the easement limits the usefulness south of the estimated location of the greenway easement. The area south of the green way easement includes a portion of a parking lot. This area is mostly southwest of the greenway easement's estimated location. This area is highlighted in green in the aerial map below.



The area highlighted is for reference only. This area provides a general representation and assumed correct.

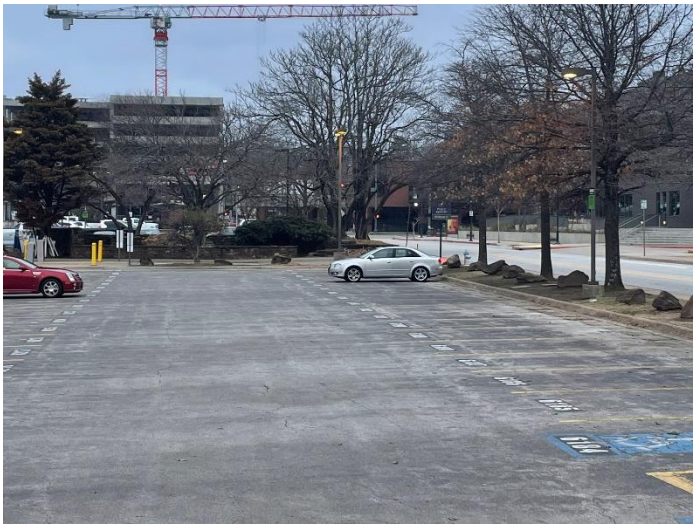
TRACT C – AFTER SITE SIZE

The area highlighted below includes the remainder area of Tract C after the greenway easement is considered. This tract provides the basis for the "after" value developed in this analysis. This tract is located in the downtown area of the city of Fayetteville, Washington County, Arkansas. The "after" size for Tract C includes approximately 10,000 square feet or 0.23 acres of land. The size is based on information provided by public records along with estimates taken from aerial maps. The size is assumed to be accurate. A survey was not provided for the greenway easement. Ingress/egress is assumed to be available from W Spring Street. This tract is currently used as parking a lot an area known as Metro District. The Metro District is a mixed-use improvement and includes restaurants, offices, and loft apartments. Tract C is located in an area zoned Main Street Center (MSC) and is irregular in shape. The site has a topography that slopes away from W Spring Street. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. This tract includes one parcel identified by the Washington County Assessor as Parcel Number 765-01743-004. This tract is currently recorded in the of Reindl Properties, Inc.



The area highlighted is for reference only. This area provides a general representation for the location of the ''after" for Tract C and assumed correct.

SUBJECT PHOTOGRAPHS



Site View



Site View



Site View



Site View



Site View



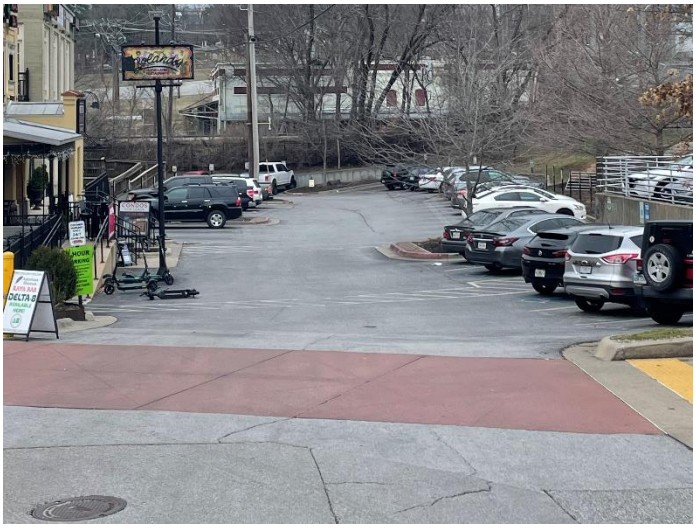
Site View



Site View



Site View



Site View



Site View



Spring Street View



N West Avenue Street View

HIGHEST & BEST USE TRACT A / TRACT B

The highest and best use of the subject property provides the foundation for the valuation section. Highest and best use is defined in the 6th edition of *The Dictionary of Real Estate Appraisal* (Appraisal Institute, Chicago, 2015), as follows:

> The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.

Highest and best use analysis uses the following steps for the subject:

- Highest & Best Use As Vacant
- Determination of the ideal improvements
- Highest & Best Use As-Improved
- Conclusion of the Highest & Best Use

The analysis of highest and best use can be thought of as the logical end of a spectrum of market analysis procedures, running from the macroeconomic overview of a general market study, through more detailed marketability studies and analyses of financial feasibility, to the formal analysis of highest and best use. In theory, the highest and best use is commonly described as that reasonable and most profitable use that will support its highest present value. The highest and best use, or most profitable use, must be legally permissible, physically possible, financially feasible, and maximally productive. This section develops the highest and best use of the subject property As Vacant.

AS VACANT ANALYSIS – TRACT A / TRACT B

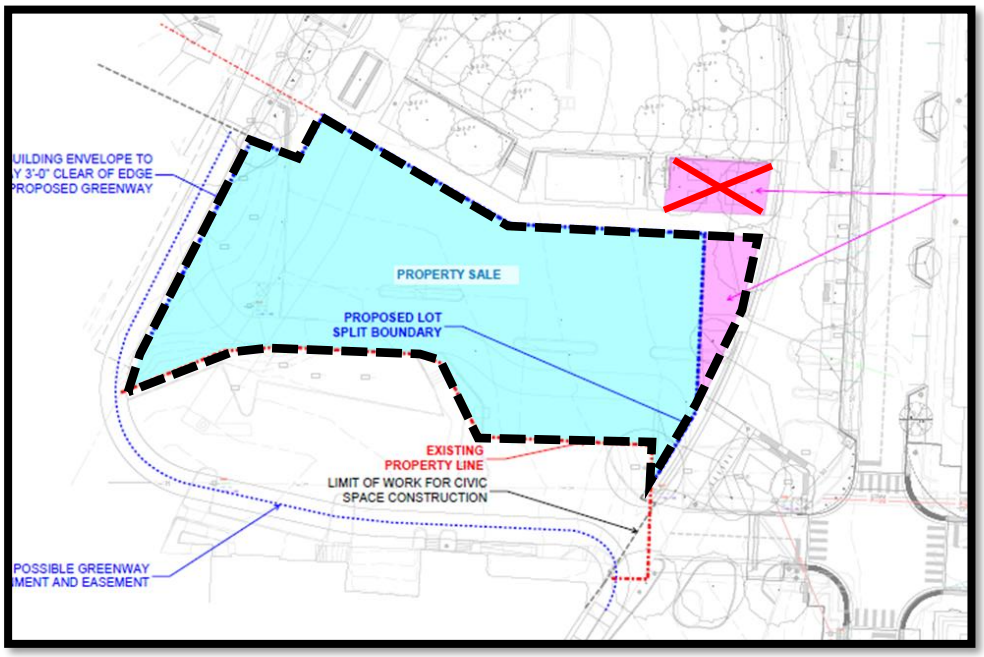
In this section the highest and best use of the subject as vacant is concluded after taking into consideration financial feasibility, maximal productivity, marketability, legal, and physical factors.

Legally Permissible

Private restrictions, zoning, building codes, historic district controls, and environmental regulations are considered, if applicable to Tract A and Tract B. The legal factors influencing the highest and best use of the subject site are primarily government regulations such as zoning ordinances. Th subject property is zoned Main Street Center (MSC). The City of Fayetteville will place deed restrictions on Tract B restricting the construction of any improvements. No zoning change is anticipated for the subject; therefore, uses outside of those permitted by the MSC zoning is not considered moving forward in the as vacant analysis. Commercial use is considered legally permissible.

Physically Possible

The test of what is physically possible for the subject site considers physical and locational characteristics that influence its highest and best use. Tract A includes approximately 21,927 square feet and Tract B includes approximately 1,110 square feet. Size sizes are based on information provided and assumed correct. Tract B is a small tract of land and has not utility. As a result, Tract B, highlighted in purple, is physically limited in use due to the small site size and shape. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. Due to the physical limitations of Tract B, the highest and best use is for Tract A and Tract B to be use together. Commercial use for Tract A and Tract B is considered physically possible.



Financial Feasibility

Based on the analysis of the subject's market and an examination of costs, a speculative build is not prudent, and the site should only be developed for an identified user. Commercial use is considered financially feasible.

Maximum Productivity

There is only one use that creates value and at the same time conforms to the requirements of the first three tests. Financial feasibility, maximal productivity, marketability, legal, and physical factors have been considered and the highest and best use of the subject site as vacant is concluded to be commercial.

MOST PROBABLE BUYER – TRACT A / TRACT B

Based on the property location, it is our opinion that the most probable buyer for the subject would be a local developer. Timing is now. Marketing time is estimated at twelve (12) months or less.

AS VACANT ANALYSIS – TRACT C (BEFORE)

In this section the highest and best use of the subject as vacant is concluded after taking into consideration financial feasibility, maximal productivity, marketability, legal, and physical factors.

Legally Permissible

Private restrictions, zoning, building codes, historic district controls, and environmental regulations are considered, if applicable to the subject site. The legal factors influencing the highest and best use of the subject site are primarily government regulations such as zoning ordinances. Th subject property is zoned Main Street Center (MSC). No zoning change is anticipated for the subject; therefore, uses outside of those permitted by the MSC zoning is not considered moving forward in the as vacant analysis. Commercial use is considered legally permissible.

Physically Possible

The test of what is physically possible for the subject site considers physical and locational characteristics that influence its highest and best use. Tract C includes 16,988 square feet. Size sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. There are no physical limitations that would prohibit development of any of the legally permissible uses on the site. Industrial use is considered physically possible.

Financial Feasibility

Based on the analysis of the subject's market and an examination of costs, a speculative build is not prudent, and the site should only be developed for an identified user. Commercial use is considered financially feasible.

Maximum Productivity

There is only one use that creates value and at the same time conforms to the requirements of the first three tests. Financial feasibility, maximal productivity, marketability, legal, and physical factors have been considered and the highest and best use of the subject site as vacant is concluded to be commercial.

MOST PROBABLE BUYER - TRACT C (BEFORE)

Based on the property location, it is our opinion that the most probable buyer for the subject would be a local developer. Timing is now. Marketing time is estimated at twelve (12) months or less.



AS VACANT ANALYSIS – TRACT C (AFTER)

In this section the highest and best use of the subject as vacant is concluded after taking into consideration financial feasibility, maximal productivity, marketability, legal, and physical factors.

Legally Permissible

Private restrictions, zoning, building codes, historic district controls, and environmental regulations are considered, if applicable to the subject site. The legal factors influencing the highest and best use of the subject site are primarily government regulations such as zoning ordinances. Th subject property is zoned Main Street Center (MSC). No zoning change is anticipated for the subject; therefore, uses outside of those permitted by the MSC zoning is not considered moving forward in the as vacant analysis. Commercial use is considered legally permissible.

Physically Possible

The test of what is physically possible for the subject site considers physical and locational characteristics that influence its highest and best use. Tract C includes 10,000 square feet in the after analysis and assumed accurate. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. This area is known as the remainder area after a greenway easement is considered. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. There are no physical limitations that would prohibit development of any of the legally permissible uses on the site. Commercial use is considered physically possible.

Financial Feasibility

Based on the analysis of the subject's market and an examination of costs, a speculative build is not prudent, and the site should only be developed for an identified user. Commercial use is considered financially feasible.

Maximum Productivity

There is only one use that creates value and at the same time conforms to the requirements of the first three tests. Financial feasibility, maximal productivity, marketability, legal, and physical factors have been considered and the highest and best use of the subject site as vacant is concluded to be commercial.

MOST PROBABLE BUYER – TRACT C (AFTER)

Based on the property location, it is our opinion that the most probable buyer for the subject would be a local developer. Timing is now. Marketing time is estimated at twelve (12) months or less.



VALUATION METHODS

The valuation process is a systematic procedure an appraiser follows to provide answers to a client's questions about real property value. It is a model that can be adapted to a wide variety of questions that relate to value. It can also be used—perhaps with some modification—to answer questions not directly related to value, as in the case of review and consulting assignments. In assignments to develop an opinion of market value, the ultimate goal of the valuation process is a well-supported value conclusion that reflects all of the pertinent factors that influence the market value of the property being appraised. To achieve this goal, the appraiser studies a property from three different viewpoints, which are referred to as the approaches to value.

LAND VALUATION

The site value is a specific scope requirement of this assignment. At the request of the Client, an estimate of site value has been developed for three different tracts of land. Three properties are valued in this analysis and labeled Tract A, Tract B, and Tract C. This analysis provides a conclusion of market value for Tract A and Tract B. Additionally, a conclusion of market value is developed for Tract C "before" and "after" a greenway easement affects the site. Consequently, three value conclusions are developed.

COST APPROACH

The Cost Approach is not a specific scope requirement of this assignment. Characteristics specific to the subject property do not warrant that this valuation technique is developed. Based on the preceding information, the Cost Approach will not be presented.

SALES COMPARISON APPROACH (IMPROVED)

The Sales Comparison Approach is not a specific scope requirement of this assignment. Characteristics specific to the subject property do not warrant that this valuation technique be developed. Based on this reasoning, the Improved Sales Comparison Approach is not presented within this appraisal.

INCOME APPROACH

The Income Approach is not a scope requirement for this assignment. The Income Approach does not result in a reliable indication of market value based on income production. Therefore, the Income Approach is not developed.

Based on the agreed upon scope with the client, the subject's specific characteristics and the interest appraised, this appraisal developed opinions of the as is market value (fee simple) for Tract A and Tract B along with a "before" and "after " market value (fee simple) for Tract C.

The valuation will be presented in the following order:

- Site Valuation - Tract A / Tract B
- Site Valuation - Tract C (Before)
- Site Valuation - Tract C (After)
- Value Conclusion

SITE VALUATION - TRACT A / TRACT B

This section values the subject site by comparing it with substitute land sales or listings within the local market area or in competitive areas throughout the region. Land value is influenced by a number of factors; most notably development and use potential. These factors, as well as others, are factored in the following analysis.

UNIT OF COMPARISON

The most relevant unit of comparison for comparable properties is the $/SF of land area. All the comparable sales presented in this section are reported on this basis.

ADJUSTMENTS

Adjustments to the comparable land sales were considered and made when warranted for expenditures after purchase, property rights transferred, conditions of sale, financing terms, and market conditions.

1. **Property Rights:** All the sales comparable land sales were fee simple sales reflecting the property rights appraised herein per the agreed upon scope of work.
2. **Financing:** The sales all reflected typical cash equivalent, lender-financed transactions and no adjustments were required for financing terms.
3. **Sale Conditions:** None of the comparable land sales required a condition of sale adjustment, as all are considered to be arm's length transactions.
4. **Expenditures After Sale:** Expenses that the buyer incurs after purchase (demolition, cleanup costs, etc.). An adjustment for expenditures after sale is not warranted.
5. **Market Conditions (Time):** Based on research and interpretation of value trends, the analysis applies an upward market conditions adjustment of 1.0% annually.

QUANTITATIVE ADJUSTMENT PROCESS

Quantitative percentage adjustments are also made for location and physical characteristics such as size, location quality, access, exposure, as well as other applicable elements of comparison if needed. Where possible, the adjustments applied are based on paired data or other statistical analysis. It should be stressed that the adjustments are subjective in nature and are meant to illustrate the logic in deriving a value opinion for the subject property by the Land Sales Comparison Approach.

COMPARABLE SELECTION

A thorough search was made for similar land sales in the area. The parameters of the survey were highest and best use, zoning, proximity to the subject, size, and date of sale. In selecting comparable land sales, emphasis was placed on confirming sales of sites that are similar to the subject property in terms of location and physical characteristics. Overall, the sales used represent the best comparable land sales available for this analysis.

COMPARABLE LAND SALE TABLE - TRACT A / TRACT B

The following Land Sales Comparison Table, location map, and photographs summarize the sales data. Following these items, the sales are adjusted for applicable elements of comparison and the land value is concluded.

LAND SALES COMPARISON TABLE TRACT A / B								
	SUBJECT	**COMP 1**		**COMP 2**		**COMP 3**	
Address	N West Avenue	299 N Block Avenue		322 W Meadow Street		217 NW A Street	
City	Fayetteville	Fayetteville		Fayetteville		Bentonville	
State	AR	AR		AR		AR	
Zip	72701	72701		72701		72712	
County	Washington	Washington		Washington		Benton	
Parcel	765-01743-003, 765-01743-002	765-01666-000, 765-01667-000		765-01770-000		01-01808-000	
SALE INFORMATION							
Transaction Price		$1,400,000		$225,000		$535,000	
Transaction Price $/SF		$62		$44		$56	
Property Rights [1]		Fee Simple		Fee Simple		Fee Simple	
Financing [2]		Conventional		Cash to Seller		Cash to Seller	
Sale Conditions [3]		Arm's Length		Arm's Length		Arm's Length	
Expenditures After Sale [4]		$0		$0		$5,000	0.9%
Market Conditions [5]		6/23/2017	6%	5/19/2017	6%	10/4/2018	4%
Sale Status		Recorded		Recorded		Recorded	
Recording Number		2017-19901		2017-15559		L2018-16349	
Marketing Status		Open Market		Open Market		N/A	
Marketing Period (Months)		3.4 Mos.		0.0 Mos.		N/A	
Total Transactional Adjustments		$3	5%	$3	7%	$3	5%
Adjusted $/SF		**$65**		**$47**		**$59**	
PHYSICAL INFORMATION							
Square Feet	23,037	22,680		5,074		9,583	
Acres	0.53	0.52		0.12		0.22	
Location	Above Average	Good	(15%)	Average	15%	Above Average	
Access	Average	Average		Average		Average	
Exposure	Average	Average		Average		Average	
Shape	Irregular	Rectangular		Rectangular		Irregular	
Zoning	MSC	MSC		DG		DC	
Flood Zone	Zone X (Unshaded)	Zone X (Unshaded)		Zone X (Unshaded)		Zone X (Unshaded)	
Total Physical Adjustments		($10)	(15%)	$7	15%	$0	0%
Adjusted $/SF		**$55**		**$54**		**$59**	

COMPARABLE LAND SALE LOCATION MAP / PHOTOGRAPHS



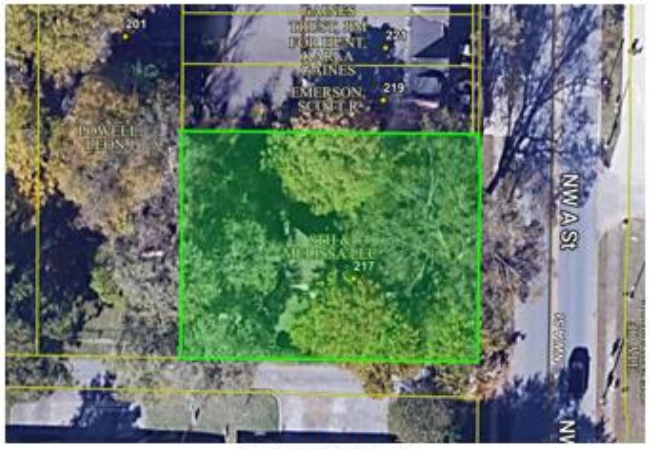
COMPARABLE	LABEL	ADDRESS	MILES FROM SUBJECT
COMPARABLE 1	1	299 N Block Avenue, Fayetteville, AR, 72701	0.3
COMPARABLE 2	2	322 W Meadow Street, Fayetteville, AR, 72701	0.2
COMPARABLE 3	3	217 NW A Street, Bentonville, AR, 72712	21.5



COMPARABLE 1



COMPARABLE 2



COMPARABLE 3

COMPARABLE LAND SALE DISCUSSION

The land sales indicate an overall unadjusted value range from $44/SF to $62/SF, and average of $54/SF. After adjustments, the sales indicate a narrower range for the subject site between $54/SF and $59/SF with an average of $56/SF. The adjustment process is described below and on the following pages.

Land Sale 1 ($55/SF Adjusted): This property is located in the downtown area of the city of Fayetteville, Washington County, Arkansas. It includes approximately 22,680 square feet or 0.52 acres of land. The site size is based on public records. This land is located on the southern right-of-way of Dickson Street with N Block Avenue bordering the site to the east. A portion of the site is improved with a parking lot with the remaining portion being vacant. The property is zoned Main Street Center (MSC) and is rectangular in shape. The site has a topography that is mostly level. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. There are two parcels included with this property. The Washington County Assessor identifies this property as Parcel Number 765-01667-000 and 765-01666-000. This property was purchased by 151 Dickson Development, LLC on June 23, 2017, for $1,400,000 as recorded under Warranty Deed 2017-19901. This property was listed with Lindsey & Associates with 101 days on the open market. The property was listed for $1,500,000 before its sale resulting in a sale-to-list price ratio of 93%. The details of this sale are listed with the Northwest Arkansas Board of Realtors, MLS database as NABOR#1041772. The property adjacent to this property was also listed for sale. The adjacent property included three parcels with approximately 39,838 square feet and a 4,342 square-foot building. The building was in poor shape and was renovated after it was purchased. It was listed for sale at $3,000,000. The buyer purchased all properties together for $4,400,000 with $1,400,000 allocated to this land. There are no sales or transfers for this property for the year previous to this sale.

Land Sale 2 ($54/SF Adjusted): This property includes vacant land in the downtown area of the city of Fayetteville, Washington County, Arkansas. It includes approximately 5,074 square feet or 0.12 acres of land. The site size is based on public records. This land is located on the southern right-of-way of Meadows Street with Shipley Alley bordering the site to the east. The property is zoned Downtown General (DG) and is rectangular in shape. The site has a topography that is mostly level. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. The Washington County Assessor identifies this property as Parcel Number 765-01770-000. This property was purchased by Jane H Meade on May 19, 2017, for $225,000 as recorded under Warranty Deed 2017-15559. After it was purchased, the buyer improved the site with a commercial building for office use with approximately 2,504 square feet of gross building area. This property was listed with Coldwell Banker with one day on the open market. The property was listed for $225,000 before its sale resulting in a sale-to-list price ratio of 100%. The details of this sale are listed with the Northwest Arkansas Board of Realtors, MLS database as NABOR#1047994. There are no sales or transfers for this property for the year previous to this sale.

Land Sale 3 ($59/SF Adjusted) – This property includes vacant land with approximately 9,583 square feet or 0.22 acres of land. The site size is based on public records and assumed accurate. This land is located on the western right-of-way of NW Street in the city of Bentonville, Washington County, Arkansas. The property is zoned Downtown Commercial (DC) and is rectangular in shape. The site has a level topography, and the FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. The Washington County Assessor identifies this property as Parcel Number 01-01808-000. This property was purchased by 8th & Melissa, LLC in 2018 for a reported $535,000 as recorded under Deed L2018-54065. This property sold previously on March 21, 2018, for $350,000. The details of these transaction are unknown and verified using public records.

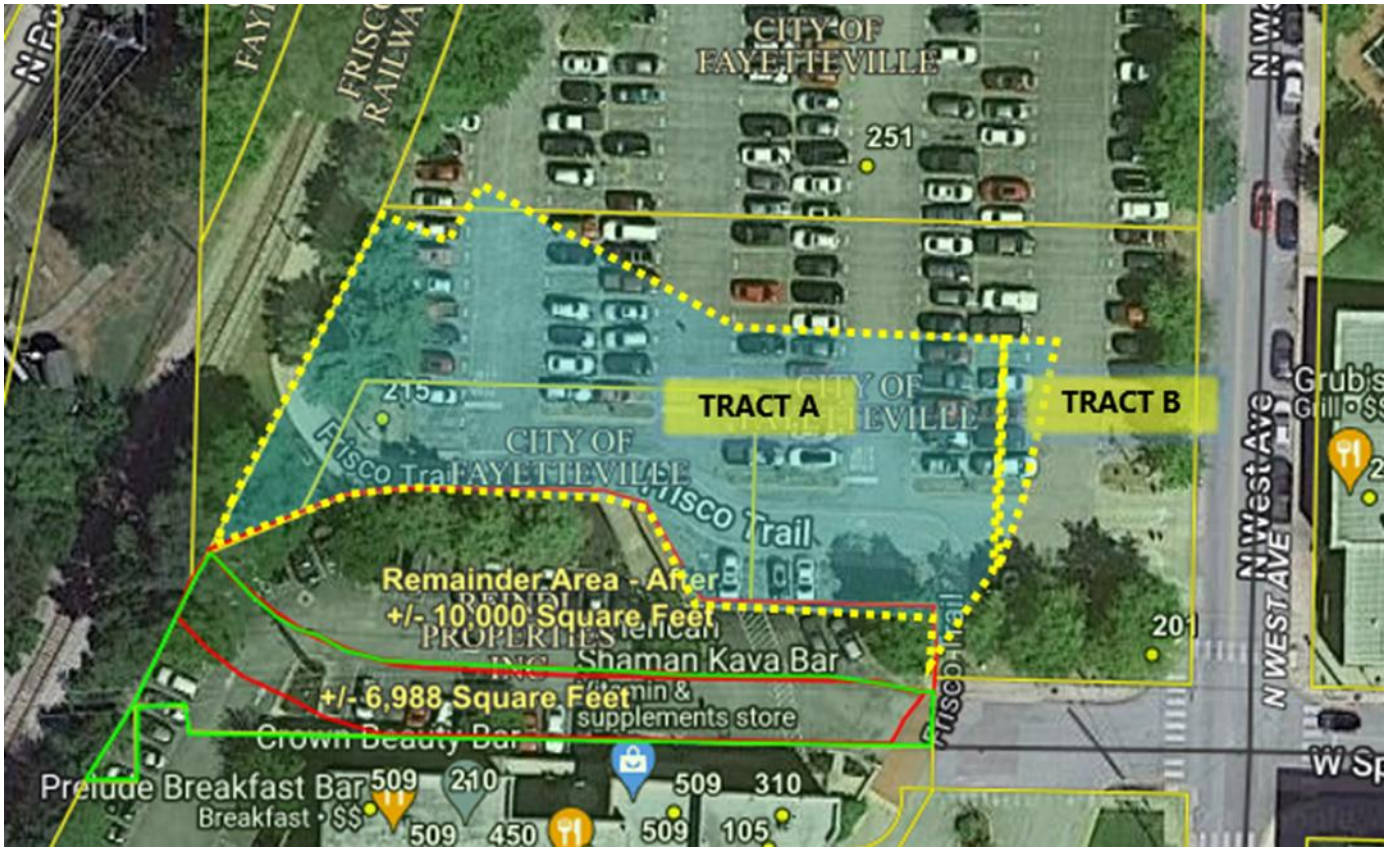
LAND VALUE CONCLUSION - TRACT A TRACT B

Three closed sales are included in this analysis. Land sales similar in location, size, access, and flood designation are used to develop a value indication. Sale 1 is located on Dickson Street and requires a downward adjustment. Sale 2 is located farther away from the entertainment district along Dickson Street and requires an upward adjustment. The comparables in this analysis provide a reliable indication of value. The comparables indicate a unit value, based on a general bracketing analysis, between $54/SF and $59/SF. A value indication near the bottom of the range is warranted due to the deed restrictions on a portion attached to Tract B. Based on the subject's overall locational and physical features, a unit value conclusion of $55/SF is supported. The following table summarizes the comparable land sales analysis.

LAND SALES COMPARISON APPROACH CONCLUSION (SF)								
	TRANSACTION PRICE	ADJUSTMENT TRANSACTIONAL[1]	ADJUSTED	PROPERTY[2]	FINAL	NET ADJ	GROSS ADJ
1	$62	5%	$65	(15%)	$55	(11%)	21%
2	$44	7%	$47	15%	$54	23%	21%
3	$55.83	5%	$59	0%	$59	6%	5%
HIGH	*$62*	*7%*	*$65*	*15%*	*$59*	*23%*	*21%*
AVG	*$54*	*6%*	*$57*	*0%*	*$56*	*6%*	*16%*
MED	*$56*	*5%*	*$59*	*0%*	*$55*	*6%*	*21%*
LOW	*$44*	*5%*	*$47*	*(15%)*	*$54*	*(11%)*	*5%*

	SUBJECT SF		$/SF		VALUE
Total Land Area (Tract A / B)	23,037	x	$55	=	$1,267,035
INDICATED VALUE (ROUNDED TO NEAREST $5,000)			$55		$1,265,000

[1]Cumulative [2]Additive



COMPARABLE LAND SALE TABLE – TRACT C (BEFORE)

The following Land Sales Comparison Table, location map, and photographs summarize the sales data. Following these items, the sales are adjusted for applicable elements of comparison and the site value is concluded.

LAND SALES COMPARISON TABLE - TRACT C

	SUBJECT	COMP 1		COMP 2		COMP 3	
Address	N West Avenue	299 N Block Avenue		322 W Meadow Street		217 NW A Street	
City	Fayetteville	Fayetteville		Fayetteville		Bentonville	
State	AR	AR		AR		AR	
Zip	72701	72701		72701		72712	
County	Washington	Washington		Washington		Benton	
Parcel	765-01743-004	765-01666-000, 765-01667-000		765-01770-000		01-01808-000	
SALE INFORMATION							
Transaction Price		$1,400,000		$225,000		$535,000	
Transaction Price $/SF		$62		$44		$56	
Property Rights [1]		Fee Simple		Fee Simple		Fee Simple	
Financing [2]		Conventional		Cash to Seller		Cash to Seller	
Sale Conditions [3]		Arm's Length		Arm's Length		Arm's Length	
Expenditures After Sale [4]		$0		$0		$5,000	0.9%
Market Conditions [5]		6/23/2017	6%	5/19/2017	6%	10/4/2018	4%
Sale Status		Recorded		Recorded		Recorded	
Recording Number		2017-19901		2017-15559		L2018-16349	
Marketing Status		Open Market		Open Market		N/A	
Marketing Period (Months)		3.4 Mos.		0.0 Mos.		N/A	
Total Transactional Adjustments		$3	5%	$3	7%	$3	5%
Adjusted $/SF		**$65**		**$47**		**$59**	
PHYSICAL INFORMATION							
Square Feet	16,988	22,680		5,074		9,583	
Acres	0.39	0.52		0.12		0.22	
Location	Above Average	Good	(15%)	Average	15%	Above Average	
Access	Average	Average		Average		Average	
Exposure	Average	Average		Average		Average	
Shape	Irregular	Rectangular		Rectangular		Irregular	
Zoning	MSC	MSC		DG		DC	
Flood Zone	Zone X (Unshaded)	Zone X (Unshaded)		Zone X (Unshaded)		(Unshaded)	
Total Physical Adjustments		($10)	(15%)	$7	15%	$0	0%
Adjusted $/SF		**$55**		**$54**		**$59**	

COMPARABLE LAND SALE LOCATION MAP / PHOTOGRAPHS



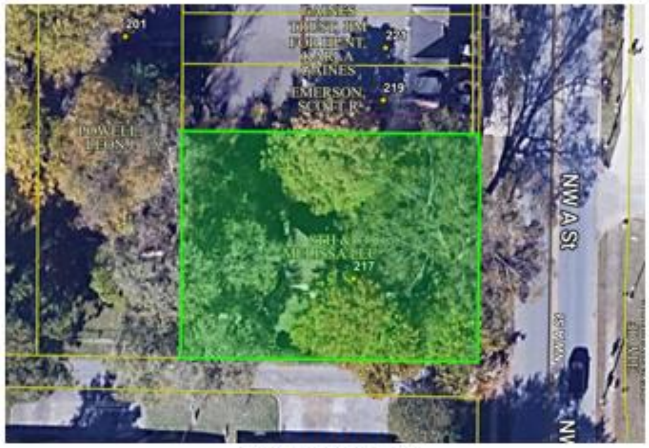
COMPARABLE	LABEL	ADDRESS	MILES FROM SUBJECT
COMPARABLE 1	1	299 N Block Avenue, Fayetteville, AR, 72701	0.3
COMPARABLE 2	2	322 W Meadow Street, Fayetteville, AR, 72701	0.2
COMPARABLE 3	3	217 NW A Street, Bentonville, AR, 72712	21.5



COMPARABLE 1



COMPARABLE 2



COMPARABLE 3

COMPARABLE LAND SALE DISCUSSION

The comparable land sales indicate an overall unadjusted value range from $3.61/SF to $9.20/SF, and average of $6.30/SF. After adjustments, the comparables indicate a narrower range for the subject site between $5.34/SF and $6.40/SF with an average of $5.92/SF. The adjustment process is described below.

Land Sale 1 ($55/SF Adjusted) – This property is located in the downtown area of the city of Fayetteville, Washington County, Arkansas. It includes approximately 22,680 square feet or 0.52 acres of land. The site size is based on public records. This land is located on the southern right-of-way of Dickson Street with N Block Avenue bordering the site to the east. A portion of the site is improved with a parking lot with the remaining portion being vacant. The property is zoned Main Street Center (MSC) and is rectangular in shape. The site has a topography that is mostly level. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. There are two parcels included with this property. The Washington County Assessor identifies this property as Parcel Number 765-01667-000 and 765-01666-000. This property was purchased by 151 Dickson Development, LLC on June 23, 2017, for $1,400,000 as recorded under Warranty Deed 2017-19901. This property was listed with Lindsey & Associates with 101 days on the open market. The property was listed for $1,500,000 before its sale resulting in a sale-to-list price ratio of 93%. The details of this sale are listed with the Northwest Arkansas Board of Realtors, MLS database as NABOR#1041772. The property adjacent to this property was also listed for sale. The adjacent property included three parcels with approximately 39,838 square feet and a 4,342 square-foot building. The building was in poor shape and was renovated after it was purchased. It was listed for sale at $3,000,000. The buyer purchased all properties together for $4,400,000 with $1,400,000 allocated to this land. There are no sales or transfers for this property for the year previous to this sale.

Land Sale 2 ($54/SF Adjusted) – This property includes vacant land in the downtown area of the city of Fayetteville, Washington County, Arkansas. It includes approximately 5,074 square feet or 0.12 acres of land. The site size is based on public records. This land is located on the southern right-of-way of Meadows Street with Shipley Alley bordering the site to the east. The property is zoned Downtown General (DG) and is rectangular in shape. The site has a topography that is mostly level. The FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. The Washington County Assessor identifies this property as Parcel Number 765-01770-000. This property was purchased by Jane H Meade on May 19, 2017, for $225,000 as recorded under Warranty Deed 2017-15559. After it was purchased, the buyer improved the site with a commercial building for office use with approximately 2,504 square feet of gross building area. This property was listed with Coldwell Banker with one day on the open market. The property was listed for $225,000 before its sale resulting in a sale-to-list price ratio of 100%. The details of this sale are listed with the Northwest Arkansas Board of Realtors, MLS database as NABOR#1047994. There are no sales or transfers for this property for the year previous to this sale.

Land Sale 3 ($59/SF Adjusted) – This property includes vacant land with approximately 9,583 square feet or 0.22 acres of land. The site size is based on public records and assumed accurate. This land is located on the western right-of-way of NW Street in the city of Bentonville, Washington County, Arkansas. The property is zoned Downtown Commercial (DC) and is rectangular in shape. The site has a level topography, and the FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. The Washington County Assessor identifies this property as Parcel Number 01-01808-000. This property was purchased by 8th & Melissa, LLC in 2018 for a reported $535,000 as recorded under Deed L2018-54065. This property sold previously on March 21, 2018, for $350,000. The details of these transaction are unknown and verified using public records..

LAND VALUE CONCLUSION - TRACT C (BEFORE)

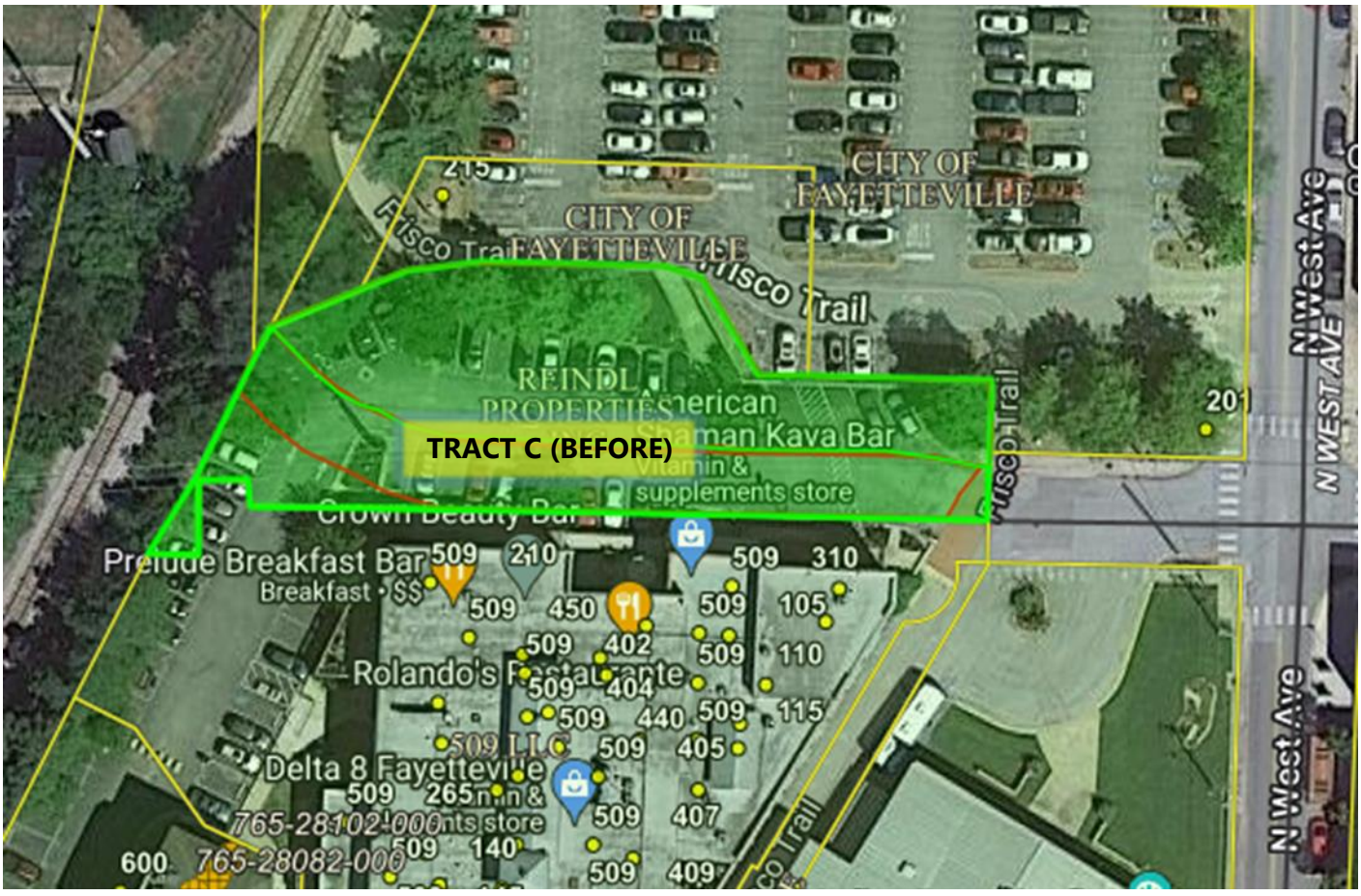
The comparables indicate a unit value, based on a general bracketing analysis, between $54/SF and $59/SF. Sale 1 is located on Dickson Street and requires a downward adjustment. Sale 2 is located farther away from the entertainment district along Dickson Street and requires an upward adjustment. Based on the subject's overall locational and physical features, a unit value conclusion of $55/SF is supported. The following table summarizes the comparable land sales analysis and applies the unit value conclusion to the site area to provide an indication of the as-vacant land value.

LAND SALES COMPARISON APPROACH CONCLUSION (SF)

	TRANSACTION	ADJUSTMENT				NET	GROSS
	PRICE	TRANSACTIONAL[1]	ADJUSTED	PROPERTY[2]	FINAL	ADJ	ADJ
1	$62	5%	$65	(15%)	$55	(11%)	21%
2	$44	7%	$47	15%	$54	23%	21%
3	$55.83	5%	$59	0%	$59	6%	5%
HIGH	*$62*	*7%*	*$65*	*15%*	*$59*	*23%*	*21%*
AVG	*$54*	*6%*	*$57*	*0%*	*$56*	*6%*	*16%*
MED	*$56*	*5%*	*$59*	*0%*	*$55*	*6%*	*21%*
LOW	*$44*	*5%*	*$47*	*(15%)*	*$54*	*(11%)*	*0%*

	SUBJECT SF		$/SF		VALUE
Total Land Area (Tract C - Before)	16,988	x	$55	=	$934,340
INDICATED VALUE (ROUNDED TO NEAREST $5,000)			$55		$935,000

[1]Cumulative [2]Additive



COMPARABLE LAND SALE TABLE – TRACT C (AFTER)

The following Land Sales Comparison Table, location map, and photographs summarize the sales data. Following these items, the sales are adjusted for applicable elements of comparison and the site value is concluded.

LAND SALES COMPARISON TABLE - TRACT C

	SUBJECT	COMP 1		COMP 2		COMP 3	
Address	N West Avenue	299 N Block Avenue		322 W Meadow Street		217 NW A Street	
City	Fayetteville	Fayetteville		Fayetteville		Bentonville	
State	AR	AR		AR		AR	
Zip	72701	72701		72701		72712	
County	Washington	Washington		Washington		Benton	
Parcel	765-01743-004	765-01666-000, 765-01667-000		765-01770-000		01-01808-000	
SALE INFORMATION							
Transaction Price		$1,400,000		$225,000		$535,000	
Transaction Price $/SF		$62		$44		$56	
Property Rights [1]		Fee Simple		Fee Simple		Fee Simple	
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Sale Conditions [3]		Arm's Length		Arm's Length		Arm's Length	
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Market Conditions [5]		6/23/2017	6%	5/19/2017	6%	10/4/2018	4%
Sale Status		Recorded		Recorded		Recorded	
Recording Number		2017-19901		2017-15559		L2018-16349	
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Total Transactional Adjustments		$3	5%	$3	7%	$3	5%
Adjusted $/SF		**$65**		**$47**		**$59**	
PHYSICAL INFORMATION							
Square Feet	10,000	22,680		5,074		9,583	
Acres	0.39	0.52		0.12		0.22	
Location	Above Average	Good	(15%)	Average	15%	Above Average	
Access	Average	Average		Average		Average	
Exposure	Average	Average		Average		Average	
Shape	Irregular	Rectangular		Rectangular		Irregular	
Zoning	MSC	MSC		DG		DC	
Flood Zone	Zone X (Unshaded)	Zone X (Unshaded)		Zone X (Unshaded)		(Unshaded)	
Total Physical Adjustments		($10)	(15%)	$7	15%	$0	0%
Adjusted $/SF		**$55**		**$54**		**$59**	

COMPARABLE LAND SALE LOCATION MAP / PHOTOGRAPHS



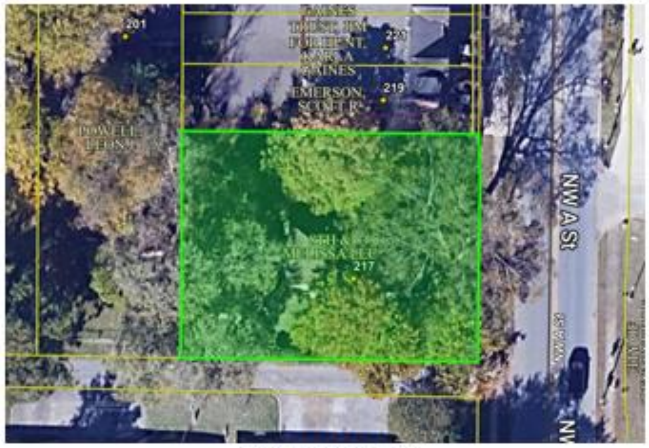
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COMPARABLE 1



COMPARABLE 2



COMPARABLE 3

COMPARABLE LAND SALE DISCUSSION

The comparable land sales indicate an overall unadjusted value range from $3.61/SF to $9.20/SF, and average of $6.30/SF. After adjustments, the comparables indicate a narrower range for the subject site between $5.34/SF and $6.40/SF with an average of $5.92/SF. The adjustment process is described below.

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Land Sale 3 ($59/SF Adjusted) – This property includes vacant land with approximately 9,583 square feet or 0.22 acres of land. The site size is based on public records and assumed accurate. This land is located on the western right-of-way of NW Street in the city of Bentonville, Washington County, Arkansas. The property is zoned Downtown Commercial (DC) and is rectangular in shape. The site has a level topography, and the FEMA Flood Map Services Center indicates that the property is located within the Flood Zone X (Unshaded) boundary. The Washington County Assessor identifies this property as Parcel Number 01-01808-000. This property was purchased by 8th & Melissa, LLC in 2018 for a reported $535,000 as recorded under Deed L2018-54065. This property sold previously on March 21, 2018, for $350,000. The details of these transaction are unknown and verified using public records.

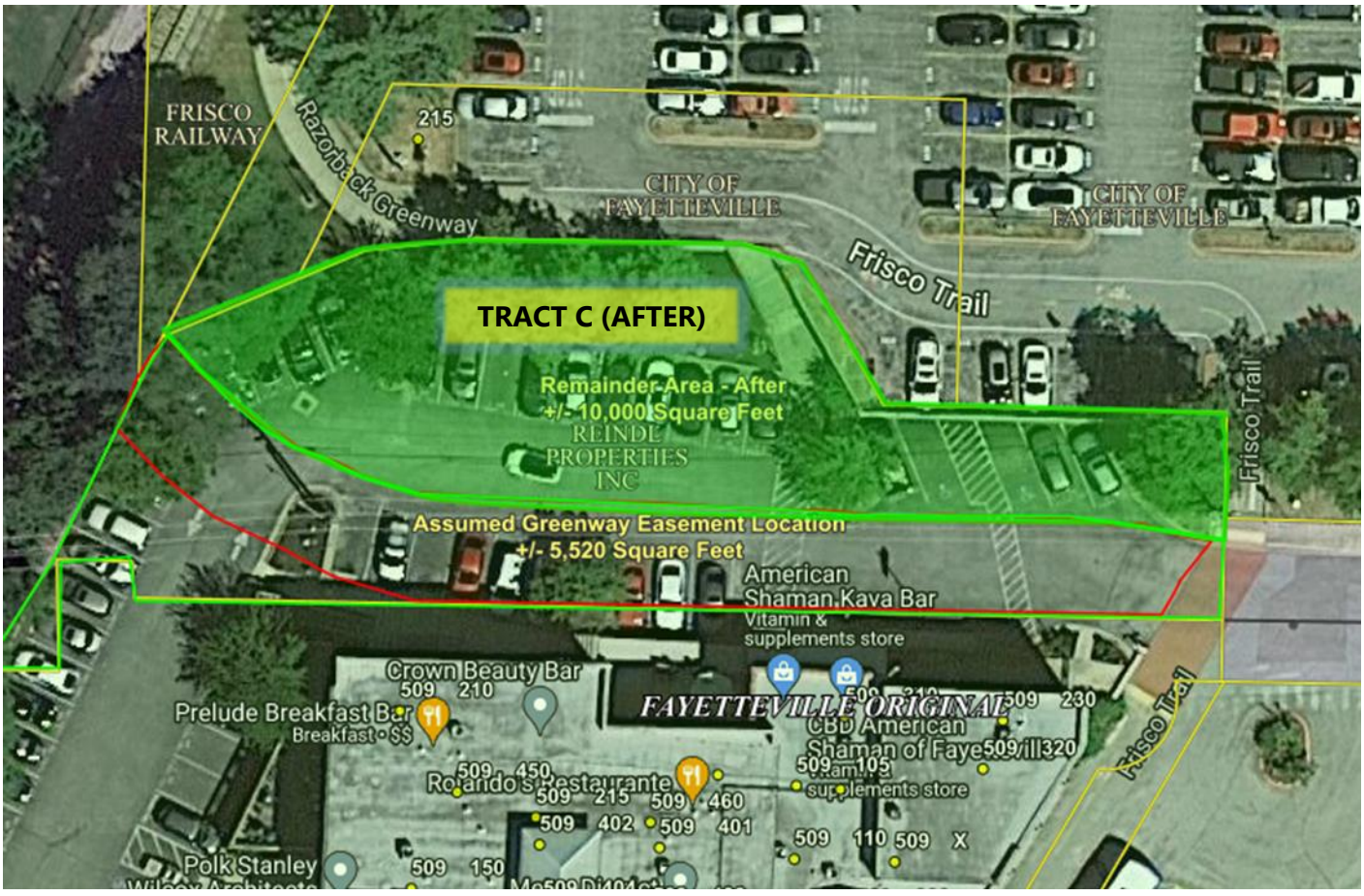
LAND VALUE CONCLUSION - TRACT C (AFTER)

The comparables indicate a unit value, based on a general bracketing analysis, between $54/SF and $59/SF. Sale 1 is located on Dickson Street and requires a downward adjustment. Sale 2 is located farther away from the entertainment district along Dickson Street and requires an upward adjustment. Based on the subject's overall locational and physical features, a unit value conclusion of $55/SF is supported. The following table summarizes the comparable land sales analysis and applies the unit value conclusion to the site area to provide an indication of the as-vacant land value.

LAND SALES COMPARISON APPROACH CONCLUSION (SF)							
	TRANSACTION	ADJUSTMENT				NET	GROSS
	PRICE	TRANSACTIONAL[1]	ADJUSTED	PROPERTY[2]	FINAL	ADJ	ADJ
1	$62	5%	$65	(15%)	$55	(11%)	21%
2	$44	7%	$47	15%	$54	23%	21%
3	$55.83	5%	$59	0%	$59	6%	5%
HIGH	*$62*	*7%*	*$65*	*15%*	*$59*	*23%*	*21%*
AVG	*$54*	*6%*	*$57*	*0%*	*$56*	*6%*	*16%*
MED	*$56*	*5%*	*$59*	*0%*	*$55*	*6%*	*21%*
LOW	*$44*	*5%*	*$47*	*(15%)*	*$54*	*(11%)*	*0%*

	SUBJECT SF		$/SF		VALUE
Total Land Area (Tract C - After)	10,000	x	$55	=	$550,000
INDICATED VALUE (ROUNDED TO NEAREST $5,000)			$55		$550,000

[1]Cumulative [2]Additive



VALUE CONCLUSION

The final step in the appraisal process is reconciling the values into one value conclusion. A discussion of the value conclusion leads to the market value (fee simple) for Tract A and Tract B along with a "before" and "after " market value (fee simple) for Tract C

The site value is a specific scope requirement of this assignment. At the request of the Client, an estimate of site value has been developed for three different tracts of land. Three properties are valued in this analysis and labeled Tract A, Tract B, and Tract C. This analysis provides a conclusion of market value for Tract A and Tract B. Additionally, a conclusion of market value is developed for Tract C "before" and "after" a greenway easement affects the site. Consequently, three value conclusions are developed. The Income Approach is not a scope requirement for this assignment. The Income Approach does not result in a reliable indication of market value based on income production. Therefore, the Income Approach is not developed.

There are three tracts of land included in this analysis. These properties are located west of N West Avenue, south of Dickson Street, west of Frisco Railway, and north of Walton Arts Center. These tracts are described as Tract A, Tract B, and Tract C for this analysis. Tract A includes approximately 21,927 square feet; Tract B includes approximately 1,110 square feet; Tract C includes 16,988 square feet. The City of Fayetteville is wanting to relocate a greenway easement within Tract C. Site sizes are based on information provided or public records and assumed correct. These tracts are in downtown Fayetteville and are currently used as parking lots. They are zoned Main Street Center (MSC) in the Fayetteville Downtown district. A preliminary title report was not available for review. The property is within Census Tract No. 05-143-011302.

City of Fayetteville is the only intended user of this report. No third parties are authorized to rely on this appraisal report without the express written consent of Ferstl Valuation Services. The intended use of this appraisal is to assist the client in making internal business decisions related to this asset. No other use is authorized for this appraisal report.

The purpose of this appraisal report is to develop opinions of the market value (fee simple) for Tract A and Tract B along with a "before" and "after " market value (fee simple) for Tract C. This report conforms to the current Uniform Standards of Professional Appraisal Practice (USPAP), and the appraisal request of the client. The following table provides the opinion of value developed in the analysis.

MARKET VALUE CONCLUSION

VALUATION SCENARIO	INTEREST APPRAISED	DATE	VALUE
Tract A / Tract B Market Value	Fee Simple	February 10, 2023	$1,265,000
Tract C - Acquisition Value	Fee Simple	February 10, 2023	$385,000

APPRAISER CERTIFICATION

We certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions of the signers are limited only by the reported assumptions and limiting conditions, and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- The signers of this report have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- Brad Tharp, MAI, SRA, J.T. Ferstl, J.D., MAI, and Stephen Tharp, SRA have not performed services, specifically as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- The signers are not biased with respect to the property that is the subject of this report or to the parties involved with this assignment.
- The engagement in this assignment was not contingent upon developing or reporting predetermined results.
- The compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analysis, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the *Code of Professional Ethics* and *Standards of Professional Appraisal Practice* of the Appraisal Institute, and the *Uniform Standards of Professional Appraisal Practice*, as set forth by the Appraisal Standards Board of the Appraisal Foundation.
- Stephen Tharp, SRA inspected the property that is the subject of this report. Brad Tharp, MAI, SRA and J.T. Ferstl, J.D., MAI did not inspect the subject property.
- No one provided significant real property appraisal assistance to the appraisers signing the certification.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, Brad Tharp, MAI, SRA has completed the continuing education program for Designated Members of the Appraisal Institute.

As of the date of this report, Stephen Tharp, SRA has completed the continuing education program for Designated Members of the Appraisal Institute.

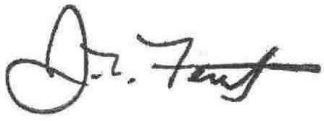
As of the date of this report, J.T. Ferstl, J.D., MAI has completed the continuing education program for Designated Members of the Appraisal Institute.



Brad Tharp, MAI, SRA
Certified General Real Estate Appraiser
State of Arkansas License No. 3734
Expiration Date: 6/30/2023



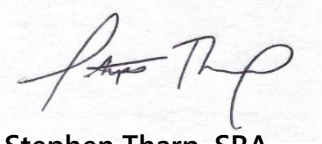
Report Date
March 6, 2023



J.T. Ferstl, J.D., MAI
Certified General Real Estate Appraiser
State of Arkansas License No. 1750
Expiration Date: 6/30/2023



Report Date
March 6, 2023



Stephen Tharp, SRA
Certified Residential Real Estate Appraiser
State of Arkansas License No. 4331
Expiration Date: 6/30/2023



Report Date
March 6, 2023

ASSUMPTIONS & LIMITING CONDITIONS

This Appraisal Report, Letter of Transmittal, and Opinion of Value are hereby made expressively subject to the following Assumptions and Limiting Conditions, and Special Limiting Conditions which may be contained elsewhere in the appraisal report are hereby incorporated herein by reference.

General Assumptions

- That the legal description, as furnished, is correct; and that the title to the property is good and merchantable. All existing liens and encumbrances, if any, have been disregarded and the property is appraised as though free and clear, under responsible ownership and reasonably competent management.
- That the land dimensions, as taken from available maps, plats and/or surveys are correct. This appraisal is subject to whatever may be revealed by a current, competent survey. It has been assumed that those visible and apparent monuments are correct, and that there are no encroachments.
- That the present zoning of the property was verified with local planning officials, but the appraiser cannot be responsible for any error reported by the city officials and/or city staff. Since the Zoning Ordinance is lengthy, the appraiser cannot be responsible for a complete description of the zoning regulations. Zoning Ordinance rules should be obtained by all interested parties for review of restrictions and limitations of use.
- That no adverse soil conditions exist, nor any latent defects in structural components of the improvements; and therefore, no representations regarding such are made herein in this report unless specifically stated; and that the value estimated is subject to any conditions becoming manifest. The condition of heating, cooling, ventilating, electrical and plumbing equipment is considered to be commensurate with the condition of the balance of the improvements (unless otherwise stated). Equipment inspections are the sole responsibility of the client.
- That certain opinions, estimates, data, and statistics, furnished by others in the course of this investigation are correct; all such having been obtained from sources thought to be reliable, but we assume no responsibility for their accuracy.

Limiting Conditions

- The appraiser(s) is not responsible for any matters legal in character, nor is any opinion rendered as to title, which is assumed to be good and merchantable.
- This appraisal report is to be used in whole and not in part.
- This analysis and estimate of value are made for the exclusive use and benefit of the person, persons, or firm to whom it is addressed; and possession of this report or a copy thereof, does not carry with it the right of publication, nor may it be used for any purpose or function other than that herein outlined as such purpose, nor by any other than the client(s) for whom it is prepared, without the prior written consent of the appraiser and/or said client(s), and in any event only the entire appraisal report may be used, and no part shall be taken or used out of context with the whole; however, the appraisal report represents the opinion, only of the appraiser(s) and no statement or figure therein set forth is to be considered otherwise.
- No feasibility or land study has been made by, nor has such been furnished to appraiser.
- Maps, plats, sketches, photographs, and the like, are included in this report for the sole purpose of aiding the reader to visualize the property and their accuracy is not warranted.
- This appraisal report does not contemplate any court action, nor does it obligate the appraiser(s) whose name(s) is/are affixed thereto, to give any testimony to a Commissioner, Arbitrator, or other individual, body or agency. If court action or appearance later becomes advisable and/or necessary in the interest of the client(s) to whom this report is addressed, the terms for such additional service shall be negotiated as a separate contract.
- Disclosure of the contents of this is governed by the By-Laws and Regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or firm with which he is connected, or any reference to the Appraisal Institute or the MAI or SRA designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communication without the prior consent and approval of the author. Further, the appraiser or firm assumes no obligation, liability, or accountability to any third party. If this report is placed in the hands of anyone but the client, client shall make such party aware of all the assumptions and limiting conditions of the assignment.

Special Assumptions & Limiting Conditions

- **Limit of Liability:** There is no accountability, obligation, or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignment and related discussions. The appraiser assumes no responsibility for any costs incurred to discover or correct any deficiencies present in the property.
- **Copies, Publications, Distribution, Use of Report:** Possession of this report or any copy thereof does not carry with it the right of publication, nor may it be used for other than its intended use; the physical report(s) remain the property of the appraiser for the use of the client, the fee being for the analytical services only. The Bylaws and Regulations of the Appraisal Institute require each Member and Candidate to control the use and distribution of each appraisal report signed by each Member or Candidate; except as hereinafter provided, the client may distribute copies of this analysis report in its entirety to such third parties as he may select; however, selected portions of this appraisal report shall not be given to third parties without the prior written consent of the signatories of this analysis report. Neither all nor any part of this analysis report shall be disseminated to the general public by the use of advertising media, public relations, news, sales, or other media for public communication without prior written consent of appraiser.
- **Confidentiality:** This analysis is to be used only in its entirety. All conclusions and opinions of the analysis set forth in the report were prepared by the appraiser(s) whose signature(s) appear on the analysis report, unless indicated as "Review Appraiser". No change of any item in the report shall be made by anyone other than the appraiser and/or officer of the firm. The Appraiser and firm shall have no responsibility if any such unauthorized change is made. The appraiser may not divulge the material (evaluation) contents of the report, analytical findings or conclusions, or give a copy of the report to anyone other than the client or his designee as specified in writing except as may be required by the Appraisal Institute as they may request in confidence for ethics enforcement, or by a court of law or body with the power of subpoena.
- **Information Used:** No responsibility is assumed for accuracy of information furnished by or from others, the client, their designee, realtors, or public records. The comparable data relied upon in this report has been confirmed with one or more parties familiar with the transaction or from affidavit or other source thought reasonable; all are considered appropriate for inclusion to the best of our factual judgment and knowledge. An impractical and uneconomic expenditure of time would be required in attempting to furnish unimpeachable verification in all instances, particularly as to engineering and market-related information. It is suggested that the client consider independent verification within these categories as a prerequisite to any transaction involving sale, lease, or other significant commitment of subject property, and that such verification be performed by the appropriate specialists.
- **Testimony, Consultation, Completion of Contract for Appraisal Services:** The contract for appraisal, consultation, or analytical service, is fulfilled and the total fee payable upon completion of the appraisal report. The appraiser(s) or those assisting in preparation of the report will not be asked or required to give testimony in court or hearing because of having made the appraisal, in full or in part, nor engage in post appraisal consultation with client or third parties except under separate and special arrangement and at additional fee.
- **Exhibits:** The sketches and maps in this report are included to assist the reader in visualizing the property and are not necessarily to scale. Various photos, if any, are included for the same purpose as of the date of the photos. Site plans are not surveys unless shown as being prepared by a professional surveyor.
- **Legal, Engineering, Financial, and Soil:** No responsibility is assumed for matters legal in character or nature, nor matters of survey. No opinion is rendered as to the title, which is presumed to be good and merchantable. The property is analyzed as if free and clear, unless otherwise stated in particular parts of the report. The legal description is assumed to be correct as used in this report as furnished by the client, his designee, or as derived by the appraiser. Please note that no advice is given regarding soils and potential for settlement, drainage, and such (seek assistance from qualified architect and/or engineer) nor matters concerning liens, title status, and legal marketability (seek legal assistance), and such. The buyer and seller should inspect the property before any disbursement of funds. The appraiser has inspected as far as possible, by observation, the land; however, it was not possible to personally observe conditions beneath the soil. The land or the soil of the area being appraised appears firm; however, subsidence in the area is unknown. The appraiser(s) do not warrant against this condition or occurrence of problems arising from soil conditions. The appraisal is based on there being no hidden, unapparent, or apparent conditions of the property site, subsoil, or toxic materials which would render it more or less valuable. No responsibility is assumed for any such conditions or for any expertise or engineering to discover them. If the Appraiser has not been supplied with a current survey, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranties are made concerning obtaining the above-mentioned items.

The appraiser assumes no responsibility for any costs or consequences arising due to the need, or the lack of need for flood hazard insurance. An Agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.

- **Legality of Use:** The appraisal is based on the premise that, there is full compliance with all applicable federal, state and local environmental regulations and laws unless otherwise stated in the report; further that all applicable zoning, building, and use regulations and restrictions of all types have been complied with unless otherwise stated in the report; further, it is assumed that all required licenses, consents, permits, or other legislative or administrative authority, local, state, federal and/or private entity or organization have been or can be obtained or renewed for any use considered in the value estimate.
- **Auxiliary & Related Studies:** No environmental or impact studies, special market study or analysis, highest and best use analysis study or feasibility study has been requested or made unless otherwise specified in an agreement for services or in the report. The appraiser reserves the unlimited right to alter, amend, revise or rescind any of the statements, findings, opinions, values, estimates, or conclusions upon any subsequent such study or analysis, or previous study, or factual information as to market or subject, or analysis subsequently becoming known to him.
- **Value Change, Dynamic Market, Influences:** The estimated market value is subject to change with market changes over time; value is highly related to exposure time, promotional effort, terms, motivation, and conditions surrounding the offering. The value estimate considers the productivity and relative attractiveness of the property physically and economically in the marketplace. The "Estimate of Market Value" in the report is not based in whole or in part upon the race, color or national origin of the present owners or occupants of the properties in the vicinity of the property appraised. The Appraiser reserves the right to alter the opinion of value on the basis of any information withheld or not discovered in the original normal course of a diligent investigation.
- **Fee:** The fee for this appraisal or study is for the service rendered and not for the time spent on the physical report.
- **Authentic Copies:** The authentic copies of this report are signed in colored ink and have an embossed/stamped type seal. Any copy that does not have the above is unauthorized and may have been altered.
- **Toxic Materials:** Unless otherwise stated in this report, the appraiser(s) signing this report have no knowledge concerning the presence or absence of toxic materials, asbestos, and/or urea-formaldehyde foam insulation; if such is present the value of the property may be adversely affected and a re-analysis at additional cost necessary to estimate the effects of such.
- **Review:** Unless otherwise noted herein, review appraiser has reviewed the report only as to general appropriateness of technique and format and has not necessarily inspected the subject or market comparable properties.
- The appraiser(s) and/or associates of this firm reserve the right to alter statements, analysis, conclusion or any value estimate in the analysis if there becomes known to us facts pertinent to the appraisal process which were unknown to us when the report was finished.
- **ACCEPTANCE OF, AND/OR USE OF THIS APPRAISAL REPORT CONSTITUTES ACCEPTANCE OF THE PREVIOUS STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS.**

SHIP TO
City of Fayetteville
115 S Church
Fayetteville, AR 72701

BILL TO
City of Fayetteville
113 W Mountain St
FAYETTEVILLE, AR 72701

PURCHASE ORDER NO. 2022-00000829

DATE 01/13/2023

VENDOR 24366 Arkansas Appraisers Inc

CONTACT
Arkansas Appraisers Inc
dba Ferstl Valuation Services
5905 Forest Place,Ste 100
Little Rock, AR 72207

CITY OF FAYETTEVILLE ARKANSAS

DELIVER BY
SHIP VIA
FREIGHT TERMS 1
ORIGINATOR Terry Williams
RESOLUTION #
PAYMENT TERMS 30

QUANTITY	U/M	DESCRIPTION	UNIT COST	TOTAL COST
1.0000	LOT	Professional Services - Other - Appraisal Services for Civic Plaza Center 4708.860.7800-5860.02 (Capital Prof Svcs Engineering/Architectural) $7,500.00 46080.7800 (Arts Corridor (2019 Bonds), Arts Corridor Improvements)	$7,500.0000	$7,500.00

SUBTOTAL	$7,500.00
SALES TAX	$0.00
TOTAL DUE	$7,500.00

Les McHaugh
APPROVED BY

PAGE 1 OF 1

SPECIAL INSTRUCTIONS

DataScoutPro

Parcel: 765-01743-002
Prev. Parcel: 400026-000-00

Washington County Report

ID: 35997
As of: 3/1/2023

Property Owner

Name: CITY OF FAYETTEVILLE

Mailing Address: 113 W MOUNTAIN ST
FAYETTEVILLE, AR 72701

Type: (EG) Ex. Government
Over 65 Freeze: No
Tax Dist:
Size (Acres):

Property Information

Physical Address:

Subdivision: FAYETTEVILLE ORIGINAL
Block / Lot: 007 / --
S-T-R: 16-16-30

Extended Legal: PART OF PARKING LOT PT OF BLOCK 7 WEST OF TRACKS 0.68A

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Mkt Value)	Taxable Value
Land:			
Building:			0
Total:			

Taxes:

Estimated Taxes:	$0	Actual Taxes:	$0
Homestead Credit:	$0	Note: Tax amounts are estimates only. Contact the county tax collector for exact amounts.	

Deed Transfers:

Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
9/27/1989	1340	810	Warr. Deed	0.00	$0	CITY OF FAYETTEVILLE, ARKANSAS		
10/9/1986	1196	827	Warr. Deed	58.30	$53,000	MCBRIDE DISTRIBUTING CO INC	Unval.	
1/1/1985	1196	824	Warr. Deed	0.00	$0	SUGG, JOHM G SR ETAL TRUSTEE		

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Subject to terms and conditions.
www.datascoutpro.com

DataScoutPro

Parcel: 765-01743-003
Prev. Parcel: 765-01743-000

Washington County Report

ID: 35998
As of: 3/1/2023

Property Owner

Name: CITY OF FAYETTEVILLE

Mailing Address: 113 W MOUNTAIN ST
FAYETTEVILLE, AR 72701

Type: (EG) Ex. Government
Over 65 Freeze: No
Tax Dist:
Size (Acres):

Property Information

Physical Address:

Subdivision: FAYETTEVILLE ORIGINAL
Block / Lot: 007 / --
S-T-R: 16-16-30

Extended Legal: PARKING LOT N WEST AVE PT BLOCK 7 0.13A & PT VACATED WEST SPRING ST

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Mkt Value)	Taxable Value
Land:			
Building:			0
Total:			

Taxes:

Estimated Taxes:	$0	Actual Taxes:	$0
Homestead Credit:	$0	Note: Tax amounts are estimates only. Contact the county tax collector for exact amounts.	

Deed Transfers:

Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
1/19/1990	1351	302	Warr. Deed	0.00	$0	CITY OF FAYETTEVILLE, ARKANSAS		
1/1/1985	1351	300	Warr. Deed	66.00	$60,000	SUGG, JOHN G SR; SUGG, ANN W; SUGG	Unval.	

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DataScoutPro

Parcel: 765-01743-004
Prev. Parcel:

Washington County Report

ID: 96573
As of: 3/1/2023

Property Owner

Name: REINDL PROPERTIES INC

Mailing Address: 509 W SPRING ST STE 460
FAYETTEVILLE, AR 72703

Type: (CV) Comm. Vacant
Over 65 Freeze: No
Tax Dist:
Size (Acres):

Property Information

Physical Address:

Subdivision: FAYETTEVILLE ORIGINAL
Block / Lot: 008 / --
S-T-R: 16-16-30

Extended Legal: PT BLK 8 & PT BLK 7 PT SPRING ST RIGHT-OF-WAY 0.39A FURTHER DESCRIBED FROM 2019-6302 AS: Part of the Southeast Quarter of the Northwest Quarter of Section Sixteen (16), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas, and also a part of Block Seven (7), a part of Block Eight (8), a part of the right-of-way of Spring Street, a part of the vacated portion of Spring Street as per City Ordinance #1513, recorded in Deed Book 689 at Page 242, and a part of the vacated portion of Gregg Avenue as per City Ordinance #1070, recorded in Deed Book 465 at Page 275, all in the original Town (now City) of Fayetteville, Arkansas, as designated upon the original Plat of said Town on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and all being more particularly described as follows, to-wit: Beginning at a point which is North 86°51'59" West 83.92 Feet and North 02°05'12" East 18.00 Feet from the Northeast corner of said Block Eight (8) and running thence South 68°49'49" West 10.49 Feet; thence North 87°05'59" West 236.89 Feet; thence North 02°03'51" West 8.24 Feet; thence North 87°07'17" West 17.00 Feet; thence South 02°05'39" West 24.88 Feet; thence North 87°07'17" West 17.00 Feet; thence North 35°16'57" East 29.94 Feet; thence North 27°57'23" East 55.25 Feet; thence North 68°45'49" East 49.99 Feet; thence North 85°35'44" East 25.43 Feet; thence South 87°12'08" East 60.65 Feet; thence South 69°32'30" East 13.12 Feet; thence South 28°04'16" East 37.15Feet; thence South 87°10'24" East 77.68 Feet; thence South 02°05'12" West 42.45 Feet to the Point of Beginning, containing 0.39 acres, more or less.

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Mkt Value)	Taxable Value
Land:	$69,300	$13,860	$13,860
Building:	0	0	0
Total:	$69,300	$13,860	$13,860

Taxes:

Estimated Taxes:	$728	Actual Taxes:	$803
Homestead Credit:	$0	Note: Tax amounts are estimates only. Contact the county tax collector for exact amounts.	

Land:

Land Use	Size	Units	Front Width	Rear Width	Depth One	Depth Two	Dimension (sqft)
	16988.400	Sq.Ft					

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DataScoutPro

Parcel: 765-01743-004
Prev. Parcel:

Washington County Report

ID: 96573
As of: 3/1/2023

Deed Transfers:

Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
3/6/2019	2019	6302	Quit Claim			REINDL PROPERTIES INC		Land Only
12/18/2018	2019	587	Survey			METRO DISTRICT CONDOMINIUMS HPR		Land Only
11/8/2011	2011	32091	Redem Deed			METRO DISTRICT CONDOMINIUMS HPR		
7/20/2011	2011	11424	CompLaw			METRO DISTRICT CONDOMINIUMS HPR		
8/5/2005	2005	53850	Survey			METRO DISTRICT LLC		
5/23/2005	2005	22872	Warr. Deed	25439.70	$7,709,000	METRO DISTRICT LLC	Additional Properties	Improved
1/14/2005	2005	2536	Warr. Deed			REINDL PROPERTIES INC		Land Only
11/1/2004	2004	50264	Survey			REINDL PROPERTIES INC	Inc. Additional Prop.	Land Only

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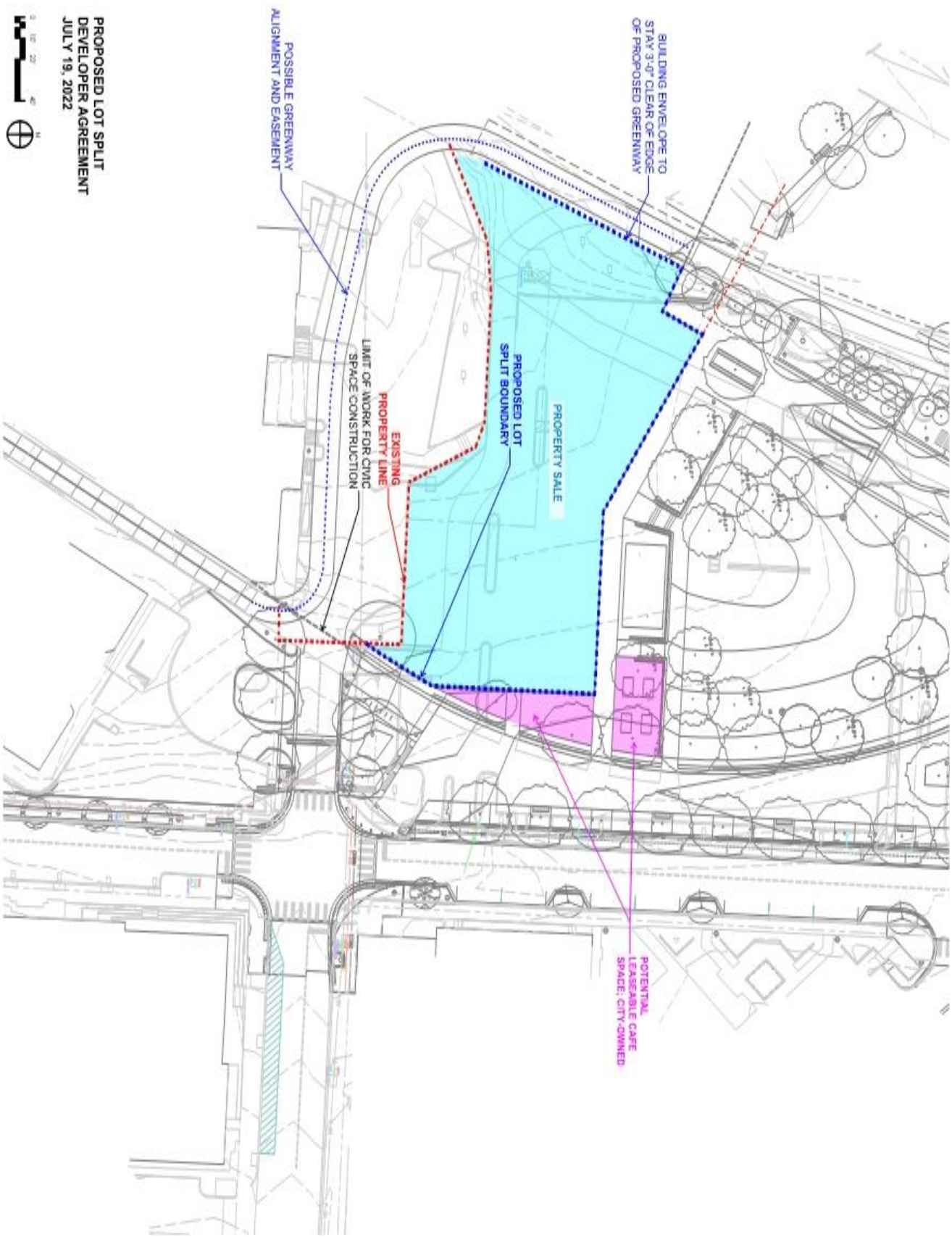

PROPOSED LOT SPLIT
DEVELOPER AGREEMENT
JULY 19, 2022
POSSIBLE GREENWAY ALIGNMENT AND EASEMENT
BUILDING ENVELOPE TO STAY 3'-0" CLEAR OF EDGE OF PROPOSED GREENWAY
PROPOSED LOT SPLIT BOUNDARY
PROPERTY SALE
EXISTING PROPERTY LINE
LIMIT OF WORK FOR CIVIC SPACE CONSTRUCTION
POTENTIAL LEASABLE CAFE SPACE; CITY-OWNED

Exhibit A

Date: February 8, 2023

Grantors: City of Fayetteville

Parcel Number: 765-01743-002

Lease Area #1

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tract of land recorded in the Washington County Recorder's Office in Book 1340, at Page 810, more particularly described as follows:

COMMENCING at the Northwest corner of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87°09'15"E, along the North line of said Quarter Quarter, a distance of 365.32 feet; thence departing said North line S02°33'19"W, a distance of 41.67 feet to the point of intersection of the West Right-of-Way line of West Avenue, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line, along said West Right-of-Way line the following three (3) courses: S02°33'19"W, a distance of 100.00 feet; thence S03°05'04"W, a distance of 192.32 feet; thence S03°02'34"W, a distance of 113.11 feet; thence departing said West Right-of-Way line N86°57'26"W, a distance of 38.98 feet to the POINT OF BEGINNING; thence along a non-tangent curve to the right having a Radius of 304.25 feet and a Chord that bears S08°05'12"W, an arc distance of 24.10 feet; thence N87°01'52"W, a distance of 44.16 feet; thence N03°36'51"E, a distance of 24.00 feet; thence S87°01'29"E, a distance of 46.04 feet to the POINT OF BEGINNING, containing 1,086 square feet or 0.025 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

Lease Area #2

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tract of land recorded in the Washington County Recorder's Office in Book 1340, at Page 810, more particularly described as follows:

COMMENCING at the Northwest corner of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87°09'15"E, along the North line of said Quarter Quarter, a distance of 365.32 feet; thence departing said North line S02°33'19"W, a distance of 41.67 feet to the point of intersection of the East Right-of-Way line of West Avenue, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line, along said West Right-of-Way line the following three (3) courses: S02°33'19"W, a distance of 100.00 feet; thence S03°05'04"W, a distance of 192.32 feet; thence S03°02'34"W, a distance of 147.11 feet; thence departing said West Right-of-Way line N86°57'26"W, a distance of 42.55 feet to the POINT OF BEGINNING; thence along a non-tangent curve to the right having a Radius of 304.25 feet and a Chord that bears S20°01'31"W,

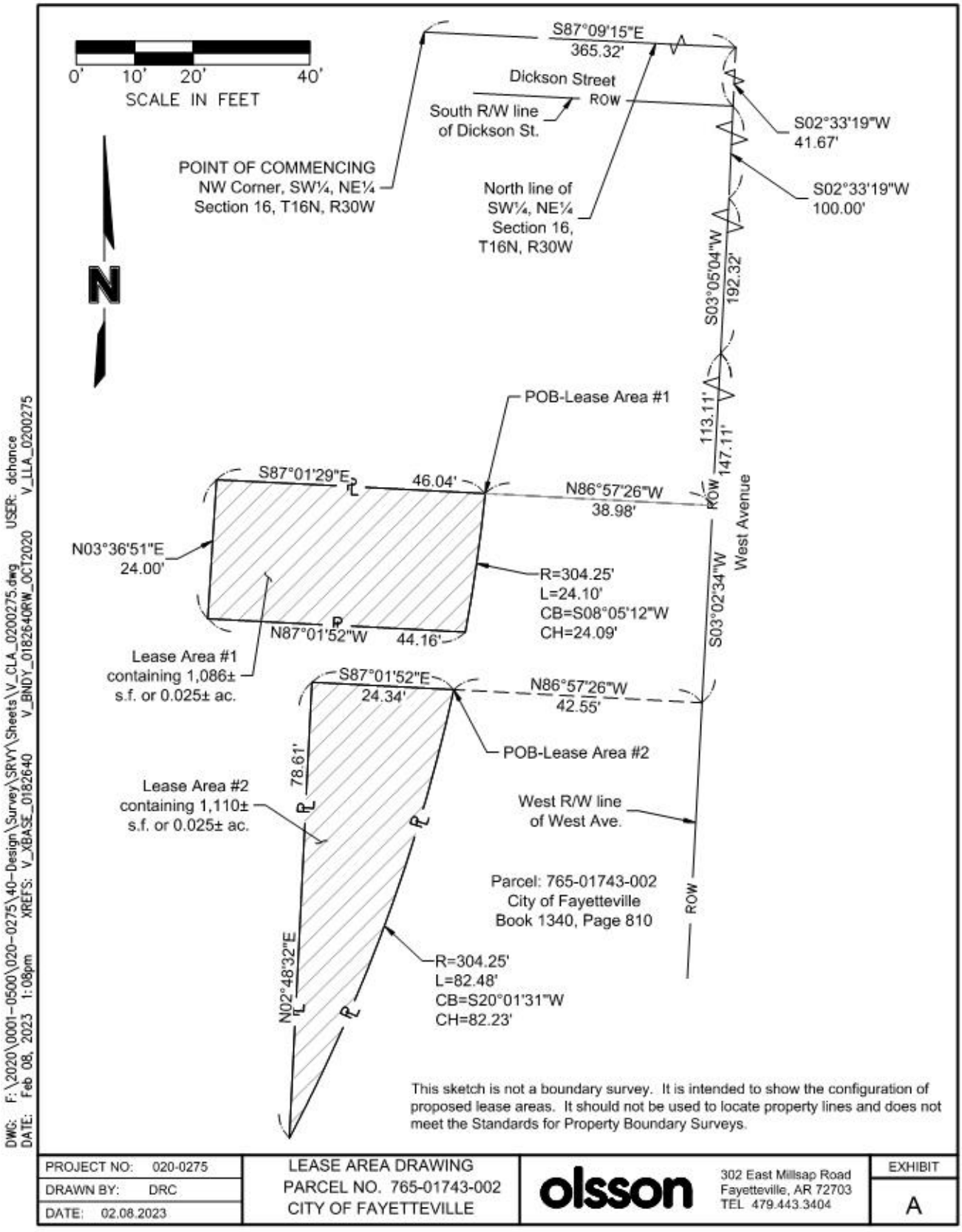
---

Prepared by: Olsson, Inc.
302 East Millsap Road
Fayetteville, AR 72703
Tel 479.443.3404
Prepared for: City of Bentonville, AR
Project No.:I21-04210

Exhibit A

an arc distance of 82.48 feet; thence N02°48'32"E, a distance of 78.61 feet; thence S87°01'52"E, a distance of 24.34 feet to the POINT OF BEGINNING, containing 1,110 square feet or 0.025 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

Prepared by: Olsson, Inc.
302 East Millsap Road
Fayetteville, AR 72703
Tel 479.443.3404
Prepared for: City of Bentonville, AR
Project No.:I21-04210


0' 10' 20' 40'
SCALE IN FEET
N
S87°09'15"E
365.32'
Dickson Street
ROW
South R/W line
of Dickson St.
POINT OF COMMENCING
NW Corner, SW¼, NE¼
Section 16, T16N, R30W
North line of
SW¼, NE¼
Section 16,
T16N, R30W
S02°33'19"W
41.67'
S02°33'19"W
100.00'
S03°05'04"W
192.32'
113.11'
147.11'
POB-Lease Area #1
S87°01'29"E
46.04'
N86°57'26"W
38.98'
ROW
West Avenue
S03°02'34"W
N03°36'51"E
24.00'
R=304.25'
L=24.10'
CB=S08°05'12"W
CH=24.09'
N87°01'52"W
44.16'
Lease Area #1
containing 1,086±
s.f. or 0.025± ac.
S87°01'52"E
24.34'
N86°57'26"W
42.55'
POB-Lease Area #2
78.61'
Lease Area #2
containing 1,110±
s.f. or 0.025± ac.
West R/W line
of West Ave.
Parcel: 765-01743-002
City of Fayetteville
Book 1340, Page 810
ROW
N02°48'32"E
R=304.25'
L=82.48'
CB=S20°01'31"W
CH=82.23'
This sketch is not a boundary survey. It is intended to show the configuration of proposed lease areas. It should not be used to locate property lines and does not meet the Standards for Property Boundary Surveys.
DWG: F:\2020\0001-0500\020-0275\40-Design\Survey\SRVY\Sheets\V_CLA_0200275.dwg USER: dchance
DATE: Feb 08, 2023 1:08pm XREFS: V_XBASE_0182640 V_BNDY_0182640RW_OCT2020 V_LLA_0200275
PROJECT NO: 020-0275
DRAWN BY: DRC
DATE: 02.08.2023
LEASE AREA DRAWING
PARCEL NO. 765-01743-002
CITY OF FAYETTEVILLE
olsson
302 East Millsap Road
Fayetteville, AR 72703
TEL 479.443.3404
EXHIBIT
A

PROPERTY LINE ADJUSTMENT

PART OF THE SW¼, NE¼, SECTION 16, T16N, R30W
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

PREPARED FOR

PREPARED BY

PARENT TRACT DESCRIPTION - DWB, PAGE 981

PARENT TRACT DESCRIPTION - BOOK 1357, PAGE 141

PARENT TRACT DESCRIPTION - BOOK 1340, PAGE 818

PARENT TRACT DESCRIPTION - BOOK 1351, PAGE 302

TRACT A DESCRIPTION

TRACT B DESCRIPTION

TRACT C DESCRIPTION

Fayetteville, AR

CERTIFICATE OF OWNERSHIP AND DEDICATION:

ACKNOWLEDGEMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON, ss:

Owner

Date

INFORMATION OF FACT

CERTIFICATE OF SURVEY AND ACCURACY

PROPERTY LINE ADJUSTMENT FOR THE
CITY OF FAYETTEVILLE, ARKANSAS

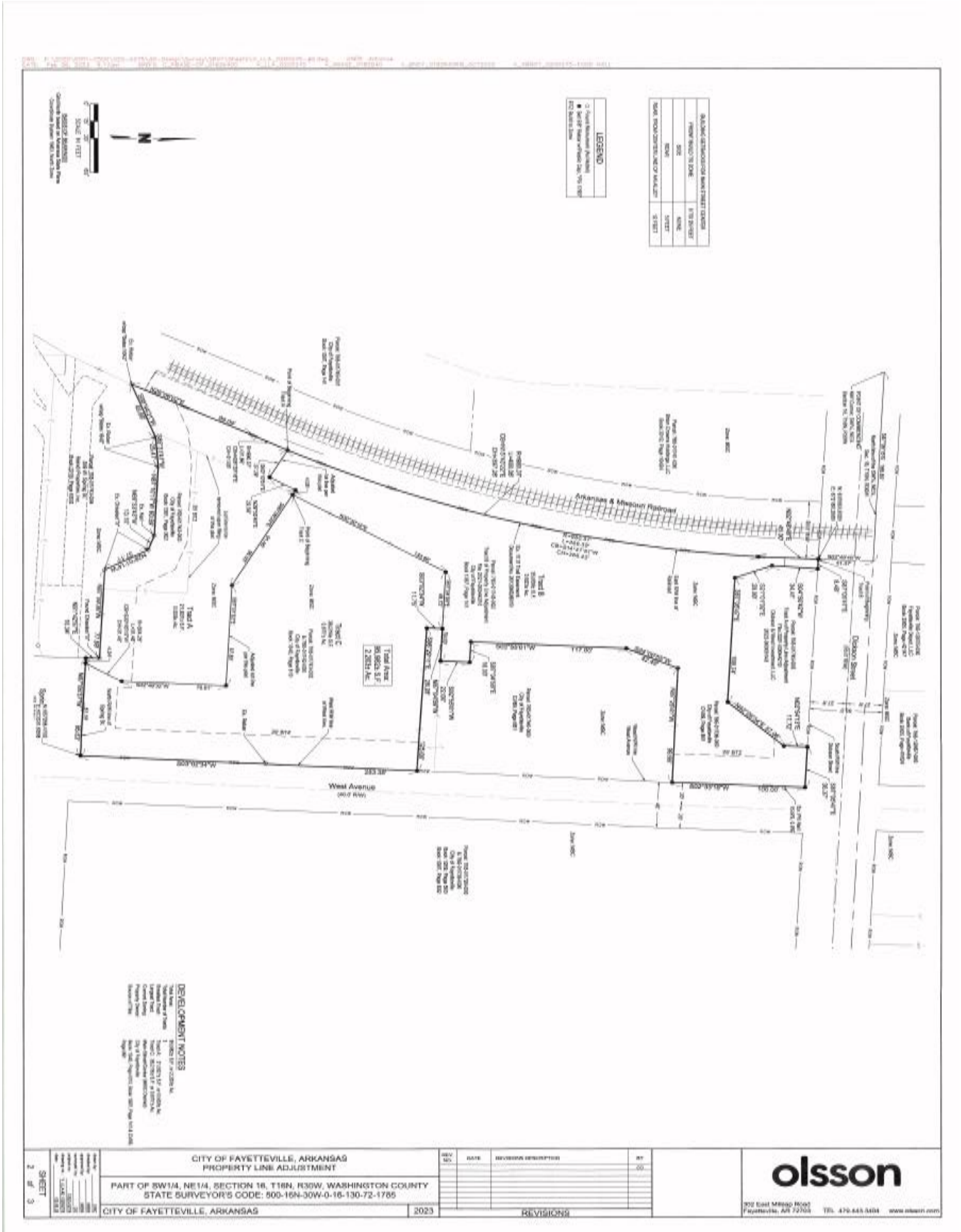
PART OF SW1/4, NE1/4, SECTION 16, T16N, R30W, WASHINGTON COUNTY
STATE SURVEYOR'S CODE: 800-16N-30W-0-16-130-72-1789

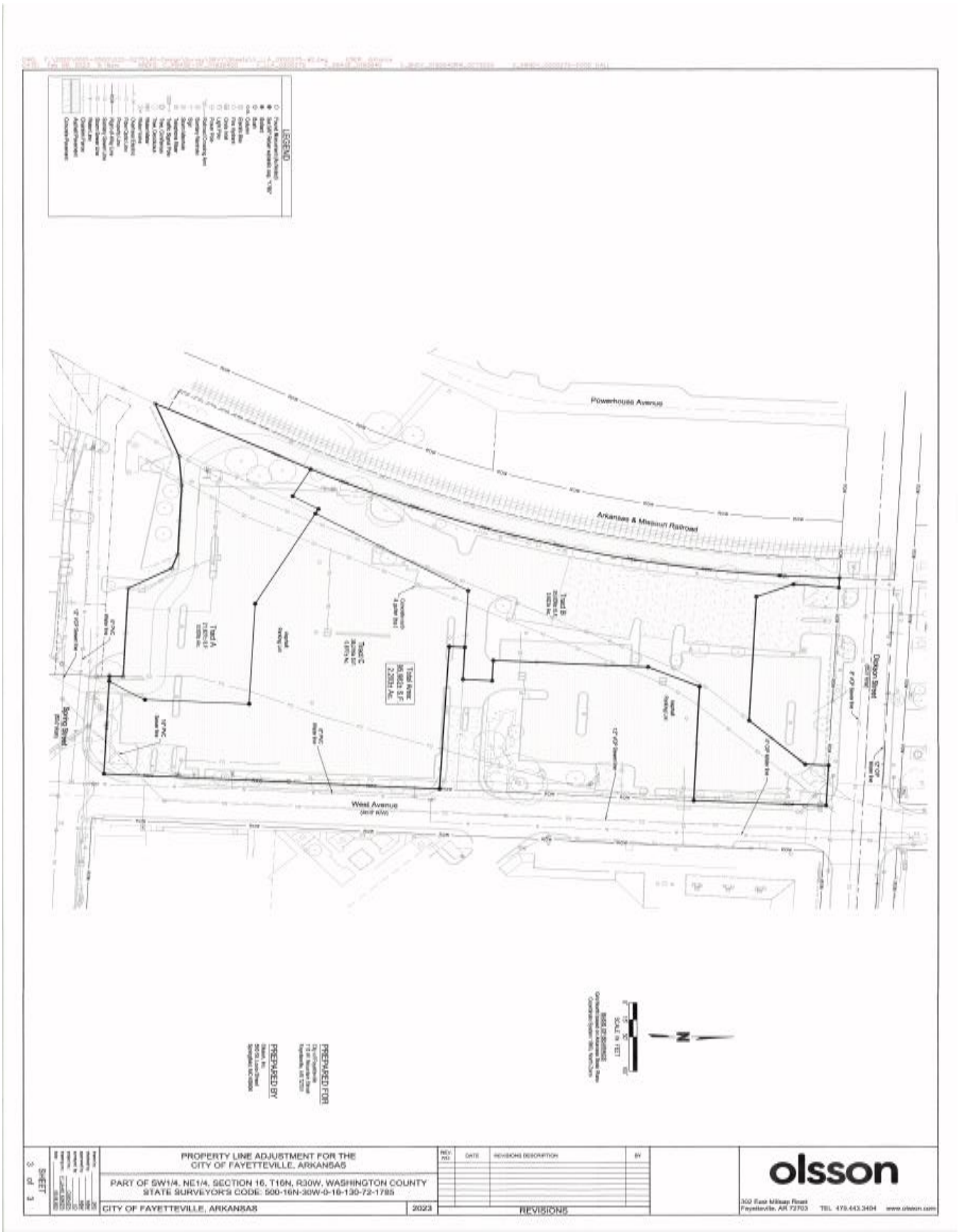
CITY OF FAYETTEVILLE, ARKANSAS 2023

REVISIONS

olsson

SHEET 1 OF 3


LEGEND
Arkansas & Missouri Railroad
West Avenue
(40.0' R/W)
DEVELOPMENT NOTES
CITY OF FAYETTEVILLE, ARKANSAS
PROPERTY LINE ADJUSTMENT
PART OF SW1/4, NE1/4, SECTION 16, T16N, R30W, WASHINGTON COUNTY
STATE SURVEYOR'S CODE: 500-16N-30W-0-16-130-72-1785
CITY OF FAYETTEVILLE, ARKANSAS
2023
REVISIONS
olsson


LEGEND
Powerhouse Avenue
Arkansas & Missouri Railroad
West Avenue
Tract A
Tract B
Tract C
Total Area
95,980± SF
2.203± Ac.
Spring Street
Dixon Street
PREPARED BY
PREPARED FOR
SCALE IN FEET
N
PROPERTY LINE ADJUSTMENT FOR THE
CITY OF FAYETTEVILLE, ARKANSAS
PART OF SW1/4, NE1/4, SECTION 16, T16N, R30W, WASHINGTON COUNTY
STATE SURVEYOR'S CODE: 500-16N-30W-0-16-130-72-1785
CITY OF FAYETTEVILLE, ARKANSAS
2023
REVISIONS
DATE
REVISIONS DESCRIPTION
BY
olsson
SHEET
1 of 1

Ferstl VALUATION SERVICES

Brad Tharp, MAI, SRA
Real Estate Appraiser

5905 Forest Place, Suite 100
Little Rock, AR 72207
Phone: (501) 375-1439
Email: btharp@ferstlvs.com

EDUCATION

University of Central Arkansas
MGIS, Geographic Information Systems

University of Central Arkansas
BS, Environmental Science/Planning and Administration

SCHOLARSHIP

2013 Recipient of Appraisal Institute Education Trust Candidate for Designation Scholarship

APPRAISAL COURSEWORK & TRAINING – PARTIAL LIST

Appraisal Institute

- Business Practice and Ethics
- 15-Hour National USPAP Course
- Evaluating Commercial Construction
- Evaluating Residential Construction
- Basic Appraisal Principles
- Basic Appraisal Procedures
- General Appraiser Income Approach: Part 1
- General Appraiser Site Valuation and Cost Approach
- Reviewing Residential Appraisals and Using FNMA Form 2000
- Practical Regression Using Microsoft Excel
- Residential App: Using Technology to Measure and Support Results
- Excel as an Appraisal Professional: Making Your Job Easier Using Excel
- Residential Market Analysis and Highest & Best Use
- Residential Site Valuation and Cost Approach
- Real Estate Finance Statistics and Valuation Modeling
- Residential Sales Comparison and Income Approach
- Residential Report Writing and Case Studies
- Advanced Residential Applications and Case Studies – Part 1
- Advanced Residential Report Writing – Part 2
- Analyzing the Effects of Environmental Contamination on Real Property

a la mode, inc.
Appraiser Mobile Workshop

McKissock
Introduction to the Uniform Appraisal Dataset

U.S. Department of Housing and Urban Development
The FHA Appraisal

PROFESSIONAL MEMBERSHIPS

Designated Member of the Appraisal Institute
Arkansas Certified General Appraiser – CG3734
2014 Nominating Committee Member – Arkansas Chapter of the Appraisal Institute
2015 Finance Committee Member – Arkansas Chapter of the Appraisal Institute

PROFESSIONAL EXPERIENCE

Ferstl Valuation Services – Real Estate Appraiser (2012-Present)
Hammerhead Construction, LLC – President (2004-2010)

MILITARY SERVICE

United States Marine Corps – Machine Gunner (0331)

- Operation Iraqi Freedom
- Naval Achievement Medal
- Combat Action Ribbon
- Presidential Unit Citation



ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD
This is to certify that
Bradley Tharp

License #: CG 3734

has complied with the requirements of Arkansas Code Section §17-14-201 et seq.; and is the holder of a valid certificate.
This card is for identification purposes only.

6/30/2023
Expiration Date

Chairman

STATE OF ARKANSAS

APPRAISER LICENSING & CERTIFICATION BOARD

Attests that

Bradley K Tharp

On this date was certified as a

STATE CERTIFIED GENERAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certification is issued in accordance with all the requirements of Arkansas Code Annotated, Section 17-14-101 et seq., and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

September 2, 2015
Date Issued

CG 3734
Certification Number

Chairman, AALCB

(CONTINUED)

J. T. Ferstl, J.D., MAI

5905 Forest Place, Suite 100
Little Rock, Arkansas 72207
www.ferstlvaluationservices.com

Phone: 501.375.1439
Fax: 501.375.8317
E-mail: jtferstl@ferstlvs.com

EDUCATION

William H. Bowen School of Law, UALR - Juris Doctorate
University of Arkansas – B.S. Business Administration
(Majors: Economics and Computer Information Systems)
Catholic High School for Boys - Little Rock, Arkansas

PROFESSIONAL EXPERIENCE

Ferstl Valuation Services – President/CEO (2013 – present)
Affiliated Appraisers – Executive Vice President (2007 – 2013)
Affiliated Appraisers - Real Estate/Legal Consultant (1999-2007)
Arkansas Appraisal Group – Field Appraiser (1998)
Ferstl Enterprises Realtors– Property Management (1996-present)

PROFESSIONAL MEMBERSHIPS

Arkansas State Certified General Appraiser – Cert. # CG1750
Oklahoma State Certified General Appraiser – Cert # 12895CGA
Tennessee State Certified General Appraiser – Cert. # CG00004522
Louisiana State Certified General Appraiser – Cert. # G3032
Florida State Certified General Appraiser – Cert. # RZ3962
Arkansas Real Estate Broker – AB00056841
Arkansas REALTORS Association
Arkansas Bar Association – Supreme Court ID #2003212
Designated Member of the Appraisal Institute - MAI #12524

SPECIAL APPRAISAL TRAINING (Partial List)

Appraisal Institute
- Appraisal Principles
- Appraisal Procedures
- Basic Income Capitalization
- Business Practices & Ethics
- Advanced Income Capitalization
- Highest & Best Use and Market Analysis
- Advanced Sales Comparison and Cost Approaches
- Report Writing and Valuation Analysis
- Advanced Applications
- Business Practices & Ethics
- Residential Site Valuation and Cost Approach
- Condemnation Appraising
- The Appraiser as an Expert Witness
- Litigation Appraising
- Valuing Commercial Green Buildings
- Fundamentals of Separating Real Property, Personal Property, and Intangible Assets
- Uniform Appraisal Standards for Federal Land Acquisitions

J. T. Ferstl, J.D., MAI

BOARDS & COMMISSIONS

Little Rock Planning Commission – 2007 to 2013
Arkansas Electronic Recording Commission – 2007 to 2013
Arkansas Appraisers Association, Treasurer – 2005 to present
Appraisal Institute (International BOD) – Region IX Vice-Chair
Monsignor Tribou Scholarship Fund – Board Member
Federal Reserve Bank of St. Louis – Real Estate Industry Council
Little Rock REALTORS Association – Legislative Affairs Committee

AWARDS & HONORS

MAI designation from the Appraisal Institute – awarded 2008
Leadership Arkansas – Class III – 2008-2009
Leadership Greater Little Rock – Class XXIV – 2008-2009
Leadership Greater Little Rock – Class XXIX – Curriculum Chair
Leadership Greater Little Rock – Class XXX – Chair
Arkansas Business 40 under 40 – 2009
Rotarian of the Year – 2011 – Club 99
Ted Anglyn Award – Appraisal Institute (LDAC) – 2011

ORGANIZATIONAL & CIVIC MEMBERSHIPS

Sigma Chi Fraternity – University of Arkansas at Fayetteville
Phi Alpha Delta Legal Fraternity – UALR Law School
St. Thomas More Society – Arkansas Chapter Founding Member
The Rotary Club of Little Rock – Club 99 (Past President)
Catholic High School Alumni Association
Little Rock Regional Chamber of Commerce
Arkansas State Chamber of Commerce
Leadership Greater Little Rock Alumni Association
Leadership Arkansas Alumni Association

PARTIAL LIST OF CLIENTS

Arkansas Capital Corporation
Arvest Bank
BancorpSouth
Bank of America
Bank OZK
Centennial Bank
One Banc and Trust
Relyance Bank
Simmons First National Bank
Regions Bank
First Arkansas Bank and Trust
First Commercial Bank
J.P. Morgan Chase
The Capital Bank
Entergy
First Security Bank
1st National of NWA
IBERIAfsb
Malvern National Bank
Merchants and Planters Bank
Magellan
Little Rock Housing Authority
City of North Little Rock
United Central Bank
Farmers Bank and Trust
US Bank
U.S. Department of Interior
Southern Bancorp
Chambers Bank
Armor Bank

ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD
This is to certify that
James Ferstl

License #: CG 1750

has complied with the requirements of
Arkansas Code Section §17-14-201 et seq.; and
is the holder of a valid certificate.
This card is for identification purposes only.

6/30/2023
Expiration Date

Chairman

APPRAISER LICENSING & CERTIFICATION BOARD

STATE OF ARKANSAS

Attest That

JAMES T. FERSTL

On this date was certified as a

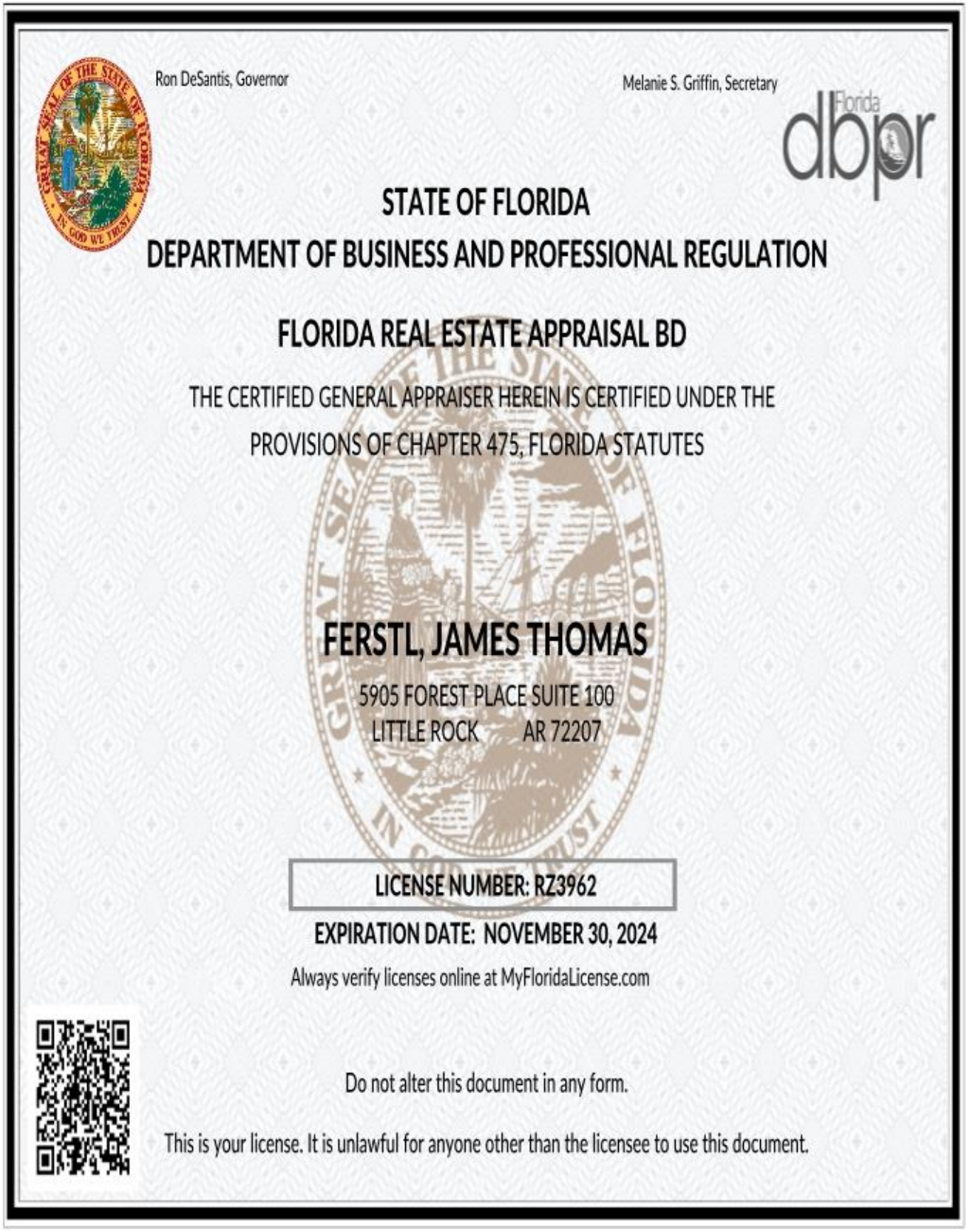
STATE CERTIFIED GENERAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all the requirements of Arkansas Code Annotated, Section § 17-51-101 et seq. and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

APRIL 28, 2005
Date Issued

CG1750
Certificate Number

Chairman, AAL & CB



Ron DeSantis, Governor

Melanie S. Griffin, Secretary

Florida dbpr

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA REAL ESTATE APPRAISAL BD

THE CERTIFIED GENERAL APPRAISER HEREIN IS CERTIFIED UNDER THE PROVISIONS OF CHAPTER 475, FLORIDA STATUTES

FERSTL, JAMES THOMAS

5905 FOREST PLACE SUITE 100
LITTLE ROCK AR 72207

LICENSE NUMBER: RZ3962

EXPIRATION DATE: NOVEMBER 30, 2024

Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

Louisiana Real Estate Appraisers Board

Having complied with the requirements of Chapter 51 of Title 37 of the Louisiana Revised Statutes of 1950 and the requirements of the Louisiana Real Estate Appraisers Board,

Certified General Appraiser

license is hereby granted to

James T. Ferstl

Affiliated Real Estate Appraisers

License Number - APR.03032-CGA
First Issuance Date - 01/01/2023
Expiration Date - 12/31/2024

Rebecca A Rothschild
Chairwoman

Secretary

STATE OF LOUISIANA · UNION · JUSTICE · CONFIDENCE · REAL ESTATE APPRAISERS BOARD

OKLAHOMA INSURANCE DEPARTMENT
400 NE 50TH STREET, OKLAHOMA CITY, OK 73105

GLEN MULREADY, Chairperson
REAL ESTATE APPRAISER BOARD

THE INDIVIDUAL NAMED BELOW IS LICENSED AS FOLLOWS:

JAMES T FERSTL

5905 FOREST PL STE 100
LITTLE ROCK, ARKANSAS 72207

LICENSE NUMBER: 12895CGA
EFFECTIVE: 07/20/2022
EXPIRES: 08/31/2025

State of Oklahoma

Glen Mulready, Insurance Commissioner

Oklahoma Real Estate Appraiser Board

This is to certify that:

James T Ferstl

has complied with the provisions of the Oklahoma Real Estate Appraisers Act to transact business as a ***State Certified General*** *Real Estate Appraiser in the State of Oklahoma.*

In Witness Whereof, I have hereunto set my hand and caused the seal of my office to be affixed at the City of Oklahoma City, State of Oklahoma, this 20th day of July , 2022 .

Glen Mulready, Insurance Commissioner
Chairperson, Oklahoma Real Estate Appraiser Board

Members, Oklahoma Real Estate Appraiser Board

Brandon Witt

Patricia A. B

Expires:
08/31/2025

Oklahoma Appraiser Number:
12895CGA



STATE OF TENNESSEE
DEPARTMENT OF
COMMERCE AND INSURANCE

JAMES THOMAS FERSTL

34326

ID NUMBER: 4522
LIC STATUS: ACTIVE
EXPIRATION DATE: January 31, 2024

TENNESSEE REAL ESTATE APPRAISER COMMISSION
CERTIFIED GENERAL REAL ESTATE APPRAISER
THIS IS TO CERTIFY THAT ALL REQUIREMENTS
OF THE STATE OF TENNESSEE HAVE BEEN MET

ATTN:AFFILIATED REAL ESTATE APPRAIS
JAMES THOMAS FERSTL
5905 Forrest Place
Suite 100
LITTLE ROCK AR 72207

12846626

State of Tennessee

TENNESSEE REAL ESTATE APPRAISER COMMISSION
CERTIFIED GENERAL REAL ESTATE APPRAISER
JAMES THOMAS FERSTL

This is to certify that all requirements of the State of Tennessee have been met.

ID NUMBER: 4522
LIC STATUS: ACTIVE
EXPIRATION DATE: January 31, 2024

IN-1313
DEPARTMENT OF
COMMERCE AND INSURANCE

Ferstl VALUATION SERVICES

Stephen Tharp, SRA
Real Estate Appraiser

5905 Forest Place, Suite 100
Little Rock, AR 72207
Phone: (501) 375-1439
Email: stharp@ferstlvs.com

EDUCATION

University of Arkansas- Fayetteville, AR
Master of Education

Arkansas State University- Jonesboro, AR
Bachelor of Science

Pratt Community College- Pratt, Ks
Associate of Science

APPRAISAL COURSEWORK

Appraisal Institute
USPAP – Uniform Standards of Professional Practice
Basic Appraisal Principles
Basic Appraisal Procedures
Business Practices and Ethics
Residential Market Analysis and Highest & Best Use
Residential Sales Comparison & Income Approach
Residential Site Valuation and Cost Approach
Residential Report Writing and Case Studies
Real Estate Finance Statistics & Valuation Modeling
Advanced Residential Applications and Case Studies/Part 1
Advanced Residential Report Writing/Part 2
General Appraiser Sales Comparison Approach
General Appraiser Site Valuation and Cost Approach
General Appraiser Income Approach Part 1
General Appraiser Income Approach Part 2
General Appraiser Market Analysis and Highest & Best Use
General Appraiser Report Writing and Case Studies

McKissock
Subject Matter Electives
Advanced Residential Applications and Case Studies

Professional Memberships

Arkansas State Certified Residential Appraiser — CR#4331
Appraisal Institute – Designated Member #602216
Arkansas Chapter of the Appraisal Institute - 2022 Nominating Committee Member

Professional Experience

Ferstl Valuation Services
Field Appraiser - Residential and Commercial Real Estate
2017 – Present

ARKANSAS
APPRAISER LICENSING &
CERTIFICATION BOARD
This is to certify that
Stephen Tharp

License # CR 4331

has complied with the requirements of Arkansas
Code Section §17-14-201 et seq.; and is the
holder of a valid certificate.
This card is for identification purposes only

6/30/2023 Chairman
Expiration Date

STATE OF ARKANSAS

APPRAISER LICENSING & CERTIFICATION BOARD

Attest That

Stephen Matthew Tharp

On this date was certified as a

STATE CERTIFIED RESIDENTIAL APPRAISER

The Arkansas Appraiser Licensing and Certification Board hereby affirms that this Certificate is issued in accordance with all requirements of Arkansas Code Annotated, Section §17-14-101 et seq., and subsequently adopted "Rules and Regulations" and shall remain in force when properly supported by a current pocket identification card.

7/29/2021 *(Issued Date)*

Chairman, AAL & CB

CR-4331 *(Registration Number)*

Appraisal Report

The City of Fayetteville- Engineering Division
125 W. Mountain St.
Fayetteville, AR 72701

As of March 1, 2023

Client:
City of Fayetteville Engineering Division
125 W Mountain St
Fayetteville, AR 72701

Presented By:
The Real Estate Consultants

Produced By:
Mark E. Risk, GAA
State Certified General Appraiser #0202

File #23-0011

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THE
REAL ESTATE
CONSULTANTS

2592 N. Gregg Ave. Suite #1
P.O. Box 747
Fayetteville, AR 72702

°REALTORS ° APPRAISERS ° CONSULTANTS

(479) 442-0762

March 15, 2023

Waylon Abernathy, Director of Bond Projects and Facilities
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Appraisal Services

City of Fayetteville
Proposed Land Lease Area on West Ave.
Fayetteville, AR 72701

Dear Mr. Abernathy:

In compliance with your request and to determine the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The subject property was inspected by the appraiser on *March 1st, 2023*. The intended use is for potential sale evaluation of the aforementioned property by the City of Fayetteville. I further certify that I have no interest present or contemplated in the property under appraisement, and that my fee was not contingent upon the value estimate reported.

The opinions set forth in this letter are stated as of March *15, 2023.*

The following narrative appraisal report contains the data gathered in my investigation and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This report is considered an "Appraisal Report".

This appraisal is based upon information gathered by the appraiser from the subject owner, public records, and other reliable sources, and upon an inspection of the subject property and neighborhood. In developing the appraisal approaches used, data was collected from the Real Estate Consultants' office files and courthouse records. The appraiser has applied the Market Data Approach in this appraisal.

Based upon my inspection of the subject property and the investigation and analysis carried out in this report, it is my considered opinion that the Market Value of the subject property as of *March 1, 2023*, and subject to the assumptions and limiting conditions set forth in the body of this report, is as follows:

NINETY-NINE THOUSAND DOLLARS
($99,000)

Respectfully submitted,



Mark A. Risk GAA
State Certified
General Appraiser # CG0202

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Section I – Executive Summary

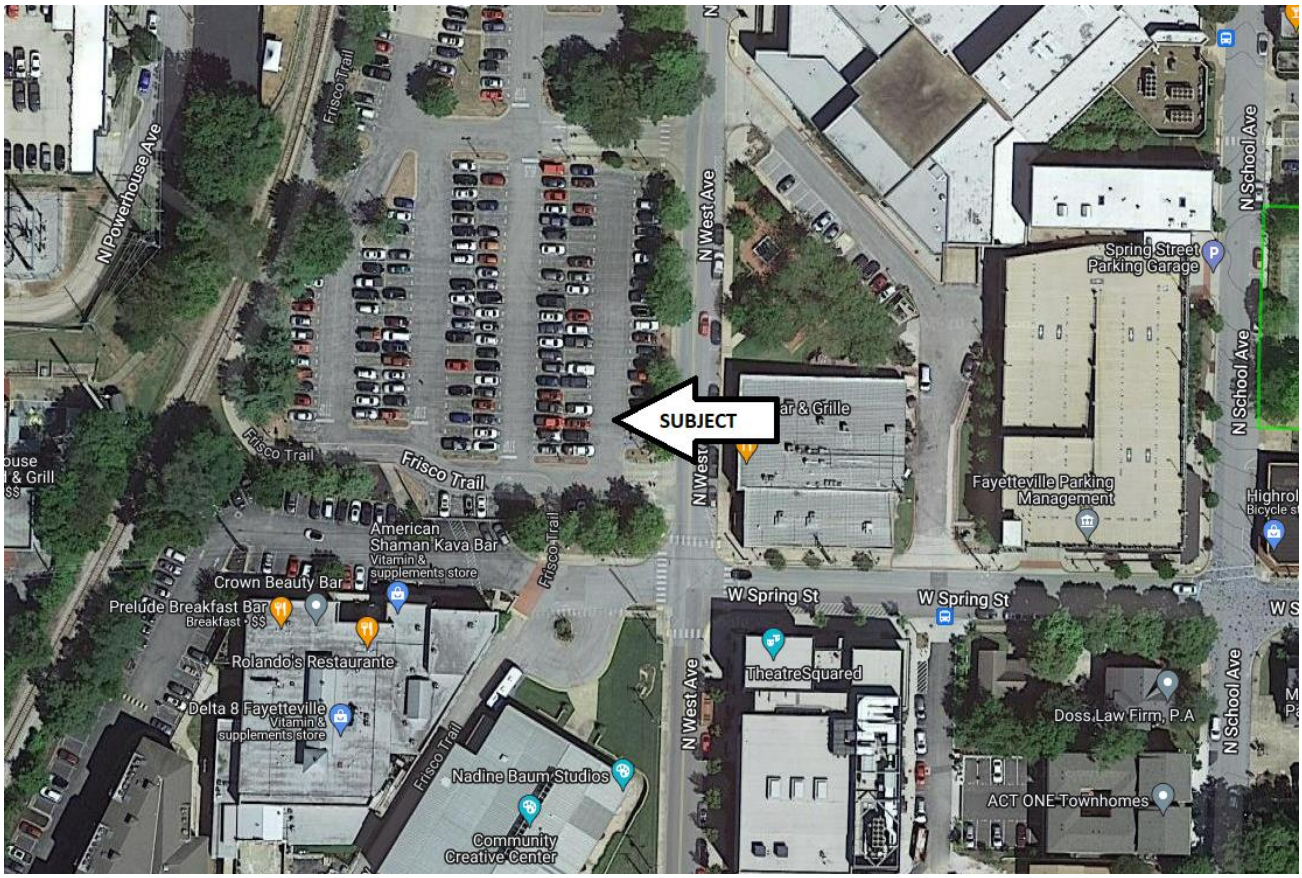
Salient Facts & Conclusions

Property:	A part of the SW1/4 of the NE ¼ of Section 16, Township 16 North, Range 30 West, City of Fayetteville, AR. West Ave. South of Dickson St.	
County:	Washington	
Parcel #(s):	Pt. of Parcel #765-01743-002	
Fee Owner:	City of Fayetteville	
Subject Location:	S. West Ave., south of Dickson St. - Fayetteville, AR 72701	
Estate Appraised:	Fee Simple	
Size:	Site – 2,196 Sq Ft.	
Effective Date:	March 1st, 2023 - The Date of Inspection	
Utilities:	All Municipal Utilities Are Available	
Zoning:	Main Street Center	
Highest and Best Use:	Assemblage with adjoining property	
Value Indications:	Market Data Approach	$99,000
	Cost Approach	NA
	Income Approach	NA

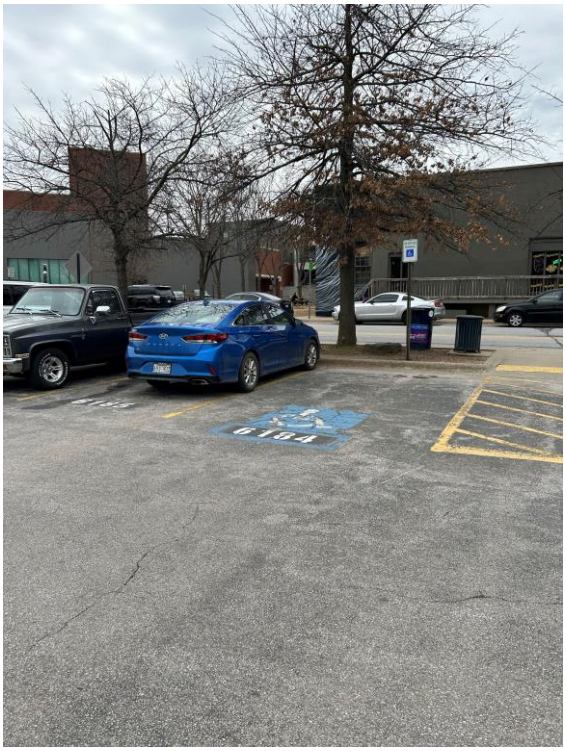
Final Estimate of Market Value: **$99,000**

Note:
This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report without the preparer's written permission does so at their own risk.

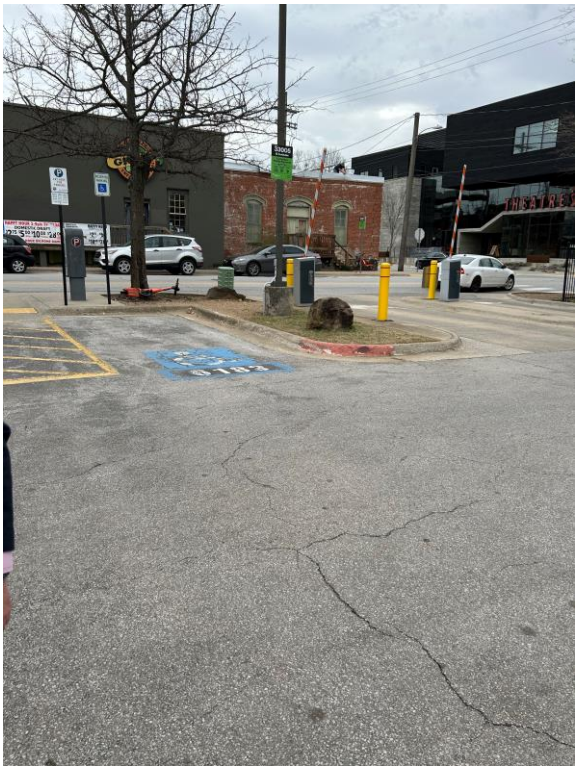
Subject Aerial Photo



Subject Pictures



Proposed Lease Area



Proposed Lease Area

Property Identification

The property under appraisement is a small area of the City owned parking lot south of Dickson St. off West Ave. in Downtown Fayetteville, Washington County, Arkansas. The property is owned by the City of Fayetteville.

Legal Description

Lease Area #1

A part of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tract land recorded in the Washington County Recorder's Office in Book 1340, at Page 810, more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville. Washington County, Arkansas. Thence S87*09'15"E, along the North line of said quarter, a distance of 365.32 feet; thence departing said North Line of S02*33'19"W, a distance of 41.67 feet to the point of intersection of the West Right-of-Way line of West Avenue, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line, along said West Right-of-Way line the following three (3) courses: S02*33'19"W, a distance of 100.00 feet; thence S03*05'04"W, a distance of 192.32 feet; thence S03*02'34"W, a distance of 113.11 feet; thence departing said West Right-of-Way line N86*57'26'W, a distance of 38.98 feet to the POINT OF BEGINNING; thence along a non-tangent curve to the right having a Radius of 304.25 feet and a Chord that bears S08*05'12"W, an arc distance of 24.10 feet; thence N87*01'52"W, a distance of 44.16 feet; thence N03*36'51"E, a distance of 24.00 feet; thence S87*01'29"E, a distance of 46.04 feet to the POINT OF BEGINNING, containing 1,086 square feet or 0.025 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

And Also:

Lease Area #2

A part of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tract land recorded in the Washington County Recorder's Office in Book 1340, at Page 810, more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87*09'15"E, along the North line of said Quarter, a distance of 365.32 feet; thence departing said North line S02*33'19"W, a distance of 41.67 feet to the point of intersection of the East Right-of-Way line of West Avenue, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line,

along said West Right-of-Way line the following three (3) courses: S02*33'19"W, a distance of 100.00 feet; thence S03*05'04"W, a distance of 192.32 feet; thence S03*02'34"W, a distance of 147.11 feet; thence departing said West Right-of-Way line N86*57'26"W, a distance of 42.55 feet to the POINT OF BEGINNING; thence along a non-tangent curve to the right having a Radius of 304.25 feet and a Chord that bears S20*01'31" an arc distance of 82.48 feet; thence N02*48'32"E, a distance of 78.61; thence S87*01'52"E, a distance of 24.34 feet to the POINT OF BEGINNING, containing 1,110 square feet or 0.025 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

Appraisal Inspection Comments

Date:	March 1, 2023
Inspection Notes:	Mark Risk visually inspected the subject property on the above date. The inspection consisted of a walking tour of the property. The appraiser was accompanied by architect Rob Sharp who was representing a bordering property owner (Brian Reindel) who has a potential interest in the subject land.
Owner Contact:	*Waylon Abernathy representing the City of Fayetteville*

Section II - Appraisal Premises

Market Value Defined

The Appraisal Foundation defines market value as follows:

"The most probable price that a property should bring in a competitive and open market under all condition's requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and each acting in what he considers his own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Hypothetical Condition Defined

Hypothetical Condition – *A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of analysis.* Uniform Standards of Professional Appraisal Practice

Extraordinary Assumption Defined

Extraordinary Assumption – *An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinion or conclusions.* Uniform Standards of Professional Appraisal Practice

Purpose Of the Appraisal

The purpose of this report is to estimate the Market Value of the subject property.

Intended Use and User of The Appraisal

The intended use of the appraisal is for potential sale or lease evaluation purposes of the client. The intended user is the client, The City of Fayetteville - Engineering Division.

Property Rights Appraised

The property is appraised as though owned in fee simple and unencumbered. A fee simple title is the fullest type of private ownership possible, subject to all public limitations including zoning, taxation, and eminent domain; and subject to private limitations, which may exist, such as easements and restrictions of record.

Subject History

According to Washington County records, the City of Fayetteville has held the subject property since 1989. The most recent ownership change occurred on September 27, 1989, per Deed 1340 page 810 of the Washington County Courthouse Records. In this transaction the property was deeded to the City of Fayetteville from McBride Distributing, Inc. No revenue stamps were placed on the deed. No other arm's length transactions were discovered involving the subject property within the past five years.

Subject Status

The subject property is currently being considered to be leased to the general public by the City of Fayetteville. There is no list price or asking price for the property at the time of the appraisal.

Assumptions and Limiting Conditions

ACCEPTANCE OF AND/OR USE OF THIS APPRAISAL REPORT BY THE CLIENT OR ANY THIRD PARTY CONSTITUTES ACCEPTANCE OF THE FOLLOWING ASSUMPTIONS AND LIMITING CONDITIONS:

Limit of Liability

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Confidentiality and Trade Secrets:

This appraisal consists of trade secrets and commercial or financial information which is privileged and confidential and exempted from disclosure under 5 U.S.C. 552 (b) (4). The appraiser may not divulge the material contents of this report, the analytical findings and conclusions, or give a copy of this report to anyone other than the client or his designee as specified in writing - except as may be required by the National Association of Independent Fee Appraisers, the National Association of Realtors, or other organizations as they may request in confidence for ethics enforcement, or by a

court of law of body with the power of subpoena. This appraisal is to be used only in its entirety and no part is to be used without the whole report.

No change of any item in the report shall be made by anyone other than the appraiser, and the appraiser shall have no responsibility if any such unauthorized change is made. The client shall notify the appraiser signing the report of any request to reproduce this appraisal in whole or part.

Testimony, Consultation, and Completion of Appraisal Services

The contract for appraisal, consultation, or analytical services is fulfilled and the total fee payable upon completion of this report. The appraiser or those assisting in preparation of this report will not be asked or required to give testimony or be subpoenaed in court of any public or private hearing because of having made this appraisal, in full or in part, nor engage in post appraisal consultation with the client or third parties except under separate and special arrangement and at additional fee. A MINIMUM TWENTY DAY NOTICE MUST BE GIVEN BEFORE COURT APPEARANCE FOR PURPOSES OF REVIEW AND STUDY. If testimony or deposition is required because of any subpoena, the client shall be responsible for any additional time, fees, and charges regardless of the issuing party.

Information Used

No responsibility is assumed for the accuracy of information as to description (legal, physical, etc.) of the premises, restrictions, improvements, and income features of the property furnished by others, the client, his designee, or public records. All information furnished by others is assumed to be true, correct, and reliable and a reasonable effort has been made to verify such information. An impractical amount of time and money would be necessary to furnish unimpeachable verification in all instances. It is suggested that the client consider independent verification if so desired before making a significant commitment regarding the subject property. No responsibility for the accuracy of data and information obtained or the work of possible subcontractors is assumed by the appraiser.

Purchasing Power, Value Change, and Market Influences

The estimated market value and the costs used relate only to the effective date of the appraisal. All dollar amounts are based on the purchasing power and price of the dollar as of the date of the value estimate.

Market value is highly related to exposure, time, promotional effort, terms, motivation, and conditions surrounding the offering and subject to economic changes in the marketplace over time. In appraisals involving the capitalization of future income benefits, the estimate of market value reflects the appraiser's interpretation of income, yields, and other factors derived from general and specific market information. Such estimates are as of the date of appraisal and subject to dynamic changes in the financial markets that may occur.

Legality of Use and Related Studies

This report is based on the premise that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is stated, defined, and considered in the report. It is assumed that all applicable zoning, building codes, and use regulations and restrictions of all types have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report. It is assumed that all required licenses, consents, permits, or other legislative or administrative authority from any local, state, or federal government and/or private entity or organization have been or can be obtained or renewed for any use on which the value estimate in this report is based.

No environmental or impact studies, special market study of analysis, highest and best use analysis study, or feasibility study has been requested or made unless otherwise specified in an agreement for services or in the report. The appraiser reserves the unlimited right to alter, amend, revise, or rescind any of the statements, findings, opinions, values, estimates, or conclusions based upon any subsequent study or analysis, or any previous study or analysis pertinent to the assignment that becomes known to him after the report is finished.

Legal and Financial Assumptions

No responsibility is assumed for matters of a legal nature affecting title to the property nor is an opinion of title rendered. The title is assumed to be good and merchantable. The property is appraised in gross as free and clear of all mortgages, liens, encumbrances, leases, and servitudes unless so specified within the report.

If this appraisal is used for mortgage loan purposes, it should be noted that specific loan ratios, term amortization, and equity requirements have not been suggested. This appraisal report and value estimate is subject to change if the physical or legal entity or financing is different than that envisioned in this report.

Architectural, Structural, Mechanical, and Engineering Assumptions

No responsibility is assumed for matters of survey, architectural, structural, mechanical, or engineering nature. The legal description used in this report is assumed to be correct as furnished by the client, his designee, or as derived by the appraiser. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described, and that there is no encroachment to trespass unless noted within this report.

The appraiser has inspected, as far as possible, by observation the land and the improvements thereon. However, it was not possible to personally observe conditions beneath the soil, hidden structural components, or any mechanical components within the improvements and no representations are made as to these matters unless specifically stated and considered in this report. This appraisal is based on there being no hidden, unapparent or apparent conditions of the property site, subsoil, or structures which would render it more or less valuable. No responsibility is assumed for any such conditions or for any expertise or engineering needed to discover such factors. The appraiser does not warrant against the occurrence of problems arising from the soil conditions.

All mechanical components are assumed to be in operable condition and states standard for properties of the subject's type. Conditions of heating, cooling, ventilating, electrical, and plumbing equipment is considered to be commensurate with the conditions of the balance of the improvements unless otherwise stated. No judgment is made as to the adequacy of insulation or energy efficiency of the improvements or equipment. The lender, owner, or buyer should inspect the property before purchase or any disbursement of funds. Any of those parties may wish to require mechanical or structural inspection by a qualified and licensed contractor, civil or structural engineer, architect, or another expert.

The appraiser has not been requested to make an investigation of the possible existence of any potentially hazardous insulation or material used in the construction or maintenance of the building, or the possible existence of toxic waste which may or may not have been stored on the property or the possible existence of radon gas on the property.

The appraiser represents that he is not qualified to test for the presence or absence of such items and has not considered, and assumes no responsibility for, such products which might render the property more or less valuable. The client is advised to retain an expert in this field if this information is presumed appropriate and necessary.

This appraisal has not considered conditions relating to surface or subsurface waters; including, but not limited to water table, flood plain, flood hazard, or rights, if any, claimed nor or in the future in riparian lands and drainage - unless otherwise noted in this report. The appraiser assumes no responsibility for any costs or consequences arising from the need for flood hazard insurance. An agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.

Management of Property

It is assumed that the property being appraised will be operated under prudent, responsible, and competent ownership and management - being neither inefficient nor super-efficient.

Exhibits

The sketches and maps in this report are included only to assist the reader in visualizing the property and are not necessarily to scale. Various photos, if any, are included for the same purpose and are not intended to represent the property in other than actual status as of the date of the photos. Site plans are not surveys unless shown from a separate surveyor.

Component Values

The distribution of the total valuation in this report between land and improvements applies only under the reported highest and best use of the property. Neither the analysis and conclusions herein nor the allocations of value for land and improvements may be used in conjunction with any other appraisal and are invalid if so used.

Personal Property

Furnishings, fixtures, or equipment of the business operation except as specifically indicated and typically considered as a part of the real estate have been disregarded unless otherwise stated. For some property types, business and real estate interests and values are combined.

Federal After-Tax Analysis

Any after-tax income and investment analysis or measures of return on investment are intended only to reflect possible and general market considerations at an assumed value of price paid. The appraiser does not claim expertise in tax matters and advises the client and any other person using this appraisal to seek competent tax advice. The appraiser is in no way to be considered a tax or investment advisor.

Hypothetical Condition

There are no hypothetical conditions regarding the appraisal of the subject property.

Extraordinary Assumptions

It is assumed by the appraiser that there are no utility easements or other easements affecting the subject site other than those stated in this report.

If this assumption is found to be false, it could alter the appraiser's opinion or conclusions.

Scope of the Appraisal

Introduction

"The term *scope of the appraisal* refers to the extent of the process of collecting, confirming, and reporting data."[1]

The appraiser determines a report's scope (extent of data collection & depth of reporting) according to the following primary factors:

1) Satisfaction of standards as set forth by USPAP.
2) Satisfaction of any additional standards/specific requirements as defined by client request &/or organization(s) for which an appraiser has professional membership.
3) Perceived needs of the intended user(s) as related to a report's intended use.

The scope of this appraisal encompasses the necessary research and analysis to prepare a report in accordance with its' intended use, the Code of Professional Ethics & Standards of Professional practice of the National Association of Realtors, and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

The appraiser has determined an "appraisal report" conforming to USPAP Standard 2-2(b) would satisfy the needs of the intended user(s). A Summary report offers basic statements of fact &/or brief summary comments when describing data, reasoning, and analysis used in the appraisal process to develop an opinion of value. As such, some documentation supporting the data, reasoning, and analysis was kept in the appraiser's files.

General Comments

Basic information pertaining to this assignment is based upon information gathered by the appraiser from inspection of the subject property and neighborhood, public records, and other identified sources. Data believed to be unreliable was not included in this report nor used as a basis for the value conclusion.

Region, county, city, and neighborhood data were based on information in the Real Estate Consultants library and files, physical inspection of the immediate neighborhood, and data from the City of Fayetteville and Washington County.

The appraiser physically inspected the subject on *March 1, 2023*, with subject photographs taken at that time. Subject property data was based upon information gathered from physical inspection of the subject property and immediate neighborhood, documentation provided by the City of Fayetteville, public records, and other identified sources.

In evaluating the highest and best use for the subject property, an analysis was made of data compiled in the steps noted above. The appraiser's opinion of subject's highest and best use is based on important factors such as physical location, physical characteristics, zoning requirements, and use history/potential. In addition, a study of the *downtown land development market* in the subject area has been made to help determine the economic feasibility of the subject property.

[1] Appraisal Institute, *The Appraisal of Real Estate-10th Edition,* (Chicago: The Appraisal Institute, 1992), p. 575

Scope of the Appraisal – Appraisal Methods Used

Market Data (Sales Comparison) Approach --

Underlying land value is based upon analysis of available market data for land comparables, either vacant or with improvements extracted, in the central downtown area. Comparables were gathered from the appraiser's files, Realtors ® multi-list service, courthouse records, and interviews with knowledgeable market participants. The most important individual examples are discussed in digest format, and then reconciled on a price per square foot basis to the subject after discussion. Applied appreciation over time, if any, is based on accumulated data in the appraiser's files and the appraiser's knowledge of the local market.

Income Approach --

The income approach was not developed under the scope of this appraisal assignment. At the time of the appraisal the subject property was not being rented or lease.

Cost Approach --

The cost approach was not developed under the scope of this appraisal assignment due to the lack of marketable improvements on the site. Existing parking lot, etc. are planned to be removed and are not included in this appraisal report.

Section III – Data Presentation

Neighborhood Description

For appraisal purposes, a neighborhood is considered to be a portion of a larger community in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Neighborhood inhabitants usually have a more casual community of interest and similarity of economic level and cultural background.

Neighborhood boundaries may consist of well-defined natural or man-made barriers, or they may be more or less well defined by a distinct change in land use, or in the character of the inhabitants.
The immediate area is commonly known as Fayetteville's Dickson Street Entertainment District, with neighborhood boundaries defined as such: N- Maple, S- Center St., E- College Ave., and W- U of A Campus.

The central downtown encompasses the City's financial and entertainment centers and continues to undergo revitalization as it adapts to current market demands and trends. The neighborhood is viewed by the market as one of the most desirable for commercial use, especially within the entertainment niche, both within the city and throughout the NW Arkansas region. College Avenue (Highway 71B) is the most important N-S open-access business route in the region. Close proximity to the University of Arkansas.

Property Description

Site

Based upon the survey provided by the client, the subject consists of (2) Lease areas. Lease area #1 is .025 acres or 1,086 sq.ft.. Lease area #2 is .025 acres or 1,110 sq. ft.; with both areas totaling .05 acres or 2,196 sq. ft.

They are two irregularly shaped, noncontiguous parcels, with a level to gentle slope down from West Ave to the west. The parcels are separated by a public walkway. The site is mostly cleared but there are several trees on the land. The parcels have been part of the public parking lot at West and Dickson Streets. The tracts offer approximately 100± feet of frontage near the west right of way along West Ave. West Ave. has two lanes and is paved with asphalt. However, it does not appear from documents provided to the appraiser that the subject has frontage or legal access to West Ave. The land appears to lie outside any FEMA identified flood zone area. The site has access to all municipal utilities. There appears to be a 18" sewer line bisecting the site and a 8" water line just south of the subject. It is assumed these lines would be accessible to the subject property.

No other adverse easements, encroachments, or other conditions were noted upon inspection.

Per the City's Downtown Master Plan zoning code, zoning is Main Street Center. This is a broad classification, primarily designed to allow high-density development. See zoning information in the addendum to this report.

Improvements

There are no permanent improvements included in this appraisal. Existing improvements are planned to be removed.

Environmental Analysis

My routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions that would affect the subject property negatively. *The value estimated in this report is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions.* However, the appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. It is unlikely but possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.

Subject Property Aerial Map



Source: City of Fayetteville GIS Mapping System

City Downtown Zoning Map



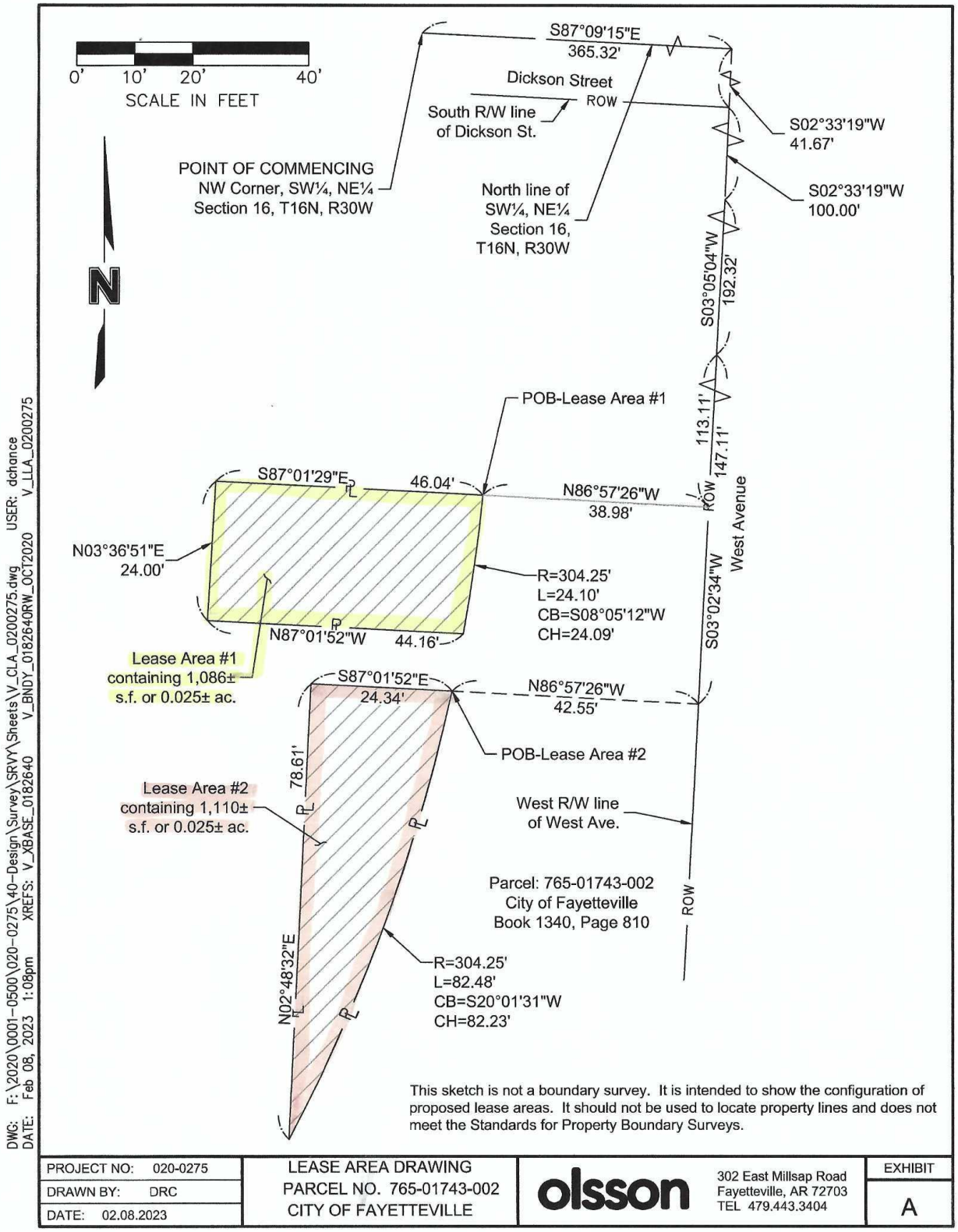
Source: City of Fayetteville GIS Mapping System

Subject Site Water and Utility Map



Source: City of Fayetteville GIS Mapping System

Subject Site Lease Area Drawing



Section IV – Subject Analysis & Valuation Approaches

Highest And Best Use Analysis

The Appraisal Institute defines highest and best use as follows:

> *"The reasonably probable and legal use of vacant land or improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability."*

The following tests must be met in estimating the highest and best use of the subject:

1. *It must be physically possible based on subject site characteristics.*
2. *It must be a legal use under current or likely zoning regulations.*
3. *It must be probable and not based upon conjecture or speculation.*
4. *There must be a profitable demand for such use and it must return to the land the highest net return for the longest period of time.*

I applied these tests to the subject. The Highest and Best use of a property is based on current trends and necessities in its neighborhood with respect to overall supply and demand factors and required rates of return for specific investment types. An appraiser's interpretation of highest and best use is essentially an economic study of market forces as they affect a specific property.

Appraisal theory and USPAP generally require development of two Highest and Best use opinions- 'as though vacant' and 'as improved'. 'As though vacant' is essential to determining underlying land value and intimately connected to the Cost Approach. The 'as improved' conclusion considers potential economic contribution (if any) of existing improvements and assists in determining how a prudent investor would utilize such improvements (renovation, expansion, demolition, et cetera). 'The Appraisal of Real Estate- 10th Addition' (Appraisal Institute, Chicago, 1992) offers this statement: "The use that maximizes an investment property's value, consistent with the long-term rate of return and associated risk, is its highest and best use as improved."

Any determination of highest and best use includes identifying the motivations of probable purchasers. The benefits of an investment property like the subject relates to net income potential and eventual resale or refinancing. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. This use must meet the four criteria previously mentioned. The subject property is currently unimproved without any significant structure. Hence, the Highest and Best Use as though vacant is applicable only to the subject site.

'As though vacant'- It is my opinion the land's highest and best use as though vacant is for plottage with adjoining property.

A summary discussion on the four tests of highest and best use is offered on the following pages.

The Four Tests of Highest & Best Use

General comments

The subject land is well located in central Fayetteville entertainment district, with the immediate neighborhood established for commercial and residential uses. Its' current zoning allows for very dense development. The subject's shape and size are likely too small to construct a significant structure.

Physically Possible:

Basic factors affecting the potential for physically constructing improvements on a specific site include tract size, shape, topography, and soils. Further utility depends on utilities availability, roadway frontage, and tract depth in relation to width. Irregularly shaped parcels may cost more to develop and usually have less overall utility than a rectangular parcel. The sites terrain has a slight gentle slope to it which would facilitate construction.

The site offers an inadequate size to comply with current design standards for most commercial buildings. Residential use of the site is considered doubtful due to the proximity to the railroad tracks and bars and restaurants, although, there is demand for housing in the neighborhood. I am unaware of any adverse soil conditions that might hinder full use of the lot. Considering these factors, prospective developers would not likely purchase this site for development. However, there is possibility a small-scale project could be constructed on the property.

Legally Permissible:

Land use options are further restricted by legal considerations, primarily determined by civil authorities, but also possible via private contract. The most obvious example is zoning. Other important factors include building codes and environmental regulations. Private, non-governmental examples include deed restrictions, subdivision covenants, easements, and long-term land leases. These legal factors limit current use &/or development options in the absence of 'grand fathering', allowed 'non-conforming use', or other usually rare privileges.

The subject lies within Fayetteville city limits and is zoned Main Street/Center. This zoning designation is planned for high-density use. Many options are therefore available according to the legality test, including development into commercial and residential uses.

After discussions with the City's planning office, it was determined that a small building could be constructed on the site under the Main Street/Center zoning classifications. It would be difficult but not impossible to place a building on the site under current zoning requirements for setbacks. The zoning code requires a setback from the street of 0' to 25' and 5' from the rear. There are also existing utility easements along the east and south boundary that will further decrease the building area of the site. There is also ample street frontage under the subject's zoning classification. Hence, allowing a small area to construct a building. Furthermore, there are not any off-street parking requirements for commercial use of the site.

Four Tests of Highest & Best Use Continued

Financially Feasible:

After limiting the array of uses by tests of physical possibility and legal permissibility, the appraiser then judges remaining possibilities according to financial considerations. A potential use is deemed financially feasible if that use promises a positive return on investment, all things considered. Positive return is contingent upon potential net operating income matched with appropriate required rates of return for a particular use. Important factors affecting such a return include operating expenses, debt satisfaction, and capital amortization. In my opinion, the subject's best financial return will be realized by a small commercial building or plottage with adjoining property.

Maximally Productive:

'The Appraisal of Real Estate Tenth addition' (Appraisal Institute, Chicago) defines this concept as such: "Of the financially feasible uses, the use that produces the highest residual land value consistent with the rate of return warranted by the market for that use is the highest and best use."

Among all potential uses remaining after consideration of the first three tests, a single specific use that results in the highest estimated residual land value is then determined. Most often, due to the durability of most real estate related improvements, prospective uses are narrowed according to a long-term scenario. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. Per Tenth addition: "The stream of benefits, or income, produced by the buildings reflects a carefully considered, and usually very specific, land use program. I believe the subject's best use is to combine the subject site with adjoining land to the west.

The Market Data Approach

The Market Data Approach or Sales Comparison Approach is an attempt to measure the reactions of typical buyers and sellers in the market. In this approach a direct comparison is made between the property being appraised and comparable properties that have either been sold recently, have received bonafide offers from prospective buyers, or are currently offered for sale.

The value of the property being appraised is inferred from the selling prices, offers, and asking prices of the comparable properties. To be "comparable" a property need not be identical to the subject. The word "comparable" is used in its ordinary sense meaning something that is capable of being compared with or worthy of comparison.

The appraiser assumes that a typical buyer in the market will not pay more for the subject property than it would cost to buy a comparable substitute property. The price a typical buyer is willing to pay is generally the result of an extensive search process in which he is constantly comparing alternative properties. In the meantime, the typical seller is usually trying to obtain the highest possible price for his property based upon his knowledge of the marketplace.

In applying the Market Data Approach, the appraiser takes the following steps:

1. Researches the market for available comparable properties in which actual sales, listings, or offerings have occurred.

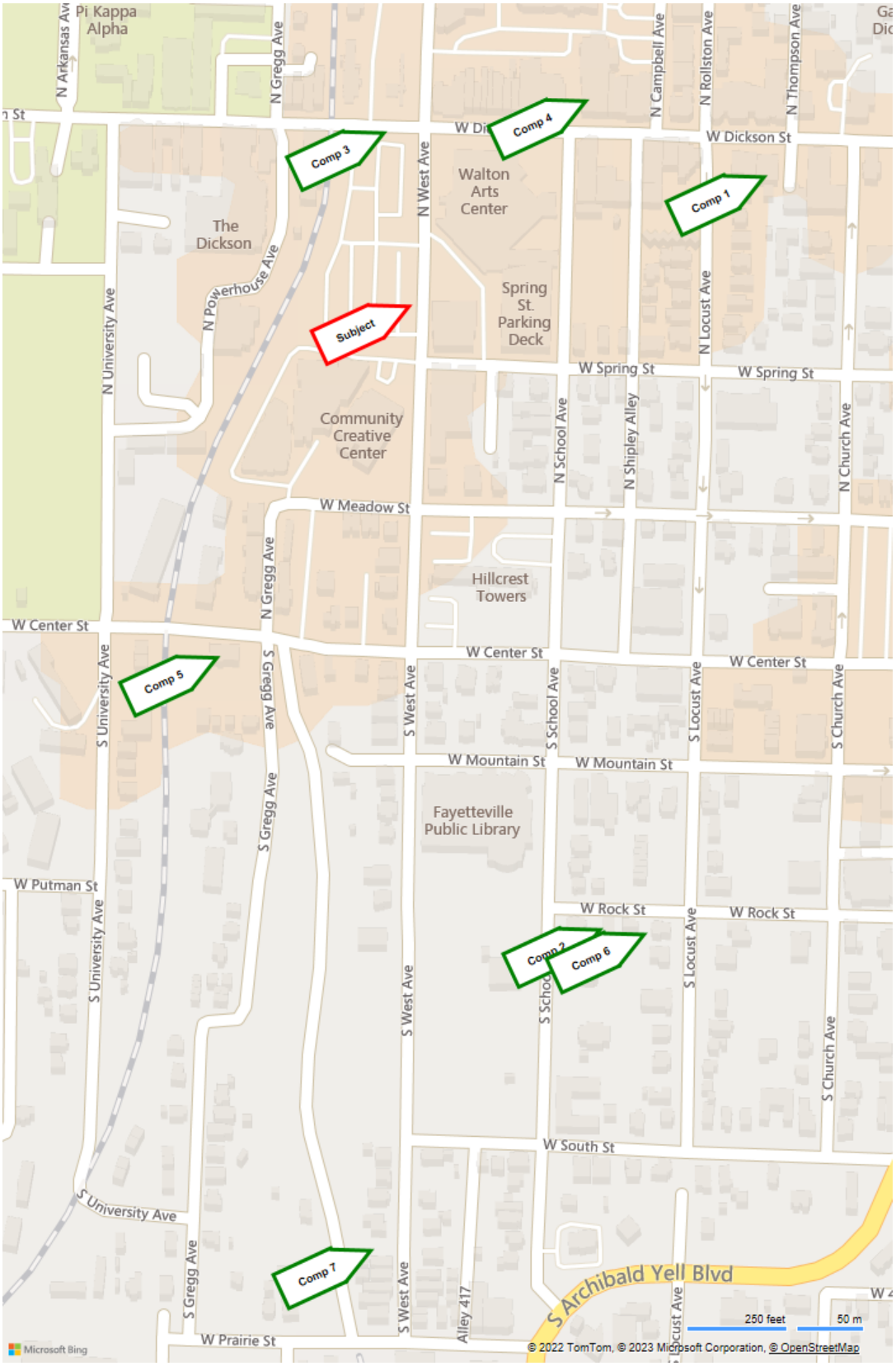
2. Confirms the prices and bonafide nature of the data and qualifies the terms and motivating forces.

3. Compares the property being appraised with each of the comparable properties, under the general division of location, time, physical characteristics, and other economic factors.

4. Formulates an opinion of the market value of the property being appraised based upon the price of each comparable property.

Pursuant to the appraisal of the subject property, I researched courthouse records, reviewed company files, accessed the Realtor's ® multi-list database, and interviewed knowledgeable market participants to locate recent market activity involving properties comparable or similar to the subject. Land sales selected for comparison with the subject property are included on the following pages.

Market Data Approach -- Comparable Land Sales Map



The Market Data Approach – Comparable Sales Data

Land Sale #1



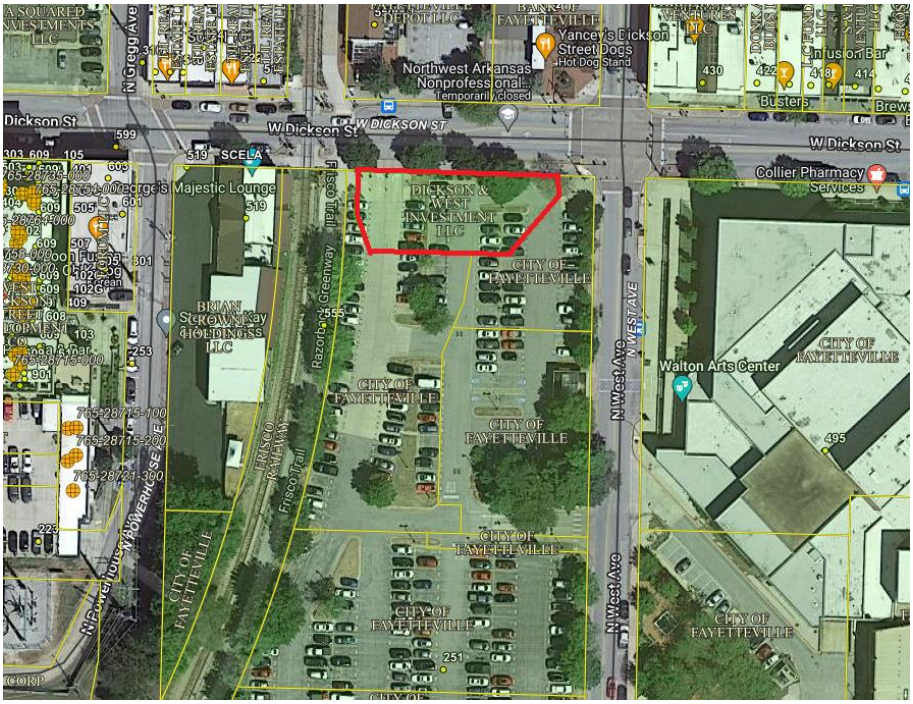
Grantor:	The Lumiere Building, LLC
Grantee:	HMT of Fayetteville, LLC
Date of Sale:	10/26/2018
Property Location:	227 W. Dickson St., Fayetteville, AR
Legal Description:	Part of Lots Numbered (1) and (4) in Block Numbered Four (4) in the Original Town of Fayetteville, Washington County, Arkansas
Zoning Category:	MSC (Main Street Center)
Land Size:	.131 acres or 5,706 sq. ft.
Improvements:	None of Contributory Value
Reported Price:	$950,000
Data Source:	Washington County Assessor Records- Parcel #765-01685-000, Washington County Circuit Clerk's Deed Book 2018 at Page 32093
Remarks:	Small, rectangular shaped shallow lot with frontage on Dickson St.
Indicated Price:	$166.48/Square Foot

Land Sale #2



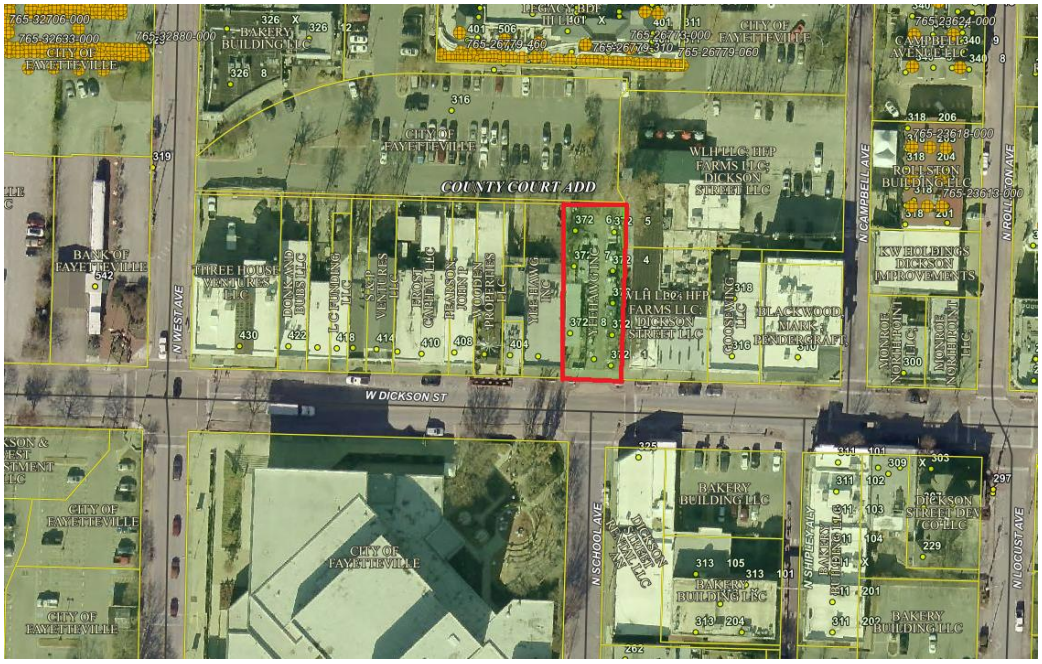
Grantor:	Dewayne & Rhonda Bebout
Grantee:	Nestor Briceno
Date of Sale:	05/13/2021
Property Location:	317 W. Rock St., Fayetteville, AR
Legal Description:	A part of Block 38 in the original plat of City of Fayetteville, Washington County, AR
Zoning Category:	DG (Downtown General)
Land Size:	.15 acres or 6,534 sq. ft.
Improvements:	None of Contributory Value
Reported Price:	$190,000
Data Source:	Washington County Assessor Records- Parcel #765-02055-000, Washington County Circuit Clerk's Deed Book 2021at Page 18741
Remarks:	Small lot off Rock St. between S. School and S. Locust. ½ Block east of the new library. Fairly recent sale in downtown Fayetteville.
Indicated Price:	$29.08/Square Foot

Land Sale #3



Grantor:	City of Fayetteville
Grantee:	Dickson & West Investments, LLC
Date of Sale:	12/20/2021
Property Location:	W. Dickson St., Fayetteville, AR
Legal Description:	A part of the NW ¼ of the NE ¼ of Section 16, Township 16 North Range 30 West, City of Fayetteville, Arkansas
Zoning Category:	MSC (Main Street Center)
Land Size:	.20 acres or 8,712 sq. ft.
Improvements:	None of contributory value
Reported Price:	$263,000
Data Source:	Washington County Assessor Records - Parcel # 765-01745-003, Washington County Circuit Clerk's Deed Book 2022 at Page 450
Remarks:	Irregularly shaped tract with frontage on Dickson St. Just north of the subject.
Indicated Price:	$30.19/Square Foot

Land Sale #4



Grantor:	Wooden Properties, LLC
Grantee:	Yeehawg, Inc.
Date of Sale:	06/16/2021
Property Location:	372 W. Dickson St., Fayetteville, AR
Legal Description:	A part of Lots Numbered Eight (8) and Eleven (11) in Block Six (6) of the County Court Addition to the City of Fayetteville, Washington County, AR
Zoning Category:	MSC (Main Street Center)
Land Size:	.17 A or 7,405 sq. ft.
Improvements:	None of contributory value
Reported Price:	$1,200,000
Data Source:	Washington County Assessor Records Parcel #765-04374-000, Washington County Circuit Clerk's Deed Book 2021 at Page 23461
Remarks:	This lot is located on the north side of Dickson St.. The shape is rectangular, and the topography is level and ideal for construction.
Indicated Price:	$162.05/Square Foot

Land Sale #5



Grantor:	Myers Family Properties LLC
Grantee:	Satsang LLC
Date of Sale:	04/28/21
Property Location:	601 W. Center St. Fayetteville, AR
Legal Description:	N PT LOT 1 NE SW FURTHER DESCRIBED FROM 2021-16291 AS: Part of Lot One (I) in the County Court Plat of the Northeast Quarter of the South West Quarter of Section Sixteen (16) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M.,
Zoning Category:	MSC (Main Street Center)
Land Size:	.48 Acres or 20,908.8 sq. ft.
Improvements:	None of contributory value
Reported Price:	$450,000
Data Source:	Washington County Assessor Records Parcel #765-12944-000 Washington County Circuit Clerk's Deed Book 2021 at Page 16291
Remarks:	This lot is located one block south of the subject on Center St., it is rectangular in shape. The improvement had burnt down before time of sale and has been razed.
Indicated Price:	$21.52/Square Foot

Land Sale #6



Grantor:	Modus Real LLC
Grantee:	MSNZ LLC
Date of Sale:	05/27/22
Property Location:	205 S. Locust Ave. Fayetteville, AR
Legal Description:	PT BLOCK 38 (84/164) FURTHER DESCRIBED FROM 2014-27268 AS: A part of Block Numbered Thirty-Eight (38) in the Original Town (now City) of Fayetteville, Arkansas
Zoning Category:	DG (Downtown General)
Site Qualities:	.29 Acres or 12,633 sq. ft.
Improvements:	None
Reported Price:	$470,000
Data Source:	Washington County Assessor Records Parcel #765-02048-000 Washington County Circuit Clerk's Deed Book 2022 at Page 02579
Remarks:	This lot is located southeast of the subject, near the Fayetteville Public Library. It is a rectangular shaped parcel.
Indicated Price:	$37.20/Square Foot

Land Sale #7



Grantor:	Chris and April Copeland
Grantee:	Katz Family Trust
Date of Sale:	3/3/23
Property Location:	357 S. West Ave. Fayetteville, AR
Legal Description:	PART OF LOT 3 BLOCK 22 & PT VACATED WEST AVE & PT VACATED 30' ALLEY FURTHER DESCRIBED FROM 2023-5262
Zoning Category:	DG (Downtown General)
Site Qualities:	.12 or 5,227.2 sq. ft.
Improvements:	None
Reported Price:	$235,000
Data Source:	Washington County Assessor Records Parcel #765-05530-000 Washington County Circuit Clerk's Deed Book 2023 at Page 05262
Remarks:	This lot is located southeast near the subject on West Ave. and is flat and irregular in shape
Indicated Price:	$44.95/Square Foot

Analysis of Comparables and Conclusion of Land Value

In my opinion, there are an adequate number of comparables available to render a reliable opinion of the subject's underlying land value according to its' highest and best use. I offer a variety of verified transactions considered representative of recent market activity, while retaining additional examples in my files. Overall, there has been a limited amount of good comparable sales in the Dickson St./Downtown Fayetteville area. However, there has been an adequate amount of data to render an opinion of the market value of the subject. The comparables used are summarized as follows:

Sale	*Date*	*Tract Size*	*Land Price*	*$/SF*	*Comparability*
1	10/26/2018	5,706 SF	$950,000	$166.48	Superior
2	05/13/2021	6,534 SF	$190,000	$29.08	Inferior
3	12/20/2021	8,712 SF	$263,000	$30.19	Similar
4	06/16/2021	7,405 SF	$1,200,000	$162.05	Superior
5	04/28/21	20,908 SF	$450,000	$21.52	Inferior
6	05/27/22	12,633 SF	$470,000	$37.20	Similar
7	03/02/23	5,227.2 SF	$235,000	$44.95	Similar

All comparables are located within close proximity of the subject, with most considered having similar immediate Downtown neighborhood influence.

Appreciation over time within the subject's land market niche is still prevalent. But there are fewer top-end prices paid compared to the more speculative time of 2004-2012. However, recent sales are approaching the prices paid in that era.

The researched sales indicate an *unadjusted* price range of $21.52/sq. ft. to $166.48/sq.ft.. This is a wide range in which to comfortably place the subject. Primary differences are attributable to location relative to the Downtown grid, total size, buildability of the tract, date of sale, and overall potential. The upper end of the value range are of good buildable sites, many of which have been developed or are planned for multi-story residential townhomes and commercial uses. The lower end of the range are of tracts off Dickson St. and the downtown square which do not have the appeal of the Dickson St. fronting properties. These tracts are rectangular shaped and sized for smaller residential units.

Generally speaking, per square foot values decline as the size of the tract increases. This rule of thumb does not always hold true; though, especially when considering the unique requirements of urbanized areas. Some tracts suffer discounts if they are too small to satisfy zoning ordinances (e.g., parking). In addition, owing to the current trend of condominium/mixed-use projects prevalent downtown, tracts too small for development into multi-story structures do not have nearly the same desirability as the city grows upward.

The appraiser has prepared a sales adjustment grid on the following pages. This grid shows the adjustment process in detail and is used to render a value estimate of the subject property.

It is my opinion the subject's land would fall near the mid to lower area of the stated range. Therefore, based upon the above recited sales and analysis thereof, and after adjustments are made for differences in time, size, location, visibility, land qualities, and other economic factors, it is my considered opinion the subject's land value, *as of March 1, 2023*, is as follows:

2,196± SF @ $45.00/SF = $98,820

Say $99,000

Comparable Sales Adjustment Grid

City of Fayetteville Lease Area Comparable Land Sale Grid				
Fayetteville, AR				
Appx. 2,196 sq.ft.				
	SUBJECT	**SALE #1**	**SALE #2**	**SALE#3**
	West Ave.	227 W. Dickson	317 W. Rock St.	W. Dickson St.
	Fayetteville	Fayetteville	Fayetteville	Fayetteville
PRICE DATA				
PURCHASE PRICE	NA	$ 950,000	$ 190,000	$ 263,000
CONCESSIONS/TERMS	Cash to Seller	Cash/None	Cash/None	Cash/None
Adjustment				
PRICE PER Square Foot		$ 166.49	$ 29.08	$ 30.19
DATE OF SALE	NA	Oct-18	May-21	Dec-21
Adjustment		-$33.30	$2.91	$3.02
ADJUSTED PRICE	NA	$ 133.19	$ 31.99	$ 33.21
LOCATION	Dickson St.	Superior	Inferior	Superior
Adjustment		$ (57.27)	$ (3.20)	$ -
SIZE (sq.ft.)	2,196	5,706	6,534	8,712
Adjustment		$ 6.66	$ (1.60)	$ (1.66)
TOPO/SHAPE	Clear/Level	Similar	Gentle/Rectangular	Level/Irregular
Adjustment		$0.00	($1.60)	$0.00
UTILITIES	Average	Similar	Similar	Similar
Adjustment		$ -	$0.00	$ -
IMPROVEMENTS	NA	None	None	None
Adjustment		$ -	$ -	$ -
ZONING	MSC	MSC	DG	MSC
Adjustment		$ -	$ -	$ -
FLOOD HAZARD	None	None	None	None
Adjustment		$ -	$ -	$ -
VISIBILITY/ACCESS	Average	Superior	Inferior	Superior
Adjustment		$ (41.62)	$ -	$ -
NET ADJUSTMENT		$ (92.24)	$ (6.40)	$ (1.66)
INDICATED PRICE		$ 40.96	$ 25.59	$ 31.55
			Mean	**$ 44.36**
			Weighted Average	**$ 44.97**
			Say	$45.00
			Indicated Value	**$98,820**
			Say	**$99,000**

Comparable Sales Adjustment Grid, Continued

SALE #4	**SALE #5**	**SALE #6**	**SALE #7**
372 W. Dickson St.	601 W. Center St.	205 S. Locust	357 S. West
Fayetteville	Fayetteville	Fayetteville	Fayetteville
$ 1,200,000	$ 450,000	$ 470,000	$ 235,000
Cash/None	Cash/None	Cash/None	Cash/None
$ 162.05	$ 21.52	$ 37.20	$ 44.95
Jun-21	Apr-21	May-22	Feb-23
$0.00	$2.15	$1.86	$0.00
$ 162.05	$ 23.67	$ 39.06	$ 44.95
Superior	Inferior	Inferior	Inferior
$ -	$ (4.73)	$ (7.81)	$ (8.99)
7,405	20,909	12,633	5,227
$ (8.10)	$ 5.92	$ 9.77	$ 2.25
Level/Rectangular	Level/Rectangular	Gentle/Rectangular	Gentle/Irregular
($8.10)	($1.18)	($1.95)	$0.00
Similar	Similar	Similar	Similar
$ -	$ -	$ -	$ -
None	Razed by Buyer	None	None
$ -	$ -	$ -	$ -
MSC	MSC	DG	DG
$ -	$ -		$ -
None	None	None	None
$ -	$ -	$ -	$ -
Superior	Similar	Similar	Inferior
$ (40.51)	$ -	$ -	$ 8.99
$ (56.72)	$ 0.00	$ (0.00)	$ (2.25)
$ 105.33	$ 23.67	$ 39.06	$ 42.70

Correlation, Analysis, and Conclusion

The Market Data Approach exclusively was used to estimate the value of the subject land. The Cost & Income Approaches were not considered to be applicable under the scope of this appraisal. The Market Data Approach resulted in the following indicated value:

The Market Data Approach	**$ 99,000**

It is the appraiser's opinion that an adequate amount of Market Data was available to obtain a reliable value estimate for the subject land as if vacant. A sufficient amount of sales activity has occurred in the general vicinity of the subject property. The sales analyzed and included in this report are considered reliable and do indicate the prices being paid for commercial/residential land in the Downtown Fayetteville area.

Due to the small size of the subject, it was difficult to find truly comparable sales. The appraiser has analyzed recent sales of similar zoned land in the subject area which are suitable for development of multi-story residential/commercial buildings. These are sales are considered superior to the subject property. Furthermore, the appraiser has analyzed sales of land along the railroad right of way which reflect a much lower value than the aforementioned sales. It is the appraiser's opinion that the subject's value should fall somewhere in between the stated value range.

The appraiser has assumed that a small building can be built on the subject property.

Therefore, based upon the data collected and analyzed within this report and the preceding discussion, it is the considered opinion of this appraiser that the Fair Market Value of the subject property as of *March 1, 2023*, is as follows.

$ 99,000

Certificate of Appraiser

I hereby certify, that to the best of my knowledge and belief, that the statements of fact contained in this report are true and correct; that the reported analysis, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions; that I have no present or prospective interest in the property that is the subject of this report, and I have no interest or bias with respect to the property that is the subject of this report or to the parties involved with this assignment; that my engagement in this assignment was not contingent upon developing or reporting predetermined results; that my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.

I hereby certify, that my analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with requirements of the code of Professional Ethics and the Standards of Professional practice of the National Association of Realtors; that the use of this report is subject to the requirements of the National Association of Realtors relating to review by its duly authorized representatives; that all signatories of this report have physically inspected the subject property and are familiar with the comparables stated within.

The appraiser further certifies that the analyses, opinions and conclusions were developed, and this report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"), except that the Departure Provision of the USPAP does not apply.

In the previous sections of this report, the appraiser has analyzed the relevant facts and applied the appropriate appraisal processes to the subject property. It is the considered opinion of this appraiser that the *Market Value* of the subject property as of the effective date of *March 1, 2023,* is:

NINETY-NINE THOUSAND DOLLARS
($99,000)

Respectfully Submitted,



Mark E. Risk, GAA
State Certified General Appraiser #0202

Section V - Addendum

161.27 - Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the Main Street/Center. The Center is more spatially compact and is more likely to have some attached buildings than Downtown General or Neighborhood Conservation. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the Main Street/Center. The Center is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations

Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density*. None.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage*. 75% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories/7 stories*

* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of seven (7) stories.

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5042, 8-07-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, § 1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§ 5, 7—9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17)

Appraiser Qualifications

Mark E. Risk, GAA
Real Property Broker & Appraiser

PRESIDENT

TREC, INC. dba The Real Estate Consultants
2592 N. Gregg Ave. Suite #1 / P. O. Box 747
Fayetteville, Ar. 72703
(479) 442-0762

STATE CERTIFIED GENERAL APPRAISER

State of Arkansas – #CG-0202

LICENSED REAL ESTATE BROKER

State of Arkansas- Principal Broker #00005933

ADJUNCT POSITION

University of Arkansas – Adjunct Instructor – Real Estate (1980-2020)

EDUCATION

University of Arkansas, MBA 1979
University of Arkansas, BSBA 1977
Major: Real Estate and Finance
American Institute of Appraisers
Real Estate Appraisal Principles
Basic Valuation Procedures
Standards of Professional Practice
Capitalization Theory and Techniques (U of A)
Marshall & Swift Building Cost Seminar
Easement Valuation -- International Right of Way Assoc.
GRI Course 306 -- Arkansas Realtors Association
NAIFA Courses -- Standards of Professional Practice
-- Reviewing the URAR Form
-- The New URAR Report -- NAIFA,

PROFESSIONAL MEMBERSHIPS

National Association of Realtors (NAR) -- Appraisal Section
Arkansas Realtor's Association
Metro Area Board of Realtors

PROFESSIONAL DESIGNATIONS

General Accredited Appraiser (GAA) - National Association of Realtors

STATE BOARDS

Appointed to the Appraiser's Licensing and Certification Board by Governor Bill Clinton in January 1992. Reappointed by Governor Jim Guy Tucker in 1994. Term Expired in January of 1997.

BOARD OF DIRECTORS

Served on Board of Directors of the UARK Federal Credit Union

NATIONAL COMMITTEES

National Association of Realtors

Appraisal Section
Subcommittee 1995-1998
Chair - 1998
Appraisal Forum 1995
Appraisal Committee 1997-98; 2000-2006

EXPERIENCE

Real Estate Consultants 1981-present
Actively appraising real estate in Northwest Arkansas since 1979.
Associated with Jim Sullivan (Sullivan Agency), 1979 to 1989.
Associated with Tom Reed (Reed & Associates), 1981 to 1985.
Employed by Keith S. Schultz (Associated Appraisers) 1980-81.

TEACHING

Real Estate Instructor at the University of Arkansas (1981 to date)
Courses taught include: Real Estate Principles, Real Estate Finance & Investments, and Real Estate Appraisal
Continuing Education Seminars: Basic Steps to Residential Appraisal, Environmental Concerns, Property Management

PUBLICATIONS

"Recreational Land Values and Trends in Northwest Arkansas",
Arkansas Business and Economic Review, Vol. 16, No. 1, 1983;
Picked up for reprint by the International Association of Assessors

CLIENTS SERVED

***LENDING INSTITUTIONS**

66 Federal Credit Union
American Airlines Credit Union
Arkansas National Bank
Bank of Fayetteville
Arvest Bank
UARK Federal Credit Union
Bank of Arkansas
Bank of Salem
Bank of Eureka Springs
Bank of Oklahoma
Chambers Bank
First Security Bank of NW Arkansas
Community First Bank
First State Bank
Great Southern Bank
First Federal Bank
First Financial Bank

***LENDING INSTITUTIONS (Cont'd.)**	Metropolitan National Bank Simmons First Bank Signature Bank Liberty Bank of Arkansas Legacy National Bank Bank of Fayetteville Regions Bank-Dallas Telco Credit Union Bank of America First National Bank of St. Louis Bank of Jackson Hole
***MORTGAGE COMPANIES**	Ameriquest Mortgage Arvest Mortgage Company Broyles Mortgage Company Federal National Mortgage Association (FANNIE MAE) James River Mortgage Company Lomas & Nettleton Norwest Mortgage PHH Home Mortgage Pulaski Mortgage Company Southern Mortgage U.S. Mortgage Lending Tree Ditech.com
DEVELOPERS	Dream Structures Copher Quality Homes Larry Carter Development Corporation Castle Development East Avenue Development, LLC Dr. J. B. Hays Houses, Inc. C & K Construction Riggins Construction
RELOCATION COMPANIES	Corporate Relocation Sirva Relocation Cendant Mobility Coldwell Banker Relocation Commonwealth Relocation Services Equitable Relocation Mgmt. Corporation Executive Relocation Forward Mobility Home Equity Corporation Prudential Relocation Management Re/Max Relocation Relocation Funding Corporation Relocation Resources Weichert Relocation

MISCELLANEOUS

Anheuser Busch
Ball Corporation
Bell International
Busch Skil Company
Cargill Corporation
Cannon Express
Cummulus Broadcasting
Central United Methodist Church
City Of Eureka Springs
City Of Fayetteville
City Of Springdale
City Of Rogers
City Of Johnson
City Of Bentonville
Arkansas Department of Parks & Recreation
Arkansas State Highway & Transportation Department
Nature Conservancy
SWEPCO
Bentonville Airport Commission
Colgate Palmolive
CTS Corporation
Deere Credit Services
Federal Deposit Insurance Corp. (FDIC)
Fulbright Enterprises
Gates Rubber Company
General Motors
Gerald Carr (Retired Astronaut)
Kraft, Inc.
Love Box Company
MGIC
Michelin Tire Company
Ozarks Electric Cooperative
Phizer, Inc.
Procter & Gamble
Record Data, Inc.
Resolution Trust Corporation
Roadway Express
Salvation Army
Sioux Transportation
Tyson Foods, Inc.
Many Other Attorneys, Doctors, And Individuals

COURT TESTIMONY

Benton County Circuit Court
Carroll County Circuit Court
U.S. Federal Bankruptcy Court
Washington County Circuit Court
Crawford County Circuit Court
Madison County Circuit Court

GEOGRAPHIC AREA SERVED

Northwest Arkansas
Washington, Benton, Carroll & Madison Counties

Appraisal Report

The City of Fayetteville- Engineering Division
125 W. Mountain St.
Fayetteville, AR 72701

As of March 1, 2023

Client:
City of Fayetteville Engineering Division
125 W Mountain St
Fayetteville, AR 72701

Presented By:
The Real Estate Consultants

Produced By:
Mark E. Risk, GAA
State Certified General Appraiser #0202

File #23-0012

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THE
REAL ESTATE
CONSULTANTS

2592 N. Gregg Ave. Suite #1
P.O. Box 747
Fayetteville, AR 72702

°REALTORS ° APPRAISERS ° CONSULTANTS

(479) 442-0762

March 15, 2023

Waylon Abernathy, Director of Bond Projects and Facilities
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Appraisal Services

City of Fayetteville
Tract A, Dickson/West Parking Area
Fayetteville, AR 72701

Dear Mr. Abernathy:

In compliance with your request and to determine the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The subject property was inspected by the appraiser on *March 1st, 2023*. The intended use is for potential sale evaluation of the aforementioned property by the City of Fayetteville. I further certify that I have no interest present or contemplated in the property under appraisement, and that my fee was not contingent upon the value estimate reported.

The opinions set forth in this letter are stated as of March *15, 2023.*

The following narrative appraisal report contains the data gathered in my investigation and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This report is considered an "Appraisal Report".

This appraisal is based upon information gathered by the appraiser from the subject owner, public records, and other reliable sources, and upon an inspection of the subject property and neighborhood. In developing the appraisal approaches used, data was collected from the Real Estate Consultants' office files and courthouse records. The appraiser has applied the Market Data Approach in this appraisal.

Based upon my inspection of the subject property and the investigation and analysis carried out in this report, it is my considered opinion that the Market Value of the subject property as of *March 1, 2023*, and subject to the assumptions and limiting conditions set forth in the body of this report, is as follows:

ONE MILLION SEVENTY-FIVE THOUSAND DOLLARS
($1,075,000)

Respectfully submitted,



Mark A. Risk GAA
State Certified
General Appraiser # CG0202

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Section I – Executive Summary

Salient Facts & Conclusions

Property:	A part of the SW1/4 of the NE ¼ of Section 16, Township 16 North, Range 30 West, City of Fayetteville, AR. West Ave. South of Dickson St.	
County:	Washington	
Parcel #(s):	Pt. of Parcel #765-01743-002	
Fee Owner:	City of Fayetteville	
Subject Location:	West Ave., south of Dickson St. - Fayetteville, AR 72701	
Estate Appraised:	Fee Simple	
Size:	Site – 21,927 Sq Ft.	
Effective Date:	March 1st, 2023 - The Date of Inspection	
Utilities:	All Municipal Utilities Are Available	
Zoning:	Main Street Center (MSC)	
Highest and Best Use:	Assemblage with adjoining property	
Value Indications:	Market Data Approach	$1,075,000
	Cost Approach	NA
	Income Approach	NA

Final Estimate of Market Value: **$1,075,000**

Note:
This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report without the preparer's written permission does so at their own risk.

Subject Aerial Photo



Subject Pictures



Proposed Purchase Area



Proposed Purchase Area

Property Identification

The property under appraisement is a portion of the City owned parking lot south of Dickson St. off West Ave. in Downtown Fayetteville, Washington County, Arkansas. The property is owned by the City of Fayetteville.

Legal Description

A part of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, being a part of the tracts of land recorded in the Washington County Recorder's Office in Book 1340 at Page 810 and in Book 1351 at Page 302, more particularly described as follows:

COMMENCING at the Northwest corner of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 16, Township 16 North, Range 30 West, in the City of Fayetteville, Washington County, Arkansas, thence S87*09'15"E, along the North line of said Quarter, a distance of 165.65 feet; thence departing said Northline S02*48'48"W a distance of 41.47 feet to the point of intersection of the East Right-of-Way line Arkansas & Missouri Railroad, as now established, and the South Right-of-Way line of Dickson Street, as now established; thence departing said South Right-of-Way line S02*48'18"W along said East Right-of-Way line, a distance of 45.00 feet; thence continuing along said East Right-of-Way line along a tangent curve to the right having a radius of 980.37 feet, and a Chord that bears S14*47'51"W, an arc length of 368.68 feet for a POINT OF BEGINNING; thence departing said East Right-of-Way line S60*10'51"E, a distance of 27.29 feet; thence N29*53'40"E, a distance of 22.55 feet; thence S60*06'20"E, a distance of 96.03 feet; thence S87*01'52"E, a distance of 87.89 feet; thence S02'48"32'W, a distance of 78.61 feet; thence along a non-tangent curve to the right having a radius of 304.25 feet and a Chord that bears S30*45'15"W, an arc distance of 31.46 feet to a point in the North Right-of-Way line of Spring Street, as now established; thence N87*06'37"W along said North Right-of-Way line a distance of 4.34 feet; thence departing said North Right-of-Way line N01*42'57"E a distance of 10.34 feet to a found chiseled "X"; thence N87*09'36"W a distance of 77.69 feet to a found chiseled "X"; thence N28*01'14"W a distance of 37.11 feet to a found chiseled "X"; thence N69*33'43"W, a distance of 13.10 feet to a found nail; thence N87*10'17"W, a distance of 60.59 feet to a found rebar with cap, "Bates 1642"; thence S85*31'41"W, a distance of 25.47 feet to a found rebar with cap, "Bates 1642"; thence S68*44'21"W, a distance 49.88 feet to a found rebar with cap, "Bates 1642" in said East Right-of-Way line of Arkansas & Missouri Railroad; thence N26*06'02"E along said East Right-of-Way line a distance of 99.09 feet; thence continuing along said East Right-of-Way line, along a tangent curve to the left having a radius of 980.37 feet and a Chord that bears N26*29'16"E, an arc distance of 31.66 feet to the POINT OF BEGINNING, containing 21,927 square feet or 0.503 acres, more or less, and subject to any rights-of-way, easements, and restrictions of record.

Appraisal Inspection Comments

Date:	March 1, 2023
Inspection Notes:	Mark Risk visually inspected the subject property on the above date. The inspection consisted of a walking tour of the property. The appraiser was accompanied by architect Rob Sharp who was representing a bordering property owner (Brian Reindel) who has a potential interest in the subject land.
Owner Contact:	*Waylon Abernathy representing the City of Fayetteville*

Section II - Appraisal Premises

Market Value Defined

The Appraisal Foundation defines market value as follows:

"The most probable price that a property should bring in a competitive and open market under all condition's requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and each acting in what he considers his own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Hypothetical Condition Defined

Hypothetical Condition – *A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of analysis.* Uniform Standards of Professional Appraisal Practice

Extraordinary Assumption Defined

Extraordinary Assumption – *An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinion or conclusions.* Uniform Standards of Professional Appraisal Practice

Purpose Of the Appraisal

The purpose of this report is to estimate the Market Value of the subject property.

Intended Use and User of The Appraisal

The intended use of the appraisal is for potential sale or lease evaluation purposes of the client. The intended user is the client, The City of Fayetteville - Engineering Division.

Property Rights Appraised

The property is appraised as though owned in fee simple and unencumbered. A fee simple title is the fullest type of private ownership possible, subject to all public limitations including zoning, taxation, and eminent domain; and subject to private limitations, which may exist, such as easements and restrictions of record.

Subject History

According to Washington County records, the City of Fayetteville has held the subject property since 1989. The most recent ownership change occurred on September 27, 1989, per Deed 1340 page 810 of the Washington County Courthouse Records. In this transaction the property was deeded to the City of Fayetteville from McBride Distributing, Inc. No revenue stamps were placed on the deed. No other arm's length transactions were discovered involving the subject property within the past five years.

Subject Status

The subject property is currently being considered to be sold to a bordering property owner. There is no list price or asking price for the property at the time of the appraisal.

Assumptions and Limiting Conditions

ACCEPTANCE OF AND/OR USE OF THIS APPRAISAL REPORT BY THE CLIENT OR ANY THIRD PARTY CONSTITUTES ACCEPTANCE OF THE FOLLOWING ASSUMPTIONS AND LIMITING CONDITIONS:

Limit of Liability

The liability of TREC, Inc., The Real Estate Consultants, Mark E. Risk GAA, and associates and employees is limited to the client only and to the fee actually received. Further, there is no accountability, obligation, or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignments. The appraiser is in no way to be responsible for any costs incurred to discover or correct any deficiencies of any type of present in the property - physically, financially, and/or legally. In the case of limited partnerships, client agrees that if any lawsuit brought by a lender, partner, part owner, tenant, or other party, results in any award or settlements of any type in such suit regardless of outcome, that the client, who is the intended sole recipient of this report, will hold the appraiser completely harmless in any such action.

Copies, Publication, Distribution, and Use of the Report

Possession of this report or any copy thereof does not carry with it the right to publication, nor may it be used for any purpose other than its intended use. The signer of this report is a candidate for membership in the National Association of Independent Fee Appraisers, and a member of the National Association of Realtors and its Appraisal Section. The Bylaws and Regulations of these organizations require their members to control the use and distribution of each report signed by such member.

Therefore, except as hereinafter provided, only the party for whom this report was prepared may distribute copies of this report, and only in its entirety, to such third parties as may be selected, but not without prior written consent and approval of the signatory of this report. The physical report remains the property of the appraiser for the use of the client.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the National Association of Independent Fee Appraisers, the National Association of Realtors or any designations shall be disseminated to the public through the advertising media, public relations media, news media or any public means of communication without prior written consent and approval of the signer of this report. The authentic copies of this report are sealed with my Seal. Any copy that is not so sealed is unauthorized and may have been altered.

Confidentiality and Trade Secrets:

This appraisal consists of trade secrets and commercial or financial information which is privileged and confidential and exempted from disclosure under 5 U.S.C. 552 (b) (4). The appraiser may not divulge the material contents of this report, the analytical findings and conclusions, or give a copy of this report to anyone other than the client or his designee as specified in writing - except as may be required by the National Association of Independent Fee Appraisers, the National Association of Realtors, or other organizations as they may request in confidence for ethics enforcement, or by a

court of law of body with the power of subpoena. This appraisal is to be used only in its entirety and no part is to be used without the whole report.

No change of any item in the report shall be made by anyone other than the appraiser, and the appraiser shall have no responsibility if any such unauthorized change is made. The client shall notify the appraiser signing the report of any request to reproduce this appraisal in whole or part.

Testimony, Consultation, and Completion of Appraisal Services

The contract for appraisal, consultation, or analytical services is fulfilled and the total fee payable upon completion of this report. The appraiser or those assisting in preparation of this report will not be asked or required to give testimony or be subpoenaed in court of any public or private hearing because of having made this appraisal, in full or in part, nor engage in post appraisal consultation with the client or third parties except under separate and special arrangement and at additional fee. A MINIMUM TWENTY DAY NOTICE MUST BE GIVEN BEFORE COURT APPEARANCE FOR PURPOSES OF REVIEW AND STUDY. If testimony or deposition is required because of any subpoena, the client shall be responsible for any additional time, fees, and charges regardless of the issuing party.

Information Used

No responsibility is assumed for the accuracy of information as to description (legal, physical, etc.) of the premises, restrictions, improvements, and income features of the property furnished by others, the client, his designee, or public records. All information furnished by others is assumed to be true, correct, and reliable and a reasonable effort has been made to verify such information. An impractical amount of time and money would be necessary to furnish unimpeachable verification in all instances. It is suggested that the client consider independent verification if so desired before making a significant commitment regarding the subject property. No responsibility for the accuracy of data and information obtained or the work of possible subcontractors is assumed by the appraiser.

Purchasing Power, Value Change, and Market Influences

The estimated market value and the costs used relate only to the effective date of the appraisal. All dollar amounts are based on the purchasing power and price of the dollar as of the date of the value estimate.

Market value is highly related to exposure, time, promotional effort, terms, motivation, and conditions surrounding the offering and subject to economic changes in the marketplace over time. In appraisals involving the capitalization of future income benefits, the estimate of market value reflects the appraiser's interpretation of income, yields, and other factors derived from general and specific market information. Such estimates are as of the date of appraisal and subject to dynamic changes in the financial markets that may occur.

Legality of Use and Related Studies

This report is based on the premise that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is stated, defined, and considered in the report. It is assumed that all applicable zoning, building codes, and use regulations and restrictions of all types have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report. It is assumed that all required licenses, consents, permits, or other legislative or administrative authority from any local, state, or federal government and/or private entity or organization have been or can be obtained or renewed for any use on which the value estimate in this report is based.

No environmental or impact studies, special market study of analysis, highest and best use analysis study, or feasibility study has been requested or made unless otherwise specified in an agreement for services or in the report. The appraiser reserves the unlimited right to alter, amend, revise, or rescind any of the statements, findings, opinions, values, estimates, or conclusions based upon any subsequent study or analysis, or any previous study or analysis pertinent to the assignment that becomes known to him after the report is finished.

Legal and Financial Assumptions

No responsibility is assumed for matters of a legal nature affecting title to the property nor is an opinion of title rendered. The title is assumed to be good and merchantable. The property is appraised in gross as free and clear of all mortgages, liens, encumbrances, leases, and servitudes unless so specified within the report.

If this appraisal is used for mortgage loan purposes, it should be noted that specific loan ratios, term amortization, and equity requirements have not been suggested. This appraisal report and value estimate is subject to change if the physical or legal entity or financing is different than that envisioned in this report.

Architectural, Structural, Mechanical, and Engineering Assumptions

No responsibility is assumed for matters of survey, architectural, structural, mechanical, or engineering nature. The legal description used in this report is assumed to be correct as furnished by the client, his designee, or as derived by the appraiser. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described, and that there is no encroachment to trespass unless noted within this report.

The appraiser has inspected, as far as possible, by observation the land and the improvements thereon. However, it was not possible to personally observe conditions beneath the soil, hidden structural components, or any mechanical components within the improvements and no representations are made as to these matters unless specifically stated and considered in this report. This appraisal is based on there being no hidden, unapparent or apparent conditions of the property site, subsoil, or structures which would render it more or less valuable. No responsibility is assumed for any such conditions or for any expertise or engineering needed to discover such factors. The appraiser does not warrant against the occurrence of problems arising from the soil conditions.

All mechanical components are assumed to be in operable condition and states standard for properties of the subject's type. Conditions of heating, cooling, ventilating, electrical, and plumbing equipment is considered to be commensurate with the conditions of the balance of the improvements unless otherwise stated. No judgment is made as to the adequacy of insulation or energy efficiency of the improvements or equipment. The lender, owner, or buyer should inspect the property before purchase or any disbursement of funds. Any of those parties may wish to require mechanical or structural inspection by a qualified and licensed contractor, civil or structural engineer, architect, or another expert.

The appraiser has not been requested to make an investigation of the possible existence of any potentially hazardous insulation or material used in the construction or maintenance of the building, or the possible existence of toxic waste which may or may not have been stored on the property or the possible existence of radon gas on the property.

The appraiser represents that he is not qualified to test for the presence or absence of such items and has not considered, and assumes no responsibility for, such products which might render the property more or less valuable. The client is advised to retain an expert in this field if this information is presumed appropriate and necessary.

This appraisal has not considered conditions relating to surface or subsurface waters; including, but not limited to water table, flood plain, flood hazard, or rights, if any, claimed nor or in the future in riparian lands and drainage - unless otherwise noted in this report. The appraiser assumes no responsibility for any costs or consequences arising from the need for flood hazard insurance. An agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.

Management of Property

It is assumed that the property being appraised will be operated under prudent, responsible, and competent ownership and management - being neither inefficient nor super-efficient.

Exhibits

The sketches and maps in this report are included only to assist the reader in visualizing the property and are not necessarily to scale. Various photos, if any, are included for the same purpose and are not intended to represent the property in other than actual status as of the date of the photos. Site plans are not surveys unless shown from a separate surveyor.

Component Values

The distribution of the total valuation in this report between land and improvements applies only under the reported highest and best use of the property. Neither the analysis and conclusions herein nor the allocations of value for land and improvements may be used in conjunction with any other appraisal and are invalid if so used.

Personal Property

Furnishings, fixtures, or equipment of the business operation except as specifically indicated and typically considered as a part of the real estate have been disregarded unless otherwise stated. For some property types, business and real estate interests and values are combined.

Federal After-Tax Analysis

Any after-tax income and investment analysis or measures of return on investment are intended only to reflect possible and general market considerations at an assumed value of price paid. The appraiser does not claim expertise in tax matters and advises the client and any other person using this appraisal to seek competent tax advice. The appraiser is in no way to be considered a tax or investment advisor.

Hypothetical Condition

There are no hypothetical conditions regarding the appraisal of the subject property.

Extraordinary Assumptions

It is assumed by the appraiser that there are no utility easements or other easements affecting the subject site other than those stated in this report.

If this assumption is found to be false, it could alter the appraiser's opinion or conclusions.

Scope of the Appraisal

Introduction

"The term *scope of the appraisal* refers to the extent of the process of collecting, confirming, and reporting data."[1]

The appraiser determines a report's scope (extent of data collection & depth of reporting) according to the following primary factors:

1) Satisfaction of standards as set forth by USPAP.
2) Satisfaction of any additional standards/specific requirements as defined by client request &/or organization(s) for which an appraiser has professional membership.
3) Perceived needs of the intended user(s) as related to a report's intended use.

The scope of this appraisal encompasses the necessary research and analysis to prepare a report in accordance with its' intended use, the Code of Professional Ethics & Standards of Professional practice of the National Association of Realtors, and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

The appraiser has determined an "appraisal report" conforming to USPAP Standard 2-2(b) would satisfy the needs of the intended user(s). A Summary report offers basic statements of fact &/or brief summary comments when describing data, reasoning, and analysis used in the appraisal process to develop an opinion of value. As such, some documentation supporting the data, reasoning, and analysis was kept in the appraiser's files.

General Comments

Basic information pertaining to this assignment is based upon information gathered by the appraiser from inspection of the subject property and neighborhood, public records, and other identified sources. Data believed to be unreliable was not included in this report nor used as a basis for the value conclusion.

Region, county, city, and neighborhood data were based on information in the Real Estate Consultants library and files, physical inspection of the immediate neighborhood, and data from the City of Fayetteville and Washington County.

The appraiser physically inspected the subject on *March 1, 2023*, with subject photographs taken at that time. Subject property data was based upon information gathered from physical inspection of the subject property and immediate neighborhood, documentation provided by the City of Fayetteville, public records, and other identified sources.

In evaluating the highest and best use for the subject property, an analysis was made of data compiled in the steps noted above. The appraiser's opinion of subject's highest and best use is based on important factors such as physical location, physical characteristics, zoning requirements, and use history/potential. In addition, a study of the *downtown land development market* in the subject area has been made to help determine the economic feasibility of the subject property.

[1] Appraisal Institute, *The Appraisal of Real Estate-10th Edition,* (Chicago: The Appraisal Institute, 1992), p. 575

Scope of the Appraisal – Appraisal Methods Used

Market Data (Sales Comparison) Approach --

Underlying land value is based upon analysis of available market data for land comparables, either vacant or with improvements extracted, in the central downtown area. Comparables were gathered from the appraiser's files, Realtors ® multi-list service, courthouse records, and interviews with knowledgeable market participants. The most important individual examples are discussed in digest format, and then reconciled on a price per square foot basis to the subject after discussion. Applied appreciation over time, if any, is based on accumulated data in the appraiser's files and the appraiser's knowledge of the local market.

Income Approach --

The income approach was not developed under the scope of this appraisal assignment. At the time of the appraisal the subject property was not being rented or lease. Portions of the subject are currently being used for parking which was not considered in this report.

Cost Approach --

The cost approach was not developed under the scope of this appraisal assignment due to the lack of marketable improvements on the site. Existing parking lot, etc. are planned to be removed and are not included in this appraisal report.

Section III – Data Presentation

Neighborhood Description

For appraisal purposes, a neighborhood is considered to be a portion of a larger community in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Neighborhood inhabitants usually have a more casual community of interest and similarity of economic level and cultural background.

Neighborhood boundaries may consist of well-defined natural or man-made barriers, or they may be more or less well defined by a distinct change in land use, or in the character of the inhabitants.
The immediate area is commonly known as Fayetteville's Dickson Street Entertainment District, with neighborhood boundaries defined as such: N- Maple, S- Center St., E- College Ave., and W- U of A Campus.

The central downtown encompasses the City's financial and entertainment centers and continues to undergo revitalization as it adapts to current market demands and trends. The neighborhood is viewed by the market as one of the most desirable for commercial use, especially within the entertainment niche, both within the city and throughout the NW Arkansas region. College Avenue (Highway 71B) is the most important N-S open-access business route in the region. Close proximity to the University of Arkansas.

Property Description

Site

Based upon the survey provided by the client, the subject consists of an irregular shaped area of approximately 21,927 sq.ft.. There is one irregularly shaped parcel with a level to gentle slope down from West Ave to the west. The site is mostly cleared but there are several trees on the land. The parcels have been part of the public parking lot at West and Dickson Streets. The tract offers no actual street frontage. Access to the site is via the city parking lot and the property to the south of the subject. (See attached survey). West Ave. has two lanes and is paved with asphalt. However, it does not appear from documents provided to the appraiser that the subject has frontage or legal access to West Ave. The land appears to lie outside any FEMA identified flood zone area. The site has access to all municipal utilities. There appears to be a 12" sewer line to the south of the site and a 6" water line just south of the subject. It is assumed these lines would be accessible to the subject property.

No other adverse easements, encroachments, or other conditions were noted upon inspection.

Per the City's Downtown Master Plan zoning code, zoning is Main Street/Center. This is a broad classification, primarily designed to allow high-density development. See zoning information in the addendum to this report.

Improvements

There are no permanent improvements included in this appraisal. Existing improvements are planned to be removed.

Environmental Analysis

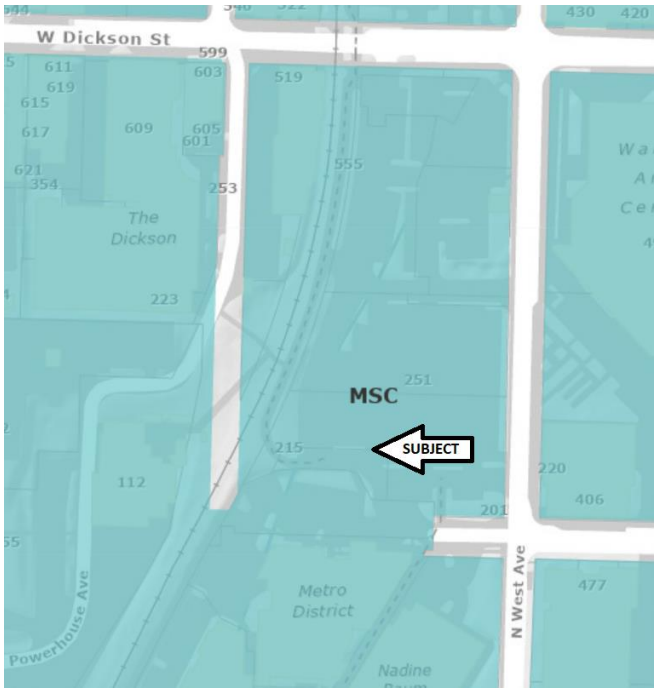
My routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions that would affect the subject property negatively. *The value estimated in this report is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions.* However, the appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. It is unlikely but possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.

Subject Property Aerial Map

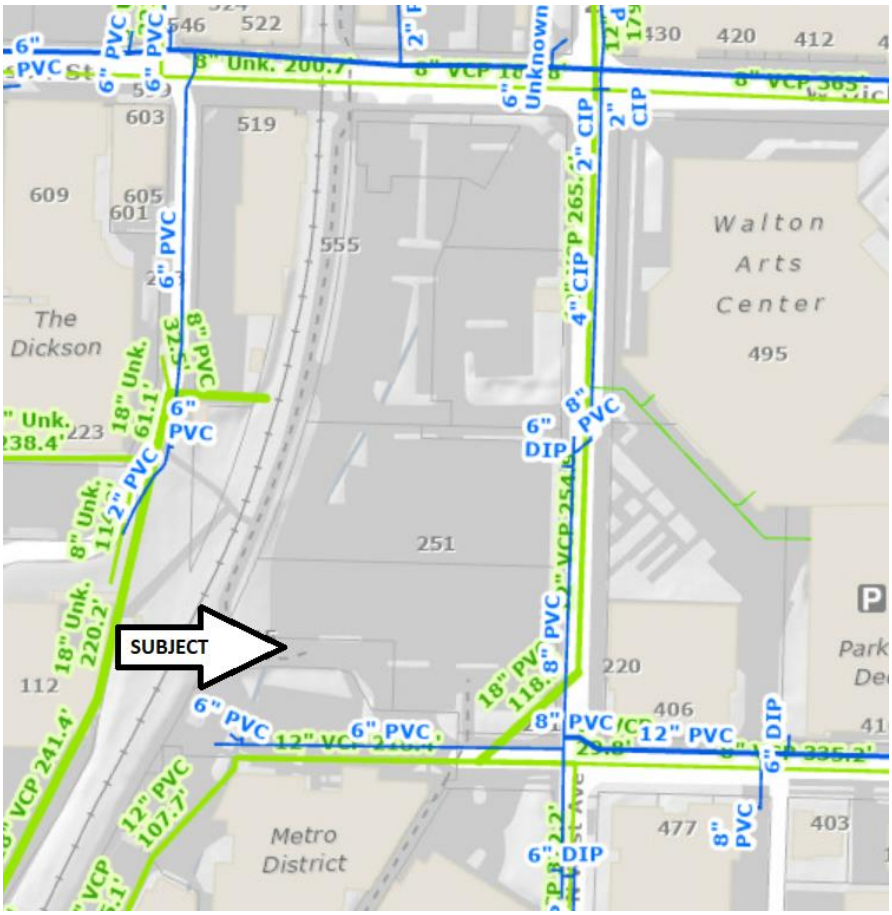


Source: City of Fayetteville GIS Mapping System

City Downtown Zoning Map

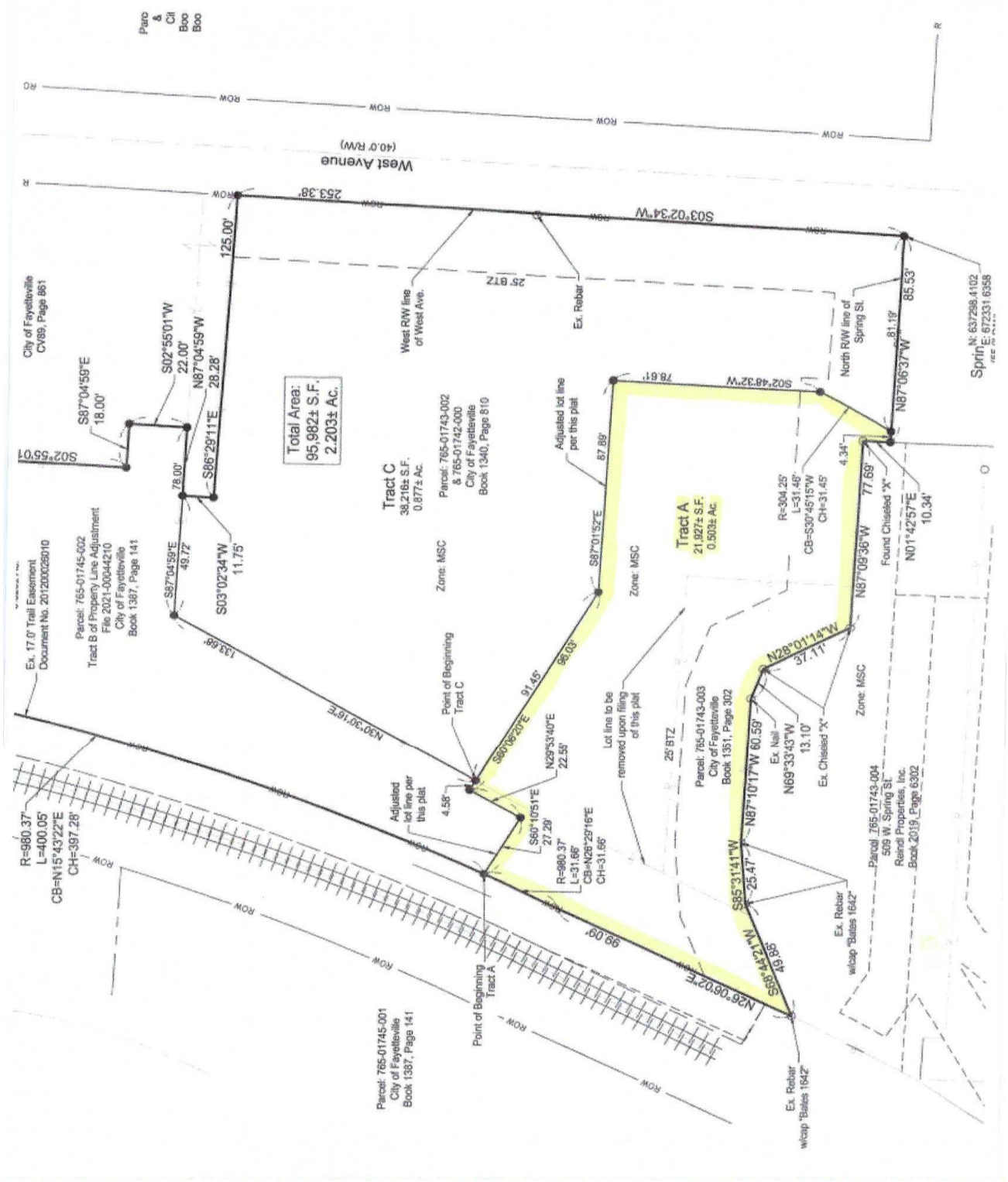


Subject Site Water and Utility Map



Source: City of Fayetteville GIS Mapping System

Subject Site Area Drawing



Section IV – Subject Analysis & Valuation Approaches

Highest And Best Use Analysis

The Appraisal Institute defines highest and best use as follows:

> *"The reasonably probable and legal use of vacant land or improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability."*

The following tests must be met in estimating the highest and best use of the subject:

1. *It must be physically possible based on subject site characteristics.*
2. *It must be a legal use under current or likely zoning regulations.*
3. *It must be probable and not based upon conjecture or speculation.*
4. *There must be a profitable demand for such use and it must return to the land the highest net return for the longest period of time.*

I applied these tests to the subject. The Highest and Best use of a property is based on current trends and necessities in its neighborhood with respect to overall supply and demand factors and required rates of return for specific investment types. An appraiser's interpretation of highest and best use is essentially an economic study of market forces as they affect a specific property.

Appraisal theory and USPAP generally require development of two Highest and Best use opinions- 'as though vacant' and 'as improved'. 'As though vacant' is essential to determining underlying land value and intimately connected to the Cost Approach. The 'as improved' conclusion considers potential economic contribution (if any) of existing improvements and assists in determining how a prudent investor would utilize such improvements (renovation, expansion, demolition, et cetera). 'The Appraisal of Real Estate- 10th Addition' (Appraisal Institute, Chicago, 1992) offers this statement: "The use that maximizes an investment property's value, consistent with the long-term rate of return and associated risk, is its highest and best use as improved."

Any determination of highest and best use includes identifying the motivations of probable purchasers. The benefits of an investment property like the subject relates to net income potential and eventual resale or refinancing. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. This use must meet the four criteria previously mentioned. The subject property is currently unimproved without any significant structure. Hence, the Highest and Best Use as though vacant is applicable only to the subject site.

'As though vacant'- It is my opinion the land's highest and best use as though vacant is for plottage with adjoining property.

A summary discussion on the four tests of highest and best use is offered on the following pages.

The Four Tests of Highest & Best Use

General comments

The subject land is well located in central Fayetteville entertainment district, with the immediate neighborhood established for commercial and residential uses. Its' current zoning allows for very dense development. The subject's shape and size are likely too small to construct a significant structure.

Physically Possible:

Basic factors affecting the potential for physically constructing improvements on a specific site include tract size, shape, topography, and soils. Further utility depends on utilities availability, roadway frontage, and tract depth in relation to width. Irregularly shaped parcels may cost more to develop and usually have less overall utility than a rectangular parcel. The sites terrain has a slight gentle slope to it which would facilitate construction.

The site offers an inadequate size to comply with current design standards for most commercial buildings. Residential use of the site is considered doubtful due to the proximity to the railroad tracks and bars and restaurants, although, there is demand for housing in the neighborhood. I am unaware of any adverse soil conditions that might hinder full use of the lot. Considering these factors, prospective developers would not likely purchase this site for development. However, there is possibility a small-scale project could be constructed on the property.

Legally Permissible:

Land use options are further restricted by legal considerations, primarily determined by civil authorities, but also possible via private contract. The most obvious example is zoning. Other important factors include building codes and environmental regulations. Private, non-governmental examples include deed restrictions, subdivision covenants, easements, and long-term land leases. These legal factors limit current use &/or development options in the absence of 'grand fathering', allowed 'non-conforming use', or other usually rare privileges.

The subject lies within Fayetteville city limits and zoned Main Street/Center. This zoning designation is planned for high-density use. Many options are therefore available according to the legality test, including development into commercial and residential uses.

After discussions with the City's planning office, it was determined that a small building could be constructed on the site under the Main Street/Center zoning classifications. It would be difficult but not impossible to place a building on the site under current zoning requirements for setbacks. The zoning code requires a setback from the street of 0' to 25' and 5' from the rear. There are also existing utility easements along the east and south boundary that will further decrease the building area of the site. There is also ample street frontage under the subject's zoning classification. Hence, allowing a small area to construct a building. Furthermore, there are not any off-street parking requirements for commercial use of the site.

Four Tests of Highest & Best Use Continued

Financially Feasible:

After limiting the array of uses by tests of physical possibility and legal permissibility, the appraiser then judges remaining possibilities according to financial considerations. A potential use is deemed financially feasible if that use promises a positive return on investment, all things considered. Positive return is contingent upon potential net operating income matched with appropriate required rates of return for a particular use. Important factors affecting such a return include operating expenses, debt satisfaction, and capital amortization. In my opinion, the subject's best financial return will be realized by a small commercial building or plottage with adjoining property.

Maximally Productive:

'The Appraisal of Real Estate Tenth addition' (Appraisal Institute, Chicago) defines this concept as such: "Of the financially feasible uses, the use that produces the highest residual land value consistent with the rate of return warranted by the market for that use is the highest and best use."

Among all potential uses remaining after consideration of the first three tests, a single specific use that results in the highest estimated residual land value is then determined. Most often, due to the durability of most real estate related improvements, prospective uses are narrowed according to a long-term scenario. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. Per Tenth addition: "The stream of benefits, or income, produced by the buildings reflects a carefully considered, and usually very specific, land use program. I believe the subject's best use is to combine the subject site with adjoining land to the south.

[1] Appraisal Institute, *The Appraisal of Real Estate-10th Edition,* (Chicago: The Appraisal Institute, 1992), p. 575

The Market Data Approach

The Market Data Approach or Sales Comparison Approach is an attempt to measure the reactions of typical buyers and sellers in the market. In this approach a direct comparison is made between the property being appraised and comparable properties that have either been sold recently, have received bonafide offers from prospective buyers, or are currently offered for sale.

The value of the property being appraised is inferred from the selling prices, offers, and asking prices of the comparable properties. To be "comparable" a property need not be identical to the subject. The word "comparable" is used in its ordinary sense meaning something that is capable of being compared with or worthy of comparison.

The appraiser assumes that a typical buyer in the market will not pay more for the subject property than it would cost to buy a comparable substitute property. The price a typical buyer is willing to pay is generally the result of an extensive search process in which he is constantly comparing alternative properties. In the meantime, the typical seller is usually trying to obtain the highest possible price for his property based upon his knowledge of the marketplace.

In applying the Market Data Approach, the appraiser takes the following steps:

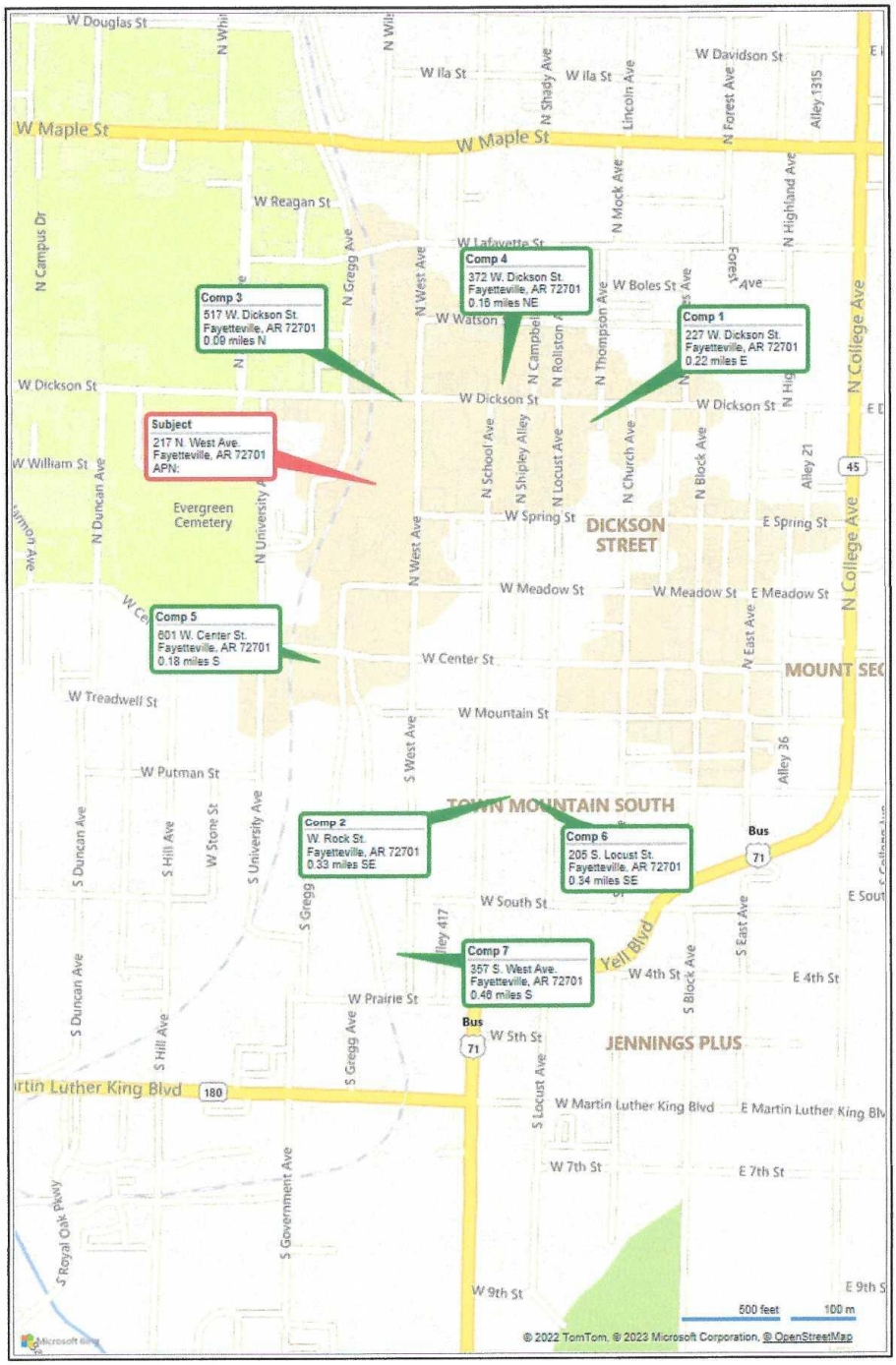
1. Researches the market for available comparable properties in which actual sales, listings, or offerings have occurred.
2. Confirms the prices and bonafide nature of the data and qualifies the terms and motivating forces.
3. Compares the property being appraised with each of the comparable properties, under the general division of location, time, physical characteristics, and other economic factors.
4. Formulates an opinion of the market value of the property being appraised based upon the price of each comparable property.

Pursuant to the appraisal of the subject property, I researched courthouse records, reviewed company files, accessed the Realtor's ® multi-list database, and interviewed knowledgeable market participants to locate recent market activity involving properties comparable or similar to the subject. Land sales selected for comparison with the subject property are included on the following pages.

Market Data Approach -- Comparable Land Sales Map

The Real Estate Consultants
LOCATION MAP ADDENDUM File No.

Borrower					
Property Address	217 N. West Ave.				
City Fayetteville	County	State	AR	Zip Code	72701
Lender/Client	Address				



The Market Data Approach – Comparable Sales Data

Land Sale #1



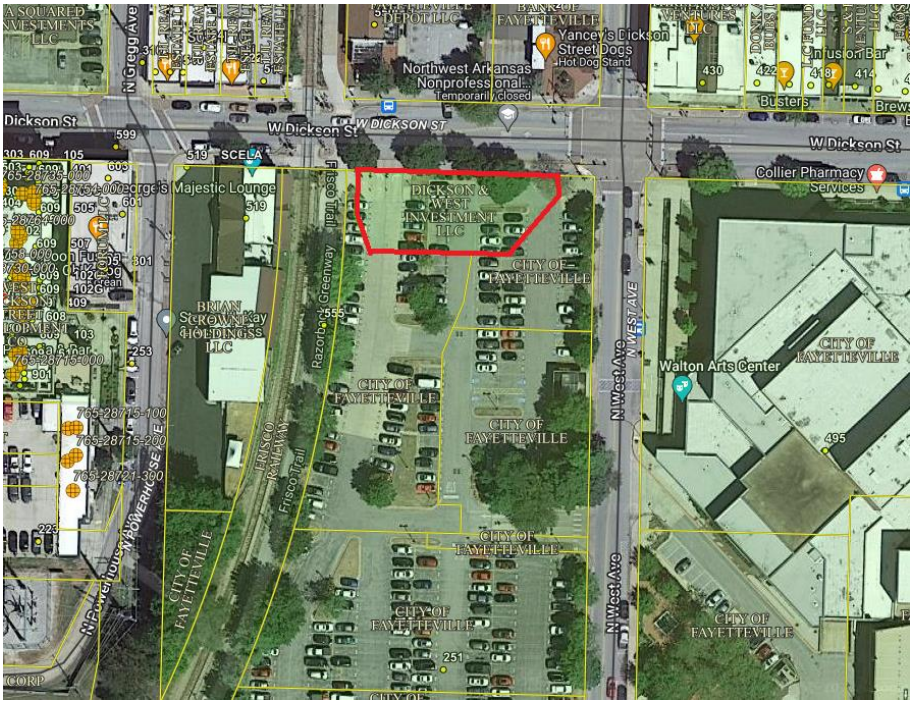
Grantor:	The Lumiere Building, LLC
Grantee:	HMT of Fayetteville, LLC
Date of Sale:	10/26/2018
Property Location:	227 W. Dickson St., Fayetteville, AR
Legal Description:	Part of Lots Numbered (1) and (4) in Block Numbered Four (4) in the Original Town of Fayetteville, Washington County, Arkansas
Zoning Category:	MSC (Main Street Center)
Land Size:	.131 acres or 5,706 sq. ft.
Improvements:	None of Contributory Value
Reported Price:	$950,000
Data Source:	Washington County Assessor Records- Parcel #765-01685-000, Washington County Circuit Clerk's Deed Book 2018 at Page 32093
Remarks:	Small, rectangular shaped shallow lot with frontage on Dickson St.
Indicated Price:	$166.48/Square Foot

Land Sale #2



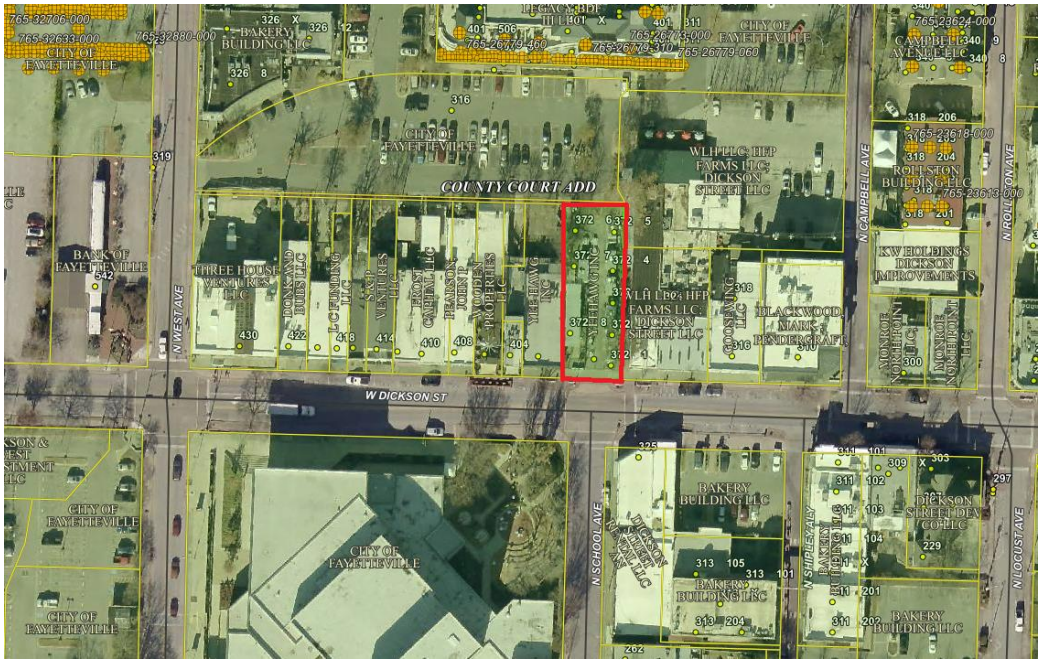
Grantor:	Dewayne & Rhonda Bebout
Grantee:	Nestor Briceno
Date of Sale:	05/13/2021
Property Location:	317 W. Rock St., Fayetteville, AR
Legal Description:	A part of Block 38 in the original plat of City of Fayetteville, Washington County, AR
Zoning Category:	DG (Downtown General)
Land Size:	.15 acres or 6,534 sq. ft.
Improvements:	None of Contributory Value
Reported Price:	$190,000
Data Source:	Washington County Assessor Records- Parcel #765-02055-000, Washington County Circuit Clerk's Deed Book 2021at Page 18741
Remarks:	Small lot off Rock St. between S. School and S. Locust. ½ Block east of the new library. Fairly recent sale in downtown Fayetteville.
Indicated Price:	$29.08/Square Foot

Land Sale #3



Grantor:	City of Fayetteville
Grantee:	Dickson & West Investments, LLC
Date of Sale:	12/20/2021
Property Location:	W. Dickson St., Fayetteville, AR
Legal Description:	A part of the NW ¼ of the NE ¼ of Section 16, Township 16 North Range 30 West, City of Fayetteville, Arkansas
Zoning Category:	MSC (Main Street Center)
Land Size:	.20 acres or 8,712 sq. ft.
Improvements:	None of contributory value
Reported Price:	$263,000
Data Source:	Washington County Assessor Records - Parcel # 765-01745-003, Washington County Circuit Clerk's Deed Book 2022 at Page 450
Remarks:	Irregularly shaped tract with frontage on Dickson St. Just north of the subject.
Indicated Price:	$30.19/Square Foot

Land Sale #4



Grantor:	Wooden Properties, LLC
Grantee:	Yeehawg, Inc.
Date of Sale:	06/16/2021
Property Location:	372 W. Dickson St., Fayetteville, AR
Legal Description:	A part of Lots Numbered Eight (8) and Eleven (11) in Block Six (6) of the County Court Addition to the City of Fayetteville, Washington County, AR
Zoning Category:	MSC (Main Street Center)
Land Size:	.17 A or 7,405 sq. ft.
Improvements:	None of contributory value
Reported Price:	$1,200,000
Data Source:	Washington County Assessor Records Parcel #765-04374-000, Washington County Circuit Clerk's Deed Book 2021 at Page 23461
Remarks:	This lot is located on the north side of Dickson St. The shape is rectangular, and the topography is level and ideal for construction.
Indicated Price:	$162.05/Square Foot

Land Sale #5



Grantor:	Myers Family Properties LLC
Grantee:	Satsang LLC
Date of Sale:	04/28/21
Property Location:	601 W. Center St. Fayetteville, AR
Legal Description:	N PT LOT 1 NE SW FURTHER DESCRIBED FROM 2021-16291 AS: Part of Lot One (I) in the County Court Plat of the Northeast Quarter of the Southwest Quarter of Section Sixteen (16) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M.,
Zoning Category:	MSC (Main Street Center)
Land Size:	.48 Acres or 20,908.8 sq. ft.
Improvements:	None of contributory value
Reported Price:	$450,000
Data Source:	Washington County Assessor Records Parcel #765-12944-000 Washington County Circuit Clerk's Deed Book 2021 at Page 16291
Remarks:	This lot is located one block south of the subject on Center St., it is rectangular in shape. The improvement had burnt down before time of sale and has been razed.
Indicated Price:	$21.52/Square Foot

Land Sale #6



Grantor:	Modus Real LLC
Grantee:	MSNZ LLC
Date of Sale:	05/27/22
Property Location:	205 S. Locust Ave. Fayetteville, AR
Legal Description:	PT BLOCK 38 (84/164) FURTHER DESCRIBED FROM 2014-27268 AS: A part of Block Numbered Thirty-Eight (38) in the Original Town (now City) of Fayetteville, Arkansas
Zoning Category:	DG (Downtown General)
Site Qualities:	.29 Acres or 12,633 sq. ft.
Improvements:	None
Reported Price:	$470,000
Data Source:	Washington County Assessor Records Parcel #765-02048-000 Washington County Circuit Clerk's Deed Book 2022 at Page 02579
Remarks:	This lot is located southeast of the subject, near the Fayetteville Public Library. It is a rectangular shaped parcel.
Indicated Price:	$37.20/Square Foot

Analysis of Comparable Sales and Conclusion of Land Value

In my opinion, there are an adequate number of comparables available to render a reliable opinion of the subject's underlying land value according to its' highest and best use. I offer a variety of verified transactions considered representative of recent market activity, while retaining additional examples in my files. Overall, there has been a limited amount of good comparable sales in the Dickson St./Downtown Fayetteville area. However, there has been an adequate amount of data to render an opinion of the market value of the subject. The comparable sales used are summarized as follows:

Sale	*Date*	*Tract Size*	*Land Price*	*$/SF*	*Comparability*
1	10/26/2018	5,706 SF	$950,000	$166.48	Superior
2	05/13/2021	6,534 SF	$190,000	$29.08	Inferior
3	12/20/2021	8,712 SF	$263,000	$30.19	Similar
4	06/16/2021	7,405 SF	$1,200,000	$162.05	Superior
5	04/28/21	20,908 SF	$450,000	$21.52	Inferior
6	05/27/22	12,633 SF	$470,000	$37.20	Similar

All comparable sales are located within close proximity of the subject, with most considered having similar immediate Downtown neighborhood influence.

Appreciation over time within the subject's land market niche is still prevalent. But there are fewer top-end prices paid compared to the more speculative time of 2004-2012. However, recent sales are approaching the prices paid in that era.

The researched sales indicate an *unadjusted* price range of $21.52/sq. ft. to $166.48/sq.ft.. This is a wide range in which to comfortably place the subject. Primary differences are attributable to location relative to the Downtown grid, total size, buildability of the tract, date of sale, and overall potential. The upper end of the value range are of good buildable sites, many of which have been developed or are planned for multi-story residential townhomes and commercial uses. The lower end of the range is of tracts off Dickson St. and the downtown square which do not have the appeal of the Dickson St. fronting properties. These tracts are rectangular shaped and sized for smaller residential units.

Generally speaking, per square foot values decline as the size of the tract increases. This rule of thumb does not always hold true; though, especially when considering the unique requirements of urbanized areas. Some tracts suffer discounts if they are too small to satisfy zoning ordinances (e.g., parking). In addition, owing to the current trend of condominium/mixed-use projects prevalent downtown, tracts too small for development into multi-story structures do not have nearly the same desirability as the city grows upward.

The appraiser has prepared a sales adjustment grid on the following pages. This grid shows the adjustment process in detail and is used to render a value estimate of the subject property.

It is my opinion the subject's land would fall near the mid to lower area of the stated range. Therefore, based upon the above recited sales and analysis thereof, and after adjustments are made for differences in time, size, location, visibility, land qualities, and other economic factors, it is my considered opinion the subject's land value, *as of March 1, 2023*, is as follows:

21,927± SF @ $49.00/SF = $1,074,423

Say $1,075,000

Comparable Sales Adjustment Grid

City of Fayetteville Sale Area Tract A **Comparable Land Sale Grid**

Fayetteville, AR

Appx. 21,927 sq.ft.

	SUBJECT	**SALE #1**	**SALE #2**	**SALE#3**
	West Ave.	227 W. Dickson	317 W. Rock St.	W. Dickson St.
	Fayetteville	Fayetteville	Fayetteville	Fayetteville
PRICE DATA				
PURCHASE PRICE	NA	$ 950,000	$ 190,000	$ 263,000
CONCESSIONS/TERMS	Cash to Seller	Cash/None	Cash/None	Cash/None
Adjustment				
PRICE PER Square Foot	NA	$ 166.49	$ 29.08	$ 30.19
DATE OF SALE	NA	Oct-18	May-21	Dec-21
Adjustment		-$33.30	$2.91	$3.02
ADJUSTED PRICE	NA	$ 133.19	$ 31.99	$ 33.21
LOCATION	Dickson St.	Superior	Inferior	Superior
Adjustment		$ (39.96)	$ 3.20	$ -
SIZE (sq.ft.)	21,927	5,706	6,534	8,712
Adjustment		$ 6.66	$ 1.60	$ (1.66)
TOPO/SHAPE	Clear/Level	Similar	Gentle/Rectangular	Level/Irregular
Adjustment		$0.00	$1.60	$0.00
UTILITIES	Average	Similar	Similar	Similar
Adjustment		$ -	$0.00	$ -
IMPROVEMENTS	NA	None	None	None
Adjustment		$ -	$ -	$ -
ZONING	MSC	MSC	DG	MSC
Adjustment		$ -	$ -	$ -
FLOOD HAZARD	None	None	None	None
Adjustment		$ -	$ -	$ -
VISIBILITY/ACCESS	Average	Superior	Similar	Superior
Adjustment		$ (41.62)	$ -	$ -
NET ADJUSTMENT		$ (74.92)	$ 6.40	$ (1.66)
INDICATED PRICE		$ 58.27	$ 38.38	$ 31.55
			Mean	**$ 48.92**
			Weighted Average	**$ 49.00**
			Say	$49.00
			Indicated Value	**$1,074,423**
			Say	**$1,075,000**

Comparable Sales Adjustment Grid', continued

SALE #4	**SALE #5**	**SALE #6**	**SALE #7**
372 W. Dickson St.	601 W. Center St.	205 S. Locust	357 S. West
Fayetteville	Fayetteville	Fayetteville	Fayetteville
$ 1,200,000	$ 450,000	$ 470,000	$ 235,000
Cash/None	Cash/None	Cash/None	Cash/None
$ 162.05	$ 21.52	$ 37.20	$ 44.95
Jun-21	Apr-21	May-22	Feb-23
$0.00	$2.15	$1.86	$0.00
$ 162.05	$ 23.67	$ 39.06	$ 44.95
Superior	Inferior	Inferior	Inferior
$ -	$ (4.73)	$ (7.81)	$ (8.99)
7,405	20,909	12,633	5,227
$ (8.10)	$ 5.92	$ 9.77	$ 2.25
Level/Rectangular	Level/Rectangular	Gentle/Rectangular	Gentle/Irregular
($8.10)	($1.18)	($1.95)	$0.00
Similar	Similar	Similar	Similar
$ -	$ -	$ -	$ -
None	Razed by Buyer	None	None
$ -	$ -	$ -	$ -
MSC	MSC	DG	DG
$ -	$ -		$ -
None	None	None	None
$ -	$ -	$ -	$ -
Superior	Inferior	Similar	Inferior
$ (48.62)	$ 5.38	$ -	$ 11.24
$ (64.82)	$ 5.38	$ (0.00)	$ 4.50
$ 97.23	$ 29.05	$ 39.06	$ 49.45

Correlation, Analysis, and Conclusion

The Market Data Approach exclusively was used to estimate the value of the subject land. The Cost & Income Approaches were not considered to be applicable under the scope of this appraisal. The Market Data Approach resulted in the following indicated value:

The Market Data Approach	**$ 1,075,000**

It is the appraiser's opinion that an adequate amount of Market Data was available to obtain a reliable value estimate for the subject land as if vacant. A sufficient amount of sales activity has occurred in the general vicinity of the subject property. The sales analyzed and included in this report are considered reliable and do indicate the prices being paid for commercial/residential land in the Downtown Fayetteville area.

Due to the small size of the subject, it was difficult to find truly comparable sales. The appraiser has analyzed recent sales of similar zoned land in the subject area which are suitable for development of multi-story residential/commercial buildings. These are sales are considered superior to the subject property. Furthermore, the appraiser has analyzed sales of land along the railroad right of way which reflect a much lower value than the aforementioned sales. It is the appraiser's opinion that the subject's value should fall somewhere in between the stated value range.

The appraiser has assumed that a multi-level commercial or residential building can be built on the subject property.

Therefore, based upon the data collected and analyzed within this report and the preceding discussion, it is the considered opinion of this appraiser that the Fair Market Value of the subject property as of *March 1, 2023*, is as follows.

$1,075,000

Certificate of Appraiser

I hereby certify, that to the best of my knowledge and belief, that the statements of fact contained in this report are true and correct; that the reported analysis, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions; that I have no present or prospective interest in the property that is the subject of this report, and I have no interest or bias with respect to the property that is the subject of this report or to the parties involved with this assignment; that my engagement in this assignment was not contingent upon developing or reporting predetermined results; that my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.

I hereby certify, that my analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with requirements of the code of Professional Ethics and the Standards of Professional practice of the National Association of Realtors; that the use of this report is subject to the requirements of the National Association of Realtors relating to review by its duly authorized representatives; that all signatories of this report have physically inspected the subject property and are familiar with the comparables stated within.

The appraiser further certifies that the analyses, opinions and conclusions were developed, and this report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"), except that the Departure Provision of the USPAP does not apply.

In the previous sections of this report, the appraiser has analyzed the relevant facts and applied the appropriate appraisal processes to the subject property. It is the considered opinion of this appraiser that the *Market Value* of the subject property as of the effective date of *March 1, 2023,* is:

ONE MILLION SEVENTY-FIVE THOUSAND DOLLARS
($1,075,000)

Respectfully Submitted,



Mark E. Risk, GAA
State Certified General Appraiser #0202

Section V - Addendum

161.27 - Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the Main Street/Center. The Center is more spatially compact and is more likely to have some attached buildings than Downtown General or Neighborhood Conservation. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the Main Street/Center. The Center is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations

Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density*. None.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage*. 75% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories/7 stories*

* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of seven (7) stories.

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5042, 8-07-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, § 1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§ 5, 7—9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17)

Appraiser Qualifications

Mark E. Risk, GAA
Real Property Broker & Appraiser

PRESIDENT

TREC, INC. dba The Real Estate Consultants
2592 N. Gregg Ave. Suite #1 / P. O. Box 747
Fayetteville, Ar. 72703
(479) 442-0762

STATE CERTIFIED GENERAL APPRAISER

State of Arkansas – #CG-0202

LICENSED REAL ESTATE BROKER

State of Arkansas- Principal Broker #00005933

ADJUNCT POSITION

University of Arkansas – Adjunct Instructor – Real Estate (1980-2020)

EDUCATION

University of Arkansas, MBA 1979
University of Arkansas, BSBA 1977
Major: Real Estate and Finance
American Institute of Appraisers
Real Estate Appraisal Principles
Basic Valuation Procedures
Standards of Professional Practice
Capitalization Theory and Techniques (U of A)
Marshall & Swift Building Cost Seminar
Easement Valuation -- International Right of Way Assoc.
GRI Course 306 -- Arkansas Realtors Association
NAIFA Courses -- Standards of Professional Practice
-- Reviewing the URAR Form
-- The New URAR Report -- NAIFA,

PROFESSIONAL MEMBERSHIPS

National Association of Realtors (NAR) -- Appraisal Section
Arkansas Realtor's Association
Metro Area Board of Realtors

PROFESSIONAL DESIGNATIONS

General Accredited Appraiser (GAA) - National Association of Realtors

STATE BOARDS

Appointed to the Appraiser's Licensing and Certification Board by Governor Bill Clinton in January 1992. Reappointed by Governor Jim Guy Tucker in 1994. Term Expired in January of 1997.

BOARD OF DIRECTORS

Served on Board of Directors of the UARK Federal Credit Union

NATIONAL COMMITTEES

National Association of Realtors

Appraisal Section
Subcommittee 1995-1998
Chair - 1998
Appraisal Forum 1995
Appraisal Committee 1997-98; 2000-2006

EXPERIENCE

Real Estate Consultants 1981-present
Actively appraising real estate in Northwest Arkansas since 1979.
Associated with Jim Sullivan (Sullivan Agency), 1979 to 1989.
Associated with Tom Reed (Reed & Associates), 1981 to 1985.
Employed by Keith S. Schultz (Associated Appraisers) 1980-81.

TEACHING

Real Estate Instructor at the University of Arkansas (1981 to date)
Courses taught include: Real Estate Principles, Real Estate Finance & Investments, and Real Estate Appraisal
Continuing Education Seminars: Basic Steps to Residential Appraisal, Environmental Concerns, Property Management

PUBLICATIONS

"Recreational Land Values and Trends in Northwest Arkansas",
Arkansas Business and Economic Review, Vol. 16, No. 1, 1983;
Picked up for reprint by the International Association of Assessors

CLIENTS SERVED

***LENDING INSTITUTIONS**

66 Federal Credit Union
American Airlines Credit Union
Arkansas National Bank
Bank of Fayetteville
Arvest Bank
UARK Federal Credit Union
Bank of Arkansas
Bank of Salem
Bank of Eureka Springs
Bank of Oklahoma
Chambers Bank
First Security Bank of NW Arkansas
Community First Bank
First State Bank
Great Southern Bank
First Federal Bank
First Financial Bank

***LENDING INSTITUTIONS (Cont'd.)**

Metropolitan National Bank
Simmons First Bank
Signature Bank
Liberty Bank of Arkansas
Legacy National Bank
Bank of Fayetteville
Regions Bank-Dallas
Telco Credit Union
Bank of America
First National Bank of St. Louis
Bank of Jackson Hole

***MORTGAGE COMPANIES**

Ameriquest Mortgage
Arvest Mortgage Company
Broyles Mortgage Company
Federal National Mortgage Association (FANNIE MAE)
James River Mortgage Company
Lomas & Nettleton
Norwest Mortgage
PHH Home Mortgage
Pulaski Mortgage Company
Southern Mortgage
U.S. Mortgage
Lending Tree
Ditech.com

DEVELOPERS

Dream Structures
Copher Quality Homes
Larry Carter Development Corporation
Castle Development
East Avenue Development, LLC
Dr. J. B. Hays
Houses, Inc.
C & K Construction
Riggins Construction

RELOCATION COMPANIES

Corporate Relocation
Sirva Relocation
Cendant Mobility
Coldwell Banker Relocation
Commonwealth Relocation Services
Equitable Relocation Mgmt. Corporation
Executive Relocation
Forward Mobility
Home Equity Corporation
Prudential Relocation Management
Re/Max Relocation
Relocation Funding Corporation
Relocation Resources
Weichert Relocation

MISCELLANEOUS

Anheuser Busch
Ball Corporation
Bell International
Busch Skil Company
Cargill Corporation
Cannon Express
Cummulus Broadcasting
Central United Methodist Church
City Of Eureka Springs
City Of Fayetteville
City Of Springdale
City Of Rogers
City Of Johnson
City Of Bentonville
Arkansas Department of Parks & Recreation
Arkansas State Highway & Transportation Department
Nature Conservancy
SWEPCO
Bentonville Airport Commission
Colgate Palmolive
CTS Corporation
Deere Credit Services
Federal Deposit Insurance Corp. (FDIC)
Fulbright Enterprises
Gates Rubber Company
General Motors
Gerald Carr (Retired Astronaut)
Kraft, Inc.
Love Box Company
MGIC
Michelin Tire Company
Ozarks Electric Cooperative
Phizer, Inc.
Procter & Gamble
Record Data, Inc.
Resolution Trust Corporation
Roadway Express
Salvation Army
Sioux Transportation
Tyson Foods, Inc.
Many Other Attorneys, Doctors, And Individuals

COURT TESTIMONY

Benton County Circuit Court
Carroll County Circuit Court
U.S. Federal Bankruptcy Court
Washington County Circuit Court
Crawford County Circuit Court
Madison County Circuit Court

GEOGRAPHIC AREA SERVED

Northwest Arkansas
Washington, Benton, Carroll & Madison Counties

Appraisal Report

The City of Fayetteville- Engineering Division
125 W. Mountain St.
Fayetteville, AR 72701

As of March 1, 2023

Client:
City of Fayetteville Engineering Division
125 W Mountain St
Fayetteville, AR 72701

Presented By:
The Real Estate Consultants

Produced By:
Mark E. Risk, GAA
State Certified General Appraiser #0202

File #23-0010

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THE REAL ESTATE CONSULTANTS
°REALTORS ° APPRAISERS ° CONSULTANTS

2592 N. Gregg Ave. Suite #1
P.O. Box 747
Fayetteville, AR 72702
(479) 442-0762

March 29, 2023

Waylon Abernathy, Director of Bond Projects and Facilities
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Appraisal Services

City of Fayetteville
Proposed Trail Easement for West Avenue Civic Plaza Center
Fayetteville, AR 72701

Dear Mr. Abernathy:

In compliance with your request and to determine the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The subject property was inspected by the appraiser on *March 1st, 2023*. The intended use is for potential purchase evaluation of the aforementioned property by the City of Fayetteville. I further certify that I have no interest present or contemplated in the property under appraisement, and that my fee was not contingent upon the value estimate reported.

The opinions set forth in this letter are stated as of March 29, 2023.

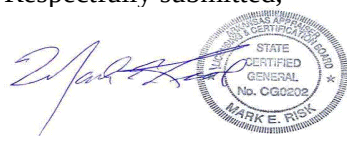
The following narrative appraisal report contains the data gathered in my investigation and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This report is considered an "Appraisal Report".

This appraisal is based upon information gathered by the appraiser from the subject owner, public records, and other reliable sources, and upon an inspection of the subject property and neighborhood. In developing the appraisal approaches used, data was collected from the Real Estate Consultants' office files and courthouse records. The appraiser has applied the Market Data Approach in this appraisal.

Based upon my inspection of the subject property and the investigation and analysis carried out in this report, it is my considered opinion that the Market Value of the subject property as of *March 1, 2023*, and subject to the assumptions and limiting conditions set forth in the body of this report, is as follows:

TWO HUNDERED TWENTY THOUSAND DOLLARS
($220,000)

Respectfully submitted,



Mark A. Risk GAA
State Certified General Appraiser # CG0202

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Section I – Executive Summary

Salient Facts & Conclusions

Property:	A part of the SW1/4 of the NE ¼ of Section 16, Township 16 North, Range 30 West, City of Fayetteville, AR. West Ave. South of Dickson St.
County:	Washington
Parcel #(s):	Pt. of Parcel #765-01743-004
Fee Owner:	City of Fayetteville
Subject Location:	East of the Frisco Railway, south of Dickson St. - Fayetteville, AR 72701
Estate Appraised:	Fee Simple
Size:	Site – 5,220 Sq Ft.
Effective Date:	March 1st, 2023 - The Date of Inspection
Utilities:	All Municipal Utilities Are Available
Zoning:	Main Street Center
Highest and Best Use:	Assemblage with adjoining property

Value Indications:	Market Data Approach	$220,000
	Cost Approach	NA
	Income Approach	NA

Final Estimate of Market Value: **$220,000**

Note:

This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report without the preparer's written permission does so at their own risk.

Subject Aerial Photo



Subject Pictures



Proposed Trail Area



Proposed Trail Area

Property Identification

The property under appraisement is a small 5,220 square foot area of parcel # 765-01743-004 south of Dickson St. east of the Frisco Railway, in Downtown Fayetteville, Washington County, Arkansas. The property is owned by Reindl Properties, Inc.

Legal Description

No legal description has been given at this time. Information provided by the City of Fayetteville states a proposed trial easement of approximately 5,220 square feet. There will not be a survey until the Developers plans are finalized.

Appraisal Inspection Comments

Date:	March 1, 2023
Inspection Notes:	Mark Risk visually inspected the subject property on the above date. The inspection consisted of a walking tour of the property. The appraiser was accompanied by architect Rob Sharp who was representing property owner (Brian Reindel) who is the current owner of the subject land.
Client Contact:	*Waylon Abernathy representing the City of Fayetteville*

Section II - Appraisal Premises

Market Value Defined

The Appraisal Foundation defines market value as follows:

> **"The most probable price that a property should bring in a competitive and open market under all condition's requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:**

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and each acting in what he considers his own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Hypothetical Condition Defined

Hypothetical Condition – *A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of analysis.* Uniform Standards of Professional Appraisal Practice

Extraordinary Assumption Defined

Extraordinary Assumption – *An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinion or conclusions.* Uniform Standards of Professional Appraisal Practice

Purpose Of the Appraisal

The purpose of this report is to estimate the Market Value of the subject property.

Intended Use and User of The Appraisal

The intended use of the appraisal is for a potential purchase evaluation purpose of the client. The intended user is the client, The City of Fayetteville - Engineering Division.

Property Rights Appraised

The property is appraised as though owned in fee simple and unencumbered. A fee simple title is the fullest type of private ownership possible, subject to all public limitations including zoning, taxation, and eminent domain; and subject to private limitations, which may exist, such as easements and restrictions of record.

Subject History

According to Washington County records, Reindel Properties Inc. has owned the subject property since 2019. The most recent ownership change occurred on March 8th, 2019, per Quit Claim Deed Book 2019 page 6302 of the Washington County Courthouse Records. In this transaction the property was deeded to Reindel Properties, Inc. from Metro District Condominiums Property Owner's Association. No revenue stamps were placed on the deed. It appears that this transaction was between related parties. No other arm's length transactions were discovered involving the subject property within the past five years.

Subject Status

The subject property is currently being considered for purchase by the City of Fayetteville for a proposed trail easement. There is no list price or asking price for the property at the time of the appraisal.

Assumptions and Limiting Conditions

ACCEPTANCE OF AND/OR USE OF THIS APPRAISAL REPORT BY THE CLIENT OR ANY THIRD PARTY CONSTITUTES ACCEPTANCE OF THE FOLLOWING ASSUMPTIONS AND LIMITING CONDITIONS:

Limit of Liability

The liability of TREC, Inc., The Real Estate Consultants, Mark E. Risk GAA, and associates and employees is limited to the client only and to the fee actually received. Further, there is no accountability, obligation, or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignments. The appraiser is in no way to be responsible for any costs incurred to discover or correct any deficiencies of any type present in the property - physically, financially, and/or legally. In the case of limited partnerships, client agrees that if any lawsuit brought by a lender, partner, part owner, tenant, or other party, results in any award or settlements of any type in such suit regardless of outcome, that the client, who is the intended sole recipient of this report, will hold the appraiser completely harmless in any such action.

Copies, Publication, Distribution, and Use of the Report

Possession of this report or any copy thereof does not carry with it the right to publication, nor may it be used for any purpose other than its intended use. The signer of this report is a candidate for membership in the National Association of Independent Fee Appraisers, and a member of the National Association of Realtors and its Appraisal Section. The Bylaws and Regulations of these organizations require their members to control the use and distribution of each report signed by such member.

Therefore, except as hereinafter provided, only the party for whom this report was prepared may distribute copies of this report, and only in its entirety, to such third parties as may be selected, but not without prior written consent and approval of the signatory of this report. The physical report remains the property of the appraiser for the use of the client.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the National Association of Independent Fee Appraisers, the National Association of Realtors or any designations shall be disseminated to the public through the advertising media, public relations media, news media or any public means of communication without prior written consent and approval of the signer of this report. The authentic copies of this report are sealed with my Seal. Any copy that is not so sealed is unauthorized and may have been altered.

Confidentiality and Trade Secrets:

This appraisal consists of trade secrets and commercial or financial information which is privileged and confidential and exempted from disclosure under 5 U.S.C. 552 (b) (4). The appraiser may not divulge the material contents of this report, the analytical findings and conclusions, or give a copy of this report to anyone other than the client or his designee as specified in writing - except as may be required by the National Association of Independent Fee Appraisers, the National Association of Realtors, or other organizations as they may request in confidence for ethics enforcement, or by a

court of law of body with the power of subpoena. This appraisal is to be used only in its entirety and no part is to be used without the whole report.

No change of any item in the report shall be made by anyone other than the appraiser, and the appraiser shall have no responsibility if any such unauthorized change is made. The client shall notify the appraiser signing the report of any request to reproduce this appraisal in whole or part.

Testimony, Consultation, and Completion of Appraisal Services

The contract for appraisal, consultation, or analytical services is fulfilled and the total fee payable upon completion of this report. The appraiser or those assisting in preparation of this report will not be asked or required to give testimony or be subpoenaed in court of any public or private hearing because of having made this appraisal, in full or in part, nor engage in post appraisal consultation with the client or third parties except under separate and special arrangement and at additional fee. A MINIMUM TWENTY DAY NOTICE MUST BE GIVEN BEFORE COURT APPEARANCE FOR PURPOSES OF REVIEW AND STUDY. If testimony or deposition is required because of any subpoena, the client shall be responsible for any additional time, fees, and charges regardless of the issuing party.

Information Used

No responsibility is assumed for the accuracy of information as to description (legal, physical, etc.) of the premises, restrictions, improvements, and income features of the property furnished by others, the client, his designee, or public records. All information furnished by others is assumed to be true, correct, and reliable and a reasonable effort has been made to verify such information. An impractical amount of time and money would be necessary to furnish unimpeachable verification in all instances. It is suggested that the client consider independent verification if so desired before making a significant commitment regarding the subject property. No responsibility for the accuracy of data and information obtained or the work of possible subcontractors is assumed by the appraiser.

Purchasing Power, Value Change, and Market Influences

The estimated market value and the costs used relate only to the effective date of the appraisal. All dollar amounts are based on the purchasing power and price of the dollar as of the date of the value estimate.

Market value is highly related to exposure, time, promotional effort, terms, motivation, and conditions surrounding the offering and subject to economic changes in the marketplace over time. In appraisals involving the capitalization of future income benefits, the estimate of market value reflects the appraiser's interpretation of income, yields, and other factors derived from general and specific market information. Such estimates are as of the date of appraisal and subject to dynamic changes in the financial markets that may occur.

Legality of Use and Related Studies

This report is based on the premise that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is stated, defined, and considered in the report. It is assumed that all applicable zoning, building codes, and use regulations and restrictions of all types have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report. It is assumed that all required licenses, consents, permits, or other legislative or administrative authority from any local, state, or federal government and/or private

entity or organization have been or can be obtained or renewed for any use on which the value estimate in this report is based.

No environmental or impact studies, special market study of analysis, highest and best use analysis study, or feasibility study has been requested or made unless otherwise specified in an agreement for services or in the report. The appraiser reserves the unlimited right to alter, amend, revise, or rescind any of the statements, findings, opinions, values, estimates, or conclusions based upon any subsequent study or analysis, or any previous study or analysis pertinent to the assignment that becomes known to him after the report is finished.

Legal and Financial Assumptions

No responsibility is assumed for matters of a legal nature affecting title to the property nor is an opinion of title rendered. The title is assumed to be good and merchantable. The property is appraised in gross as free and clear of all mortgages, liens, encumbrances, leases, and servitudes unless so specified within the report.

If this appraisal is used for mortgage loan purposes, it should be noted that specific loan ratios, term amortization, and equity requirements have not been suggested. This appraisal report and value estimate is subject to change if the physical or legal entity or financing is different than that envisioned in this report.

Architectural, Structural, Mechanical, and Engineering Assumptions

No responsibility is assumed for matters of survey, architectural, structural, mechanical, or engineering nature. The legal description used in this report is assumed to be correct as furnished by the client, his designee, or as derived by the appraiser. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described, and that there is no encroachment to trespass unless noted within this report.

The appraiser has inspected, as far as possible, by observation the land and the improvements thereon. However, it was not possible to personally observe conditions beneath the soil, hidden structural components, or any mechanical components within the improvements and no representations are made as to these matters unless specifically stated and considered in this report. This appraisal is based on there being no hidden, unapparent or apparent conditions of the property site, subsoil, or structures which would render it more or less valuable. No responsibility is assumed for any such conditions or for any expertise or engineering needed to discover such factors. The appraiser does not warrant against the occurrence of problems arising from the soil conditions.

All mechanical components are assumed to be in operable condition and states standard for properties of the subject's type. Conditions of heating, cooling, ventilating, electrical, and plumbing equipment is considered to be commensurate with the conditions of the balance of the improvements unless otherwise stated. No judgment is made as to the adequacy of insulation or energy efficiency of the improvements or equipment. The lender, owner, or buyer should inspect the property before purchase or any disbursement of funds. Any of those parties may wish to require mechanical or structural inspection by a qualified and licensed contractor, civil or structural engineer, architect, or another expert.

The appraiser has not been requested to make an investigation of the possible existence of any potentially hazardous insulation or material used in the construction or maintenance of the building,

or the possible existence of toxic waste which may or may not have been stored on the property or the possible existence of radon gas on the property.

The appraiser represents that he is not qualified to test for the presence or absence of such items and has not considered, and assumes no responsibility for, such products which might render the property more or less valuable. The client is advised to retain an expert in this field if this information is presumed appropriate and necessary.

This appraisal has not considered conditions relating to surface or subsurface waters; including, but not limited to water table, flood plain, flood hazard, or rights, if any, claimed nor or in the future in riparian lands and drainage - unless otherwise noted in this report. The appraiser assumes no responsibility for any costs or consequences arising from the need for flood hazard insurance. An agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.

Management of Property

It is assumed that the property being appraised will be operated under prudent, responsible, and competent ownership and management - being neither inefficient nor super-efficient.

Exhibits

The sketches and maps in this report are included only to assist the reader in visualizing the property and are not necessarily to scale. Various photos, if any, are included for the same purpose and are not intended to represent the property in anything other than actual status as of the date of the photos. Site plans are not surveys unless shown from a separate surveyor.

Component Values

The distribution of the total valuation in this report between land and improvements applies only under the reported highest and best use of the property. Neither the analysis and conclusions herein nor the allocations of value for land and improvements may be used in conjunction with any other appraisal and are invalid if so used.

Personal Property

Furnishings, fixtures, or equipment of the business operation except as specifically indicated and typically considered as a part of the real estate have been disregarded unless otherwise stated. For some property types, business and real estate interests and values are combined.

Federal After-Tax Analysis

Any after-tax income and investment analysis or measures of return on investment are intended only to reflect possible and general market considerations at an assumed value of the price paid. The appraiser does not claim expertise in tax matters and advises the client and any other person using this appraisal to seek competent tax advice. The appraiser is in no way to be considered a tax or investment advisor.

Hypothetical Condition

There are no hypothetical conditions considered in this appraisal.

Extraordinary Assumptions

The appraiser assumes that the subject size is 5,220 sq.ft. as provided by the client. If the actual size determined by a survey is different, then it will likely alter the results of this appraisal.

It is assumed by the appraiser that there are no utility easements or other easements affecting the subject site other than those stated in this report.

If this assumption is found to be false, it could alter the appraiser's opinion or conclusions.

Scope of the Appraisal

Introduction

"The term *scope of the appraisal* refers to the extent of the process of collecting, confirming, and reporting data."[1]

The appraiser determines a report's scope (extent of data collection & depth of reporting) according to the following primary factors:

1) Satisfaction of standards as set forth by USPAP.
2) Satisfaction of any additional standards/specific requirements as defined by client request &/or organization(s) for which an appraiser has professional membership.
3) Perceived needs of the intended user(s) as related to a report's intended use.

The scope of this appraisal encompasses the necessary research and analysis to prepare a report in accordance with its' intended use, the Code of Professional Ethics & Standards of Professional practice of the National Association of Realtors, and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

The appraiser has determined an "appraisal report" conforming to USPAP Standard 2-2(b) would satisfy the needs of the intended user(s). A Summary report offers basic statements of fact &/or brief summary comments when describing data, reasoning, and analysis used in the appraisal process to develop an opinion of value. As such, some documentation supporting the data, reasoning, and analysis was kept in the appraiser's files.

General Comments

Basic information pertaining to this assignment is based upon information gathered by the appraiser from inspection of the subject property and neighborhood, public records, and other identified sources. Data believed to be unreliable was not included in this report nor used as a basis for the value conclusion.

Region, county, city, and neighborhood data were based on information in the Real Estate Consultants library and files, physical inspection of the immediate neighborhood, and data from the City of Fayetteville and Washington County.

The appraiser physically inspected the subject on *March 1, 2023*, with subject photographs taken at that time. Subject property data was based upon information gathered from physical inspection of the subject property and immediate neighborhood, documentation provided by the City of Fayetteville, public records, and other identified sources.

In evaluating the highest and best use for the subject property, an analysis was made of data compiled in the steps noted above. The appraiser's opinion of subject's highest and best use is based on important factors such as physical location, physical characteristics, zoning requirements, and use history/potential. In addition, a study of the *downtown land development market* in the subject area has been made to help determine the economic feasibility of the subject property.

[1] Appraisal Institute, *The Appraisal of Real Estate-10th Edition,* (Chicago: The Appraisal Institute, 1992), p. 575

Scope of the Appraisal – Appraisal Methods Used

Market Data (Sales Comparison) Approach --

Underlying land value is based upon analysis of available market data for land comparables, either vacant or with improvements extracted, in the central downtown area. Comparables were gathered from the appraiser's files, Realtors ® multi-list service, courthouse records, and interviews with knowledgeable market participants. The most important individual examples are discussed in digest format, and then reconciled on a price per square foot basis to the subject after discussion. Applied appreciation over time, if any, is based on accumulated data in the appraiser's files and the appraiser's knowledge of the local market.

Income Approach --

The income approach was not developed under the scope of this appraisal assignment. At the time of the appraisal the subject property was not rented or leased.

Cost Approach --

The cost approach was not developed under the scope of this appraisal assignment due to the lack of marketable improvements on the site. The existing parking lot, etc. are planned to be removed and are not included in this appraisal report.

Section III – Data Presentation

Neighborhood Description

For appraisal purposes, a neighborhood is considered to be a portion of a larger community in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Neighborhood inhabitants usually have a more casual community of interest and similarity of economic level and cultural background.

Neighborhood boundaries may consist of well-defined natural or man-made barriers, or they may be more or less well defined by a distinct change in land use, or in the character of the inhabitants.
The immediate area is commonly known as Fayetteville's Dickson Street Entertainment District, with neighborhood boundaries defined as such: N- Maple, S- Center St., E- College Ave., and W- U of A Campus.

The central downtown encompasses the City's financial and entertainment centers and continues to undergo revitalization as it adapts to current market demands and trends. The neighborhood is viewed by the market as one of the most desirable for commercial use, especially within the entertainment niche, both within the city and throughout the NW Arkansas region. College Avenue (Highway 71B) is the most important N-S open-access business route in the region. Close proximity to the University of Arkansas.

Property Description

Site

Based upon the information provided by the client, the subject consists of a proposed trail easement totaling 5,220 square feet southwest of the proposed West Avenue Civic Space.

No other adverse easements, encroachments, or other conditions were noted upon inspection. All municipal utilities are available.

Per the City's Downtown Master Plan zoning code, zoning is Main Street Center. This is a broad classification, primarily designed to allow high-density development. See zoning information in the addendum to this report.

Improvements

There are no permanent improvements included in this appraisal. Existing improvements are planned to be removed.

Environmental Analysis

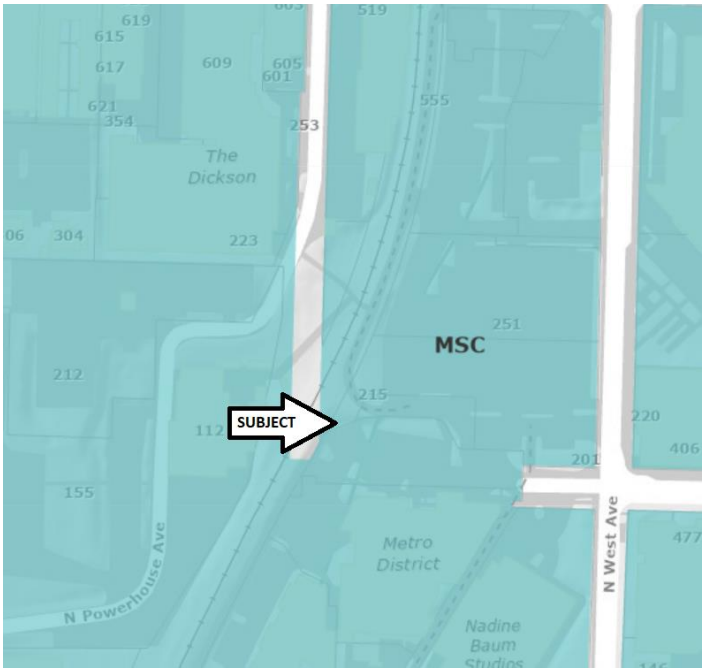
My routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions that would affect the subject property negatively. *The value estimated in this report is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions.* However, the appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. It is unlikely but possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.

Subject Property Aerial Map



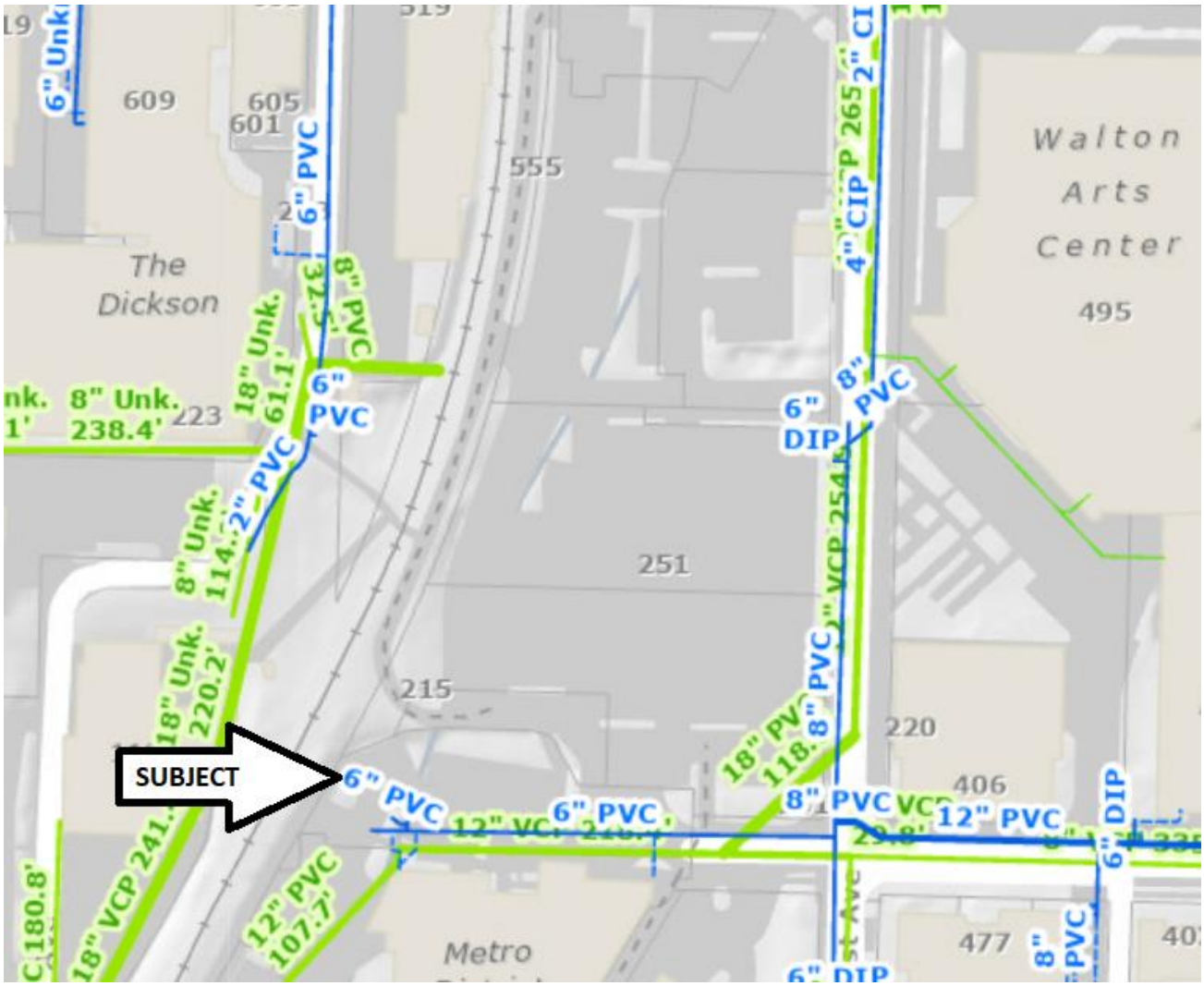
Source: City of Fayetteville GIS Mapping System

City Downtown Zoning Map



Source: City of Fayetteville GIS Mapping System

Subject Site Water and Utility Map



Source: City of Fayetteville GIS Mapping System

Section IV – Subject Analysis & Valuation Approaches

Highest And Best Use Analysis

The Appraisal Institute defines highest and best use as follows:

> *"The reasonably probable and legal use of vacant land or improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability."*

The following tests must be met in estimating the highest and best use of the subject:

1. *It must be physically possible based on subject site characteristics.*
2. *It must be a legal use under current or likely zoning regulations.*
3. *It must be probable and not based upon conjecture or speculation.*
4. *There must be a profitable demand for such use, and it must return to the land the highest net return for the longest period of time.*

I applied these tests to the subject. The Highest and Best use of a property is based on current trends and necessities in its neighborhood with respect to overall supply and demand factors and required rates of return for specific investment types. An appraiser's interpretation of highest and best use is essentially an economic study of market forces as they affect a specific property.

Appraisal theory and USPAP generally require development of two Highest and Best use opinions- 'as though vacant' and 'as improved'. 'As though vacant' is essential to determining underlying land value and intimately connected to the Cost Approach. The 'as improved' conclusion considers potential economic contribution (if any) of existing improvements and assists in determining how a prudent investor would utilize such improvements (renovation, expansion, demolition, et cetera). 'The Appraisal of Real Estate- 10th Addition' (Appraisal Institute, Chicago, 1992) offers this statement: "The use that maximizes an investment property's value, consistent with the long-term rate of return and associated risk, is its highest and best use as improved."

Any determination of highest and best use includes identifying the motivations of probable purchasers. The benefits of an investment property like the subject relates to net income potential and eventual resale or refinancing. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. This use must meet the four criteria previously mentioned. The subject property is currently unimproved without any significant structure. Hence, the Highest and Best Use as though vacant is applicable only to the subject site.

'As though vacant'- It is my opinion the land's highest and best use as though vacant is for plottage with adjoining property.

A summary discussion on the four tests of highest and best use is offered on the following pages.

The Four Tests of Highest & Best Use

General comments

The subject land is well located in central Fayetteville entertainment district, with the immediate neighborhood established for commercial and residential uses. Its' current zoning allows for very dense development. The subject's shape and size are likely too small to construct a significant structure.

Physically Possible:

Basic factors affecting the potential for physically constructing improvements on a specific site include tract size, shape, topography, and soils. Further utility depends on utilities availability, roadway frontage, and tract depth in relation to width. Irregularly shaped parcels may cost more to develop and usually have less overall utility than a rectangular parcel. The site's terrain has a slight gentle slope to it which would facilitate construction.

The site offers an inadequate size to comply with current design standards for most commercial buildings. Residential use of the site is considered doubtful due to the proximity to the railroad tracks and bars and restaurants, although, there is demand for housing in the neighborhood. I am unaware of any adverse soil conditions that might hinder full use of the lot. Considering these factors, prospective developers would not likely purchase this site for development. However, there is a possibility a small-scale project could be constructed on the property.

Legally Permissible:

Land use options are further restricted by legal considerations, primarily determined by civil authorities, but also possible via private contract. The most obvious example is zoning. Other important factors include building codes and environmental regulations. Private, non-governmental examples include deed restrictions, subdivision covenants, easements, and long-term land leases. These legal factors limit current use &/or development options in the absence of 'grand fathering', allowed 'non-conforming use', or other usually rare privileges.

The subject lies within Fayetteville city limits and is zoned Main Street/Center. This zoning designation is planned for high-density use. Many options are therefore available according to the legality test, including development into commercial and residential uses.

After discussions with the City's planning office, it was determined that a small building could be constructed on the site under the Main Street/Center zoning classifications. It would be difficult but not impossible to place a building on the site under current zoning requirements for setbacks. The zoning code requires a setback from the street of 0' to 25' and 5' from the rear. There are also existing utility easements along the east and south boundary that will further decrease the building area of the site. There is also ample street frontage under the subject's zoning classification. Hence, allowing a small area to construct a building. Furthermore, there are not any off-street parking requirements for commercial use of the site.

Four Tests of Highest & Best Use Continued

Financially Feasible:

After limiting the array of uses by tests of physical possibility and legal permissibility, the appraiser then judges remaining possibilities according to financial considerations. A potential use is deemed financially feasible if that use promises a positive return on investment, all things considered. Positive return is contingent upon potential net operating income matched with appropriate required rates of return for a particular use. Important factors affecting such a return include operating expenses, debt satisfaction, and capital amortization. In my opinion, the subject's best financial return will be realized by a small commercial building or plottage with adjoining property.

Maximally Productive:

'The Appraisal of Real Estate Tenth addition' (Appraisal Institute, Chicago) defines this concept as such: "Of the financially feasible uses, the use that produces the highest residual land value consistent with the rate of return warranted by the market for that use is the highest and best use."

Among all potential uses remaining after consideration of the first three tests, a single specific use that results in the highest estimated residual land value is then determined. Most often, due to the durability of most real estate related improvements, prospective uses are narrowed according to a long-term scenario. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. Per Tenth addition: "The stream of benefits, or income, produced by the buildings reflects a carefully considered, and usually very specific, land use program. I believe the subject's best use is to combine the subject site with adjoining land to the west.

The Market Data Approach

The Market Data Approach or Sales Comparison Approach is an attempt to measure the reactions of typical buyers and sellers in the market. In this approach a direct comparison is made between the property being appraised and comparable properties that have either been sold recently, have received bonafide offers from prospective buyers, or are currently offered for sale.

The value of the property being appraised is inferred from the selling prices, offers, and asking prices of the comparable properties. To be "comparable" a property need not be identical to the subject. The word "comparable" is used in its ordinary sense meaning something that is capable of being compared with or worthy of comparison.

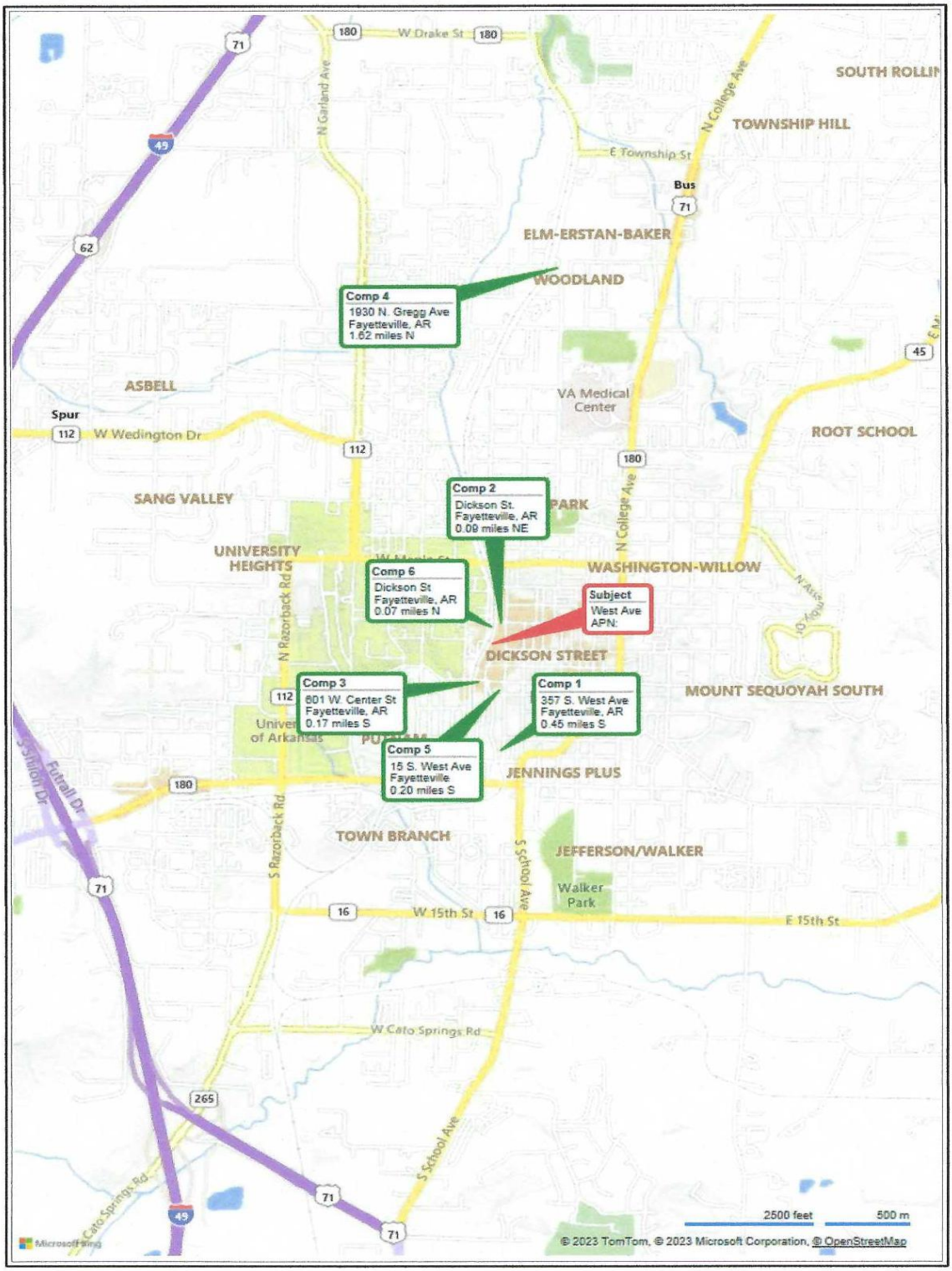
The appraiser assumes that a typical buyer in the market will not pay more for the subject property than it would cost to buy a comparable substitute property. The price a typical buyer is willing to pay is generally the result of an extensive search process in which he is constantly comparing alternative properties. In the meantime, the typical seller is usually trying to obtain the highest possible price for his property based upon his knowledge of the marketplace.

In applying the Market Data Approach, the appraiser takes the following steps:

1. Researches the market for available comparable properties in which actual sales, listings, or offerings have occurred.
2. Confirms the prices and bonafide nature of the data and qualifies the terms and motivating forces.
3. Compares the property being appraised with each of the comparable properties, under the general division of location, time, physical characteristics, and other economic factors.
4. Formulates an opinion of the market value of the property being appraised based upon the price of each comparable property.

Pursuant to the appraisal of the subject property, I researched courthouse records, reviewed company files, accessed the Realtor's ® multi-list database, and interviewed knowledgeable market participants to locate recent market activity involving properties comparable or similar to the subject. Land sales selected for comparison with the subject property are included on the following pages.

Market Data Approach -- Comparable Land Sales Map



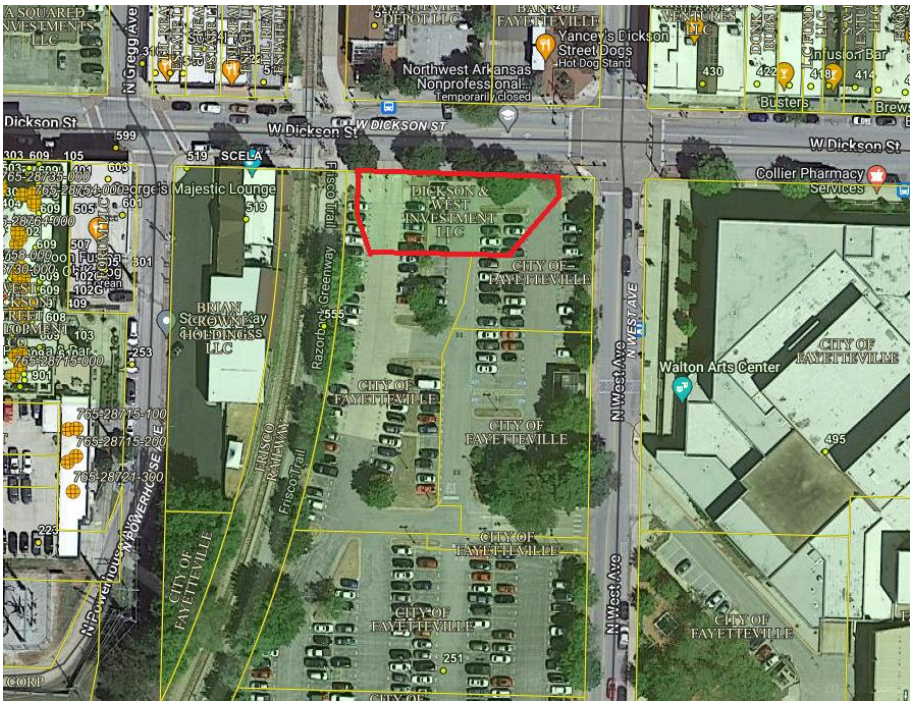
The Market Data Approach – Comparable Sales Data

Land Sale #1



Grantor:	Chris and April Copeland
Grantee:	Katz Family Trust
Date of Sale:	2/28/23
Property Location:	357 S. West Ave. Fayetteville, AR
Legal Description:	PART OF LOT 3 BLOCK 22 & PT VACATED WEST AVE & PT VACATED 30' ALLEY FURTHER DESCRIBED FROM 2023-5262
Zoning Category:	DG (Downtown General)
Land Size:	.12 or 5,227.2 sq. ft.
Improvements:	None
Reported Price:	$235,000
Data Source:	Washington County Assessor Records Parcel #765-05530-000 Washington County Circuit Clerk's Deed Book 2023 at Page 05262
Remarks:	This lot is located southeast near the subject on West Ave. and is flat and irregular in shape
Indicated Price:	$44.95/Square Foot

Land Sale #2



Grantor:	City of Fayetteville
Grantee:	Dickson & West Investments, LLC
Date of Sale:	12/20/2021
Property Location:	W. Dickson St., Fayetteville, AR
Legal Description:	A part of the NW ¼ of the NE ¼ of Section 16, Township 16 North Range 30 West, City of Fayetteville, Arkansas
Zoning Category:	MSC (Main Street Center)
Land Size:	.20 acres or 8,712 sq. ft.
Improvements:	None of contributory value
Reported Price:	$263,000
Data Source:	Washington County Assessor Records - Parcel # 765-01745-003, Washington County Circuit Clerk's Deed Book 2022 at Page 450
Remarks:	Irregularly shaped tract with frontage on Dickson St. Just north of the subject.
Indicated Price:	$30.19/Square Foot

Land Sale #3



Grantor:	Myers Family Properties LLC
Grantee:	Satsang LLC
Date of Sale:	04/28/21
Property Location:	601 W. Center St. Fayetteville, AR
Legal Description:	N PT LOT 1 NE SW FURTHER DESCRIBED FROM 2021-16291 AS: Part of Lot One (I) in the County Court Plat of the Northeast Quarter of the Southwest Quarter of Section Sixteen (16) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M.,
Zoning Category:	MSC (Main Street Center)
Land Size:	.48 Acres or 20,908.8 sq. ft.
Improvements:	None of contributory value
Reported Price:	$450,000
Data Source:	Washington County Assessor Records Parcel #765-12944-000 Washington County Circuit Clerk's Deed Book 2021 at Page 16291
Remarks:	This lot is located one block south of the subject on Center St., it is rectangular in shape. The improvement had burnt down before time of sale and has been razed.
Indicated Price:	$21.52/Square Foot

Land Sale #4



Grantor:	RLP Developments, LLC
Grantee:	Russ Plumley
Location:	1930 N. Gregg Ave., Fayetteville, AR
Date of Sale:	05/10/2018
Legal Description:	The North 50 feet of Lot 6 in Block 2 in the Revised Plat of Lots 3 to 9 Inclusive in Block 6 Parker's Plat of Valley View Acres, Washington County
Zoning Category:	RSF-4 (Residential Single Family – 4 units)
Land Size:	.23 Acres or 10,019 sq. ft.
Improvements:	None
Reported Price:	$75,000
Data Source:	Washington County Assessors Records Parcel #765-09566-000, Washington County Circuit Clerk's Deed Book 208 at Page 13642
Remarks:	This tract is located near the intersection of Gregg Ave and W. Poplar near the subject site. Difficult ingress and egress off of N. Gregg Ave. public utilities available. Not in a floodway zoned area. Borders a bike trail.
Indicated Price:	$7.49/ sq. ft.

Land Sale #5



Grantor:	Billy Wayne Batson
Grantee:	Trailside Townhomes, LLC
Property Location:	15 S. West Ave, Fayetteville, AR
Date of Sale:	08/29/17
Legal Description:	A part of Lot 2 of Block 22 in the Original Plat of the Town of Fayetteville, Washington County, AR
Zoning Category:	MSC (Main Street/Central)
Land Size:	.37 acres or 16,224 sq. ft.
Improvements:	None of Contributory Value
Reported Price:	$250,000
Data Source:	Washington County Records- Parcel #765-01891-000, Deed 2017-26781, and MLS# 1019080
Remarks:	Sale of similarly zoned property. Site borders a city trail. Structure on property was razed by buyer. New town homes have been constructed on the site.
Indicated Price:	$15.41/Square Foot

Land Sale #6



Grantor:	Arkansas Missouri Railroad Company
Grantee:	William & Betty Harrison
Location:	Dickson St., Fayetteville, AR
Date of Sale:	10/10/02
Legal Description:	A part of Lot 7 as designated upon the Original Plat of the Town of Fayetteville, Washington County, AR
Zoning Category:	MSC (Main Street Central)
Land Size:	.0775 Acres or 3,378 sq. ft.
Improvements:	None of Contributory Value
Reported Price:	$24,000
Data Source:	Washington County Records Deed 2002-154073
Remarks:	Old sale of similarly zoned property. This was railroad right of way adjacent to George's Majestic Lounge acquired by then owners. It has since been improved with an outdoor patio area.
Indicated Price:	$7.10/ sq. ft.

Analysis of Comparables and Conclusion of Land Value

In my opinion, there are an adequate number of comparables available to render a reliable opinion of the subject's underlying land value according to its' highest and best use. I offer a variety of verified transactions considered representative of recent market activity, while retaining additional examples in my files. Overall, there has been a limited amount of good comparable sales in the Dickson St./Downtown Fayetteville area. However, there has been an adequate amount of data to render an opinion of the market value of the subject. The comparables used are summarized as follows:

Sale	*Date*	*Tract Size*	*Land Price*	*$/SF*	*Comparability*
1	02/28/23	5,227 SF	$235,000	$44.95	Inferior
2	12/20/21	8,712 SF	$263,000	$30.19	Similar
3	04/28/21	20,908 SF	$450,000	$21.52	Inferior
4	05/10/18	10,019 SF	$75,000	$7.49	Inferior
5	08/29/17	16,224 SF	$250,000	$15.41	Inferior
6	10/10/02	.0775 SF	$24,000	$7.10	Similar

All comparables are located within close proximity of the subject, with most considered having similar immediate Downtown neighborhood influence.

Appreciation over time within the subject's land market niche is still prevalent. But there are fewer top-end prices paid compared to the more speculative time of 2004-2012. However, recent sales are approaching the prices paid in that era.

The researched sales indicate an *unadjusted* price range of $7.10/sq. ft. to $44.95/sq.ft.. This is a wide range in which to comfortably place the subject. Primary differences are attributable to location relative to the Downtown grid, total size, buildability of the tract, date of sale, and overall potential. The upper end of the value range are of good buildable sites, many of which have been developed or are planned for multi-story residential townhomes and commercial uses. The lower end of the range are of tracts off Dickson St. and the downtown square which do not have the appeal of the Dickson St. fronting properties. These tracts are rectangular shaped and sized for smaller residential units.

Generally speaking, per square foot values decline as the size of the tract increases. This rule of thumb does not always hold true; though, especially when considering the unique requirements of urbanized areas. Some tracts suffer discounts if they are too small to satisfy zoning ordinances (e.g., parking). In addition, owing to the current trend of condominium/mixed-use projects prevalent downtown, tracts too small for development into multi-story structures do not have nearly the same desirability as the city grows upward.

The appraiser has prepared a sales adjustment grid on the following pages. This grid shows the adjustment process in detail and is used to render a value estimate of the subject property.

It is my opinion the subject's land would fall near the mid to lower area of the stated range. Therefore, based upon the above recited sales and analysis thereof, and after adjustments are made for differences in time, size, location, visibility, land qualities, and other economic factors, it is my considered opinion the subject's land value, *as of March 1, 2023*, is as follows:

5,220± SF @ $42.00/SF = $219,240

Say $220,000

Comparable Sales Adjustment Grid'

City of Fayetteville Trail Easement Area Comparable Land Sale Grid

Fayetteville, AR

Appx. 5,220 sq.ft.

	SUBJECT	SALE #1	SALE#2	SALE #3
	West Ave.	357 S. West	W. Dickson St.	601 W. Center St.
	Fayetteville	Fayetteville	Fayetteville	Fayetteville
PRICE DATA				
PURCHASE PRICE	NA	$ 235,000	$ 263,000	$ 450,000
CONCESSIONS/TERMS	Cash to Seller	Cash/None	Cash/None	Cash/None
Adjustment				
PRICE PER Square Foot	NA	$ 44.95	$ 30.19	$ 21.52
DATE OF SALE	NA	Feb-23	Dec-21	Apr-21
Adjustment		$0.00	$3.02	$2.15
ADJUSTED PRICE	NA	$ 44.95	$ 33.21	$ 23.67
LOCATION	Dickson St.	Inferior	Similar	Inferior
Adjustment		$ 4.50	$ -	$ 4.73
SIZE (sq.ft.)	5,220	5,227	8,712	20,909
Adjustment		$ -	$ (3.32)	$ 5.92
TOPO/SHAPE	Clear/Level	Gentle/Irregular	Level/Irregular	Level/Rectangular
Adjustment		$0.00	$0.00	($1.18)
UTILITIES	Average	Similar	Similar	Similar
Adjustment		$ -	$ -	$ -
IMPROVEMENTS	NA	None	None	Razed by Buyer
Adjustment		$ -	$ -	$ -
ZONING	MSC	DG	MSC	MSC
Adjustment		$ -	$ -	$ -
FLOOD HAZARD	None	None	None	None
Adjustment		$ -	$ -	$ -
VISIBILITY/ACCESS	Average	Similar	Superior	Inferior
Adjustment		$ -	($7.55)	$ 4.30
NET ADJUSTMENT		$ 4.50	$ 10.87	$ 13.77
INDICATED PRICE		$ 49.45	$ 44.07	$ 37.45
		Mean	**$ 42.09**	**/sq. ft.**
		Say	$42.00	
		Indicated Value	**$219,240**	
		Say	**$220,000**	

Comparable Sales Adjustment Grid, Continued

	SALE #4	**SALE #5**	**SALE #6**
	1930 N. Gregg Ave	15 S. West Ave	Dickson St
	Fayetteville	Fayetteville	Fayetteville
	$ 75,000	$ 250,000	$24,000
	Cash/None	Cash/None	Cash/None
	$ 7.49	$ 15.41	$7.10
	May-18	Aug-17	Oct-02
	$11.23	$7.70	$17.76
	$ 18.71	$ 23.11	$24.87
	Inferior	Inferior	Similar
	$ 9.36	$ 4.62	
	10,019	16,224	3,378
	$ 4.68	$ 5.78	$ 7.46
	Level/Rectangular	Gentle/Rectangular	Gentle/Irregular
	$0.94	$1.16	
	Similar	Similar	Similar
	$ -	$ -	
	None	None	None
	$ -	$ -	
	RSF-4	MSC	MSC
	$ 14.97		
	None	None	None
	$ -	$ -	
	Superior	Inferior	Similar
	$ (2.25)	$ 4.62	$ 3.55
	$ 27.70	$ 16.18	$11.01
	$ 46.41	$ 39.29	$35.88

Correlation, Analysis, and Conclusion

The Market Data Approach exclusively was used to estimate the value of the subject land. The Cost & Income Approaches were not considered to be applicable under the scope of this appraisal. The Market Data Approach resulted in the following indicated value:

The Market Data Approach	**$ 220,000**

It is the appraiser's opinion that an adequate amount of Market Data was available to obtain a reliable value estimate for the subject land as if vacant. A sufficient amount of sales activity has occurred in the general vicinity of the subject property. The sales analyzed and included in this report are considered reliable and do indicate the prices being paid for commercial/residential land in the Downtown Fayetteville area.

Due to the small size of the subject, it was difficult to find truly comparable sales. The appraiser has analyzed recent sales of similar zoned land in the subject area which are suitable for trail development. These are sales that are considered similar to the subject property. Furthermore, the appraiser has analyzed sales of land along the current downtown trail network and railroad right of way which reflect a lower value than the aforementioned sales. It is the appraiser's opinion that the subject's value should fall somewhere in between the stated value range.

Therefore, based upon the data collected and analyzed within this report and the preceding discussion, it is the considered opinion of this appraiser that the Fair Market Value of the subject property as of *March 1, 2023*, is as follows.

$ 220,000

Certificate of Appraiser

I hereby certify, that to the best of my knowledge and belief, that the statements of fact contained in this report are true and correct; that the reported analysis, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions; that I have no present or prospective interest in the property that is the subject of this report, and I have no interest or bias with respect to the property that is the subject of this report or to the parties involved with this assignment; that my engagement in this assignment was not contingent upon developing or reporting predetermined results; that my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.

I hereby certify, that my analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with requirements of the code of Professional Ethics and the Standards of Professional practice of the National Association of Realtors; that the use of this report is subject to the requirements of the National Association of Realtors relating to review by its duly authorized representatives; that all signatories of this report have physically inspected the subject property and are familiar with the comparables stated within.

The appraiser further certifies that the analyses, opinions and conclusions were developed, and this report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"), except that the Departure Provision of the USPAP does not apply.

In the previous sections of this report, the appraiser has analyzed the relevant facts and applied the appropriate appraisal processes to the subject property. It is the considered opinion of this appraiser that the *Market Value* of the subject property as of the effective date of *March 1, 2023,* is:

TWO HUNDRED TWENTY THOUSAND DOLLARS
($220,000)

Respectfully Submitted,



Mark E. Risk, GAA
State Certified General Appraiser #0202

Section V - Addendum

Zoning Ordinances

161.27 - Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the Main Street/Center. The Center is more spatially compact and is more likely to have some attached buildings than Downtown General or Neighborhood Conservation. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the Main Street/Center. The Center is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations

Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density*. None.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage*. 75% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories/7 stories*

* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of seven (7) stories.

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5042, 8-07-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, § 1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§ 5, 7—9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17)

Appraiser Qualifications

Mark E. Risk, GAA
Real Property Broker & Appraiser

PRESIDENT

TREC, INC. dba The Real Estate Consultants
2592 N. Gregg Ave. Suite #1 / P. O. Box 747
Fayetteville, Ar. 72703
(479) 442-0762

STATE CERTIFIED GENERAL APPRAISER

State of Arkansas – #CG-0202

LICENSED REAL ESTATE BROKER

State of Arkansas- Principal Broker #00005933

ADJUNCT POSITION

University of Arkansas – Adjunct Instructor – Real Estate (1980-2020)

EDUCATION

University of Arkansas, MBA 1979
University of Arkansas, BSBA 1977
Major: Real Estate and Finance
American Institute of Appraisers
Real Estate Appraisal Principles
Basic Valuation Procedures
Standards of Professional Practice
Capitalization Theory and Techniques (U of A)
Marshall & Swift Building Cost Seminar
Easement Valuation -- International Right of Way Assoc.
GRI Course 306 -- Arkansas Realtors Association
NAIFA Courses -- Standards of Professional Practice
-- Reviewing the URAR Form
-- The New URAR Report -- NAIFA,

PROFESSIONAL MEMBERSHIPS

National Association of Realtors (NAR) -- Appraisal Section
Arkansas Realtor's Association
Metro Area Board of Realtors

PROFESSIONAL DESIGNATIONS

General Accredited Appraiser (GAA) - National Association of Realtors

STATE BOARDS

Appointed to the Appraiser's Licensing and Certification Board by Governor Bill Clinton in January 1992. Reappointed by Governor Jim Guy Tucker in 1994. Term Expired in January of 1997.

BOARD OF DIRECTORS

Served on Board of Directors of the UARK Federal Credit Union

NATIONAL COMMITTEES

National Association of Realtors

Appraisal Section
Subcommittee 1995-1998
Chair - 1998
Appraisal Forum 1995
Appraisal Committee 1997-98; 2000-2006

EXPERIENCE

Real Estate Consultants 1981-present
Actively appraising real estate in Northwest Arkansas since 1979.
Associated with Jim Sullivan (Sullivan Agency), 1979 to 1989.
Associated with Tom Reed (Reed & Associates), 1981 to 1985.
Employed by Keith S. Schultz (Associated Appraisers) 1980-81.

TEACHING

Real Estate Instructor at the University of Arkansas (1981 to date)
Courses taught include: Real Estate Principles, Real Estate Finance & Investments, and Real Estate Appraisal
Continuing Education Seminars: Basic Steps to Residential Appraisal, Environmental Concerns, Property Management

PUBLICATIONS

"Recreational Land Values and Trends in Northwest Arkansas",
Arkansas Business and Economic Review, Vol. 16, No. 1, 1983;
Picked up for reprint by the International Association of Assessors

CLIENTS SERVED

***LENDING INSTITUTIONS**

66 Federal Credit Union
American Airlines Credit Union
Arkansas National Bank
Bank of Fayetteville
Arvest Bank
UARK Federal Credit Union
Bank of Arkansas
Bank of Salem
Bank of Eureka Springs
Bank of Oklahoma
Chambers Bank
First Security Bank of NW Arkansas
Community First Bank
First State Bank
Great Southern Bank
First Federal Bank
First Financial Bank

***LENDING INSTITUTIONS (Cont'd.)**

Metropolitan National Bank
Simmons First Bank
Signature Bank
Liberty Bank of Arkansas
Legacy National Bank
Bank of Fayetteville
Regions Bank-Dallas
Telco Credit Union
Bank of America
First National Bank of St. Louis
Bank of Jackson Hole

***MORTGAGE COMPANIES**

Ameriquest Mortgage
Arvest Mortgage Company
Broyles Mortgage Company
Federal National Mortgage Association (FANNIE MAE)
James River Mortgage Company
Lomas & Nettleton
Norwest Mortgage
PHH Home Mortgage
Pulaski Mortgage Company
Southern Mortgage
U.S. Mortgage
Lending Tree
Ditech.com

DEVELOPERS

Dream Structures
Copher Quality Homes
Larry Carter Development Corporation
Castle Development
East Avenue Development, LLC
Dr. J. B. Hays
Houses, Inc.
C & K Construction
Riggins Construction

RELOCATION COMPANIES

Corporate Relocation
Sirva Relocation
Cendant Mobility
Coldwell Banker Relocation
Commonwealth Relocation Services
Equitable Relocation Mgmt. Corporation
Executive Relocation
Forward Mobility
Home Equity Corporation
Prudential Relocation Management
Re/Max Relocation
Relocation Funding Corporation
Relocation Resources
Weichert Relocation

MISCELLANEOUS

Anheuser Busch
Ball Corporation
Bell International
Busch Skil Company
Cargill Corporation
Cannon Express
Cummulus Broadcasting
Central United Methodist Church
City Of Eureka Springs
City Of Fayetteville
City Of Springdale
City Of Rogers
City Of Johnson
City Of Bentonville
Arkansas Department of Parks & Recreation
Arkansas State Highway & Transportation Department
Nature Conservancy
SWEPCO
Bentonville Airport Commission
Colgate Palmolive
CTS Corporation
Deere Credit Services
Federal Deposit Insurance Corp. (FDIC)
Fulbright Enterprises
Gates Rubber Company
General Motors
Gerald Carr (Retired Astronaut)
Kraft, Inc.
Love Box Company
MGIC
Michelin Tire Company
Ozarks Electric Cooperative
Phizer, Inc.
Procter & Gamble
Record Data, Inc.
Resolution Trust Corporation
Roadway Express
Salvation Army
Sioux Transportation
Tyson Foods, Inc.
Many Other Attorneys, Doctors, And Individuals

COURT TESTIMONY

Benton County Circuit Court
Carroll County Circuit Court
U.S. Federal Bankruptcy Court
Washington County Circuit Court
Crawford County Circuit Court
Madison County Circuit Court

GEOGRAPHIC AREA SERVED

Northwest Arkansas
Washington, Benton, Carroll & Madison Counties

Prepared under the supervision of:
Joshua B. Hite, Attorney
3790 N. Bellafont Blvd, Suite 3
Fayetteville, AR 72703

WARRANTY DEED
(Limited Liability Company)

File # 23-3753

KNOW ALL MEN BY THESE PRESENTS:

That **Satsang, LLC, an Arkansas limited liability company,** hereinafter called Grantor, for and in consideration of the sum of One and No/100-----Dollars---($1.00) and other good and valuable consideration in hand paid by **Reindl Investments, LLC, an Arkansas limited liability company,** hereinafter called Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto said Grantee and unto its successors and assigns, forever, the following described land, situated and being in the County of Washington, State of Arkansas, to-wit:

A part of Lot 1 of the County Court Plat of the NE 1/4 of the SW 1/4 of Section 16, Township 16 North, Range 30 West of the 5th P.M. in the City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Beginning at the Northeast corner of said NE 1/4 of the SW 1/4 of said Section 16, thence South to an iron stake driven in the ground in the Southwest corner of the intersection of West Center Street and South Gregg Street for a point of beginning, thence South 160 feet, thence West to the East line of the St. Louis and San Francisco Railway right of way, thence North along the East line of said railway right of way 120 feet, thence East 65 feet, more or less, to within 9 poles of the East line of said 40 acre tract, thence North 40 feet, thence East to the place of beginning.

Subject to easements, right-of-ways, and protective covenants of record, if any.
Subject to all prior mineral reservations and oil and gas leases, if any.

TO HAVE AND TO HOLD the same unto said Grantee and unto its successors and assigns, forever with all appurtenances thereunto belonging. And the Grantor hereby covenants with said Grantee it will forever warrant and defend the title to the said lands against all claims whatsoever.

Signature page to follow

WITNESS our hands and seals as such Grantor this 21 day of July, 2023.

Satsang, LLC

By: _____
Stephani Jungmeyer, Member

By: _____
Shawn Jungmeyer, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) **SS**
COUNTY OF WASHINGTON)

On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named **Stephani Jungmeyer and Shawn Jungmeyer,** to me personally known (or satisfactorily proven), who stated that they are the authorized **Members** of **Satsang, LLC, an Arkansas limited liability company,** and are duly authorized in their capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that they have so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

In Testimony Whereof, I have hereunto set my hand and official seal this 21 day of July, 2023.

_____
Notary Public

My Commission Expires: 2/24/27

JOSHUA BARNETT HITE
COMM. No. 12700217
NOTARY PUBLIC
EXP. DATE 02/24/2027
BENTON COUNTY, ARKANSAS

After recording return to:
City Title & Closing LLC
3790 N. Bellafont Blvd, Suite 3
Fayetteville, AR 72703

STATE OF ARKANSAS
DEPARTMENT OF FINANCE AND ADMINISTRATION
MISCELLANEOUS TAX SECTION
P.O. BOX 896, LITTLE ROCK, AR 72203-0896

Real Estate Transfer Tax Stamp

Proof of Tax Paid

File Number: 23-3753

Grantee:	REINDL INVESTMENTS LLC
Mailing Address:	509 W SPRING ST STE 310 FAYETTEVILLE AR 727015060
Grantor:	SATSANG, LLC
Mailing Address:	601 W CENTER ST FAYETTEVILLE AR 727015004
Property Purchase Price:	$850,000.00
Tax Amount:	$2,805.00
County:	WASHINGTON
Date Issued:	07/25/2023
Stamp ID:	1505048576

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument.

citytitle & closing llc, as agent for Grantee

Grantee or Agent Name (printed): _____

479-935-4177

Grantee or Agent Name (signature): _____ Date: 7/25/23

Address: _____

City/State/Zip: _____

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

Resolution: 256-22

File Number: 2022-0919

REINDL PROPERTIES, INC.:

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A LETTER OF INTENT DEFINING DEVELOPMENT AGREEMENT TERMS WITH REINDL PROPERTIES, INC. FOR A PUBLIC PRIVATE PARTNERSHIP FOR CONSTRUCTION OF THE MIXED-USE BUILDING PLANNED TO PROVIDE GROUND FLOOR ACTIVE USES FOR THE RAMBLE CIVIC PLAZA ON THE SOUTHERN END OF THE SITE

WHEREAS, on August 29, 2021, the City issued a request for proposals to solicit innovative building proposals for the southern anchor building on the Civic Plaza; and

WHEREAS, Reindl Properties, Inc., which submitted the only proposal, was chosen by the City's selection committee for the project; and

WHEREAS, a contractual Letter of Intent providing an initial framework for a final land sale and development agreement has been negotiated by staff and the proposer with terms including purchase of the property based on a fair market appraisal, proposed uses of the building, architectural design features, parking strategies, public art opportunities, and the inclusion of public restrooms and event storage space for the Civic Plaza and Razorback Greenway; and

WHEREAS, the Letter of Intent also specifies that the final development agreement will include a termination and buy back clause requiring Reindl Properties to start construction on the new building within 12 months of substantial completion of the Civic Space.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign the contractual Letter of Intent with Reindl Properties, Inc., a copy of which is attached to this Resolution, to proceed with the negotiation of a final land sale and development agreement for the construction of a mixed-use building as the southern anchor of the Ramble Civic Plaza.

PASSED and APPROVED on 11/1/2022

Approved:

Lioneld Jordan, Mayor

Attest:

Kara Paxton, City Clerk Treasurer

CITY CLERK / TREAS. CITY OF FAYETTEVILLE ARKANSAS WASHINGTON CO.

Text File

File Number: 2022-0919

Agenda Date: 11/1/2022 **Version:** 1 **Status:** Passed

In Control: City Council Meeting **File Type:** Resolution

Agenda Number: B.2

REINDL PROPERTIES, INC.:

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A LETTER OF INTENT DEFINING DEVELOPMENT AGREEMENT TERMS WITH REINDL PROPERTIES, INC. FOR A PUBLIC PRIVATE PARTNERSHIP FOR CONSTRUCTION OF THE MIXED-USE BUILDING PLANNED TO PROVIDE GROUND FLOOR ACTIVE USES FOR THE RAMBLE CIVIC PLAZA ON THE SOUTHERN END OF THE SITE

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City of Fayetteville Staff Review Form

2022-0919

Legistar File ID

10/18/2022

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

Wade Abernathy	9/26/2022	FACILITIES MANAGEMENT (140)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Approve a resolution authorizing Mayor Jordan to sign a letter of intent defining development agreement terms with Reindl Properties for a public private partnership for construction of the mixed-use building planned to provide ground floor active uses for the Ramble Civic Plaza on the southern end of the site.

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	Current Budget	$	-
	Funds Obligated	$	-
	Current Balance	$	-
Does item have a cost?	Item Cost	$	-
Budget Adjustment Attached?	Budget Adjustment	$	-
	Remaining Budget	$	-

V20210527

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF OCTOBER 18, 2022

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff

FROM: Wade Abernathy, Director Bond Construction Projects

DATE: September 25, 2022

SUBJECT: **Resolution authorizing Mayor Jordan to sign a letter of intent with Reindl Properties for the construction of a mixed-use building on the Ramble/Cultural Arts Corridor Civic Plaza**

RECOMMENDATION:
Staff recommends adopting a resolution authorizing Mayor Jordan to sign a letter of intent defining development agreement terms with Reindl Properties for a public private partnership for construction of the mixed-use building planned to provide ground floor active uses for the Ramble Civic Plaza on the southern end of the site.

BACKGROUND:

Schematic design for the Ramble Civic Plaza, a 2019 voter approved downtown revitalization project, focused on the West Avenue civic space. The vision for the civic space was completed in January 2019, following a series of public design charettes. The design chosen by participants who engaged in the process consists of a gathering and event lawn, public plaza, garden spaces, and a civic promenade, with two buildings bordering the site on the north and south ends, as bookends of the plaza. The southern building will be integral to the site, as a backdrop for what will become a stage and performance area for the plaza. Additionally, the building will provide public restrooms accessible from the Razorback Greenway and Civic Plaza storage space within the ground floor.

A Request for Proposals (RFP) process solicited competitive development proposals for a public private partnership to build the southern anchor building on the West Avenue Civic Plaza. The RFP asked for an approximately 14,300 square foot building footprint with a height limit of seven stories and three primary facades. Additionally, the city requested that the building be constructed of high-quality and lasting materials that are complimentary to the overall aesthetic of the site and the emergent Arts and Entertainment District.

The RFP, issued in August 2021, was advertised on several platforms, including on the CoStar website which provides market-leading research on commercial real estate properties in nearly all markets and sub-markets. The RFP was downloaded by over 100 interested parties. A non-

mandatory pre-proposal conference held in September, 2021 was attended by over 30 participants.

Additional Background:
Key to the design and planning of the overall spaces are the public private partnerships that can help activate the space and provide a mixed use, sales tax generating, downtown development project to complement the city's investment in The Ramble. Partners are both private developers and philanthropic support efforts.

Initial design for this transformative project was made possible by a 2017 grant from the Walton Family Foundation's Design Excellence Program. Award-winning landscape architects Nelson Byrd Woltz (NBW) were selected to design the corridor with the primary goals of:

- Increasing public access and strengthening the surrounding neighborhood,
- Leveraging the connected trail network,
- Demonstrating a commitment to sustainability, and
- Embodying an innovative spirit, encouraging visitors and residents to engage with the space in new ways.

There are five primary elements included in plans for the Cultural Arts Corridor bond project: The West Avenue Civic Space, West Avenue streetscapes, The Fay Jones Woods, The Razorback Greenway, and a new parking deck one block north of the corner of West Ave. and Dickson Street. In April 2019, citizens of Fayetteville voted to authorize a $31,685,000 bond for construction of the Cultural Arts Corridor Improvements.

Arts Corridor improvements to the Fay Jones Woods, the southern portion of the Razorback Regional Greenway, and the southern portion West Ave. began in September 2020 with construction completed in September, 2022. Construction of the new parking deck began in January 2022 with completion planned in early 2023. In June 2021, after a 5-month public renaming process, the City announced *The Ramble* as the new name for the Cultural Arts Corridor.

DISCUSSION:
On October 26, 2021, the City of Fayetteville accepted proposals for the southern anchor building on the Civic Plaza. One proposal was received from Reindl Properties that included a project team with a passion for high-quality construction, human-scaled design, craftsmanship, efficiency, and love of community. Their team includes:

- Brian Reindl – Developer and owner of the adjacent Metro Building along with several other properties in and around downtown Fayetteville.
- Rob Sharp – Architect and designer of several Fayetteville projects including: Three Sisters Building, Mill District, The Dickson Building and most recently the Network Building, which was designed to be the first net zero mixed-use building in Fayetteville.
- Windsor Aughtry – Hotel developer with over 25 years of experience developing urban hotel projects in the Southeastern US. They are currently working in the Northwest Arkansas market. In addition to assisting with the development project, they will assist in

selecting a management company that will operate the hotel and ensure its active uses are in coordination with the city's active plaza uses.
- CR Crawford – General Contractor headquartered in Fayetteville, with experience building multiple urban infill projects.

The Selection Committee chose the proposal from Reindl Properties and staff began to negotiate a public private partnership agreement for the construction of the building, resulting in the attached Letter of Intent (LOI) to provide an initial framework for that agreement. Terms in the LOI will guide final development and land sale agreements to be brought back to the City Council at a later date for final approval.

The LOI specifies that the final development agreement will have a termination and buy back clause requiring Reindl properties to start construction on the new building within 12 months of the completion of the Civic Space. Also, within four weeks of approval of the LOI, Reindl Properties will take additional community input on the ways in which the proposed building will interact with the plaza and civic space.

As indicated in the LOI renderings, the proposed mixed-use building will be substantial and striking. The building's proposed uses will increase the liveliness of the adjacent Civic Plaza and attract visitors to the downtown. Hotel guests will eat, shop and recreate in the area, providing benefit to many existing local businesses. Initial analysis shows that the project would provide approximately $350,000 per year in sales and HMR taxes to the City plus another $85,000 per year in property tax to the City of Fayetteville for the general fund, library and fire and police departments. The construction impact of this $50 million construction project will approximately yield another $175,000 in sales tax revenue.

If the Council approves this resolution, it will allow the following steps to occur:
- City staff and design consultants with Nelson Byrd Woltz will work with Reindl Properties to finalize the building footprint in relationship to the trail relocation and relative to the final design of the Civic Plaza.
- Staff will work with Reindl Properties to secure a third party, independent appraisal for the land values.
- Major terms and conditions for a proposed Contract for the final agreement will be provided in a resolution of intent for the City Council.
- Council will review and approve the PZD.
- Staff will request approval of an Ordinance authorizing the real estate contract which will also include the final development agreement.

BUDGET/STAFF IMPACT:
As discussed, the value of the land sale to Reindl Properties shall be based on appraised market value. The value of land will be used to offset the cost of construction of public restrooms and Civic Plaza storage space within the ground floor of the mixed use building, thereby eliminating this capital expenditure from the City of Fayetteville's cost to construct the

adjacent Civic Plaza. Any land sale proceeds not applied to these items will be appropriated to the Civic Plaza project.

Attachments:
Letter of Intent
RFP Response from Reindl Properties
Final Civic Plaza Schematic Design from 2019

LETTER OF INTENT, CIVIC SPACE AT THE CULTURAL ARTS CORRIDOR, MIXED USE BUILDING

Background:

On April 9, 2019, the voters of the City of Fayetteville ("City") approved a bond issue for the Cultural Arts Corridor (recently renamed the Ramble) in downtown Fayetteville. The Ramble design for the Civic Space at the southwest corner of Dickson Street and West Avenue consists of a gathering and event lawn, community plaza, garden spaces, a public promenade and building sites on the plaza. The southern anchor building site was proposed to support and enhance the experience of the Civic Plaza, to provide community benefit, to frame the view of the Civic Space and to generate tax revenues. On October 26, 2021, the City accepted Request for Proposals for the design and construction of innovative development proposals for the southern anchor building. The City Selection Committee selected Reindl Properties Inc. ("Reindl") to implement the vision of a southern anchor building that is both beautiful and of exceptional architectural quality, material, and urban design befitting this extraordinary location.

This document describes an agreement between the City and Reindl regarding that property on the south end of the Civic Space adjacent to West Avenue and Spring Street. The basic terms of the agreement would be as follows:

1. The Building:

A. Reindl will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces. The Building may include other uses as necessary to meet the financial goals of the project. The following Use Units will be allowed, subject to City's approval:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

B. As befits its prominent location, the Building will be a substantial and attractive building. The building design and site development will be subject to City's development review process, ordinances, and rules. The final building design, plans and specifications, including but not limited to exterior finishes is subject to City Council approval. Nothing in this Letter of Intent is intended to or may be construed as a waiver of any of City's ordinances, rules, or regulations.

C. The Building will have three primary facades; one facing the Civic Plaza to the north, one facing the vacated Spring Street right-of-way to the south, and the third facing West Avenue to the east. All primary facades will be attractive, well-proportioned, and constructed of high-quality materials in accordance with the plans and specifications.

D. The Building shall be designed and built in substantial compliance with the drawings on the attached Exhibits A, B and C which depict the minimum standards for materials, design, and architectural features. Any significant deviation from exterior design reflected on Exhibits A, B, and C is subject to additional City Council approval.

2. The Location:

The Building will be located at the south end of the Civic Space as shown in Exhibits D and E. The indoor-outdoor relationship of the Building to the Civic Plaza will demonstrate sensitivity and engagement towards the Civic Plaza to the north, the West Avenue Promenade to the east, and to the Metro Building to the south. Exhibit G identifies the approximate Building location on City property, however the exact legal description of the property to be conveyed from the City to Reindl, as further described in Paragraph 9, will be determined by a land survey, the cost of which will be shared equally between the City and Reindl.

3. Ground Floor Activity:

Ground floor uses at the Building shall be open and inviting to the general public. The operating plan and design for the ground floor activity shall support activation of the Civic Plaza. It is anticipated that bar, restaurant, café, and retail uses will be included. Hotel lobby shall be designed to be open and inviting. Refer to Exhibit F for a diagrammatic floor plan showing the location of these uses.

4. Public Benefit:

In addition to increasing the beauty and liveliness of the Civic Space, the Building will also have a substantial fiscal impact for the City. A project of this scale, over a 10-year period, would provide approximately $3.5 million to the Fayetteville Public School System and approximately $3.3 million to various City operations such as the library, police and fire departments, roads, and general fund.

During construction, Reindl will make a good faith effort to purchase building supplies locally to increase sales tax revenues for the City .

5. Benefit to Local Merchants and Downtown Business Owners:

A project of this scale will attract visitors to the downtown. Hotel guests will eat, shop, and play in the area. In addition, Reindl has a proven track record in recruiting and retaining local entrepreneurs, which provides both an economic benefit to small business enterprises and enhances local character.

6. Parking:

Hotel uses are ideal for a smart parking strategy. Valet parking is the best and most convenient way to address the matter. This allows remote storage of cars off-site. Once parked, a hotel guest in this location has access to the University of Arkansas, Dickson Street Entertainment District, Downtown Square, Razorback Greenway, Walton Arts Center, TheatreSquared, and multiple restaurant and shopping opportunities; all within a short walk. Personal mobility devices, such as electronic scooters, can boost the range of the hotel guests. Superb bicycle infrastructure is already in place.

At many times of the day, existing City parking resources are underutilized. The hotel will create parking demand for those off-peak times and will be a significant revenue source for the City's parking resources. Reindl will provide basement level parking in the Building with capacity of a minimum of 32 parking spaces.

City agrees to lease or provide access to city's excess parking spaces to Reindl per current market rates. Reindl is responsible for setting up valet parking services and encouraging the use of valet parking so that hotel guests do not add pressure to existing parking loads in the Dickson Street Entertainment Zone.

Reindl will continue to pursue the purchase or lease of off-site parking for the Building. Prior to executing and as a condition of entering into the land purchase agreement, Reindl will have parking agreements in place that comply with City code sections 172.05 and 156.03C(5) and as are deemed sufficient by City.

7. Loading and Solid Waste:

Reindl will provide areas for loading, recycling, and solid waste receptacles on the west side of the Building. No loading, waste removal, or recycling will be done from West Avenue or any other public street.

8. Sustainability:

A. Sustainability has been a core goal of the Cultural Arts Corridor as demonstrated by the City's efforts at making this project the first SITES Certified project in Arkansas. Reindl proposes a furtherance of this sustainability commitment by constructing a healthy, efficient, and durable building on the Civic Plaza.

B. Indoor air quality is a critical aspect of the design, particularly in light of recent health challenges. Proper indoor finish selection and air filtering are vital to the success of any new building, particularly one that involves hospitality and lodging. Reindl will implement the use of design and sufficient air filtering to promote indoor air quality in the Building.

C. Another important characteristic is an efficient building envelope. Keeping water and air out and creating a good thermal barrier is critical. Reindl commits to an efficient and properly designed envelope that will prevent air and water infiltration and reduce thermal bridging. Reindl will implement the use of smart energy-management systems to decrease energy use in the Building. Smart systems will be installed to avoid heating and cooling vacant rooms.

D. The most sustainable aspect of a building is to construct and detail for a long life. A building that lasts several hundred years is superior to one that has a design life of a few decades. The simplicity of the proposed Building design as reflected on Exhibits A, B, and C, is rational and straightforward and will be easy to maintain far into the future.

9. Land Purchase:

A. Reindl will purchase land for the Building from City in the approximate location as reflected on Exhibit G. The exact legal description of the land to be conveyed shall be determined by a survey.

B. The purchase price for the land shall be the fair market value for the property as determined by a third-party real estate appraiser to be selected by both parties.

C. Costs of the appraisal, surveys, and closing costs shall be split evenly between Reindl and City and listed on the settlement statement at closing.

D. A real estate contract will be entered into to formalize the real estate transaction once appraisals, surveys, and market studies have been completed. Closing on the property to occur after Reindl obtains a Building Permit from City in accordance with the terms and intent of this Letter of Intent.

E. Reindl shall convey property or grant perpetual easements across real property to City for construction of public walking and biking trails. The consideration for Reindl’s property transfer or grant of

perpetual easements to City shall be either (1) the fair market value of the real property transfer or perpetual easements determined by a third-party appraiser to be selected by both parties, which shall be deducted from the Purchase Price at Closing, or (2) City will grant Reindl, at Reindl's request, an easement on City owned property, or (3) the option to purchase City property adjoining the development at a restricted use value.

F. City and Reindl will coordinate design consultants on designing bicycle, pedestrian, automotive, and landscape infrastructure on all sides of the Building. Costs of those improvements and agreement as to which costs will be paid by City and which will be paid by Reindl shall occur prior to entering into the real estate purchase contract and shall be a condition of the real estate contract.

G. Closing on the land purchase transaction will occur within a reasonable time after execution of the real estate contract as agreed between the parties.

10. Infrastructure:

A. Infrastructure costs that will benefit both City and Reindl, such as extending water and sanitary sewer to the Building site, shall be evenly split between Reindl and City. Any infrastructure cost for the sole benefit of the Reindl will be at its own expense.

B. The City will assist Reindl in coordinating burial of overhead power lines and may, at its sole discretion, choose to share a portion of this cost.

C. Reindl will work with electrical, cable, telephone, and gas utilities to provide and extend service to the Building site. City will reasonably cooperate to provide utility easements if necessary.

11. Restrooms, and stage support space:

A. The Building shall contain, at street level, publicly accessible restrooms to serve trail and other public space users (the "City Restrooms"). All City Restrooms must comply with the Americans with Disabilities Act. Access to the City Restrooms shall be from the Frisco Trail.

B. The Building shall also contain at street level a "back of house" space to be used by event organizers.

C. Reindl shall be responsible for the construction of the City Restrooms and storage space, however, City shall have oversight of the design of the City Restrooms and storage space.

D. The City Restrooms and stage storage space shall be a minimum of 1,600 square feet. Public restrooms shall face and be accessible from the Razorback Greenway. Stage support space shall be located proximate to the outdoor stage immediately north of the Building.

E. The costs of construction of the City Restrooms and storage space, including the pro-rata share of the cost of foundations, structure, roof, and exterior walls as well as the electrical, plumbing, and HVAC equipment and services, and all interior finishes, doors, hardware, and other elements desired by the City shall be paid for by the City. The cost of these items shall be deducted from the Purchase Price at Closing of the real estate transaction.

F. City shall have the exclusive use, control, possession, and right to the City Restrooms and storage space pursuant to a perpetual exclusive easement granted by Reindl, the form of which must be agreed prior to entering into the real estate contract described in paragraph 9.

G. Reindl will provide separate public restrooms for the use of patrons of the Building at its sole expense, in accordance with City's ordinances, rules, and regulations.

12. Adjacent Exterior Features:

NBW, City's landscape design architects, will prepare a landscape design for the north and east sides of the Building and Reindl shall implement and install landscaping on property that is owned by Reindl in accordance with NBW's landscape plan. Use of the exterior spaces shall be coordinated between Reindl and City, anchor institutions adjacent to the land, (e.g., Walton Arts Center, TheatreSquared, etc.) and any other group selected by the City to represent its interests in creating a lively and attractive park. Use agreements shall be developed to ensure that Building's ground floor uses support the activation of the Civic Plaza. Each party shall be responsible for the maintenance of exterior spaces and landscaping on property it owns.

13. Opportunities for Public Art:

Reindl shall provide locations for public art display at the Building. Public art shall be coordinated between Reindl and local arts organizations, including any groups selected by City to represent its interests in creating opportunities for public art.

14. Public Communication and Outreach Event:

In keeping with the open and transparent Cultural Arts Corridor design process, Reindl shall present the design of the Building to anchor institutions and the general public for additional review and comment. Such presentation shall occur within 4 weeks of acceptance of this Letter of Intent.

15. Development Review Process:

Once financing has been secured for the project, but no later than July 1st 2024, Reindl shall submit the Building plans and specifications to the City of Fayetteville's development review process and Building Permit review. To allow an enhanced level of scrutiny, and to address the unique aspects of this site, this project will be submitted as a Planned Zoning Development (PZD), which will document the specific development strategies and design standards that are shown in this document. The PZD process allows review of the project at the level of planning staff and the Planning Commission. At the final step of the PZD process, the full project will be brought back to City Council for review and approval. At both Planning Commission and City Council, members of the public are allowed and encouraged to ask questions of the developer and to comment upon the proposal.

16. Termination Clause:

If Reindl does not secure a Building Permit for the Building within twelve (12) months of substantial completion of City's Civic Space, then this Letter of Intent and all agreements pertaining to this Letter of Intent shall be null and void.

17. City of Fayetteville Right to Buy Back Land

Should Reindl not commence construction of the Building within sixty (60) days of City issuing a Building Permit or should Reindl not complete construction of the Building within twenty four (24) months of issuance of the Building Permit, then City at its sole discretion shall have the right to buy back the land, and any

improvements made as of that date. The purchase price City will pay Reindl will be the original Purchase Price Reindl paid City, plus the fair market value of the completed improvements as determined by a third-party real estate appraiser, less all amounts paid by City for construction or construction estimates for the City Restrooms and storage space.

CITY OF FAYETTEVILLE

BY: Lionel Jordan 11-1-22

Lioneld Jordon, Mayor, City of Fayetteville Date

Attest:

Kara Pastor 11/01/2022

City Clerk Treasurer Date

CITY CLERK / TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

REINDL PROPERTIES, INC.

By Brian Reindl 29 September 2022

Brian Reindl, President, Reindl Properties, Inc. Date

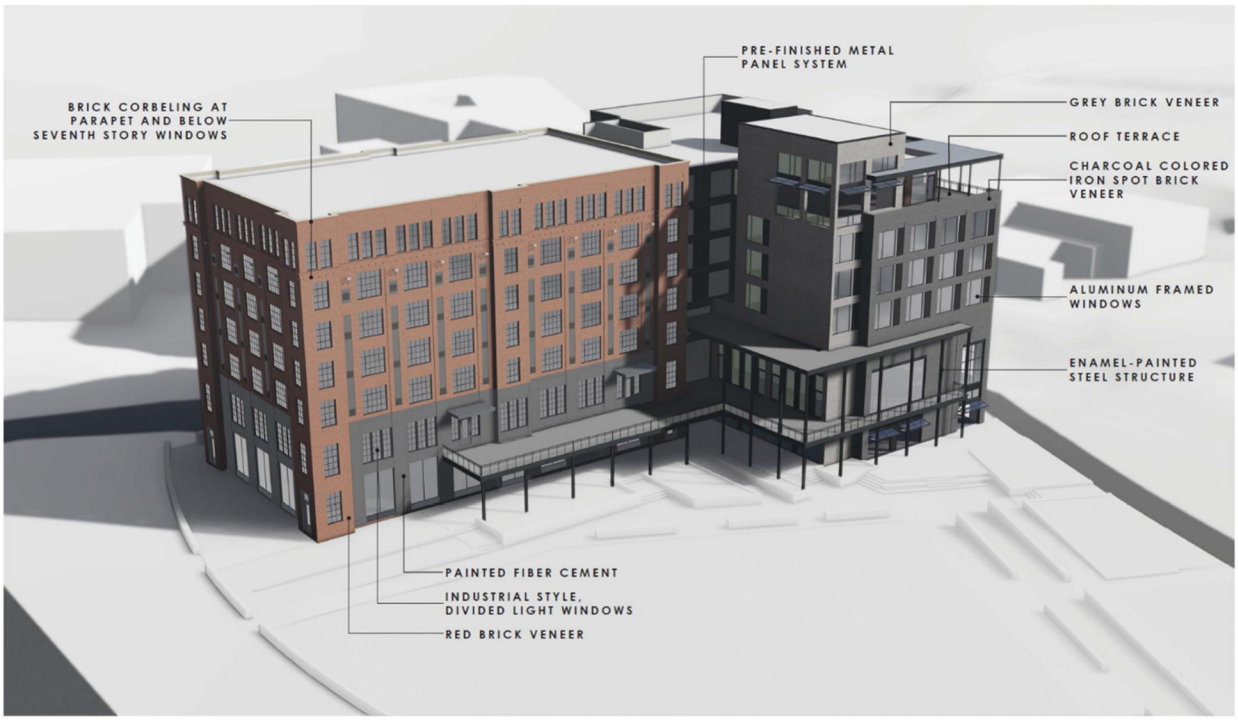
EXHIBIT A: VIEW OF HOTEL FROM WEST AVENUE



EXHIBIT B: VIEW OF HOTEL FROM CIVIC SPACE



EXHIBIT C: EXTERIOR MATERIAL AND DETAIL DIAGRAMS FOR THE HOTEL



VIEW FROM NORTHEAST



VIEW FROM NORTHWEST

EXHIBIT C, continued: EXTERIOR MATERIAL AND DETAIL DIAGRAMS FOR THE HOTEL



VIEW FROM SOUTHEAST



VIEW FROM SOUTHWEST

EXHIBIT D: AERIAL VIEW OF HOTEL FROM THE NORTHEAST

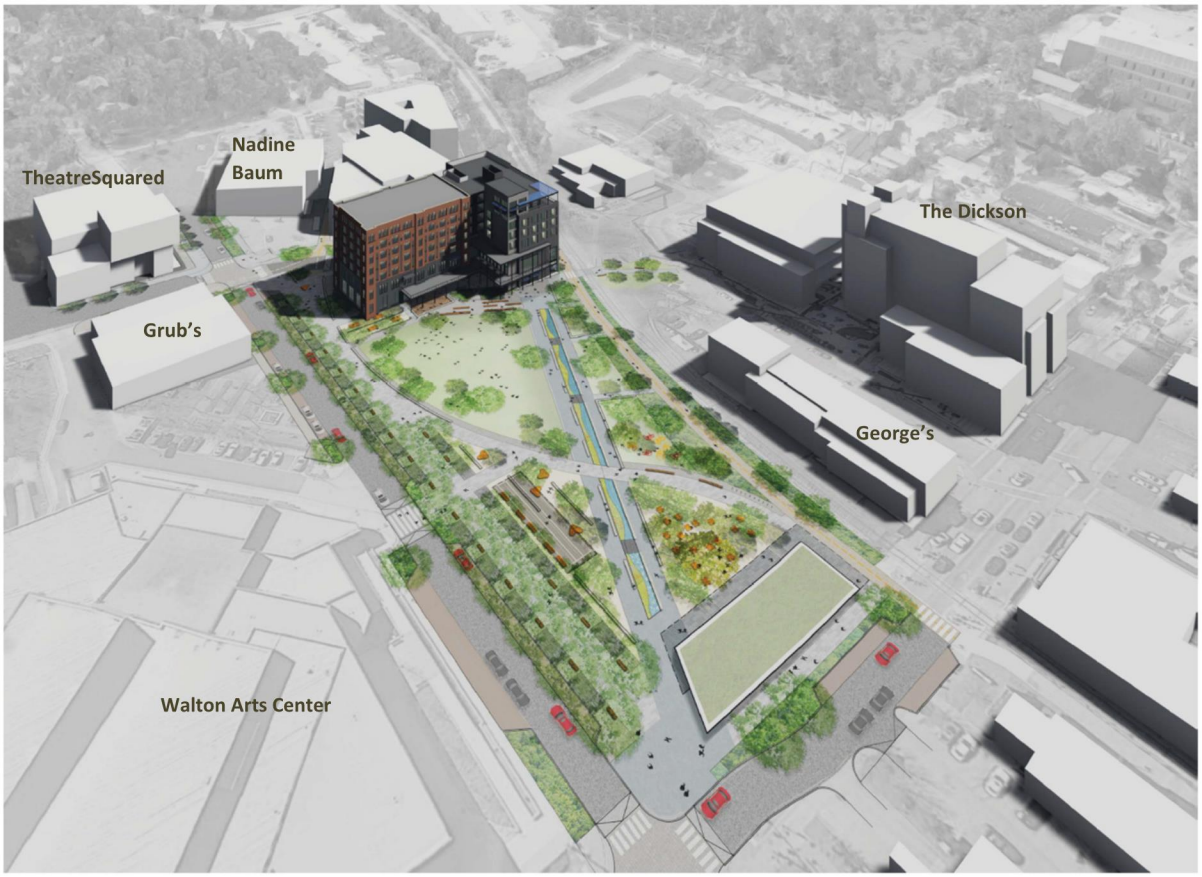


EXHIBIT E: CONCEPTUAL SITE PLAN, PRELIMINARY DESIGN, SHOWING HOTEL AT SOUTH END OF CIVIC SPACE

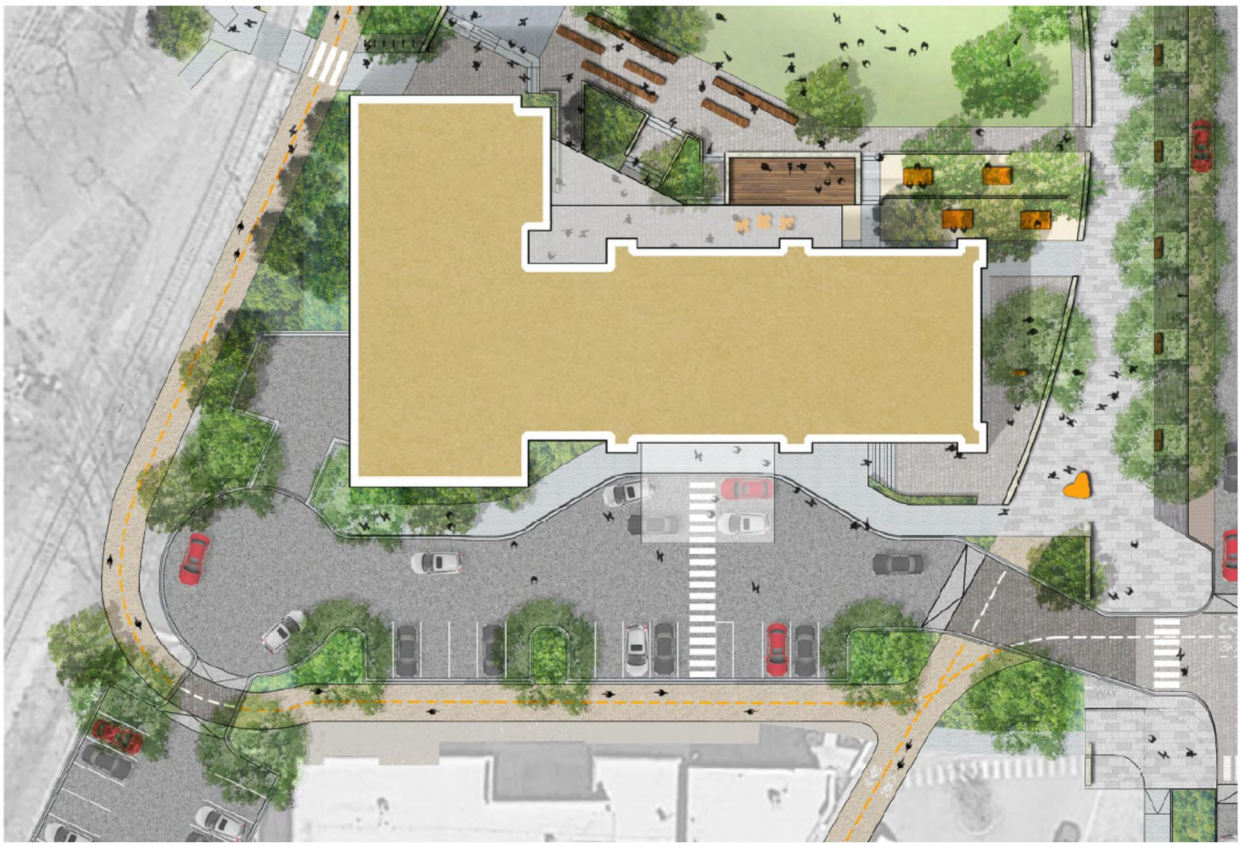
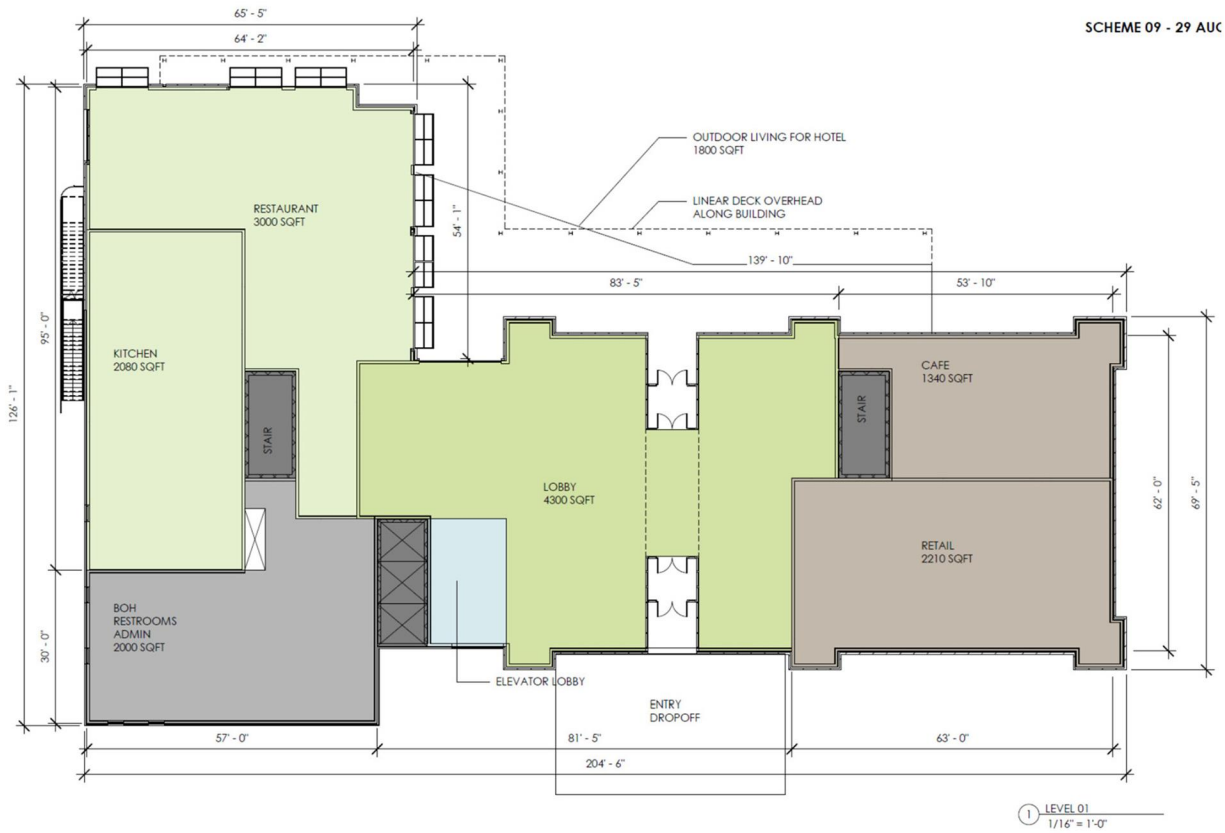


EXHIBIT F: DIAGRAMMATIC PLAN OF GROUND FLOOR SPACES

CIVIC SPACE SIDE

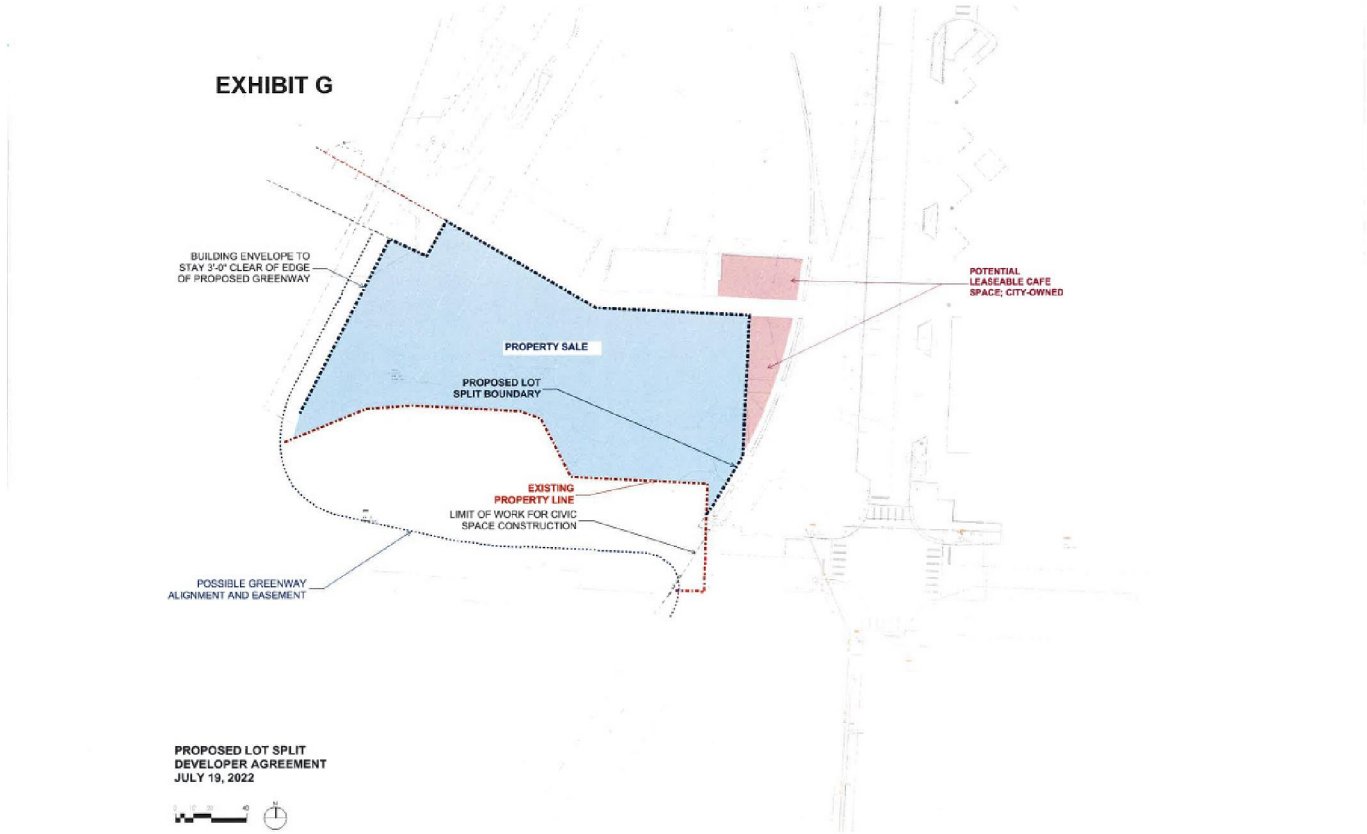
RAILROAD SIDE



WEST AVENUE SIDE

SPRING STREET
SIDE

EXHIBIT G:


EXHIBIT G
BUILDING ENVELOPE TO STAY 3'-0" CLEAR OF EDGE OF PROPOSED GREENWAY
POTENTIAL LEASEABLE CAFE SPACE; CITY-OWNED
PROPERTY SALE
PROPOSED LOT SPLIT BOUNDARY
EXISTING PROPERTY LINE
LIMIT OF WORK FOR CIVIC SPACE CONSTRUCTION
POSSIBLE GREENWAY ALIGNMENT AND EASEMENT
PROPOSED LOT SPLIT
DEVELOPER AGREEMENT
JULY 19, 2022

CITY OF FAYETTEVILLE ARKANSAS

City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8220

TDD (Telecommunication Device for the Deaf): 479.521.1316

RFP (REQUEST FOR PROPOSAL)

Request for Proposal: RFP 21-02, Public Private Partnership for Cultural Arts Corridor Development

DEADLINE: Tuesday, October 26, 2021 before 2:00 PM, local time

Pre-Proposal Conference: Thursday, September 16, 2021 at 2:00 PM, local time

PURCHASING MANAGER: Jonathan Smith, jonsmith@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: Sunday, 08/29/2021 – Second ad, 09/26/21

REQUEST FOR PROPOSAL
RFP 21-02, Public Private Partnership for Cultural Arts Corridor Development

No late proposals shall be accepted. RFP's shall be submitted in sealed envelopes labeled with the project number and name as well as the name and address of the firm.

All proposals shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

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

Name of Firm: Reindl Properties, LLC

Contact Person: Brian Reindl Title: President

E-Mail: greaterproductions@gmail.com Phone: 479.283.6816

Business Address: 509 W Spring Street, Suite 310

City: Fayetteville State: Arkanas Zip: 72701

Signature: Brian Reindl Date: 10/26/2021

1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

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

____X_____1) NO KNOWN RELATIONSHIP EXISTS

_____2) RELATIONSHIP EXISTS (Please explain):_____

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

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

Corporate Name of Firm: Reindl Properties, LLC

Primary Contact: Brian Reindl Title of Primary Contact: President

Phone#1 (cell preferred): 479.283.6816 Phone#2: N/A

E-Mail Address: greaterproductions@gmail.com

3. ACKNOWLEDGEMENT OF ADDENDA

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

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

5. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

NAME OF COMPANY: Reindl Properties, LLC

PHYSICAL ADDRESS: 509 W Spring Street, Suite 310, Fayetteville, AR 72701

MAILING ADDRESS: 509 W Spring Street, Suite 310, Fayetteville, AR 72701

PRINTED NAME: Brian Reindl

PHONE: 479.283.6816 FAX: N/A

E-MAIL: greaterproductions@gmail.com

SIGNATURE: Brian Reindl

TITLE: President DATE: 10/26/2021

REINDL PROPERTIES

Response to RFP 21-02, Public Private Partnership
for Cultural Arts Corridor Development



WINDSOR AUGHTRY HOTEL GROUP

C.R. CRAWFORD CONSTRUCTION

COURTYARD BUILDING & BLOCK LLC

EXECUTIVE SUMMARY



PROJECT DESCRIPTION:

The design of the Civic Plaza provides a site for a significant mixed-use building on the south side of the park. This building not only helps to frame the park, it also encloses and completes the portion of Spring Street north of the historic Metro Building, a goal that the city identified in the 2008 Downtown Master Plan. A building on such a prominent site must be well crafted and serve as an exemplar of good urban design, sustainability, and durable construction.

A VIBRANT ANCHOR FOR A GREAT PARK:

The proposed building must also serve to activate the new Civic Plaza. Vibrant ground-level businesses that are open to all and are unique, local enterprises would be the ideal. The Razorback Greenway must engage this area in the most intimate and urban manner. The interaction of bicyclists, pedestrians, and merchants is a unique opportunity.

A NEW HOTEL FOR A GROWING DOWNTOWN:

Downtown Fayetteville has not had a new hotel since the 1970s. This site represents an ideal opportunity for such a venture, being adjacent to Walton Arts Center, TheatreSquared, the Dickson Street Entertainment District, and midway between the Square and the University of Arkansas. Reindl Properties, in consultation with their hotel consultant, has designed a 170-room hotel with associated meeting spaces, hospitality spaces, and ballrooms. The scale and materials of the building have been carefully considered to reflect and enhance the existing character of this area, its industrial past, and its aspirations for the future. The south, east, and north facades of the hotel engage the adjacent public spaces. All service areas are located on the southwest corner abutting the railroad tracks. In addition to being a significant work of architecture in its own right, the proposed hotel will provide multiple opportunities for the display of art in its public spaces.

A MODEL OF SUSTAINABILITY AND RESILIENCE:

Green space, enhanced building envelope, and durable materials will be used to preserve natural resources and reduce operating costs. Opportunities to provide clean energy with roof-mounted photovoltaic panels will be explored as a way to increase the resiliency of our local power supply and to increase the efficiency of the building. The design and construction team recently completed the Network Building, the first mixed-use, net-zero energy building in the state of Arkansas. The unique and very recent experience and insight gained on this building will be applied to the new hotel.

LOCAL FLAVOR IS KEY:
Reindl Properties has a two-decade history of providing carefully crafted spaces for local entrepreneurs. At the Metro District Building and along the 100 block of Block Avenue, Reindl has provided addresses for some of Fayetteville's most unique and vibrant local enterprises such as:

- Block Street Records, Wade Ogle
- C4 Nightclub, Jaime Wilson
- Prelude Breakfast Bar, Ben & Jaye Parker
- Ozark Escape Fayetteville, Matt & TJ Ross
- Crown Beauty Bar, Megan Harris
- Rolando's Restaurant, Ernesto & Maria Garcia
- American Shaman Vitamins & Supplements, Ranaga Farbiaz & Loudy Bousman
- The Cork & Keg, Mo Green
- Skye on the Town, Kristi Parrish
- Wander Boutique, Cara Godfrey & Kristen Morgan
- Block St. Nutrition, Candice Mendoza
- Foxtrot Boutique, Allison Crane
- Lola Boutique, Paige Arnold & Lynlee Critz
- Pinpoint Bar, Bo Counts

Together, these local entrepreneurs provide 97 jobs for our community. No other Fayetteville developer can claim to have created spaces for more local downtown businesses than Reindl Properties. Reindl has a unique skill set in this field; such skills are needed to establish local and unique businesses adjacent to our new civic park.



This proposed building location increases the size of the park compared to the footprint proposed by the City of Fayetteville.

No other developer can provide this extremely significant benefit.

In addition to the architectural and urban design qualities, the City of Fayetteville will enjoy significant financial benefits as follows. Over a 10-year period, the proposed building will provide funding for public institutions as follows:

- Fayetteville Public Schools: $4,565,000
- Fayetteville Public Library: $370,000
- Police and Fire $80,000
- City General Fund $230,000
- Roads $88,000
- Total anticipated income to City of Fayetteville and Fayetteville Public Schools: $5,333,000
- Sales Tax and HMR Tax Revenue is projected to be as follows for a 10-year period: $3,460,000

A certain amount of Sales and HMR Tax revenue is simply moving from an existing location to the new location, however, a new, high-quality hotel provides a significant draw for our Advertising and Promotions Commission to use to attract events and tourists. A hotel brings visitors to our Entertainment District and our downtown. Each visitor will spend money in the existing bars, restaurants, and shops in the area. This infusion of new customers will have an immediate and on-going positive impact on existing merchants and the downtown cultural institutions. ***In addition, it is anticipated that the new hotel and its related activities will create 60 to 70 full time jobs.***

STRUCTURE OF PROPOSAL: WORKING TOGETHER TO COMPLETE THE VISION

Reindl Properties will enter into an Interim Agreement with the City of Fayetteville to develop a mixed-use building on the south edge of the Civic Plaza. The building will be partially located on property that is currently owned by the City of Fayetteville; the remainder of the building will be located on property currently owned by Reindl Properties. The Razorback Greenway will be relocated onto property currently owned by Reindl Properties. Street scape improvements along Spring Street will be constructed north of the existing Metro District Building. Public Restrooms (approximately 1,200 sq. ft.) will be provided within the new Mixed-Use Building.

Any property purchased by Reindl Properties will be appraised and purchased at Fair Market Value. Any property granted by Reindl to the City of Fayetteville will be credited toward the purchase price. Cost of the public restrooms will be credited to the purchase price. Ongoing maintenance, janitorial, and supplies for public restrooms will be provided by the City of Fayetteville.

Reindl Properties will provide all market studies, appraisals, construction cost estimates, and revenue projections to demonstrate the feasibility of the project. Reindl Properties and the City of Fayetteville with work together to determine construction easements, utility locations, and timing of construction of the Civic Plaza and the mixed-use building.

THE RIGHT TEAM TURNS THE VISION INTO REALITY:

Reindl Properties has developed a project team that shares their passion for high-quality construction, human-scaled design, craftsmanship, efficiency, and love of community.

Windsor Aughtry of Greenville, South Carolina, will provide consulting and development services for the hotel and hospitality portion of the mixed-use building.

Design work will be provided by **Courtyard Building and Block**, led by architect Robert Sharp, who has deep experience in creating some of the region's most significant, transformative, and well-loved buildings.

Construction services will be provided by **C.R. Crawford Construction**. C.R. Crawford has extensive experience serving as general contractor for hotel and mixed-use building projects.

The design and construction team will assist Reindl Properties in establishing construction cost information to determine the viability of the project.

Development structure and financial methods will be explored by Reindl Properties and Windsor Aughtry. Working with arm's length third-party consultants, they will determine complete operating costs, occupancy rates, and revenue streams. Reindl Properties will explore incentives for hotel construction, such as New Market Tax Credits to enhance the viability of the project. Reindl Properties will share information regarding construction cost, land value appraisals, anticipated income streams, tax incentives, and final building design with representatives of the City of Fayetteville. If the terms are deemed to be beneficial to both parties, then a Comprehensive Agreement for the sale of the land will be executed.

Reindl Properties will also engage with the Walton Arts Center, TheatreSquared, Dickson Street Merchants, and the Fayetteville Advertising and Promotion Commission to make this new hotel a great asset to the City as well as the Downtown Arts Corridor.

PART I
BUSINESS ORGANIZATION

REINDL PROPERTIES

Developer
Brian Reindl
Fayetteville, Arkansas

Brian Reindl first moved to Fayetteville in 1984 to attend the University of Arkansas, graduating in 1987. After college, Reindl moved to Little Rock and started a company called Ink Promotions, Inc. He later sold his part of this company, but the company is still in business and currently employs over 45 people in Central Arkansas. He then moved back to Fayetteville in 1994 to start the company B. Unlimited Enterprises. Although Brian sold B. Unlimited in 2002, it is also still in business and currently employs over 220 people in Northwest Arkansas.

Reindl has been heavily invested in downtown Fayetteville real estate for the last 22 years as a developer and owner. After purchasing the Metro District Building in 1999, Brian completely remodeled the 61,000-square-foot building into what it is today, an anchor in what is now known as the "Entertainment District" and the "Cultural Arts Corridor." Prior to 1999, the Metro District Building was a blight on the downtown landscape. Brian also purchased a building just off the Downtown Square located at 11-23 N. Block in 2012 which he also completely remodeled. Combined, the two buildings house 18 commercial spaces (all leased by local entrepreneurs) and 22 residential units. Other notable real estate projects include two incredibly beautiful three-story mansions directly in front of Gate 1 at Donald W. Reynolds Stadium, and also Hawksbill Subdivision in East Fayetteville which sits on 45 beautiful tree-covered acres.

Brian also produced and wrote the movie "Greater" which was released in August of 2016. During principal photography, Greater Productions, LLC, employed over 165 members of the cast and crew. Brian was able to bring this great story to life and bring both employment opportunities and positivity to the great state of Arkansas. Being a member of the business community as well as a member of the arts, Brian understands what this site can be for the community. He intends to engage with Walton Arts Center to make this new hotel a great asset to the City as well as the Downtown Arts Corridor.









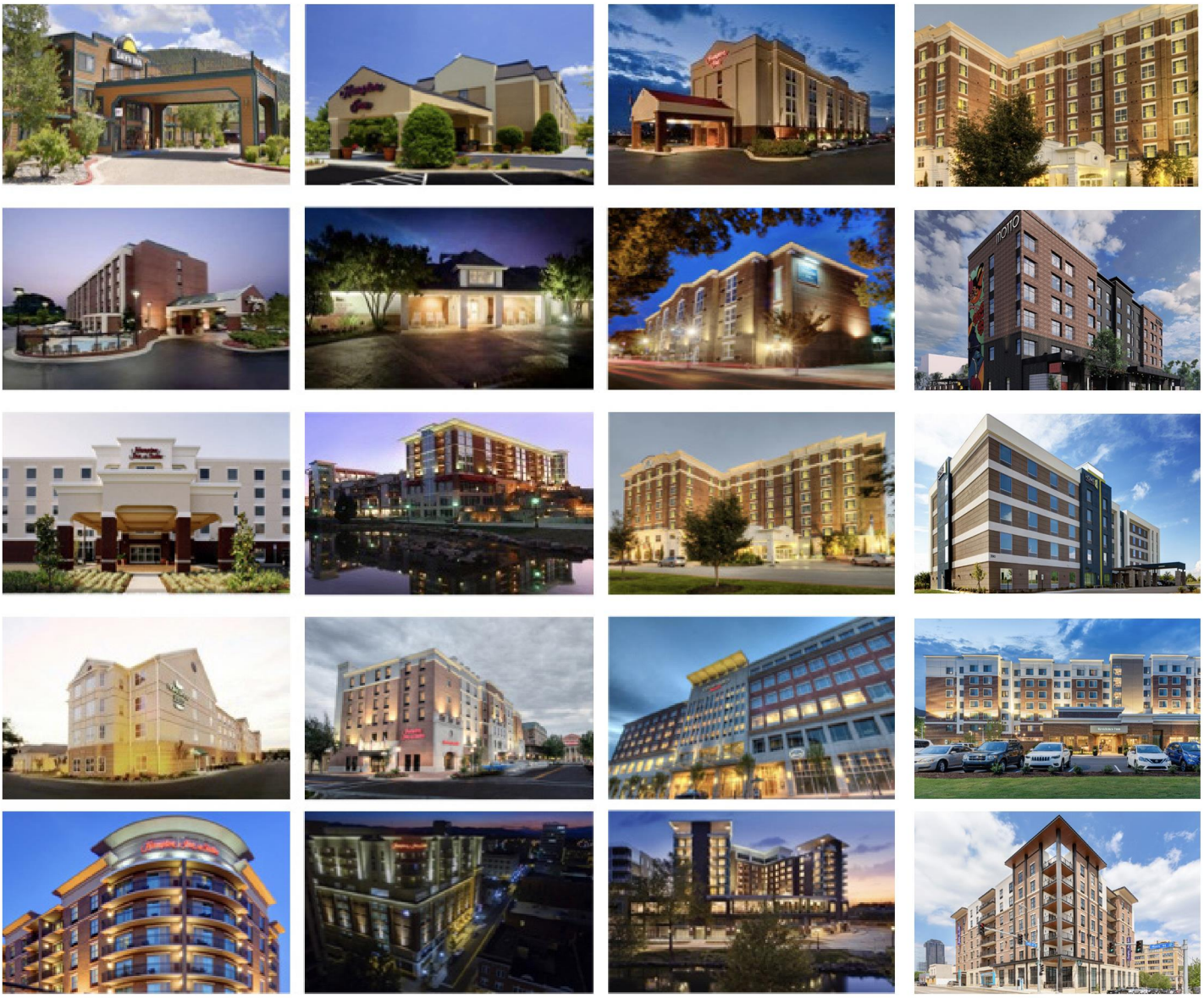


WINDSOR AUGHTRY
HOTEL GROUP

Development Consultant
Paul C. Aughtry, III
Greenville, South Carolina

For over 25 years Windsor Aughtry has carefully built a reputation for excellence through developing and brokering the spaces businesses want. Beginning in 1988 with the merger of Windsor Properties, a prominent residential firm, and The Aughtry Company, a leader in commercial real estate, Windsor Aughtry brings a uniquely comprehensive perspective of what it takes to be successful in real estate. Today, the company leads a commercial real estate developer and brokerage firm in the Southeast.

- Twenty Developments Since 1993
- Suburban Developments
- Urban Infill Projects
- Competitive City RFP'S
- Surface & Structured Parking
- Historic District Preservation
- Financing Utilizing Conventional loans, Tax Exempt Revenue Bonds, New Markets Tax Credits & TIF Districts



C.R. CRAWFORD CONSTRUCTION

General Contractor
Cody Crawford, Jason Keathley, & Scott Stokenbury
Fayetteville, Arkansas

Founded in 2006 in Fayetteville, Arkansas, C.R. Crawford Construction has grown to become one of the largest and most trusted general contracting and construction management companies in the state. The company has served as general contractor for some of Arkansas' largest and most significant construction projects and has a history of successfully completing intricate and complex builds.

Maintaining high standards is at the heart of C.R. Crawford's success. Here are a few standout points that C.R. Crawford clients say put them above their competitors:

- The company's pre-construction services are second to none. There is a tremendous amount of experience, skill, and emphasis in this area.
- It is a financially solvent company with a single job bonding capacity of $350,000,000 and aggregate program of $700,000,000.
- Developing strong partners and repeat clients is a priority. C.R. Crawford is known for staying client focused and has a reputation for quickly responding to client needs.

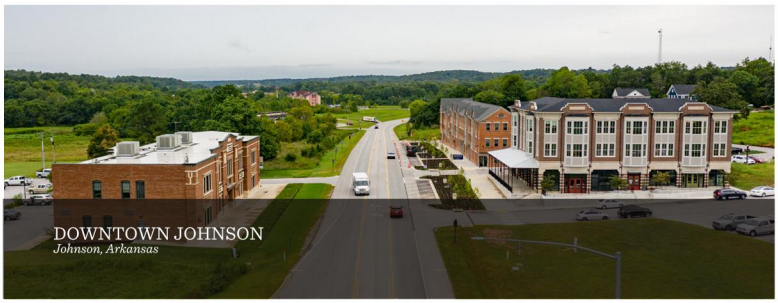


THE MARSHALL
Fayetteville, Arkansas



NETWORK BUILDING
Fayetteville, Arkansas

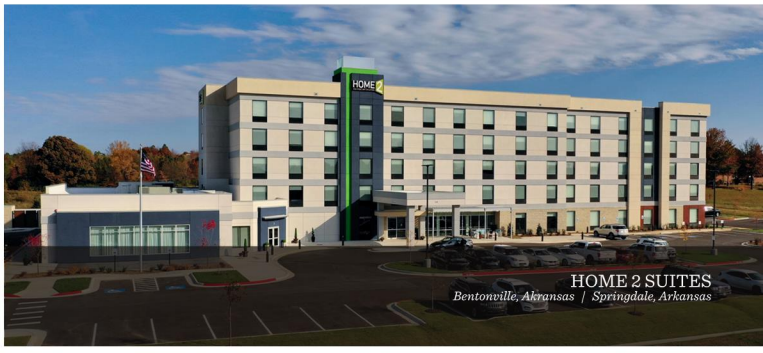

TRUESDALE BUILDING
Johnson, Arkansas


DOWNTOWN JOHNSON
Johnson, Arkansas


PHARM II
Bentonville, Arkansas



COURTYARD BY MARRIOTT
Rogers, Arkansas



HOME 2 SUITES
Bentonville, Arkansas | Springdale, Arkansas

Following is a list of C.R. Crawford Construction's relevant public sector experience.

Project Name	Industry	Construction Type	City	State
Runway 36 Extension Bentonville Municipal Airport	City/Govt./Higher Ed.	Miscellaneous	Bentonville	AR
Bentonville Animal Shelter	City/Govt./Higher Ed.	New Construction	Bentonville	AR
GSA Census	City/Govt./Higher Ed.	Tenant Improvement	Springdale	AR
Social Security Office	City/Govt./Higher Ed.	Tenant Improvement	Fayetteville	AR
Miami SSA Remodel	City/Govt./Higher Ed.	Renovation/Expansion	Miami	OK
State Revenue Office	City/Govt./Higher Ed.	Tenant Improvement	Fayetteville	AR
Kappa Sigma Remodel	City/Govt./Higher Ed.	Renovation/Expansion	Fayetteville	AR
Siloam Springs Fire Station #2	City/Govt./Higher Ed.	New Construction	Siloam Springs	AR
Bella Vista Library Expansion	City/Govt./Higher Ed.	Renovation/Expansion	Bella Vista	AR
City of Bentonville Maintenance Building	City/Govt./Higher Ed.	New Construction	Bentonville	AR
UofA - Central Utility Plant Shop	City/Govt./Higher Ed.	New Construction	Fayetteville	AR
Bentonville Trail head Restrooms	Miscellaneous	New Construction	Bentonville	AR
UAMS Misc Jobs	Miscellaneous	Miscellaneous	Fayetteville	AR
Centerton Road Work	Miscellaneous	Miscellaneous	Centerton	AR
Hwy 59 Improvements	Miscellaneous	Miscellaneous	Decatur	AR
Beaver Water District - Steele Operations Remodel	Miscellaneous	Renovation/Expansion	Lowell	AR
Barling Elem	K-12	Renovation/Expansion	Barling	AR
Nashville Waterline Extension	K-12	Miscellaneous	Nashville	AR
Prairie Grove Schools	K-12	New Construction	Prairie Grove	AR
Nashville High School Addition	K-12	Renovation/Expansion	Nashville	AR
Nashville Jr. High Renovation	K-12	Renovation/Expansion	Nashville	AR
Cookson Hills Christian School - Infastructure	K-12	Miscellaneous	Kansas	OK
Wilbur D. Mills Coop	K-12	New Construction	Beebe	AR
Cookson Hills Dining Hall	K-12	New Construction	Kansas	OK
Midland High School	K-12	New Construction	Pleasant Plains	AR
Midland Elementary School	K-12	New Construction	Pleasant Plains	AR
Cookson Hills Christian Academy Classroom Building Projec	K-12	New Construction	Kansas	OK
Prescott Schools Fire Alarms	K-12	Miscellaneous	Prescott	AR
Nashville HPER	K-12	New Construction	Nashville	AR
Prairie Grove - Gym, Elem Expansion, Concessions	K-12	New Construction	Prairie Grove	AR
Prescott - Asbestos Abatement	K-12	Renovation/Expansion	Prescott	AR
Prescott Cafeteria Multipurpose Building	K-12	New Construction	Prescott	AR
Cedar Crest Childrens Academy	K-12	New Construction	Rogers	AR
Flippin School District Safe Room	K-12	New Construction	Flippin	AR
Prescott Agri Building	K-12	New Construction	Prescott	AR
Pea Ridge Admin & City Hall	K-12	New Construction	Pea Ridge	AR
Melboure School District - Elementary	K-12	New Construction	Melbourne	AR
Flippin Elementary School	K-12	New Construction	Flippin	AR
Ashdown School District	K-12	Renovation/Expansion	Ashdown	AR
Pea Ridge Agri Building	K-12	Renovation/Expansion	Pea Ridge	AR
Louise Durham School Renovation	K-12	New Construction	Mena	AR
Greenland School Renovation	K-12	Renovation/Expansion	Greenland	AR
Flippin School Cafeteria Remodel	K-12	Renovation/Expansion	Flippin	AR
Huntsville School Remodel	K-12	Renovation/Expansion	Huntsville	AR
Mountainburg - Safe Room/PE Building	K-12	New Construction	Mountainburg	AR
Poyen Gym & Classrooms	K-12	New Construction	Poyen	AR
Ashdown Jr High Remodel	K-12	Renovation/Expansion	Ashdown	AR
Ashdown Schools - Elem School Renovation	K-12	Renovation/Expansion	Ashdown	AR
Marvell Gym Remodel	K-12	Renovation/Expansion	Marvell	AR
Elkins Primary School - Remodel	K-12	Renovation/Expansion	Elkins	AR
Ashdown Schools - CD Franks Remodel	K-12	Renovation/Expansion	Ashdown	AR
Cross County - Admin/Vestibule Remodel	K-12	Renovation/Expansion	Cherry Valley	AR
Rogers Middle Schools - Tracks	K-12	New Construction	Rogers	AR
Pea Ridge High School	K-12	New Construction	Pea Ridge	AR
Huntsville Career & Technical Education Building	K-12	New Construction	Huntsville	AR
St. Paul Career & Technical Education Building	K-12	New Construction	St. Paul	AR
Fayetteville - Washington Elementary Playground	K-12	Miscellaneous	Fayetteville	AR
Pea Ridge Intermediate School A/C	K-12	Miscellaneous	Pea Ridge	AR
Huntsville School - Gym A/C	K-12	Renovation/Expansion	Huntsville	AR
Elkins Gym HVAC Upgrades	K-12	Miscellaneous	Elkins	AR
Prescott Elementary	K-12	New Construction	Prescott	AR

In addition to having successfully completed more than 60 public sector projects, C.R. Crawford Construction has the following RECENT (within the past five years) experience that is specifically relevant to this project.

Project Name	Industry	Construction Type	City	State
Home 2 Suites by Hilton (Springdale)	Hospitality	New Construction	Springdale	AR
Marriott Fairfield Inn & Suites (OKC)	Hospitality	New Construction	Oklahoma City	OK
Marriott Fairfield Inn & Suites (Catoosa)	Hospitality	New Construction	Catoosa	OK
Courtyard by Marriott	Hospitality	New Construction	Rogers	AR
Home2 Suites by Hilton (Bentonville)	Hospitality	New Construction	Bentonville	AR
Champions Club	Multifamily	New Construction	Fayetteville	AR
North Cedar Townhomes	Multifamily	New Construction	Fayetteville	AR
Depot 16 Apartments (Building Only)	Multifamily	New Construction	Bentonville	AR
Pharm II	Multifamily	New Construction	Bentonville	AR
Village Flats	Multifamily	New Construction	Bentonville	AR
Johnston Square Liner Building	Multifamily	New Construction	Johnson	AR
Little Emma Apartments	Multifamily	New Construction	Springdale	AR
The Marshall	Multifamily	New Construction	Fayetteville	AR
Network Living	Multifamily	New Construction	Fayetteville	AR
City U	Multifamily	New Construction	Bentonville	AR
Johnson RMP	Office	New Construction	Johnson	AR
Drake Farms (Pendergraft Office)	Office	New Construction	Fayetteville	AR





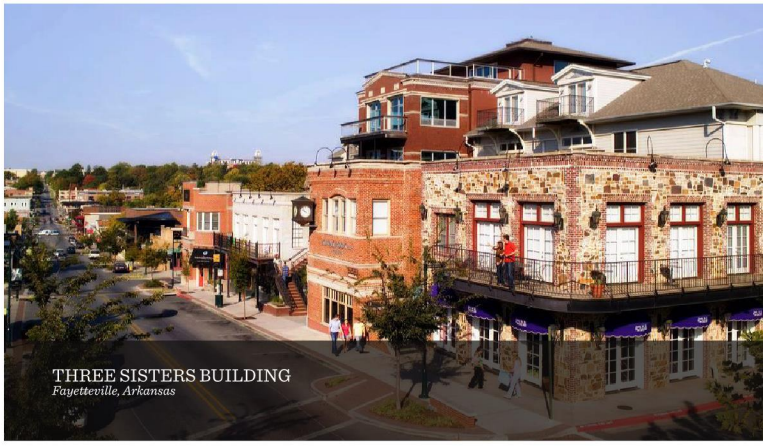
Architect
Robert Sharp
Fayetteville, Arkansas

Courtyard Building and Block, LLC, was founded in 2014 to serve the needs of municipalities, real estate developers, and land planners. The firm was founded by Robert Sharp and is located in Fayetteville, Arkansas. The design ethic of Courtyard Building and Block is deeply rooted in the history, patterns, and construction methods of the region. Over the years, we have developed expertise in designing mixed-use buildings and have deep experience in adaptive re-use and historic restoration. Courtyard Building and Block also specializes in designing two- and three-story courtyard apartment buildings for Traditional Neighborhood Developments (TND) and infill locations. In addition to deep experience with multifamily housing and courtyard apartment buildings, the firm has extensive experience in designing single-family housing at every scale, including cottages, townhouses, and large estates.

Founder Robert Sharp is active in the community and served on the Fayetteville Planning Commission and on the board of Partners for Better Housing, a local non-profit that is dedicated to providing efficient and dignified housing in Fayetteville's Walker Park Neighborhood. He is also active in the Congress for New Urbanism (CNU) and is a member of the Urban Guild.

THREE SISTERS BUILDING
Fayetteville, Arkansas

This collection of buildings is organized as a series of distinct facades along three faces of a single city block. This project includes 62,000 sq ft overall. Ground floor is retail and entertainment uses with office spaces above. Upper floors contain residential apartments and are stepped back from the street edge to maintain the scale of the existing context. Simple masonry forms are enhanced with traditional ornamental devices such as pressed metal, cut stone, and cast iron. The complex conceals a two story parking structure in the middle of the block. When views from a distance, the silhouette of the various elements creates a distinctive landmark.


THREE SISTERS BUILDING
Fayetteville, Arkansas

MILL DISTRICT
Fayetteville, Arkansas

This significant relic of the region's agricultural infrastructure is located at the corner of two busy commercial streets at the extreme southern edge of the downtown. The immediate surroundings are low rise industrial and commercial structures. The original building was stripped down to the steel frame and new floors inserted within the existing volume. The simple geometric form of the building was clad with galvanized metal, fiber cement board, painted concrete block, and steel windows. The building is home to retail, office, and restaurant space. In addition, the upper two floors contain six two-story residential loft apartments.

A major emphasis of the project is to provide urban amenities to conceptually extend the walkable pattern of the downtown area while still taking advantage of the visibility and automotive access that the site enjoys. A multi-use trail was created along the western edge of the site to link this project to Fayetteville's extensive trail system. The Mill District has served as a catalyst for positive growth in this transitional neighborhood.



MILL DISTRICT
Fayetteville, Arkansas

RMP BUILDING
Johnson, Arkansas

Johnson Square is a new walkable, compact, mixed use neighborhood. At the heart of this neighborhood is the RMP Building, a three story masonry building that contains law offices on the upper two floors. Streetside spaces are Pizzeria Ruby and the Hail Fellow Well Met Market. The combination of Class A office space and vibrant ground level tenants is a model for downtown development. The building exterior is brick with large operable windows, decorative cornices and bay windows, and exterior decorative iron. Overall project area is 21,000 square feet.



TRUESDALE BUILDING
Johnson, Arkansas

The Truesdale Building is a mixed use building in Johnson Square that includes 25 residential apartments and ground floor retail of office space. The building defines the street edge of Johnson Mill Boulervard. In addition to the three story façade, street trees, wide sidewalks, and on-street parking provide a protected pedestrian realm. Brick, operable windows, pitched roofs, and decorative trim are used to create a varied composition.



NETWORK BUILDING
Fayetteville, Arkansas

This mixed use building is the first in the state of Arkansas to be net zero energy-the building will create as much power as it uses. The building enveloped was enhanced to save energy and photovoltaic panels provide power into the local electrical grid. The building is of durable brick construction and contains 28 apartments and 4,000 sq ft of office space. The Network building is located across the street form the Fayetteville Public Library.





THE DICKSON BUILDING
Fayetteville, Arkansas

The design of the building is heavily influenced by the extreme conditions of the site. The north facade of the building takes its place among the low rise masonry buildings that line a typical urban street edge. The south and east edges of the site face a railroad track and an electrical substation. The west façade of the project addresses the University of Arkansas in the distance. The programmatic elements of the building are organized to address these various conditions in a logical manner: the parking structure abuts the electrical substation and is concealed by a two story liner building. The street façade is composed to emphasize the primary pedestrian entry and the street level retail. A courtyard is carved out of the building within the middle of the block to create an oasis at the heart of the building. The massiveness of the exterior walls of the lower floors gives way to lighter structural members and expansive windows as the building rises to allow distant views of the mountains and the university from the upper floors. Overall project includes 110,000 square feet of retail, restaurant, office and residential area.

METRO DISTRICT BUILDING
Fayetteville, Arkansas



This complex began life as a food processing plant and served for decades as a storage and light manufacturing facility. The building had suffered from deferred maintenance and a series of opportunistic additions. The design solution was to create a series of identifiable entrances along a continuous sidewalk. A new multi-use trail was created along the east side of the building in cooperation with the City of Fayetteville. The large footprint of the building made it difficult to divide the building incrementally into usable spaces, so common areas were added at each level to create a coherent entry sequence for a variety of occupants. The building contains office space, salons, restaurant, and entertainment uses. Overall project area is 46,000 square feet and includes retail, entertainment, office, and residential uses. This property was developed and built by Reindl Properties.

METRO DISTRICT LOFTS
Fayetteville, Arkansas



This building is organized as three stories of stacked flats arranged around a shared courtyard. The property has limited street frontage, which led to the idea of the individual apartments having their front doors facing onto the shared courtyard. Entry to this courtyard is through a substantial two story arched opening.

The exterior of the building is masonry construction as befits its urban site. Corbelling, cast stone details, and deeply set windows contribute to the feeling of mass and durability. Decorative wrought iron balconies and rooftop cupolas provide a counterpoint to the solidity of the exterior walls. The project consists of thirty residential apartments and was developed by Reindl Properties.

PART II
CONCEPT AND SOLUTION



PROJECT VISION AND GOALS:

Urban Design and Scale:
The hotel is designed to provide a strong visual anchor at the south end of the Civic Plaza. Urban parks benefit from a strong sense of enclosure. The west portion of the hotel building is designed to terminate the canal feature of the Civic Plaza, creating a destination for those strolling along the canal. The existing pedestrian train track crossing occurs at that intersection of building and canal.

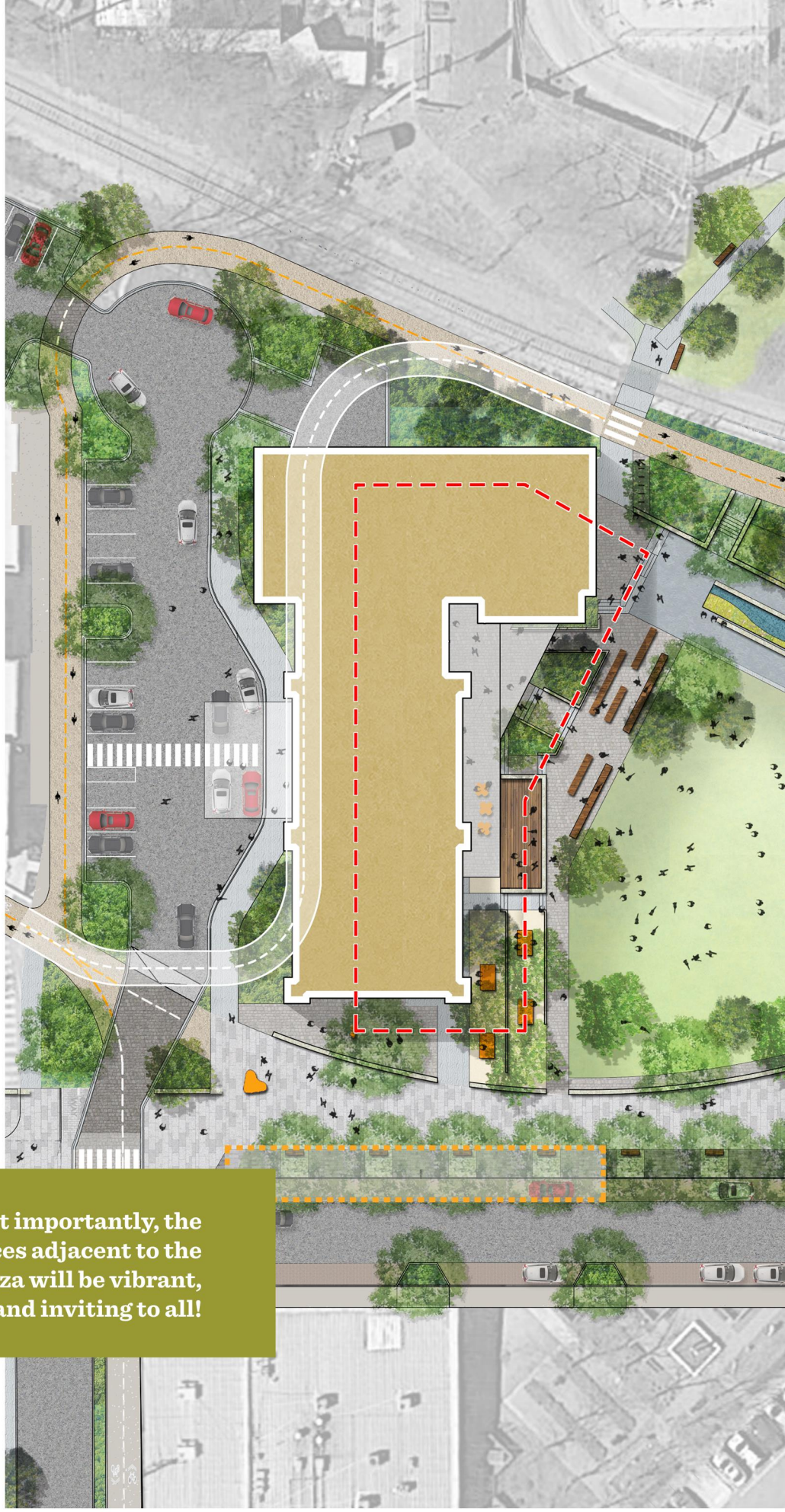
Respect for the work to date of Nelson Byrd Wolz (NBW):
The proposed hotel was designed to respond to the outstanding Civic Plaza designed by NBW. The building form, location, and articulation are direct responses to their design work to date. In addition, we look forward to working with NBW to fine tune the landscape design adjacent to the hotel.

Loading, Access, and Fire Protection:
A critical element of this design is that all loading areas are located on the southwest portion of the site, against the existing railroad track. The current design by Nelson Byrd Wolz envisions a continuous tree shaded walk along the entire West Avenue frontage. It would be tragic to interrupt this feature with loading and trash collection. Also of utmost importance is the location of Aerial Fire Apparatus area, which we are proposing to be is south of the new hotel building. This is an extremely important safety feature that would be very difficult to provide using the footprint shown in the City of Fayetteville RFP document.

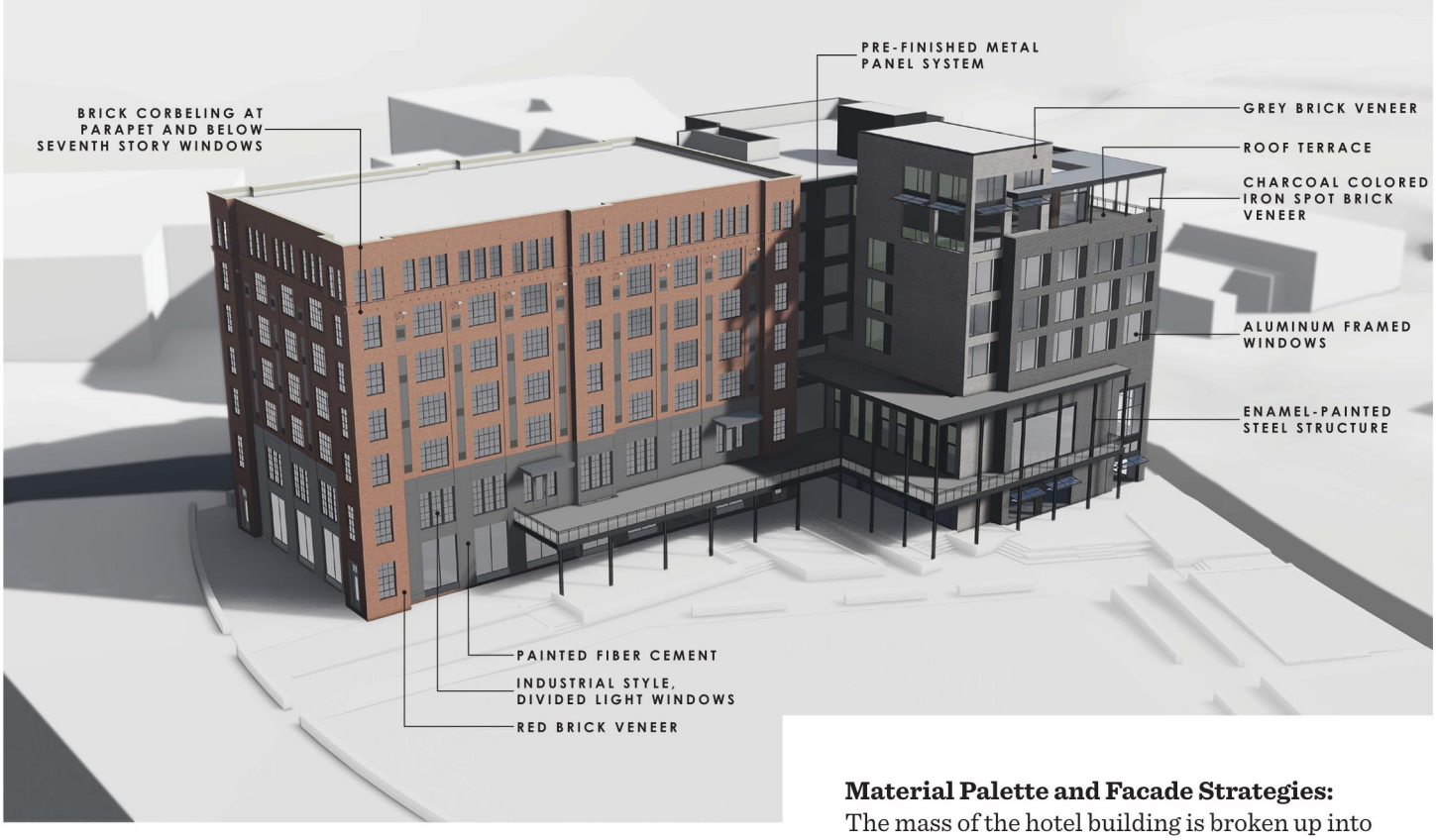


A Better Bike Trail:
Another significant advantage of the proposed site plan is that the multi-use trail can be located adjacent to the existing shops, restaurants, and bars at the historic Metro District Building. This is a unique opportunity to have a multi-use trail in a very urban environment. The trail would be located north of the existing terraces and sidewalks. Head-in parking provides a layer of protection on the north side of the trail.

Smart Parking Strategies:
All downtown parking assets must be considered in terms of managing resources properly and encouraging multi-modal transportation choices. The current inventory of approximately 9,000 parking stalls downtown has a utilization rate of 50% during the week and 40% at the weekends. Entertainment District parking is at least 90% utilized during special events, but the overall parking supply seems adequate for years to come, particularly as walking, biking, e-bikes, e-scooters, and mixed-use development trends expand. We anticipate creating a valet parking system that will allow us to tap into the underutilized parking the downtown area. Working with the City of Fayetteville, we will pursue off-peak agreements with local churches, banks, and Washington County.



Most importantly, the spaces adjacent to the Civic Plaza will be vibrant, open, and inviting to all!



VIEW FROM NORTHEAST



VIEW FROM SOUTHWEST

Material Palette and Facade Strategies:
The mass of the hotel building is broken up into two portions: An eastern wing that is inspired by the industrial masonry heritage of the area and a western wing that participates in the aesthetic exemplified by TheatreSquared, Walton Arts Center, and The Dickson Building.

Brick corbels, pilasters, and divided-light, loft-style windows are used on the east wing to create a sense of craft, weight, and hierarchy. The west wing features charcoal iron spot brick (similar to the brick used at the recent addition to the Fayetteville Public Library), enameled steel, steel bar grate, pre-finished metal panels and trellis systems. Glazing at the west wing is aluminum framed windows.



VIEW FROM NORTHWEST

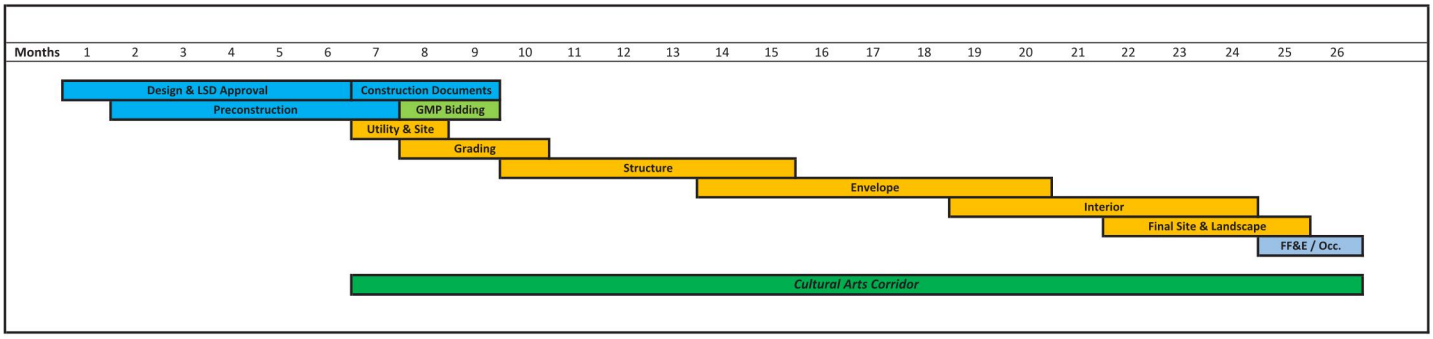


VIEW FROM SOUTHEAST

PART III
PROGRAM

Our team has analyzed the likely structure and material components proposed for the hotel. To maximize efficiency, our team will procure the long lead materials and grading permit ahead of the final design in order to maintain a predicable work flow and earlier project completion. Our entire team has successfully completed projects using this scheduling method adjacent to the arts corridor, including projects with the city of Fayetteville.

INITIAL PROJECT SCHEDULE





PRE-CONSTRUCTION PHASE

The pre-construction phase is the period when the owner and construction manager have the most opportunity to identify and mitigate any potential risk. Our pre-construction team and processes have proven themselves over and over again. Trent Rogers will lead the pre-construction phase and team on this project.

1. **ESTIMATING PROCESS AND PRELIMINARY BUDGET:**
   We will use our proprietary in-house estimating models (such as Lumion and PlanSwift), historical information, and real-time conversations from the supplier/subcontracting community to develop initial cost estimates. This is an early indication if the project will fall within budget.

2. **BUILDING INFORMATION MODELING**
   C.R. Crawford generally produces a BIM model utilizing Revit and Navisworks with our in-house model integrator to help support estimating decisions, planning and coordination. While in the pre-construction phase, the model will be used to visualize areas of the design needing resolution or clarification.

3. **VALUE ANALYSIS:**
   Our value management efforts focus on a facility's function and performance. Any ideas and opportunities to avoid costs, while also generating the most value for your project, will be examined and communicated with you and the architect. Our approach is to always strive to maintain the original program area of a project and look for opportunities to save costs in ways that will not be noticeable to end-users of a facility. We will present a detailed list of value-generating and cost-reducing options for your review so that you can make the best decision as to which of those ideas and opportunities can be incorporated into the plans and specifications.

4. **SCHEDULING:**
   The project's schedule is the backbone of a successful outcome. Our VPs will be heavily involved in creating every schedule and have extensive experience in knowing what is realistic. Each task and trade is given a timeline, then they are pieced together sequentially for what makes the most sense for site logistics. C.R. Crawford is very aggressive when it comes to organizing a project construction schedule, as we do not believe in wasting time or charging excess overhead costs to a job. Depending on the complexity of a project, we use either Microsoft Project or Primavera to format our schedules. Each week the Project Superintendent and the Project Manager will create a three week "look ahead" schedule. This is communicated to the subcontractors so they are prepared and ready for the scheduled task and can prepare to be most efficient. We do not miss schedules or we would not have repeat clients, such as Walmart, Tyson Foods, and Academy Sports + Outdoors, as they have very hard deadlines that are driven by specific dates of training and opening that greatly affect their annual revenue.

5. **CONSTRUCTABILITY REVIEW:**
   At C.R. Crawford, our approach to constructability reviews is a structured process to ensure the construction documents are coordinated, the documents make clear the requirements of the project, and any potential impacts to the project because of document errors are identified and corrected.

6. **BID PACKAGE DEVELOPMENT:**
As design activities conclude, the subcontractor bid packages are finalized and, to the fullest extent possible, organized in a manner that will result in highly competitive bidding by the greatest number of bidders available in the marketplace. Unlike some other construction management companies, C.R. Crawford still frequently participates in and wins lump-sum bid projects so that our bidding processes will remain competitive. When deployed in a construction management project, our processes have been proven to result in lower, but still responsible, bids for our clients.

7. **IDENTIFY/ORDER LONG LEAD-TIME MATERIALS:**
As soon as C.R. Crawford has a signed contract, the estimator and project manager will work together to identify long lead-time items. Getting a list of the owner provided items to establish a release/delivery date is crucial for coordinating an overall schedule and sequencing of trades.





"John Teeter and Trent Rogers make a distinctly professional and thorough team across project management and pre-construction estimating services. Their ability to digest very complex projects and communicate openly and clearly with actionable budgets and information is critical for building successful projects."

—Chris Baribeau, AIA, principal, Modus Studio, Fayetteville, Arkansas

8. **DESIGN REVIEW & SUPPORT:**
C.R. Crawford will assist in as much design review and work with any suggested third-party reviewers as much as needed to get the best construction documents and game plan for executing the owner and design team's desires. We believe our role in the project is to help facilitate communication that will reduce errors and omissions, while managing the construction process from start to finish. Getting consultants and experts in their respective areas involved early leads to a more efficient project and potentially lower construction costs.

PROCUREMENT PHASE

1. **DEVELOPING SUBCONTRACTOR INTEREST:**
One method to generate the highest possible level of subcontractor participation and the lowest responsible cost is to conduct a subcontractor summit. We will proactively reach out to subcontractor companies in the area to be sure they are aware of the project and then host a half-day or one-day event to review the project, discuss key details of the project, and clearly communicate expectations for performance and quality.

2. **CONDUCTING PRE-BID/PRE-PROPOSAL MEETINGS:**
One scenario that we have found to be very productive is hosting a virtual pre-bid meeting. Our pre-construction team records a video of them talking through and visually showing subcontractors how to navigate the construction documents, reiterating that all of the documents are tied together and they need to review it as an entire package and not just a few pages specific to their trade. This video is made part of the invitation-to-bid package. A pre-bid meeting will also be held and there is a platform for asking questions about the bid process and bid package.

3. **PRE-QUALIFYING SUBCONTRACTORS & SUBCONTRACTORS:**
Our invitation to bid will set specific criteria right out of the gate, to ensure the subcontractor knows the minimum requirements needed to participate in the project. Once bid proposals are received, our pre-construction team will discuss with the subcontractor/supplier, to ensure that the proposer understands the scope of work that would be required of them and has the capacity to meet our schedule. In Northwest Arkansas, this process will be very easy, as we will know the subcontractors/suppliers and their abilities or shortcomings.

4. **RECEIVING & QUALIFYING BIDS/PROPOSALS:**
   On bid day, we will eagerly receive the subcontractor bids and verify the bids meet all requirements and include the complete scope of the bid package. We will compile the lowest responsible bids to verify the total construction cost is at or below our most recent cost estimate. Once the total construction cost is established, we will present the Guaranteed Maximum Price (GMP) to you for your review and approval. At this point, we will be prepared to begin site activities.

5. **ENTERING INTO CONTRACTS:**
   Regarding subcontracts and supplier purchase orders, we have a very clear and specific document we use and have found it to be very successful at clearly defining the scope of work for that trade/bid package. The agreements are fully executed prior to anyone from that company beginning their work on the project. This helps with defining payment terms and requirements for closeout, so there is no room for miscommunication.

CONSTRUCTION PHASE

1. **QUALITY ASSURANCE ON TIME & IN BUDGET:**
   Our quality management process begins early in the design phase when we review the materials and methods required to complete the project and verify that what is designed can be built with the highest possible quality. Cost and quality management continues throughout the remainder of the design process and then becomes a part of our site management activities.

2. **SCHEDULE MANAGEMENT:**
   Based on the complexity of a project, our project management team uses either Microsoft Project or Primavera to create and manage a project schedule. C.R. Crawford is known for our ability to develop an aggressive schedule and then meet or exceed that schedule. As with most advanced construction companies, we use "look ahead" and other schedule management techniques to verify we are staying on track and prepare for activities three to six weeks in advance.

3. **COST CONTROL:**
   C.R. Crawford's approach to cost control is a follow-up process from the pre-construction, scope definition, and bid packaging procedures. We approach cost control with a "discipline to detail" mentality, thus assuring that our clients are continuously informed of the process, have the appropriate documentation structure and are assured that we have completed a rigorous vetting of any and all potential risks.

4. **JOB SITE COORDINATION:**
   Our Project Superintendent is on-site all day and is responsible for ensuring site activities proceed as scheduled. We use the project schedule and Procore project management software to most effectively and efficiently coordinate site activities and maintain accurate project records.

5. **CHANGE ORDER MANAGEMENT:**
   If a change order is requested by the owner or architect, we will evaluate the cost of the change order and the impact the change order will have on the construction schedule. We will present our recommendation to you and in no instance will we proceed without written approval from the owner.

COMMISSIONING & START-UP SERVICES

Our Project Team has worked with third party commissioning agents, in addition to having someone from the design team or our Project Team lead the commissioning and start-up efforts in a new commercial building. We understand the importance in delivering and training the owner so they maximize the building's safety and efficiencies, as well as reduce operation costs, and have a maintenance and documented plan for the future. A building envelope review is a great step to take during this stage and lets the owner work hand-in-hand with all subcontractor leads/start-up representatives, as this can pay huge dividends when preventing water leaks and wasted energy use.

PROJECT CLOSEOUT SERVICES

What began during pre-construction will continue as construction comes to a conclusion. Our process includes continual verification that all work is done according to the plans and specifications. Any nonconforming work is addressed with the appropriate subcontractor before the subcontractor demobilizes from the job site.

1. **AS-BUILT DOCUMENTATION:**
   Our Project Team will immediately begin updating our project management software (Procore) with any updated or "red-lined" drawings. As a result, upon completion of the construction project, there will be a readily available as-built drawing set. The design team and owner will have access to this web-based software and mobile app at all times. These as-built drawings will also be included in an electronic closeout package sent to the owner.

2. **MAINTENANCE & OPERATION MANUALS COMPLETE:**
   Maintenance and Operation Manuals will be organized and filed into our electronic closeout package, in addition to any hard copies we may receive with the equipment. These manuals will be referenced and identified during the commissioning and start-up process as well.

3. **WARRANTY & GUARANTEES PROVIDED:**
   C.R. Crawford will provide a minimum of a one-year warranty. However, we look to build long-term relationships and want to always make sure we are helping our clients with any issue where we can help. All subcontractor waivers and warranties and manufacturer/equipment warranties will be provided and organized in the closeout package.

4. **CLIENT'S PERSONNEL TRAINED IN MAINTENANCE & OPERATION OF FACILITIES:**
   We understand the importance of training the maintenance and operation personnel on the building systems for safety reasons and this can help reduce future costs. There will be organized training sessions, when appropriate, for personnel to come on-site for training.

PART IV
ACCOUNT TEAM PERSONNEL

See resumes at the end of this document.

PART V
CORPORATE EXPERIENCE

Refer to Part I

PART VI
AUTHORIZED NEGOTIATOR

Brian Reindl is authorized to negotiate contract terms and render binding decisions on contract matters.

Brian Reindl
Owner, Reindl Properties
509 W. Spring Street, Ste. 310
Fayetteville, AR 72701
479-283-6816

PART VII
COST PROPOSAL/FINANCING PLAN

The design and construction team will assist Reindl Properties in establishing construction cost information to determine the viability of the project.

Development structure and financial methods will be explored by Reindl Properties and Windsor Aughtry. Working with arm's length third-party consultants, they will determine complete operating costs, occupancy rates, and revenue streams. Reindl Properties will explore incentives for hotel construction, such as New Market Tax Credits to enhance the viability of the project. Reindl Properties will share information regarding construction cost, land value appraisals, anticipated income streams, tax incentives, and final building design with representatives of the City of Fayetteville. If the terms are deemed to be beneficially to both parties, then a Comprehensive Agreement for the sale of the land will be executed.

Reindl Properties will also engage with the Walton Arts Center, TheatreSquared, Dickson Street Merchants, and the Fayetteville Advertising and Promotion Commission to make this new hotel a great asset to the City as well as the Downtown Arts Corridor.

SUMMARY

Reindl Properties has assembled a uniquely qualified team for the innovative development project envisioned by the City of Fayetteville. We have formatted this summary to be consistent with your Selection Criteria as follows:

1. Qualifications in Relation to Specific Project to be Performed. We have a proven 22-year track record of developing high quality buildings in Downtown Fayetteville. Our design and construction team have similar experience working on significant buildings located on constrained and challenging sites. Windsor Aughtry has developed multiple hotels in downtown locations across the country.

2. Experience, Competence, and Capacity for Performance. Brian Reindl will be the primary point of contact for the City of Fayetteville. You will be dealing with the primary decision maker at all times. At any time, Brian can call upon his consultants at C.R. Crawford, Windsor Aughtry, or Courtyard Building and Block to have questions answered and matters resolved. Financial wherewithal and experience will be demonstrated at each project milestone so that the City of Fayetteville will have a complete financial and aesthetic vision of the development.

3. Proposed Method of Doing Work. Collaboration is the key to developing successful projects that have multiple stakeholders. In addition to working directly with representatives of the City of Fayetteville, Brian Reindl will also engage with Walton Arts Center, TheatreSquared, Dickson Street Merchants, Nelson NBW, and the Fayetteville Advertising and Promotion Commission to make this new hotel a great asset to the City as well as the Downtown Arts Corridor. Reindl Properties will develop a project schedule for due diligence, design and cost estimating, permitting, and construction. Project schedules will be established that synchronize the completion dates of the hotel and the Civic Plaza. Construction easements and other logistical matters will be taken into consideration. Also, it is important to note that Reindl Properties is located at 520 W. School Street. This project will have our complete attention, every day.

4. Past Performance. Reindl Properties has developed multiple high-quality projects in the Fayetteville area. Projects such as the Metro District, Block Avenue, Hill Avenue Townhouses, and Metro District Lofts demonstrate our track record. Reindl Properties has excellent relationships with local suppliers and knows how to get the best work from our local craftsmen. Reindl Properties builds for the long term. In addition to their development expertise, they are skilled in managing properties and keeping tenants happy.

5. Cost and Fees. Reindl Properties is committed to fair dealing for all parties. Any transactions between Reindl Properties and the City of Fayetteville will be based upon third party arms-length appraisals. Financial analyses will be open book and based upon well documented sources regarding construction cost, anticipated revenue, and financing criteria.

CLOSING STATEMENT

"I have been in love with Fayetteville since that first drive through town back in 1984. I've always known it was a unique place with an incredible university, a great climate, a vibrant economy, and a diverse group of 'funky' people. Simply put, these are the reasons I decided to move back in 1994, start a business, and raise a family. I can truly say that there is nowhere else that I'd rather call home.

It's natural to want what's best for what you love, and I think this hotel is what's best for an already great and exciting Downtown. Not only will it add jobs and tax revenues, but it will also activate the park with a restaurant, coffee shop, and rooftop bar. I see it as not just a building, but an amenity for our visitors and citizens. It will be an extension of the park, and open to all. I'd love the opportunity to bring this amazing Downtown hotel to a place that we ALL call home."

—Brian Reindl, owner
Reindl Properties, Inc.

RESUMES

Brian Reindl
Developer



Brian Reindl first moved to Fayetteville in 1984 to attend the University of Arkansas, graduating in 1987. After college, Reindl moved to Little Rock and started a company called Ink Promotions, Inc. He later sold his part of this company, but the company is still in business and currently employs over 45 people in central Arkansas. He then moved back to Fayetteville in 1994 to start the company B. Unlimited Enterprises. Although Brian sold B. Unlimited in 2002, it is also still in business and currently employs over 220 people in Northwest Arkansas.

Reindl has been heavily invested in downtown Fayetteville real estate for the last 22 years as a developer and owner. After purchasing the Metro District building in 1999, Brian completely remodeled the 61,000 square foot building into what it is today, an anchor in what is now known as the "Entertainment District" and the "Cultural Arts Corridor". Prior to 1999, the Metro District Building was a blight on the downtown landscape. Brian also purchased a building just off the downtown square located at 11-23 N Block in 2012 which he also completely remodeled. Combined, the two buildings house 18 commercial spaces (all leased by local entrepreneurs) and 22 residential units. Other notable real estate projects include two incredibly beautiful 3-story mansions directly in front of Gate 1 at Donald W Reynolds Stadium, and also Hawksbill Subdivision in East Fayetteville which sits on 45 beautiful tree-covered acres.

Brian also Produced and wrote the movie "Greater" which was released in August of 2016. During principal photography, Greater Productions, LLC employed over 165 members of the cast and crew. Brian was able to bring this great story to life and bring both employment opportunities and positivity to the great state of Arkansas.

Josh Williams
Property Manager



Josh Williams has been a resident of Fayetteville 17 years. He attended the University of Arkansas and received his degree in Real Estate Finance. He has been apart of Brian Reindl's team for 5 years and has taken over the oversight and project management for all developments as well as managing all of Brian's commercial and residential spaces.

Josh has overseen the finish out of tenant spaces at Block Street and the Metro District and is directly involved in all matters relating to on-going tenant satisfaction.

Jay Alexander
Principal/Broker-in-Charge
864-679-3623 | 864-380-6191(cell)



Education:

University of South Carolina – Columbia, SC May 1991
Bachelor of Science Mechanical Engineering

Furman University 1993-1994
Pre-MBA classes

Recent Development Experience:

- Lead team member in submitting two winning RFPs to Greenville Hospital System for build-to-suit developments totaling $10.5 million. Secured construction funding, long term financing and managed projects to completion.
- Embassy Suites – Downtown Greenville SC: 155 room hotel constructed on air rights above city owned parking garage. The Embassy has a Ruth's Chris Steakhouse in the lobby, 4,300 SF of meeting space and rooftop bar.
- Home2 Suites – Asheville, NC: 112 room extended stay hotel with surface parking.
- Motto by Hilton – Bentonville, AR: 175 new concept micro room hotel under development in downtown Bentonville. The Motto will have a separately branded F&B concept, retail space, bike storage, and outdoor F&B concept. Opening 4th quarter 2023.

Community Involvement:

Board Member – Neighborhood Focus 2019 - Present
Chairman of Administrative Board – Mauldin United Methodist Church 2009-2011
Chairman of Youth Director Search Committee – 2010
Past Board Member - Greenville Metro YMCA
Past Board Member – Meyers Center for Special Children - Greenville, SC

Kelly Ross
General Manager / Commercial Construction
40 W. Broad Street, Suite 500
Greenville, South Carolina 29601
Phone: 864-303-9880 Email: kross@windsoraughtry.com

WINDSOR AUGHTRY
HOTEL GROUP



Education:

A.A.S. – Building Construction Science,
Greenville Technical College, 1981

Areas of Expertise:

- Kelly is General Manager for our hotel related construction projects. Working with design teams and contractors he represents the firm's interests in new hotel endeavors as well as property updates and renovations.

Recent New Hotel Project Experience:

- 127 room Hampton Inn & Suites atop a six-story parking deck in downtown Roanoke, VA. Opened 2016.
- 156 room full-service Embassy suites with rooftop bar / restaurant in Greenville, SC. Opened 2016.
- 138 room seven-story Residence Inn with pool and site amenities in Greenville, SC. Opened 2018.
- 135 room seven-story Marriott Courtyard located in downtown Baton Rouge, LA. Opened 2018.
- 132 room eight-story Hampton Inn & Suites located in Kansas City, MO. Opened 2019.
- 115 room Home 2 Suites located in Asheville, NC. Opened 2020.

Laurens Nicholson CCIM, SIOR

Principal / Director
40 W. Broad Street, Suite 500
Greenville, South Carolina 29601
Phone: 864-270-2706 Email: lnicholson@windsoraughtry.com



Education:

Clemson University - Clemson, SC May 1990
Bachelor of Science

Development Experience:

- Team member in assembling a site in Bentonville, AR for hotel development. Participated in the site selection, environmental, civil engineering, schematic design, design development and construction bid submittal. Worked with the City of Bentonville on the pre-application meetings and planning submittal. Worked with City of Bentonville Planning Department in getting project approved.
- Partner in hospitality real estate investment partnerships.
- Partner in multiple medical investment partnerships.
- Developed medical build-to-suits. Worked from site selection to completion.
- Developed multiple industrial and manufacturing facilities throughout South Carolina.

Community Involvement:

CCIM—South Carolina Chapter—Board of Directors (Education Chair), Past President
CCIM Global- Currently serving as Vice Chair to the faculty curriculum sub-committee
CCIM -Instructor- Financial Analysis for Commercial Real Estate Investment and Foundations for Success
South Carolina Association of Realtors— Past Board of Directors
Greater Greenville Association of Realtors – Commercial Division, Past President, Board of Directors
SIOR—Global Organization —President Carolina's Chapter—2014

Awards:
South Carolina CCIM of the Year- 2019
Commercial Realtor of the Year - Greater Greenville Association of Realtors—2002
Co-Star Power Broker - Industrial Sale &Lease Transactions—2009, 2010, 2012, 2013, 2014,2016



AARON McDONNEL

Sr. Project Manager

amcdonnel@crcrawford.com

Bachelor of Science,
Construction Management
University of Arkansas at Little Rock, Little Rock, Arkansas

ROLE IN THIS PROJECT:

Aaron will provide leadership, oversight, and direction to the other members of the C.R. Crawford team throughout the life of the project. He will work with the project owner, architect, and other stakeholders to develop and execute a project management plan that will result in the project being completed on schedule and within budget and executed with the utmost quality.

SUMMARY OF EXPERIENCE:

Having worked 18 years in the construction industry in areas from business development to estimating to project management, Aaron brings a tremendous amount of insight, experience, and leadership to any project team. He has a proven ability to lead multiple teams effectively and efficiently. The volume of total projects under his oversight at any one time have ranged from $200 to $300 million.







NOTABLE PROJECT EXPERIENCE INCLUDES:

- AC Marriott Hotel – Little Rock, AR
- AC Marriott Hotel – Kansas City, MO
- Chenal Point Apartments – Little Rock, AR
- Landmark Apartments – Little Rock, AR
- Wimbledon Greens Apartments – Little Rock, AR
- The Blake Sr. Living Center – Little Rock, AR
- OBU Student Housing – Arkadelphia, AR
- OBU Dorms – Arkadelphia, AR
- Arkansas Children's Hospital Research and Nutrition Center – Little Rock, AR
- Arkansas Heart Hospital Cath Lab Renovation – Little Rock, AR
- Arkansas NeuroSpine Center – Little Rock, AR
- U of A Athlete Success Center – Fayetteville, AR
- U of A Student Success Center – Fayetteville, AR
- U of A Ozark Hall Renovation – Fayetteville, AR
- Pinnacle Hills Promenade – Rogers, AR
- Promenade at Chenal – Little Rock, AR
- First Orion Office Building – North Little Rock, AR
- Bass Pro Shops – Little Rock, AR
- Overland Park Rehabilitation Hospital – Overland Park, KS
- Arkansas Fertility & Gynecology Associates – Little Rock, AR
- Malco Theater – Rogers, AR
- Cobb Cinebistro Theater – St. Petersburg, FL
- Cobb Cinebistro Theater – Cincinnati, OH
- Movie Tavern – Allentown, PA
- Movie Tavern – Little Rock, AR
- Ridgedale Mall Renovation & Expansion – Minnetonka, MN
- Rosedale Mall Renovation & Expansion – Roseville, MN
- St. Louis Galleria Renovation – St. Louis, MO
- Quail Springs Mall Renovation – Oklahoma City, OK
- LA Fitness – North Little Rock, AR
- LA Fitness – Memphis, TN
- Summit Fair Retail Center – Lee's Summit, MO
- Adams Dairy Landing – Blue Springs, MO
- Summit Orchard Retail Center – Lee's Summit, MO
- Ward Parkway Center – Kansas City, MO
- First Security Bank (Gateway Branch) – Little Rock, AR
- ASU Football Practice Facility – Jonesboro, AR
- Dairy Queen – Sherwood, AR
- Dairy Queen – Little Rock, AR
- Pediatrics Plus – Conway, AR
- Pediatrics Plus – Little Rock, AR
- Pediatrics Plus – North Little Rock, AR
- St. Vincent Lonoke Medical Clinic – Lonoke, AR
- St. Vincent Bryant Medical Clinic – Bryant, AR
- Arkansas Heart Hospital Cath Lab Renovation – Little Rock, AR
- Bellview Urban Center – Rogers, AR
- Doctors Hospital Renovation – Little Rock, AR
- River Ridge Mall Renovation – Lynchburg, VA



TRENT ROGERS, AIA

Sr. Pre-Construction Manager

trogers@crcrawford.com

Bachelor of Architecture
Louisiana Tech University,
Ruston, Louisiana

AIA Architect Registration

ROLE IN THIS PROJECT:

Trent will lead our pre-construction team and work with you and your project architect during the planning, design, and pre-construction phase of your construction program to provide conceptual unit-cost/square-foot-cost estimates. Trent will also work with the project manager to develop a preliminary construction schedule for the project. Trent will focus on the feasibility and efficiency of constructing what has been designed and, if needed, will develop alternative solutions to ensure your project remains within your budget.

SUMMARY OF EXPERIENCE:

In addition to his deep understanding of construction costs, ***Trent is also registered as an architect by the American Institute of Architecture (AIA).*** His understanding of both design philosophy and construction costs has allowed Trent to be a very effective communicator and problem solver when working with project owners and architects.

NOTABLE ARCHITECTURAL PROJECT EXPERIENCE INCLUDES:

- Farmington High School Gymnasium and Performing Arts – Farmington, AR
- Crossmark Center for Collaboration – Bentonville, AR
- Fulbright Junior High School – Bentonville, AR
- Keypoint Church – Bentonville, AR
- Elkins High School – Elkins, AR
- First Baptist Church – Rogers, AR
- Fort Scott Community College Performing Arts – Fort Scott, KS
- Siloam Springs High School – Siloam Springs, AR
- Siloam Springs High School Stadium – Siloam Springs, AR







NOTABLE CONSTRUCTION PROJECT EXPERIENCE INCLUDES:

- City U – Bentonville, AR
- South School Apartments – Fayetteville, AR
- Network Zero – Fayetteville, AR
- Generations Bank – Fayetteville, AR
- First National Bank – Fayetteville, AR
- United Bank – Bentonville, AR
- IDO – Lowell, AR
- Depot 16 – Bentonville, AR
- Pharm II – Bentonville, AR
- RMP, LLP – Johnson, AR
- BNSF Logistics – Springdale, AR
- Primrose Communities – Multiple Locations (AR and TX)
- Whitbeck Labs – Springdale, AR
- Washington Regional Cancer Support Home – Fayetteville, AR
- Washington Regional Medical Billing Office – Fayetteville, AR
- McDonald Eye Associates – Fayetteville, AR
- Marvell - Elaine School District – Marvell, AR
- Rogers School District – Rogers, AR
- Elkins School District – Elkins, AR
- Prescott School District – Prescott, AR
- Mountainburg School District – Mountainburg, AR
- Flippin School District – Flippin, AR
- Melbourne School District – Melbourne, AR
- Poyen School District – Poyen, AR
- Pea Ridge School District – Pea Ridge, AR
- North Cedar Townhomes – Fayetteville, AR
- Tyson Foods – Rogers, AR



DAVID KARR
Estimator
dkarr@crcrawford.com

Bachelor of Science,
Supply Chain Management,
Finance
University of Arkansas,
Fayetteville, Arkansas

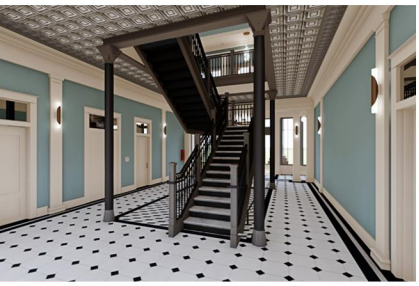
ROLE IN THIS PROJECT:

Working closely with Sr. Pre-Construction Manager Trent Rogers, David will lead estimating services for this project. He and Trent will work with you and your project architect during the planning, design, and pre-construction phase of your construction program to provide conceptual unit cost/square foot cost estimates and unit cost for site utility work. He will assist Trent in analyzing the accurate and efficient constructability of the project's design and will provide value engineering services to ensure your project remains within your budget.

SUMMARY OF EXPERIENCE:

For more than five years, David's dedicated focus in estimating services has given him vast experience. He is detail oriented and thorough in his processes, giving him quick expertise and success in project estimating. David is a proven asset in pre-construction services and will be an apparent benefit to your project.







NOTABLE PROJECT EXPERIENCE INCLUDES:

- Home2 Suites – Bentonville AR
- Independence Plaza – Lowell, AR
- Admiral Plaza Shopping Center – Tontitown, AR
- Johnson Medical Building – Johnson, AR
- IDO Phase II – Lowell, AR
- Blue Ember Smokehouse – Fort Smith, AR
- The Goddard School – Fayetteville, AR
- The Goddard School – Bentonville, AR
- Mercy Convenient Care Clinic – Bentonville, AR
- Mercy Health Pain Clinic – Bentonville, AR
- Southern Hills Office Building, Wilson Coker Wealth Advisors and Lighthouse Financial – Rogers, AR
- Matrix Racquet Club – Lowell, AR
- Benchmark Building TI – Rogers, AR
- Playground, Washington Elementary School – Fayetteville, AR
- Batteries Plus Bulbs TI – Fort Smith, AR
- Discount Tire – Jonesboro, AR
- Dazzling Nail Bar – Fayetteville, AR
- First Security Bank ATM – Fayetteville, AR
- BancorpSouth Renovation – Fayetteville, AR
- Discount Tire – Rogers, AR
- Walk-On's – Rogers, AR
- Walk-On's – Texarkana, AR
- Walk-On's – Fort Smith, AR
- Jiffy Lube – Springdale, AR
- Southern Hills Office Building, Wilson Coker Wealth Advisors and Lighthouse Financial – Rogers, AR
- Sherwin-Williams TI – Bentonville, AR
- Rogers School District, (4) Middle School Outdoor Tracks – Rogers, AR



JUSTIN REEVES
Project Manager
jreeves@crcrawford.com

Bachelor of Science, Construction Management
University of Arkansas, Little Rock, Little Rock, Arkansas

30-Hour Training Certificate
Occupational Safety and Health Administration







ROLE IN THIS PROJECT:

As Project Manager, Justin will work with your staff throughout your project and will be responsible for the successful outcome of the project. Justin will work closely with you and your project architects to ensure the project begins and ends within budget and on schedule. Justin will also work very closely with our Project Superintendent to verify that all work is done with quality and safety.

SUMMARY OF EXPERIENCE:

Justin is one of C.R. Crawford's most versatile Project Managers. In addition to his ability to expertly manage projects, Justin is also very adept at cost estimating, allowing him to work closely with our project estimating staff to produce accurate cost estimates and program budgets that will serve to keep your project on track financially. Justin has experience in a wide variety of project types, including K-12, healthcare, federal/military, and premium office spaces.

NOTABLE PROJECT EXPERIENCE INCLUDES:

- Home2 Suites – Bentonville, AR
- Home2 Suites – Springdale, AR
- Courtyard by Marriott – Rogers, AR
- North Cedar Townhomes – Fayetteville, AR
- The Fields at Pinnacle – Rogers, AR
- Johnson Square RMP Building – Johnson, AR
- Tyson Manufacturing Automation Center – Springdale, AR
- Mercy Therapy Services – Rogers, AR
- Washington Regional Cancer Support Home – Fayetteville, AR
- Johnson Square Medical Office Building – Johnson, AR
- Johnson Square Parks – Johnson, AR
- Johnston Liner – Johnson, AR
- Swetnam TI – Johnson, AR
- Highland Middle School Parking – Highland, AR
- Huntsville Activities Center – Huntsville, AR
- Poyen Career Education and High School Cafeteria – Poyen, AR
- Prescott Elementary School – Prescott, AR
- Central Utility Plant Shop & Power Center, University of Arkansas – Fayetteville, AR
- Washington Regional Cancer Support Home – Fayetteville, AR
- Elkins Elementary School Addition – Elkins, AR
- Prescott Middle School – Prescott, AR
- Lisa Academy Renovation – Little Rock, AR
- Little Rock Air Force Base – Jacksonville, AR
- Arkansas National Guard Armed Forces Reserve Center – Bentonville, AR
- Walmart Neighborhood Market – Ruston, LA
- Walmart Neighborhood Market – Shreveport, LA
- Walmart Neighborhood Market – Bossier City, LA
- CrossMar Industrial Building – Bentonville, AR
- Marvell High School Gym Addition – Marvell, AR
- McKee Peanut Butter Plant – Gentry, AR
- Power Center – Rogers, AR
- Storms Orthodontics – Springdale, AR
- Verizon Wireless – Moore, OK
- McKee Foods Extruder Room Addition – Gentry, AR



KEN EARNEST
Project Superintendent
kearnest@crcrawford.com

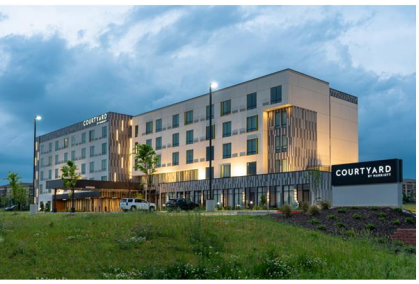
16-Hour EM 385-1-1 Certification
40-Hour EM 385-1-1 Certification
American Safety Council

Scaffolding Certification
NWA Stormwater Compliance Certification
Forklift/Boom Lift Operator Certification

Basic Rigger, Carpentry, Core Curriculum, Reinforcing Ironwork Level Two
NCCER Curriculum Performance Evaluator

CPR/First Aid Certified
American Red Cross

30-Hour Training Certificate
Occupational Safety and Health Administration







ROLE IN THIS PROJECT:

As Project Superintendent, Ken will work with the Project Manager to oversee project development by evaluating cost activities and developing and managing the construction schedule. He will manage all on-site personnel, update schedules, manage our quality control program, and administer our safety program.

SUMMARY OF EXPERIENCE:

Having been in the construction industry for 27 years, Ken is one of C.R. Crawford's most experienced Project Superintendents. He is a true leader on a job site and skillfully encourages others to achieve more and provide only their best work.

NOTABLE PROJECT EXPERIENCE INCLUDES:

- Courtyard by Marriot – Rogers, AR
- Home2 Suites – Bentonville, AR
- Fairfield Inn & Suites – Catoosa, OK
- Everest Rehabilitation Hospital – Rogers, AR
- Jiffy Lube – Bentonville, AR
- Jiffy Lube – Springdale, AR
- Everest Rehabilitation Hospital – Oklahoma City, OK
- Hall's Crossing – Springdale, AR
- Shoppes at Bella Vista – Bella Vista, AR
- Johnston Square Liner – Johnson, AR
- Redbird Office Building – Bentonville, AR
- Pendergraft Office Building – Fayetteville, AR
- Huntsville Activities Center – Huntsville, AR

Robert Sharp
Principal



EDUCATION

Bachelor of Arts in British History, University of the South, Sewanee Tennessee, 1986

Bachelor of Architecture, University of Arkansas, 1991

PROFESSION

Robert Sharp has 30 years of experience in the architectural profession. He founded Courtyard, Building, and Block, LLC in 2014 to specialize in serving the needs of municipalities, and private sector real estate developers working in Infill and New Urban settings. Robert has a keen interest in city and town planning, development economics, and regional architecture.

COMMUNITY

A native of Fayetteville, Robert Sharp has served in numerous local organizations such as the Planning Commission, Historic District Commission, Downtown Architectural Standards Committee, and Fayetteville Natural Heritage's Green Infrastructure project. Robert is currently serving as Town Architect for Partners for Better Housing, a 501c3 nonprofit corporation that is developing attainable housing in Fayetteville's Walker Park Neighborhood.

REPRESENTATIVE PROJECTS

Three Sisters Building

Robert Sharp served as Project Architect for the Three Sisters Building in Fayetteville Arkansas. The project encompasses three sides of a city block in downtown Fayetteville and includes professional office, retail, and residential uses. The building has become a distinctive local landmark and anchors Fayetteville's Cultural and Entertainment District. Robert led the design team and provided Construction Administration services for the project.

Mill District

Robert Sharp served as Project Architect for the conversion of an abandoned feed mill into a mixed use development containing professional office, retail, and residential space. The Mill District has served as a catalyst for positive growth in its neighborhood. The Arkansas AIA has recognized the project with an Honor Award for design excellence.

The Dickson

Robert Sharp served as Project Architect for Underwood Plaza, a seven story mixed use building on an infill site in Downtown Fayetteville. The building was designed to maximize the advantages of its prime location, while minimizing the disturbances from an adjacent railroad track and electrical substation.

RMP Building, Johnson Square

Robert Sharp served as design architect for RMP Building at the heart of the Johnson Square neighborhood. The three story masonry building contains law offices on the upper two floors. Streetside spaces are Pizzeria Ruby and the Hail Fellow Well Met Market. The combination of Class A office space and vibrant ground level tenants is a model for downtown development.

Network Building

Robert Sharp worked closely with Entegrity sustainability and energy consultants to create the state's first mixed use Net Zero Building. The building contains 28 apartments and 4,000 sq ft of office space. In addition to energy efficiency, good urban design, durability, and access to natural light drove the design process.

David McElyea
Project Manager



EDUCATION

United States Marine Corps 2002
Bachelor of Architecture, University of Arkansas 2006

PROFESSION

David has worked at a variety of architecture and design/build companies in his career in Arkansas and Louisiana. David worked on a variety of institutional and multi-family projects during his time at Modus Studio in Fayetteville from 2010 to 2018

REPRESENTATIVE PROJECTS

Brick Avenue Lofts, Bentonville Arkansas

While working at Modus Studio, David served as Project Manager for this 252 unit multi-family. The project is located on an 11 acre site near downtown Bentonville. Project includes multiple building types, clubhouse and associated amenities.

Uptown Fayetteville

This urban multi-family project includes 308 multifamily units on 14 acres. Also included is street-side retail, clubhouse, gardens, and local art installations. David worked on design and production for the project while at Modus Studio.

Atmosphere, Fayetteville Arkansas

Student housing project that encompasses an entire city block near the University of Arkansas. 228 unit - 628 bedrooms, 6 story podium with clubhouse, structured parking, and amenities. David worked on design and production for the project while at Modus Studio.

Cardinal, Fayetteville Arkansas

Student housing project that encompasses an entire city block near the University of Arkansas. 150 unit - 471 bedrooms, 6 story podium with clubhouse, structured parking, and amenities. David worked on design and production for the project while at Modus Studio.

Beacon Block, Fayetteville Arkansas

A three story mixed use building located at the corner of Prospect Street and College Avenue in Fayetteville Arkansas. The project includes 26 apartments and 6,000 sq ft of Office and Retail space at street level. David provided construction drawings for the project. Construction will begin in Spring of 2022.

Kara McElyea
Architect



EDUCATION

Auburn University Master of Design-Build | 2008

University of Arkansas Bachelor of Architecture, Magna Cum Laude with Honors | 2007

PROFESSION

Project Manager at BRR Architecture
January 2014 - October 2015
Responsibilities: Prototype Manager for the Walmart Neighborhood Market

Haag Brown Commercial Real Estate and Development
November 2015 - July 2018
Responsibilities: Producing concept designs and site layouts for all new development opportunities

REPRESENTATIVE PROJECTS

FFO Home - Multiple Locations (20+/-)

Starbucks Retail Centers - Multiple Locations (20+/-)

Tacos 4 Life - Multiple Locations (20+/-)

The Reserve at Hill Park - Jonesboro, AR (27 acre office park)

Haag Brown Office - Jonesboro, AR

Multiple Retail Developments (20 - 100 acres)

Adult Education Center – Trumann, AR

Parkwood Retail Center – Jonesboro, AR
7,300 SF three-suite retail space

East Johnson Medical Offices – Jonesboro, AR
6,600 SF two-suite building and 2,400 SF free standing building

Ha-Ro-Co Fire Station – Harriet, AR
Reconstruction of an existing volunteer fire station

Nestle Activation Center – Rogers, AR
12,000 SF offices with demonstration kitchen and mock up retail space

BNSF Railway Offices – Various Locations
1,500 to 3,200 rail office replacements

St. Mark's Episcopal Church – Jonesboro, AR
2,700 SF renovation of entry sequence for existing church

Dell Fire Station – Dell, AR
5,600 SF four-bay volunteer fire station

Vetro 1925 – Fayetteville, AR
4,700 SF restaurant in historic downtown building

First United Methodist Church – Greenbrier, AR
CA | renovations and classroom additions to an existing church

Baxter Heathcare – Mountain Home, AR
DD, CD, CA, project renderings | loading dock addition to an existing manufacturing facility

Off-Grid Emergency Housing
SD, DD, CD, CA | design and construction of 320 SF emergency housing unit out of a shipping container

Evan Douglas
Project Manager



EDUCATION

Bachelor of Science in Architectural Studies, University of Arkansas, 2015.

PROFESSION

Evan Douglas has worked as an architectural designer on various single and multi-family residential projects, with a focus on small-scale and infill development. His work is centered around architecture that is elegant, economical, and resilient.

REPRESENTATIVE PROJECTS

Hill Avenue Townhouses

Hill Avenue Townhouses is a collection of seventeen townhouses near the University of Arkansas campus. The two and three story townhouses all feature private outdoor living space. Evan provided design and construction document services for the project.

Pharm II Townhouses

Evan has provided design and construction drawings for six urban townhouses in B Street in Downtown Bentonville Arkansas. The Pharm II townhouses are designed for a narrow site and feature garage parking, a lofty living floor along the entire second floor and a generous suite at the third floor, including a private terrace.

Dunn and Davis

Dunn and Davis features twenty three townhouses on a quarter block in Downtown Bentonville. Many of the units feature private garages and balconies. The core of the site is a landscaped courtyard that creates an intimate oasis in a dense urban setting. Evan provided design and construction document services for the project.

Wheeler District Houses

Wheeler is an emerging mixed use neighborhood in Oklahoma City, located on the site of the former airport. Evan developed housing prototypes for the project and created construction documents for a series of new houses. This work at Wheeler is on-going as they expand into their second phase.

Briartown Cottages

Evan participated in the design charrette for Briartown Cottages, a project funded by the Walton Family Design Excellence program. After design work was complete, Evan created a set of consistent construction documents from the work of various other architects. Construction of the Briartown Cottages was completed this fall.

WEST AVENUE CIVIC SPACE

RE-CENTERING FAYETTEVILLE'S PUBLIC LIFE AT DICKSON AND WEST

FAYETTEVILLE CULTURAL ARTS CORRIDOR

Final Civic Plaza Schematic Design and Renderings - January 2019

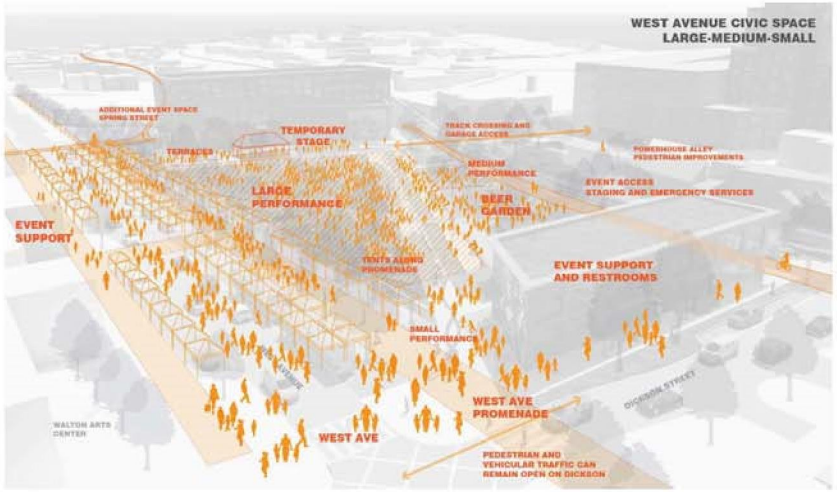




BIRDSEYE

KEY

01 - FLEXIBLE EVENT SPACE
- HIGH PERFORMANCE LAWN
02 - PROMENADE
03 - ARTFUL STORMWATER
04 - INTERACTIVE WATER COURSE
05 - SHADED GARDENS
06 - OUTDOOR CAFE SEATING
07 - PERMANENT SCULPTURE
08 - BIKE TRAIL
09 - STREET PARKING
10 - OPEN SHADE PAVILION
11 - TWO STORY BUILDING
POSSIBLE PROGRAM:
- CAFE/GALLERY/BIKES
12 - MULTI STORY BUILDING
POSSIBLE ROGRAM:
- OFFICE, MAKER SPACE
- ART GALLERIES
- CAFE/RESTAURANT
- HOTEL
- PARKING UNDERNEATH
13 - STAGE/OVERLOOK
14 - SPRING STREET PLAZA
15 - SHARED STREET



LARGE EVENT OR FESTIVAL



Final Civic Plaza Schematic Design and Renderings - January 2019



Final Civic Plaza Schematic Design and Renderings - January 2019



Final Civic Plaza Schematic Design and Renderings - January 2019

Received by Kit Williams
10/11/22 at 2:44 PM

OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Kara Paxton,** City Clerk/Treasurer
Susan Norton, Chief of Staff

FROM: **Kit Williams**, City Attorney

DATE: **October 11, 2022**

RE: Letter of Intent or Contract with Reindl Properties, Inc.?

First, let me assure everyone that I am not opposed to whatever building the City Council may wish to authorize to be built on the south side of the future civic plaza which is now probably the most valuable, developable property in Fayetteville and all of Northwest Arkansas. Right now as the landowners of the Walton Arts Center parking lot, **the City Council has full power to decide exactly what type of building (if any) should be constructed on the south side of the plaza and what type of business should be operated in this building to ensure the building and its operation would be in the best interests of our city and its citizens.**

The Mayor, Chief of Staff and the City Council Members in office in 2020 will probably remember the Letter of Intent presented to the City Council by Greg House concerning the Parking Deck. That was actually a true Letter of Intent as it clearly stated that no terms of the Letter of Intent were enforceable, but only presented as possible future terms for a future contract.

The agreement titled "Letter of Intent" with Reindl Properties, Inc. has no such statement that it is not enforceable. Indeed, this "Letter of Intent" is loaded with numerous **mandatory terms** which either the City, Reindl Properties, Inc. or both **must obey**. These mandatory terms clearly make this a contract rather than an Letter of Intent. For example, paragraph 1 The Building of this agreement states in subsection:
A. "Reindl **will** construct…"
B. "the Building **will** be substantial…"
C. "The Building **will** have three primary facades… All primary facades **will** be attractive, well-proportioned, and constructed of high quality materials…"
D. "The Building **shall** be designed and built in substantial compliance with the drawings…"

All of the **bolded** "wills" and "shall" noted above are **mandatory contractual language**. This is not the tentative language of an unenforceable Letter of Intent. This is the mandatory language of an enforceable contract, which is what this mislabeled "Letter of Intent" actually is.

In Paragraph 6, Parking, this "Letter of Intent" states that the "City **agrees** to lease or provide access to city's excess parking spaces..." This places the **contractual duty** on the City to lease or provide access to "city's excess parking spaces."

In Paragraph 9. Land Purchase

A. "Reindl **will** purchase land for the Building from the City in the approximate location as reflected on Exhibit G." Although the "exact legal description of the land to be conveyed shall be determined by a survey," the property to be sold to Reindl will be as shown on Exhibit G. So, despite that no legal description has yet been created, this "Letter of Intent" requires that the property to be sold will substantially mirror Exhibit G. Thus, this "Letter of Intent" controls one of the most important parts of any land sale contract, the approximate location and amount of property to be conveyed.

B. "The purchase price for the land **shall** be the fair market value for the property as determined by a third party real estate appraiser..." **The City must accept the appraiser's valuation and sell the property to Reindl for that amount even if we disagree.** Thus, both the sale price (the to-be-appraised value) and approximate location and amount of land to be sold are **permanently decided** by this Agreement even though it is incorrectly referred to as only a "Letter of Intent."

Finally, paragraph 14 Public Communication and Outreach Event requires that "Reindl **shall** present the design of the Building to... the general public for review and comment... **within 4 weeks of acceptance of this Letter of Intent.**" This is too late for any meaningful public review and comments. The proposed Letter of Intent already requires that "The Building **shall be designed and built in substantial compliance with the drawings** on the attached Exhibits A, B, and C...."

Once the Letter of Intent is accepted by the City Council, the Building's design and construction will have been decided and must comply with the designs shown on Exhibits A, B, and C. Later public comment cannot change the Building's basic design, location, size or construction materials. Any real and effective public input or comments about this proposal must come **BEFORE** the agreement on the building's design, location, size, and construction has been settled by this "Letter of Intent."

CONCLUSION

With no language used in Greg House's earlier Letter of Intent that it is not enforceable to be found in Reindl's "Letter of Intent," and with all of the mandatory language and requirements within this document, this is clearly a contractual agreement regardless if mislabeled as a "Letter of Intent."

This proposed agreement sets forth and settles the primary and most important terms and conditions for the development and construction of the Building. These may be potentially fleshed out by a few minor adjustments around the edges of the agreement, but no significant changes will be possible. Although the price of the land is not yet revealed, the City will be committed to accept the land appraiser's decision whether or not the City Council believes it is fair market value.

There will be later, more detailed agreements for City Council approval, but these are mainly ministerial or technical because they must comply with the decision you make on this initial "Letter of Intent" which **will control all later agreements**. Your initial decision on the "Letter of Intent" (which could include major changes or clarifications required by the City Council **before** it is agreed to) is the only opportunity to control whatever commercial development the City Council may wish to see on the south side of the civic plaza for at least a century.

Therefore, the City Council's decision should be very measured, careful and informed. That decision should follow, not precede the public notification, outreach, and comments about the design, size, location, building materials and allowed commercial uses for this building.

The City Administration has worked long on this proposal as has Reindl Properties, Inc. But the City Council has its own powers, duties, and responsibilities to ensure that the City receives the best development benefiting the taxpayer funded Twelve Million Dollar plaza and our citizens as possible. The City Council should move not only carefully, but slowly to give citizens and businesses plenty of opportunity to review and publicly comment upon the many important parts of this agreement before it is approved.

Received by Kit Williams
10/17/22 at 3:53 pm.

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Kara Paxton,** City Clerk/Treasurer
Susan Norton, Chief of Staff

FROM: **Kit Williams**, City Attorney

DATE: **October 17, 2022**

RE: Solving the Letter of Intent Issue

The Reindl Properties, Inc.'s Letter of Intent v. Enforceable Contract issue could easily be resolved if this document included the "Non-Binding Agreement" language used by Sage Partners in their January 14, 2020 "Letter of Intent for an offer to sell the below-referenced property (for the City's Parking Replacement Deck) under the following terms and conditions." Immediately above Mayor Lioneld Jordan's signature, this Letter of Intent states:

> "**Non-Binding Agreement:**
> "This proposal is not intended as, and does not constitute, a binding agreement by any party, nor an agreement by any party to enter into a binding agreement but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein. Neither party may claim any legal rights against the other by reason of the signing of this letter or by taking any action in reliance thereon. Each party hereto fully understands that no party shall have any legal obligations to the other, or with respect to the proposed transaction, unless and until all of the terms and conditions of the proposed transaction have been negotiated, agreed to by all parties and set forth in a definitive agreement which has been signed and delivered by all parties. The only legal obligations, which any party shall have, shall be those contained in such signed and delivered definitive agreement referred to above."

This Non-Binding Agreement language could easily be added to Reindl Properties, Inc.'s current proposed document which would then transform it into a real, non-binding Letter of Intent. At that point, the public would know what Reindl Properties, Inc.'s and the City Administration's proposed basic terms of Reindl's

development would be. That would be the proper time for public outreach and input because the developer's and City's major proposals about the building's location, height, size, design, construction materials and uses will be known, but will still be open for any desired changes and modifications.

If such Non-Binding Agreement language is rejected, then it is clear that Reindl Properties, Inc. and/or the Administration do indeed propose not a Letter of Intent, but an enforceable contract which decides all major development issues for this proposed seven story building.

I should also note that Black's Law Dictionary, 11th Edition defines a "Letter of Intent" as "a noncommittal writing preliminary to a contract. A letter of intent is not meant to be binding and does not hinder the parties from bargaining with a third party." Without the addition of the "Non-Binding Agreement" language, the Reindl proposal is not a true Letter of Intent, but a mislabeled contract.

Received by Kit Williams
10/18/22 12:24 pm

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Kara Paxton,** City Clerk/Treasurer
Susan Norton, Chief of Staff

FROM: **Kit Williams**, City Attorney

DATE: **October 18, 2022**

RE: Possible Issues in "Letter of Intent" with Reindl Properties, Inc.

Every significant (multimillion dollar) development contract will have many considerations and terms that can substantially affect or influence the desires of the buyer and seller which usually have somewhat different perspectives and objectives from each other. The City and Reindl Properties, Inc. are certainly not "partners" in any legal or usual sense of that word, but that does not mean we cannot work together in both of our interests for a financially successful and publicly appealing and satisfying development project on the south side of the plaza. That being said, as Fayetteville City Attorney, I need to review the terms of the proposed agreement titled "Letter of Intent," but which as I pointed out in my earlier memo is actually a very enforceable contract. I will point out in this memo some terms that give me concerns that the City Council may wish to consider

City Council Powers As Landowners of the Plaza

The City Council now has the power to decide exactly what size and type of building you will allow the purchaser of City property to construct on that city property until the property is sold or legally committed to be sold. **Once the Council agrees to the Letter of Intent as currently presented, its powers to make any changes in the design, size, height, location, or construction materials, in the Building will be gone.** Prior to agreeing to the Letter of Intent, you may decide what specific uses of such building shall be allowed or even shall be required. Such requirements should be included in deed restrictions and thereby enforceable against the buyer and any later owners of this property.

Once the Council agrees to sell the property by approving this "Letter of Intent" as currently presented, your opportunity for any further influence on the building's

design, size, height, or location will be gone. There will be some later agreements that the City Council will need to agree to, but all their terms will be controlled by this "Letter of Intent." No change of any significance could be required by the City Council.

Thus, the City Council has this **one chance** to ensure whatever building it decides would be best for Fayetteville is built and what will be the best type of businesses to be allowed or mandated to be operated in it. That chance is **now** before agreeing to any Letter of Intent which is actually a mandatory contract in which the most important decisions will already have been made. The design, size, height, location and construction materials of the building will also be firmly and permanently authorized as depicted in the drawings which are exhibits to the Letter of Intent. I need to ensure you realize that Reindl Properties, Inc. does not have to agree to any changes that the City Council may desire to be made in the Letter of Intent. To succeed, this development agreement must be both financially sound for Reindl and very advantageous for the City and our citizens.

Contract Terms that Need City Council Consideration

The first paragraph of the proposed agreement "The Building" states in its subparagraph A:

> "Reindl will construct a multi-story Mixed Use Building (the 'Building') containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces. The Building may include other uses as necessary to meet the financial goals of the project. The following Use Units will be allowed, subject to City's approval."

This language is somewhat unclear when the proposal states: "The Building may include other uses as necessary to meet the financial goals of the project... (but then states) "subject to the City's approval." The developer could argue that a certain use unit is "necessary to meet the financial goals of the project." Would the City Council still have the legal right (without paying any damages) to deny Reindl Properties, Inc's stated financial necessity of including one of these fifteen Use Units? This issue should be clarified before any contract is agreed to.

The "hotel uses" in this "Mixed Use Building" could be very small and still comply with this Agreement. Requiring actual restaurants with outdoor service and dining serving areas would ensure the positive interaction with the plaza I thought that the City and City Council want from this building. If so, clarity in this agreement would ensure a primary reason for allowing such building on City property is actually realized. Merely allowing "hospitality spaces," provides no such assurance.

The City Council may wish to ensure that the architect's goal and drawing showing a roof-top restaurant/bar will actually be built and operated. As owners of this property, the City Council now has the power and right to require much more clarity about how the proposed Building will be used. You could require the construction and operation of the rooftop restaurant/bar as part of the agreement to sell. Once you have agreed to the currently proposed "Letter of Intent," most of such power and authority over this possible project will be lost.

The currently proposed Letter of Intent does not actually require nor ensure that the proposed building will contain restaurants. Instead Reindl Properties, Inc. or its later owners may operate pursuant to any of the possible uses it desires within the fifteen broad Use Units identified in the first paragraph of the "Letter of Intent." Is that scenario okay with the Council? If not, the use units of the "Letter of Intent" need to be significantly limited and focused upon only the type of businesses desired by the Council to be carried out in the building.

Before your approval of the proposed Letter of Intent (contract), you may even designate what uses would be allowed in different sections or floors of the building. For example, the City Council could specify that only hotel, bar, and restaurant uses will be allowed on floors two through six. You could specify that the restaurant area shown on the first floor on Exhibit F as "Restaurant" and "Café" operate as such eating establishments throughout the life of this building unless the City Council agrees to any proposed changes.

The proposed Letter of Intent allows fifteen broad Use Units to be selected by Reindl Properties, Inc. for this building "to meet the financial goals of the project." You might deem some of these proposed uses to not be the best use of this City's most valuable, developable and impactful property. For example, the first Use Unit listed in the "Letter of Intent" is Unit 4, *Cultural and Recreational Facilities*. That Use Unit allows a crematorium and a mausoleum. Should those uses be allowed in what is supposed to be a large hotel with restaurants and retail shops? Why include such allowed uses which are incompatible to the hoped for project?

I should note that the "Letter of Intent" may be interpreted to authorize Reindl or his successors to enjoy the authority of Use Unit 35, **Outdoor Music Establishment** as a use by right. This sensitive use has always been only a Conditional Use to be separately approved by the Planning Commission with any necessary time and date restrictions. Unfortunately, this "Letter of Intent" does not refer to Use Unit 35 as a conditional use and thus appears to make it a **use by right with no conditions**.

As owners of the property, the City Council could and possibly should authorize the Outdoor Music Establishment Use Unit to be subject to the City Council's conditions concerning days allowed, periods of time allowed, more strict volume

controls than just the Noise Ordinance, etc. The City Council should retain the legal right to change those conditions by Resolution as part of the land sales contract and deed restrictions to ensure the City Council will always retain the final word on outdoor amplified music which could otherwise often dominate the plaza and disturb the plaza's ambience for many citizens.

If requested by Reindl Properties, Inc., the land sale agreement and deed restriction could place an upper hourly time limit on nightly outdoor amplified music from the building's property to ensure hotel guests would not be disturbed after 10 or 11 P.M. or some other mutually agreeable time. This provision needs careful consideration and probably limitations to protect the public visiting the civic plaza. The whole paragraph one of this agreement should probably be redrafted. Controlling Outdoor Amplified Music from the Building toward the plaza is so important that I recommend that the Council issue and control the terms and conditions for such outdoor amplified music itself rather than initially allowing the Planning Commission to issue a conditional use permit pursuant to §163.10 **Outdoor Music Establishments** of the U.D.C.

Liquor stores which are only allowed by a conditional use permit in many zoning districts also appear to be permitted by right to sell whiskey, wine and beer from the Building on the plaza by this "Letter of Intent." Even if the Council decides a liquor store is appropriate for the plaza, the City Council may want to limit the size and hours of operation for such liquor store because of its presence on the plaza. This would require more redrafting of this agreement.

Paragraph 1. C. refers to the "to-be-vacated Spring Street right-of-way to the south..." Such right-of-way still seems very useful for the City for its firetrucks and other emergency services as well as more protected right-of-way toward the apartments just north of the railroad tracks. Why would the City vacate this right-of-way just to give it to Reindl Properties, Inc.?"

Paragraph 6. Parking of the proposal is certainly a concerning issue. The statement that the "hotel will create parking demand for those off-peak times..." is certainly suspect. Hotel guests normally check-in around 4:00 to 5:00 P.M. and thus need parking from then until check out in the morning. It is clear that virtually every hotel guest will need parking during the highest, peak demand for parking in the Entertainment District which is 6:00 P.M. until 2:00 A.M.

Is it reasonable to assume that hotel guests will want to access valet parking to the far away Police Department lots south of the Town Center Parking Deck? With the public parking deck on Spring and School a short and easy walk from the proposed hotel, that inexpensive parking ($5.00 a night until 2:00 P.M. the next day) will be filled with hotel guests as well as hotel and restaurant staff before most diners would arrive

to look for public parking. Fayetteville taxpayers who built that parking deck will find it filled as well as probably much of the on-street paid parking spaces near West Avenue.

We will have saved the hotel developer millions of dollars by not having to build its own structured parking by allowing hotel guests and staff to monopolize what are now public parking spaces for citizens and visitors wishing to eat and drink in the Entertainment District. This proposed lack of adequate new private parking for hotel guests and restaurant and hotel staff is not a smart parking strategy for the City. This difficult issue needs considerable additional careful study before this agreement should be approved.

Under Paragraph 8 Sustainability, the Reindl Letter of Intent speaks about its "building that lasts several hundred years..." This is obviously hyperbole, but it should highlight the long term consequences of the City Council's important decision about the choice of any development approval. Careful study of the proposed contract and its promised development is essential before any decision would be warranted.

Paragraph 10. Infrastructure

A. "Infrastructure costs that will benefit both City and Reindl, such as extending water and sanitary sewer, to the Building site **shall be evenly split**..." (emphasis added) The City is constructing or paying Reindl to construct a publicly accessible bathroom attached to his building near his largest restaurant. Thus, extended water and sewer mains provide some benefits to the City. The newspaper reports that this seven story hotel may contain 134 rooms (each with a bathroom and shower). Of course, Reindl Properties, Inc.'s Exhibit F also shows two restaurants. Because of state fire codes, the proposed building will likely have to have a full building, room by room fire suppression water sprinkling system connected to a water main of sufficient size to supply this sprinkler system. So for far less than 1% of total water and sewer needs, this contract places 50% of the costs to build the large water and sewer mains this Reindl building will need on the City's taxpayers. This is not illegal, but another current contractual requirement that may need City Council consideration.

There is plenty of unused city property space southeast of the hotel and northwest of the Spring & West intersection on the plaza that could be used for the public bathroom. This stand alone facility could be served by inexpensive water and sewer service lines rather than expensive mains. It would also cost our taxpayers much less to build because we would not be charged a "pro-rata share of the cost of foundations, structure, roof and exterior walls as well as the electric, plumbing and HVAC equipment and service" of the seven story hotel as required by the current contractual requirement of the Letter of Intent.

A small single story bathroom near West Avenue would not need the massive foundation that a seven story hotel built over a creek would require. I am sure that the City's contractually required "pro-rata share" would not be as unfair as the 50% of the costs for the construction of the very large water and sewer mains to serve the seven story hotel when our bathroom would require less than 1% of such services. However, building our own bathroom on our own land would avoid any disputes about what our fair pro-rata share should be and also make it clearer to persons on the Plaza that this is a public bathroom, not one for the hotel and its guests.

COUNCIL DISCRETION REMAINS

One final note, a committee composed of a single Council Member (Petty), some City Staff and others worked with the architects that presented drawings of possible designs of the civic plaza to the whole City Council. At some point, the ad hoc committee apparently selected the design showing a large building on the south end of the plaza. I stand to be corrected, but I do not remember any design being officially approved by the City Council by a Resolution or other official action. If such Resolution does exist expressing the Council's decision to adopt the design showing the large building on the southern end of the plaza, I would very much like to see it.

Regardless, the design of the plaza was certainly not part of the bond or ballot language for this project which would be the only way to make such design legally enforceable. Therefore, the current City Council retains full authority and discretion to support and authorize either the design presented with the "Letter of Intent," or any other design for the plaza south of the building site already conveyed to Greg House & Ted Belden including no building site on the south side. The allowed height, size, design, location and uses of any building allowed to be built on the southern portion of the plaza clearly remain within the current City Council's discretion and authority.

Received by Wade Abernathy
10/18/22 2:35 pm.

CONNER WINTERS

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OFFICE 479.582.5711
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MEMORANDUM

To: Susan Norton
Wade Abernathy
Date: October 18, 2022
Re: Letter of Intent with Reindl Properties, Inc. – binding effect

I agree that the Letter of Intent is intended to be a document that is binding on the parties, assuming all conditions are met. The advantage to the City is that it has a written commitment from Reindl to move forward with the project. Otherwise, the City could spend many months working on this project with no commitment from Reindl to build the hotel and he could simply walk away. Likewise, Reindl does not want to spend time and resources pursing the project if the City could walk away at any time.

Just like most agreements, there is the possibility the deal will not work out. For example, the City and Reindl might disagree over the final plans and specifications [Reindl might try to materially alter the proposed design and the City might not approve it], Reindl might not be able to obtain financing, etc. As far as the uses, final plans and specifications, those are subject to the City's approval through the PZD process.

The purpose of the Letter of Intent is to have a document in place that sets forth the material terms of the agreement between the City and Reindl. If there are other terms the Council believes should be included in the document, we can easily add them.

Sincerely,

/s/ Vicki Bronson

Vicki Bronson

2022-0919 Information submitted by Arts and Cultural Director, Joanna Bell, via email during the City Council meeting on 10/18/22.

The Fayetteville Arts Council

To: Fayetteville City Council

From: The Fayetteville Arts Council: City Council member Sonia Harvey, Arts Council Chair Jessica DeBari 06/30/24, Chloe Bell, Arts and Culture Citizen-at-Large 06/30/25; Abby Hollis, Working Artist 06/30/25, Lara Hightower, Arts and Culture Citizen-at-Large 06/30/25; Robert Stafford, Working Artist 06/30/25; Dwain Cromwell, Working Artist 06/30/23; Emily Miller, Working Artist 06/30/24; Alexandra Vasile, Arts and Culture Citizen-at-Large 06/30/23.

Date: 10/18/2022

Re: AGENDA ITEM
REINDL PROPERTIES, INC.: A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A LETTER OF INTENT DEFINING DEVELOPMENT AGREEMENT TERMS WITH REINDL PROPERTIES, INC. FOR A PUBLIC PRIVATE PARTNERSHIP FOR CONSTRUCTION OF THE MIXED-USE BUILDING PLANNED TO PROVIDE GROUND FLOOR ACTIVE USES FOR THE RAMBLE CIVIC PLAZA ON THE SOUTHERN END OF THE SITE

Comments: The Fayetteville Arts Council met with Rob Sharp this July to discuss arts integration in the planned hotel and civic plaza proposed for construction. The citizens of Fayetteville expect the arts corridor to serve as a cultural space that will enhance quality of life for all our citizens, not just visitors to our city. During our meeting with Mr. Sharp we were pleased that he was receptive to a series of proposed public/private art integrations which will ensure that the hotel and plaza mixed use spaces fulfill citizen's expectations for arts and culture. We are hopeful that some of the ideas discussed will be integrated into the project in a meaningful way.

The first planned integration would be to form a specific "Ramble Hotel Artists Collaborative Committee" within the Arts Council, which would consult and advise on local artists who may display their work in the lobby gallery space of the hotel. A potential artist residency aspect for the hotel was also discussed, and we are eager to drive further discussion of the implementation of such a program. Rotating local artist installations were also discussed for dining spaces.

We discussed the visual need for an artistic endpoint to the water feature of the civic plaza. Mr. Sharp expressed an agreement that this visual endpoint of a sculpture/installation/or fountain would make sense at the west point of the water feature. However, we have not been able to have a follow up meeting about where funding might come from toward purchasing such a piece. It is our recommendation that an artistic feature for this location be integrated in the civic plaza as a part of the final plan.

The final part of the plan which we discussed is programming. We are so pleased that Mr. Sharp is planning to support performing art programming in partnership with and other local performance venues. We are hopeful to see more details about potential performance settings and schedules as an integral part of the mixed-use spaces.

The Fayetteville Arts Council is broadly supportive where development projects enhance and provide opportunities for our local arts community.

Received from Wade Abernathy
10/28/22 at 11:32 am.

CONNER WINTERS

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Vicki Bronson | Partner
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MEMORANDUM

To: Wade Abernathy
Susan Norton
Date: October 27, 2022
Re: Letter of Intent with Reindl Properties, Inc. – updated

Attached is an updated Letter of Intent with Reindl Properties, Inc. The primary changes since the previous draft are as follows:

1. Language was added to Paragraph 1 to clarify potential permissible uses and prohibited uses. I say "potentially permissible" because the ultimate construction of the building and permitted uses is subject to City's regulatory processes. Updated language states the building must contain a minimum of one restaurant, café, or coffee shop.
2. Language was added to Paragraph 9(B) and (E) pertaining to the selection of an appraiser or appraisers for the land purchase and the easement property, if necessary.
3. Language was added to Paragraph 9(D) to clarify conditions required for the sale of City's real property to Reindl.
4. Paragraph 11 was revised to provide that Reindl is to complete the City Restrooms to a "white box" finish, with the City responsible for finish out by a contractor of its choosing.
5. Language was added to Paragraph 12 to clarify the City retains control of the Plaza and stage.
6. Language was added to Paragraph 16 to "beef up" the point that either party may terminate the Letter of Intent if the other party does not substantially comply with its obligations under the agreement.
7. Paragraph 18 was added to clarify the Letter of Intent may be modified by written agreement of the parties.

Let me know if you have any questions or need additional information.

Sincerely,

/s/ Vicki Bronson
Vicki Bronson

Received from Wade Abernathy
10/28/22 at 11:32 am.

LETTER OF INTENT, CIVIC SPACE AT THE CULTURAL ARTS CORRIDOR, MIXED USE BUILDING

Background:

On April 9, 2019, the voters of the City of Fayetteville ("City") approved a bond issue for the Cultural Arts Corridor (recently renamed the Ramble) in downtown Fayetteville. The Ramble design for the Civic Space at the southwest corner of Dickson Street and West Avenue consists of a gathering and event lawn, community plaza, garden spaces, a public promenade and building sites on the plaza. The southern anchor building site was proposed to support and enhance the experience of the Civic Plaza, to provide community benefit, to frame the view of the Civic Space and to generate tax revenues. On October 26, 2021, the City accepted Request for Proposals for the design and construction of innovative development proposals for the southern anchor building. The City Selection Committee selected Reindl Properties Inc. ("Reindl") to implement the vision of a southern anchor building that is both beautiful and of exceptional architectural quality, material, and urban design befitting this extraordinary location.

This document describes an agreement between the City and Reindl regarding that property on the south end of the Civic Space adjacent to West Avenue and Spring Street, in the approximate location reflected on Exhibit G ('the "Property"), the exact legal description of which to be determined by a survey and final agreement of the parties. The basic terms of the agreement are as follows:

1. The Building:

A. Reindl will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces, including a minimum of one restaurant, café, or coffee shop. The Building may include additional uses as necessary to meet the financial goals of the project. The following Use Units may be allowed, subject to the City's prior approval in conjunction with the City's processes and procedures for considering and approving zoning, development, licenses, and permits, including conditional use restrictions:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

B. Notwithstanding the foregoing paragraph, the following uses will not be permitted on the Property (the "Prohibited Uses"): crematorium; mausoleum; funeral home; furniture repair and refinishing; taxidermist; vape shops; body piercing/tattoo; gunsmith; animal hospital; animal day care; day care; bail bonding agencies; hospital; vehicle sales; convalescent home; boarding/rooming housing (other than is typically associated with hotel use); dormitory; fraternity/sorority housing; and slot car track. Any deed from the City conveying the Property to Reindl will contain a restriction against the Prohibited Uses and the restriction will be a restriction that runs with the Property for a minimum of 75 years.

C. As befits its prominent location, the Building will be a substantial and attractive building. The building design and site development will be subject to City's development review process,

ordinances, and rules. The final building design, plans and specifications, including but not limited to exterior finishes is subject to City Council approval. Nothing in this Letter of Intent is intended to or may be construed as a waiver of any of City's ordinances, rules, or regulations.

D. The Building will have three primary facades; one facing the Civic Plaza to the north, one facing the vacated Spring Street right-of-way to the south, and the third facing West Avenue to the east. All primary facades will be attractive, well-proportioned, and constructed of high-quality materials in accordance with the plans and specifications.

E. The Building shall be designed and built in substantial compliance with the drawings on the attached Exhibits A, B and C which depict the minimum standards for materials, design, and architectural features. Any significant deviation from exterior design reflected on Exhibits A, B, and C is subject to additional City Council approval.

2. The Location:

The Building will be located at the south end of the Civic Space as shown in Exhibits D and E. The indoor-outdoor relationship of the Building to the Civic Plaza will demonstrate sensitivity and engagement towards the Civic Plaza to the north, the West Avenue Promenade to the east, and to the Metro Building to the south. Exhibit G identifies the approximate Building location on City property, however the exact legal description of the property to be conveyed from the City to Reindl, as further described in Paragraph 9, will be determined by a land survey, the cost of which will be shared equally between the City and Reindl.

3. Ground Floor Activity:

Ground floor uses at the Building shall be open and inviting to the general public. The operating plan and design for the ground floor activity shall support activation of the Civic Plaza. It is anticipated that bar, restaurant, café, and retail uses will be included. Hotel lobby shall be designed to be open and inviting. Refer to Exhibit F for a diagrammatic floor plan showing the location of these uses.

4. Public Benefit:

In addition to increasing the beauty and liveliness of the Civic Space, the Building containing a hotel will also have a substantial fiscal impact for the City. A project of this scale, over a 10-year period, would provide approximately $3.5 million to the Fayetteville Public School System and approximately $3.3 million to various City operations such as the library, police and fire departments, roads, and general fund.

During construction, Reindl will make a good faith effort to purchase building supplies locally to increase sales tax revenues for the City.

5. Benefit to Local Merchants and Downtown Business Owners:

A project of this scale will attract visitors to the downtown. Hotel guests will eat, shop, and play in the area. In addition, Reindl has a proven track record in recruiting and retaining local entrepreneurs, which provides both an economic benefit to small business enterprises and enhances local character.

6. Parking:

Hotel uses are ideal for a smart parking strategy. Valet parking is the best and most convenient way to address the matter. This allows remote storage of cars off-site. Once parked, a hotel guest in this location has access to the University of Arkansas, Dickson Street Entertainment District, Downtown Square, Razorback Greenway, Walton Arts Center, TheatreSquared, and multiple restaurant and shopping opportunities; all within a short walk. Personal mobility devices, such as electronic scooters, can boost the range of the hotel guests. Superb bicycle infrastructure is already in place.

At many times of the day, existing City parking resources are underutilized. The hotel will create parking demand for those off-peak times and will be a significant revenue source for the City's parking resources. Reindl will provide basement level parking in the Building with capacity of a minimum of 32 parking spaces.

City agrees to lease or provide access to City's excess parking spaces to Reindl per current market rates. Reindl is responsible for setting up valet parking services and encouraging the use of valet parking so that hotel guests do not add pressure to existing parking loads in the Dickson Street Entertainment Zone. Reindl will continue to pursue the purchase or lease of off-site parking for the Building. Prior to executing and as a condition of entering into the land purchase agreement, Reindl will have parking agreements in place that comply with City code sections 172.05 and 156.03C(5) and as are deemed sufficient by City.

7. Loading and Solid Waste:

Reindl will provide areas for loading, recycling, and solid waste receptacles on the west side of the Building. No loading, waste removal, or recycling will be done from West Avenue or any other public street.

8. Sustainability:

A. Sustainability has been a core goal of the Cultural Arts Corridor as demonstrated by the City's efforts at making this project the first SITES Certified project in Arkansas. Reindl proposes a furtherance of this sustainability commitment by constructing a healthy, efficient, and durable building on the Civic Plaza.

B. Indoor air quality is a critical aspect of the design, particularly in light of recent health challenges. Proper indoor finish selection and air filtering are vital to the success of any new building, particularly one that involves hospitality and lodging. Reindl will implement the use of design and sufficient air filtering to promote indoor air quality in the Building.

C. Another important characteristic is an efficient building envelope. Keeping water and air out and creating a good thermal barrier is critical. Reindl commits to an efficient and properly designed envelope that will prevent air and water infiltration and reduce thermal bridging. Reindl will implement the use of smart energy-management systems to decrease energy use in the Building. Smart systems will be installed to avoid heating and cooling vacant rooms.

D. The most sustainable aspect of a building is to construct and detail for a long life. A building that lasts several hundred years is superior to one that has a design life of a few decades. The simplicity of the proposed Building design as reflected on Exhibits A, B, and C, is rational and straightforward and will be easy to maintain far into the future.

9. Land Purchase:

A. Reindl will purchase the Property for the Building from City in the approximate location as reflected on Exhibit G.

B. The purchase price for the Property shall be the fair market value for the Property as determined by a third-party real estate appraiser to be selected by both parties. If the parties cannot agree on an appraiser, then each party will select an appraiser and the two selected appraisers shall select a third appraiser. In that event, the purchase price for the Property will be the average of the three appraised values.

C. Costs of the appraisal(s), surveys, and closing costs shall be split evenly between Reindl and City and listed on the settlement statement at closing.

D. A real estate contract will be entered into to formalize the real estate transaction once appraisals, surveys, and market studies have been completed. Closing on the Property is specifically subject to the following conditions: (1) Reindl to have obtained a Building Permit from City that complies with the terms and intent of this Letter of Intent and pursuant to City's processes and procedures for considering and approving PZDs; (2) Reindl shall have complied with all other terms and conditions of this Letter of Intent; and (3) the parties' agreement on the form of the real estate contract.

E. Reindl shall convey real property or grant perpetual easements across real property to City for construction of public walking and biking trails. The consideration for Reindl's property transfer or grant of perpetual easements to City shall be either (1) the fair market value of the real property transfer or perpetual easements determined by a third-party appraiser to be selected by both parties, which shall be deducted from the Purchase Price at Closing, or (2) City will grant Reindl, at Reindl's request, an easement on City owned property, or (3) the option to purchase City property adjoining the development at a restricted use price. To the extent an appraisal is required under this paragraph, the appraised value of the easement(s) shall be included in the appraisal(s) conducted pursuant to Paragraph 9(B).

F. City and Reindl will coordinate design consultants on designing bicycle, pedestrian, automotive, and landscape infrastructure on all sides of the Building. Costs of those improvements and agreement as to which costs will be paid by City and which will be paid by Reindl shall occur prior to entering into the real estate purchase contract and shall be a condition of the real estate contract.

G. Closing on the land purchase transaction will occur within a reasonable time after execution of the real estate contract as agreed between the parties.

10. Infrastructure:

A. Infrastructure costs that will benefit both City and Reindl, such as extending water and sanitary sewer to the Building site, shall be evenly split between Reindl and City. Any infrastructure cost for the sole benefit of the Reindl will be at its own expense.

B. The City will assist Reindl in coordinating burial of overhead power lines and may, at its sole discretion, choose to share a portion of this cost.

C. Reindl will work with electrical, cable, telephone, and gas utilities to provide and extend service to the Building site. City will reasonably cooperate to provide utility easements if necessary.

11. Restrooms and stage support space:

A. The Building shall contain, at street level, publicly accessible restrooms to serve trail and other public space users (the "City Restrooms"). All City Restrooms must comply with the Americans with Disabilities Act. Access to the City Restrooms shall be from the Frisco Trail.

B. The Building shall also contain at street level a "back of house" space to be used by event organizers.

C. Reindl shall be responsible for the construction of the City Restrooms to a "white box" finish and storage space, however, City shall have oversight of the design of the City Restrooms and storage space.

D. The City Restrooms and stage storage space shall be a minimum of 1,600 square feet. Public restrooms shall face and be accessible from the Razorback Greenway. Stage support space shall be located proximate to the outdoor stage immediately north of the Building.

E. The costs of construction of the City Restrooms as a white box finish and the storage space, including the pro-rata share of the cost of foundations, structure, roof, and exterior walls as well as the electrical, plumbing, and HVAC equipment and services, and all interior finishes, doors, hardware, and other elements desired by the City shall be paid for by the City, and deducted from the Purchase Price at Closing of the real estate transaction. Reindl is responsible for completing and delivering the City Restrooms in a white box finish and City is responsible for contracting for and paying the costs to finish out the interior of the City Restrooms as it deems appropriate with a contractor of its choice.

F. City shall have the exclusive use, control, possession, and right to the City Restrooms and storage space pursuant to a perpetual exclusive easement granted by Reindl, the form of which must be agreed prior to entering into the real estate contract described in paragraph 9.

G. Reindl will provide separate public restrooms for the use of patrons of the Building at its sole expense, in accordance with City's ordinances, rules, and regulations.

12. Adjacent Exterior Features:

NBW, City's landscape design architects, will prepare a landscape design for the north and east sides of the Building and Reindl shall implement and install landscaping on property that is owned by Reindl in accordance with NBW's landscape plan. Use of the exterior spaces shall be coordinated between Reindl and City, anchor institutions adjacent to the land, (e.g., Walton Arts Center, TheatreSquared, etc.) and any other group selected by the City to represent its interests in creating a lively and attractive park. Use agreements shall be developed to ensure that Building's ground floor uses support the activation of the Civic Plaza. Each party shall be responsible for the maintenance of exterior spaces and landscaping on property it owns. City retains complete control of the Plaza and stage. No use of the Plaza or stage is guaranteed; Reindl may seek permission to use the Plaza or stage utilizing the City's processes as required by any member of the public.

13. Opportunities for Public Art:

Reindl shall provide locations for public art display at the Building. Public art shall be coordinated between Reindl and local arts organizations, including any groups selected by City to represent its interests in creating opportunities for public art.

14. Public Communication and Outreach Event:

In keeping with the open and transparent Cultural Arts Corridor design process, Reindl shall present the design of the Building to anchor institutions and the general public for additional review and comment. Such presentation shall occur within 4 weeks of acceptance of this Letter of Intent.

15. Development Review Process:

Once financing has been secured for the project, but no later than July 1, 2024, Reindl shall submit the Building plans and specifications to the City of Fayetteville's development review process and Building Permit review. To allow an enhanced level of scrutiny, and to address the unique aspects of this site, this project will be submitted as a Planned Zoning Development (PZD), which will document the specific development strategies and design standards that are shown in this document. The PZD process allows review of the project at the level of planning staff and the Planning Commission. At the final step of the PZD process, the full project will be brought back to City Council for review and approval. At both Planning Commission and City Council, members of the public are allowed and encouraged to ask questions of the developer and to comment upon the proposal.

16. Termination Clause:

If Reindl does not secure a Building Permit for the Building within twelve (12) months of substantial completion of City's Civic Space, then this Letter of Intent and all agreements pertaining to this Letter of Intent shall be null and void and neither party shall have any obligations to the other party. In addition, if either party does not substantially comply with the terms and conditions of this Letter of Intent, the other party may, at its sole discretion, declare this Letter of Intent null and void, and neither party shall have any obligations to the other party.

17. City of Fayetteville Right to Buy Back Land

Should Reindl not commence construction of the Building within sixty (60) days of City issuing a Building Permit or should Reindl not complete construction of the Building within twenty-four (24) months of issuance of the Building Permit, then City at its sole discretion shall have the right to buy back the land, and any improvements made as of that date. The purchase price City will pay Reindl will be the original Purchase Price Reindl paid City, plus the fair market value of the completed improvements as determined by a third-party real estate appraiser, less all amounts paid by City for construction or construction estimates for the City Restrooms and storage space. The provisions for selection of appraisers contained in Paragraph 9B also apply to this Paragraph.

18. Modification.

The terms and conditions of this LOI may be amended at any time prior to any conveyance of the

Property to Reindl by a writing executed by both parties.

CITY OF FAYETTEVILLE

BY: Lioneld Jordan 11-1-22

Lioneld Jordan, Mayor, City of Fayetteville Date

Attest:

Kara Paxton 11/01/22

City Clerk Treasurer Date

CITY CLERK / TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

REINDL PROPERTIES, INC.

By

Brian Reindl, President, Reindl Properties, Inc. Date

EXHIBIT A: VIEW OF HOTEL FROM WEST AVENUE



EXHIBIT B: VIEW OF HOTEL FROM CIVIC SPACE



EXHIBIT C: EXTERIOR MATERIAL AND DETAIL DIAGRAMS FOR THE HOTEL



VIEW FROM NORTHEAST



VIEW FROM NORTHWEST

EXHIBIT C, continued: EXTERIOR MATERIAL AND DETAIL DIAGRAMS FOR THE HOTEL



VIEW FROM SOUTHEAST



EXHIBIT D: AERIAL VIEW OF HOTEL FROM THE NORTHEAST

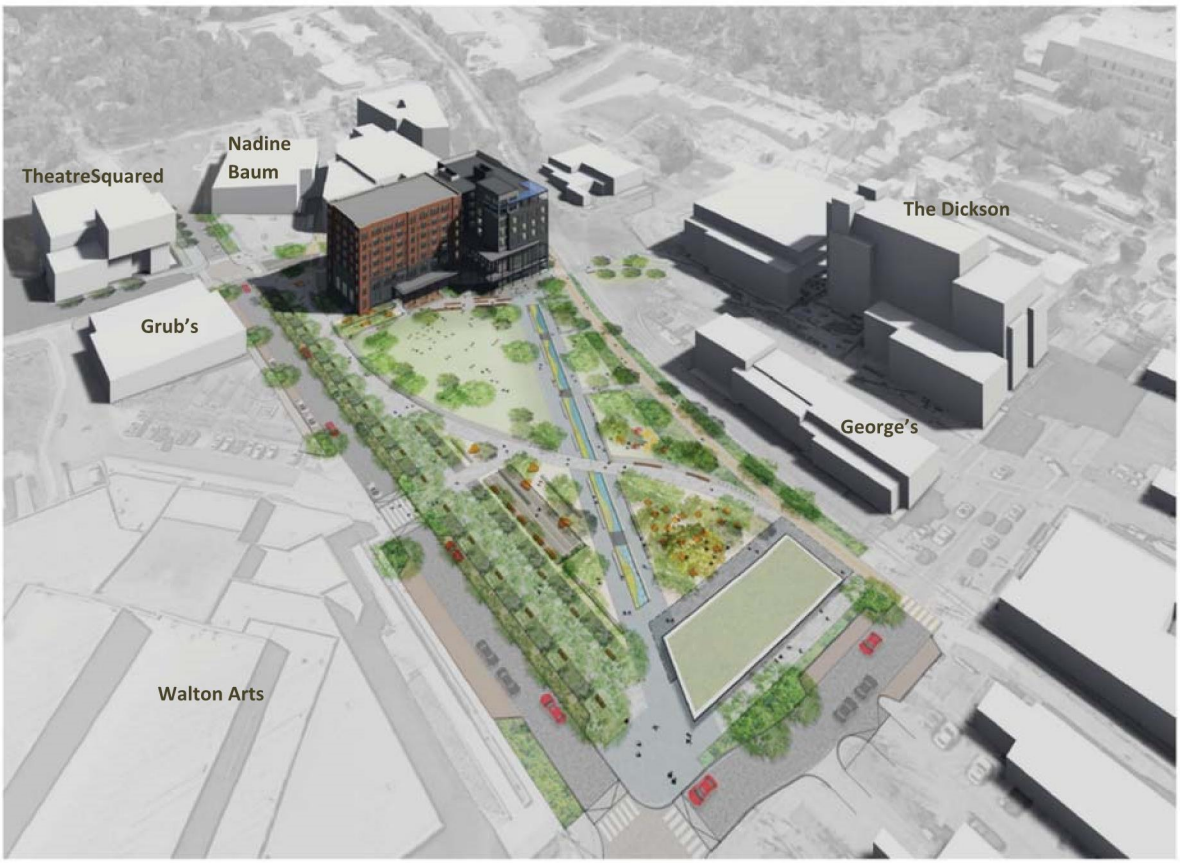
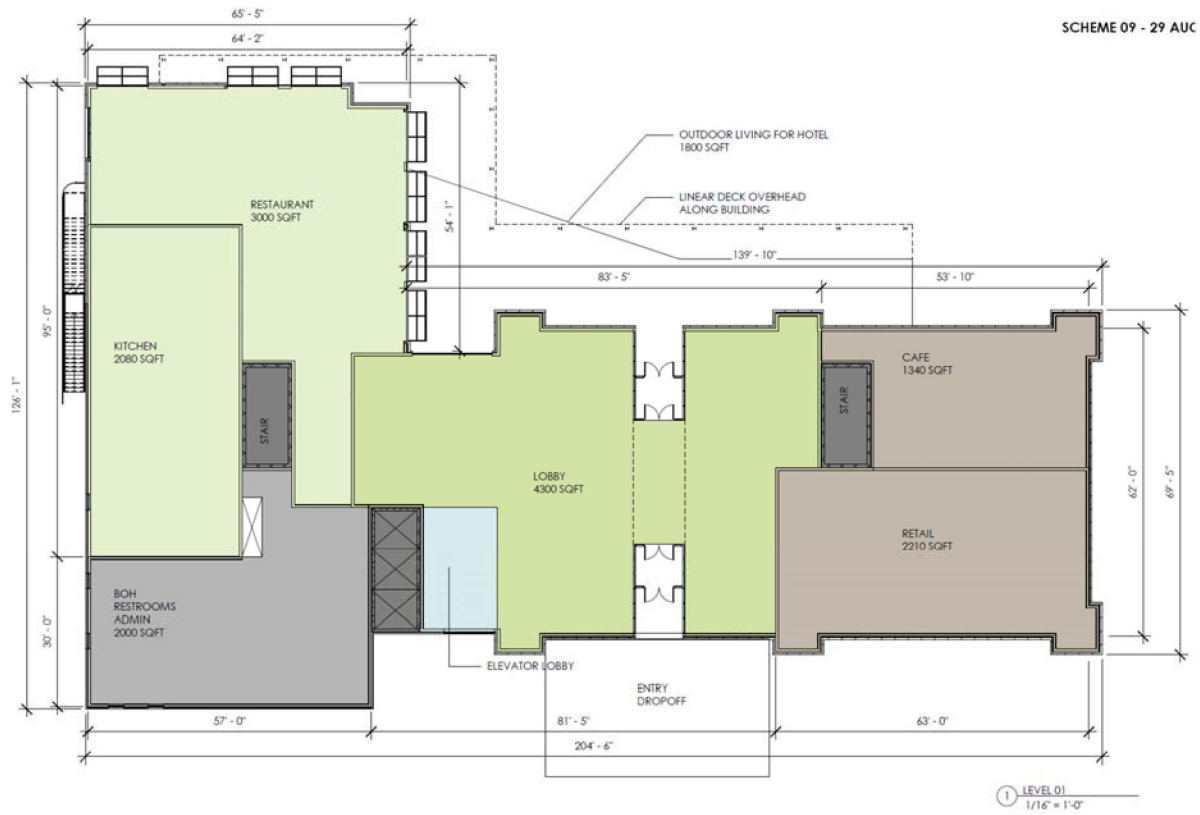


EXHIBIT E: CONCEPTUAL SITE PLAN, PRELIMINARY DESIGN, SHOWING HOTEL AT SOUTH END OF CIVIC SPACE

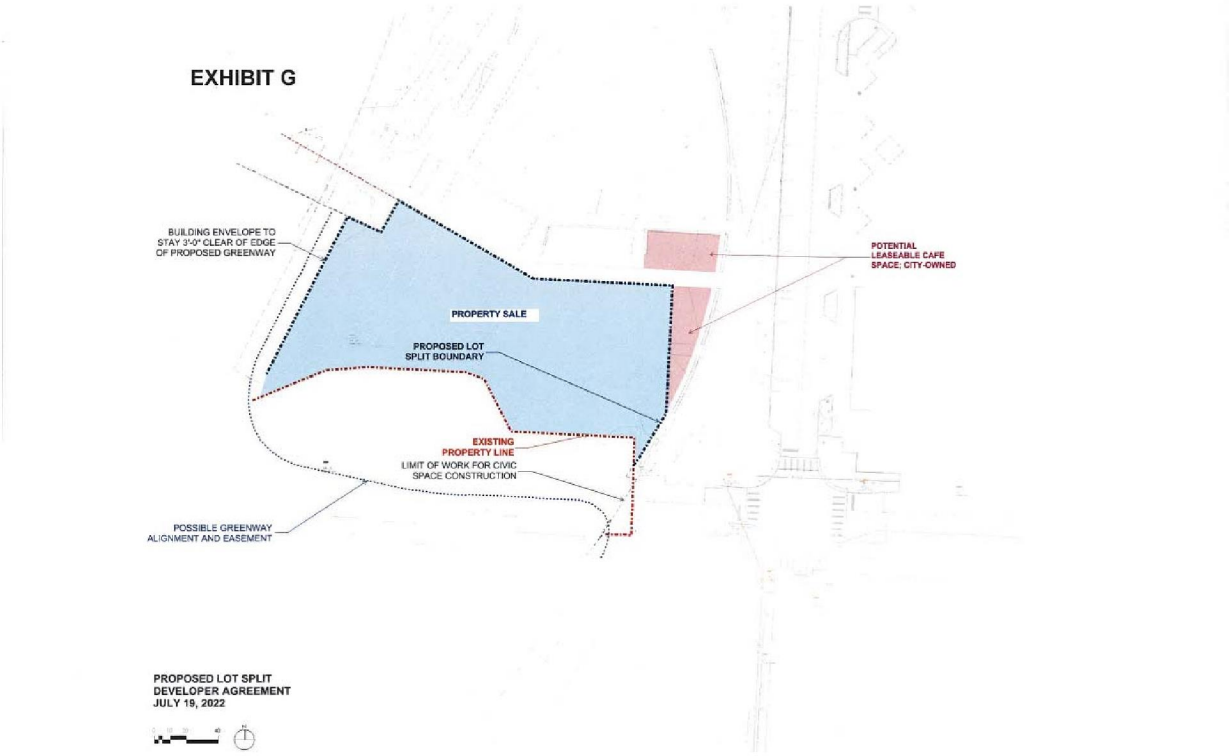


EXHIBIT F: DIAGRAMMATIC PLAN OF GROUND FLOOR SPACES



SPRING STREET SIDE

EXHIBIT G


EXHIBIT G
BUILDING ENVELOPE TO STAY 3'-0" CLEAR OF EDGE OF PROPOSED GREENWAY
POTENTIAL LEASEABLE CAFE SPACE; CITY-OWNED
PROPERTY SALE
PROPOSED LOT SPLIT BOUNDARY
EXISTING PROPERTY LINE
LIMIT OF WORK FOR CIVIC SPACE CONSTRUCTION
POSSIBLE GREENWAY ALIGNMENT AND EASEMENT
PROPOSED LOT SPLIT
DEVELOPER AGREEMENT
JULY 19, 2022

Received by City Attorney Kit Williams
10/31/22 at 12:53 pm.

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Kara Paxton,** City Clerk/Treasurer
Susan Norton, Chief of Staff
Wade Abernathy, Facilities Management Director

FROM: **Kit Williams**, City Attorney

DATE: **October 31, 2022**

RE: Council Member Sarah Bunch's question answered

Why did the City receive only one response to our Request For Proposals to construct a building on the south end of the Plaza?

Council Member Bunch's question deserves a direct answer as negotiations on Mr. Reindl's proposal continue.

A year and a half or so ago, I heard that staff was considering issuing a Request For Proposals (RFP) for a potential building on the southern end of Walton Arts Center Parking Lot as part of the Plaza. I had already seen designs or plats that showed that Mr. Reindl owned the abutting property south of the building site which would be essential for access to any commercial building by food service and garbage trucks. No other independent entity could access this building through Mr. Reindl's property. Thus, an RFP process would be an exercise in futility as only Mr. Reindl could feasibly make a proposal.

It could hardly have been a surprise when the Administration did submit a Request For Proposals that only Brian Reindl submitted a proposal. In order to allow anyone else an opportunity to realistically submit a proposal for development, the site of building would need to abut city right-of-way (West Avenue) just as the other building on the Plaza abuts Dickson Street. This does not mean that the City Council cannot negotiate a mutually beneficial development contract with Mr. Reindl even though no other developer can reasonably develop at that most southern cite.

Received by Joanna Bell
11/01/22 at 10:58 am.

The Fayetteville Arts Council

To: Fayetteville City Council

From: The Fayetteville Arts Council: City Council member Sonia Harvey, Arts Council Chair Jessica DeBari 06/30/24, Chloe Bell, Arts and Culture Citizen-at-Large 06/30/25; Abby Hollis, Working Artist 06/30/25, Lara Hightower, Arts and Culture Citizen-at-Large 06/30/25; Robert Stafford, Working Artist 06/30/25; Dwain Cromwell, Working Artist 06/30/23; Emily Miller, Working Artist 06/30/24; Alexandra Vasile, Arts and Culture Citizen-at-Large 06/30/23.

Date: 10/31/2022

Re: AGENDA ITEM
REINDL PROPERTIES, INC.: A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A LETTER OF INTENT DEFINING DEVELOPMENT AGREEMENT TERMS WITH REINDL PROPERTIES, INC. FOR A PUBLIC PRIVATE PARTNERSHIP FOR CONSTRUCTION OF THE MIXED-USE BUILDING PLANNED TO PROVIDE GROUND FLOOR ACTIVE USES FOR THE RAMBLE CIVIC PLAZA ON THE SOUTHERN END OF THE SITE

Comments:

Below is a correspondence sent to Mr. Rob Sharp from the Fayetteville Arts Council:

Mr. Sharp,

Thank you again for taking the time to meet with the Fayetteville Arts Council about your intended hotel project as part of the arts corridor plaza.

We acknowledge the language incorporated in the letter of intent “Reindl shall provide locations for public art display at the Building. Public art shall be coordinated between Reindl and local arts organizations, including any groups selected by City to represent its interests in creating opportunities for public art.”

Since listening to excerpts from the previous City Council meeting, we understand now that this letter of intent will function as a contract. For that reason, we would like to request that you incorporate more specific language about the role art will play in the planned structure. Since the bond project was pitched to the public as being focused on developing the arts ecosystem here, we feel that it is our role to ensure that art does become a part of the function of structures being installed in the arts corridor. This should not be an impediment to success, but rather a buoy. We have the example right here, with 21C Hotel, that if you make art the focus for a hotel, it can make it a destination in its own right.

There are some key takeaways from our discussion which we are hopeful that you will include in the next iteration of your project going before city council. Specifically, we would want to make sure that Reindl does not just provide a location for public art display, but fully incorporates a space with gallery lighting, a small annual budget percentage toward local artists installations or residencies, and staff dedicated to proper handling and hanging of work. The Fayetteville Arts Council can offer our volunteer time by forming a subcommittee which will evaluate work for installation, but our hope is that Reindl can match that with hours from their staff for handling, installation, and de-installation of work. We also feel that it would be appropriate to ask that a minimum of 4 installations happen each year, with 4 accompanying openings. We would also like to request that more specific language be incorporated regarding where visual art and performing arts will be incorporated in the building.
Regarding the lack of a visual endpoint for the water feature in the plaza leading up to the hotel, we are hopeful it is possible to incorporate language about a public/private funded partnership toward

installing a sculptural piece at that point. If the city's arts and culture department can procure an amount toward that piece, we would ask that Reindl promise to make a matching contribution.
The final point we believe needs to be addressed is parking. This was the sticking point that came up which stalled approval. Although it is not specifically arts related, we see the impact that it would have on the two large scale performing art spaces on West. We do feel that it would be beneficial to future arts programming at this site if the hotel did include a shuttle to and from nearby parking garages as part of its overall operating budget which could be offered to patrons who would like to see current exhibits at the hotel or used for guests on heavy booking weekends.

Thank you so much for all of the hard work you are doing. We realize that this is a difficult process, but we are confident that if the arts become an integral part of the function of the hotel it will elevate the hotel's success and impact in the community.

Thank you,

Fayetteville Arts Council

Received by City Attorney Kit Williams
11/01/22 at 12:46 pm.

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Kara Paxton,** City Clerk/Treasurer
Susan Norton, Chief of Staff
Wade Abernathy, Facilities Management Director
Vicki Bronson, Attorney

FROM: **Kit Williams**, City Attorney

DATE: **November 1, 2022**

RE: Improvements to "Letter of Intent"

I would like to thank Attorney Vicki Bronson for her proposed improvements to the initial "Letter of Intent." I did not receive a copy until I returned to work on Monday. This new proposal is an improvement and certainly provides more clarity in paragraph 1. The Building A.

However, when it comes to outdoor amplified music, I recommend that the City Council maintain for itself the full discretion for the hours, days and volume to be allowed (if any). Citizens visiting this expensive Cultural Arts Plaza could be adversely affected by outdoor amplified music played by the hotel or its restaurants even if limited to the Noise Ordinance maximums.

I recommend removing "Outdoor Music Establishments" from paragraph 1. A. and creating a new 1. B. (and renumbering the remaining subsections) to read as follows:

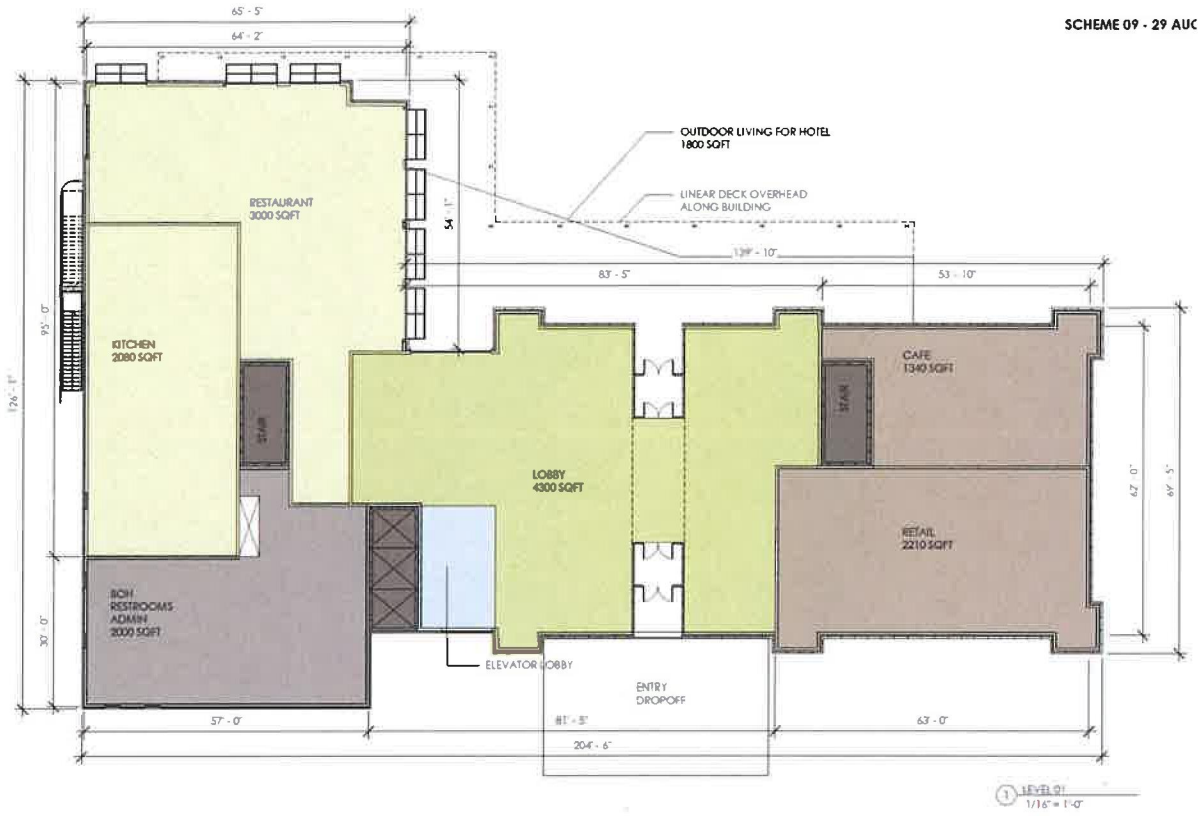
"B. The Fayetteville City Council retains the contractual and legislative right now and continuing after any conveyance of the Property through a deed restriction to prohibit or to permit within regulated limitations any hotel, restaurant, coffee shop, bar or business of or in the proposed Building related to the playing of amplified music or sounds audible on the Plaza on the days and times which, in the City Council's sole discretion, are in the best interest of the citizens of Fayetteville. This is not to be construed as a Condition Use Permit normally administered by the Planning Commission pursuant to the *Unified Development Code*. The City also retains the right to permit itself or others to play amplified music or sounds audible on the Plaza."

If this would be administered as a Conditional Use Permit rather than a contractual right or deed restriction, any denial or approval of a permit could be easily appealed to Circuit Court for a judge or jury to exercise very broad discretion to decide when outdoor amplified music could be played. The City Council's preferences, determination, and decision on such normal Conditional Use request would be basically ignored and irrelevant if the Condition Use Permit is appealed to Circuit Court. I believe this Plaza is too important and its protection too vital to allow any entity but our elected City Council to control outdoor amplified music to protect the Plaza's audible environment for our citizens visiting and enjoying the Plaza.

I also recommend that rather than accepting a weak commitment in the proposed amended Letter of Intent "of one restaurant, café, or coffee shop," the Council should require at least what Mr. Reindl offered in his Exhibit F: "Diagrammatic Plan of Ground Floor Spaces." (attached) Mr. Reindl's Exhibit shows a 3,000 square foot restaurant, a 2,000 square foot kitchen and a 1,340 square foot café. The only real interaction that most Fayetteville citizens visiting the Plaza will likely have with this proposed seven story building are its ground floor restaurants. Will Mr. Reindl not at least promise to construct the two restaurants that he showed on his own exhibit? I would delete the new one restaurant commitment and replace that language with, "include at least the restaurant, kitchen, and café substantially the size and location as shown on Exhibit F." Is that too much to ask?

The parking issue has yet to be really solved. Allowing event space in the Building could more than double this parking problem. The Walton Arts Center, TheatreSquared, and the new Fayetteville Public Library all have modern, quality event space nearby in the Entertainment District. Why allow an additional, competing event space to be built on the Plaza with no parking and probably to the detriment to existing non-profit and public library event spaces?

EXHIBIT F: DIAGRAMMATIC PLAN OF GROUND FLOOR SPACES



SPRING STREET SIDE

LETTER OF INTENT, CIVIC SPACE AT THE CULTURAL ARTS CORRIDOR, MIXED USE BUILDING

Background:

On April 9, 2019, the voters of the City of Fayetteville ("City") approved a bond issue for the Cultural Arts Corridor (recently renamed the Ramble) in downtown Fayetteville. The Ramble design for the Civic Space at the southwest corner of Dickson Street and West Avenue consists of a gathering and event lawn, community plaza, garden spaces, a public promenade and building sites on the plaza. The southern anchor building site was proposed to support and enhance the experience of the Civic Plaza, to provide community benefit, to frame the view of the Civic Space and to generate tax revenues. On October 26, 2021, the City accepted Request for Proposals for the design and construction of innovative development proposals for the southern anchor building. The City Selection Committee selected Reindl Properties Inc. ("Reindl") to implement the vision of a southern anchor building that is both beautiful and of exceptional architectural quality, material, and urban design befitting this extraordinary location.

This document describes an agreement between the City and Reindl regarding that property on the south end of the Civic Space adjacent to West Avenue and Spring Street, in the approximate location reflected on Exhibit G ('the "Property"), the exact legal description of which to be determined by a survey and final agreement of the parties. The basic terms of the agreement ~~would~~ are ~~be~~ as follows:

1. The Building:

A. Reindl will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces, including a minimum of one restaurant, café, or coffee shop. Reindl's intent is to use the Building primarily for a hotel, however, ~~T~~the Building may include other uses as necessary to meet the financial goals of the project. The following Use Units ~~will~~ may be allowed, subject to the City's prior approval ~~City's approval~~ in conjunction with the City's processes and procedures for considering and approving zoning, development, licenses, and permits, including conditional use restrictions:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

B. Notwithstanding the foregoing paragraph, the following uses will not be permitted on the Property (the "Prohibited Uses"): crematorium; mausoleum; funeral home; furniture repair and refinishing; taxidermist; vape shops; body piercing/tattoo; gunsmith; animal hospital; animal day care; day care; bail bonding agencies; hospital; vehicle sales; convalescent home; boarding/rooming housing (other than is typically associated with hotel use); dormitory; fraternity/sorority housing; and slot car track. Any deed from the City conveying the Property to Reindl will contain a restriction against the Prohibited Uses and the restriction will be a restriction that runs with the Property for a minimum of ____ years.

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~~B.~~C. As befits its prominent location, the Building will be a substantial and attractive building. The building design and site development will be subject to City's development review process, ordinances, and rules. The final building design, plans and specifications, including but not limited to exterior finishes is subject

Received by Rob Sharp through
Susan Norton 11/01/22 at 2:10 pm.

Questions Regarding Civic Plaza Hotel

As of 1 November 2022

Where does the $50,000,000 Project Cost number come from?

Answer: Please refer to attached document *Estimated Project Cost*, which has been compiled by Robert Sharp from discussions with Reindl Properties, Windsor Aughtry and C R Crawford.

1. Can delivery, emergency, and solid waste vehicles access the hotel building?

   Answer: Please refer to attached diagram *Turning Radius and Access Diagram.* Also, deliver vehicles, solid waste, and moving vans currently access the site on a regular basis.

2. Who would be the architect for the hotel portion of the project?

   Answer: At this point our short list is

   Renaissance Group, located in Memphis Tennessee
   https://rgroup.biz/

   BGKT Architects , located in Memphis Tenneessee
   https://bgktarchitects.com/

   LPB Architects, located in Atlanta Georgia
   http://www.lpbatlanta.com/

3. What brand of hotel will this be?

   Answer: We have not selected a brand at this time. The hotel will be of good quality and the exterior design and public spaces of the hotel will be of exceptional quality as shown in the renderings and exhibits. Exterior materials and details have been carefully documented to assure the quality of the proposed building.

4. What is the capacity of the Meeting Rooms?

   Answer: After discussions with our consultants, we have determined that we need to be able to accommodate an event of 200 seated people. This requires about 4,000 square feet of space for the ballroom and ancillary spaces.

5. What is the restaurant service schedule? How many meals will be served?

   Answer: The service schedule, décor, and menu have not be determined. The Downtown and Entertainment District have multiple dining options that already exist. We will work to complement the existing culinary scene.

6. Will there be a Fitness Center or Swimming Pool?

   Answer: There will be a Fitness Center. There will not be a Swimming Pool

7. What would be the Parking Requirements for this building if Fayetteville required commercial uses to provide parking?

   Answer: Please refer to attached document showing Maximum Parking Allowed as per the Unified Development Code

8. How will employee parking be managed.

   Answer: The managers of the hotel will participate in any Downtown or Entertainment District employee parking program. We understand that encouraging and facilitating employee parking out of the "hot box" is good business.

9. How will the Valet Parking program work?

   Answer: We have proposed an agreement with the City of Fayetteville to lease spaces from them that are under-utilized. During the week, the Spring Street parking structure has excess capacity. During the

weekend, the downtown has excess parking capacity, particularly on Mountain and Rock Street Lots. Reindl Properties will create a valet parking program that will move the cars as necessary. The success of the hotel depends upon accommodating guests that arrive by car. Please refer to *Valet Parking Diagram,* attached to this document.

10. Does the City of Fayetteville have design authority over the Public Restrooms?

    Answer: Yes.

11. Will Reindl Properties have their own Landscape Architect?

    Answer: They will have their own Landscape Architect and Civil Engineer. These professionals have not been selected yet.

12. Who will pay to construct the bicycle trail? Who will pay for the easements for the bicycle trail?

    Answer: The Letter of Intent states that the City of Fayetteville will construct the trail and pay for the easement. The original RFP showed the bicycle trail being built on public property within the Civic Plaza. Reindl Properties has proposed selling an easement that would allow the bicycle trail to be built on its property so that the park could be expanded. Please see attached diagram from the RFP.

13. Who will operate the hotel?

    Answer: A management company has not been selected at this time. We are leaning heavily towards Hospitality America, Windsor Aughtry's management partner.

14. Does Reindl Properties have a contract with Windsor Aughtry at this time?

    Answer: There is not an agreement at this time. Once the Letter of Intent is accepted by the City of Fayetteville, agreements with professionals, consulants, and investment partners can be pursued.

15. How many jobs will be created by the hotel?

    Answer: We estimate the following number of jobs will be created by the hotel:

    45 employees total

    20-25 employees for am shift

    8 employees for pm shift

    2 employees for overnight

16. Where will trash and recycling be located? What about loading facilities:

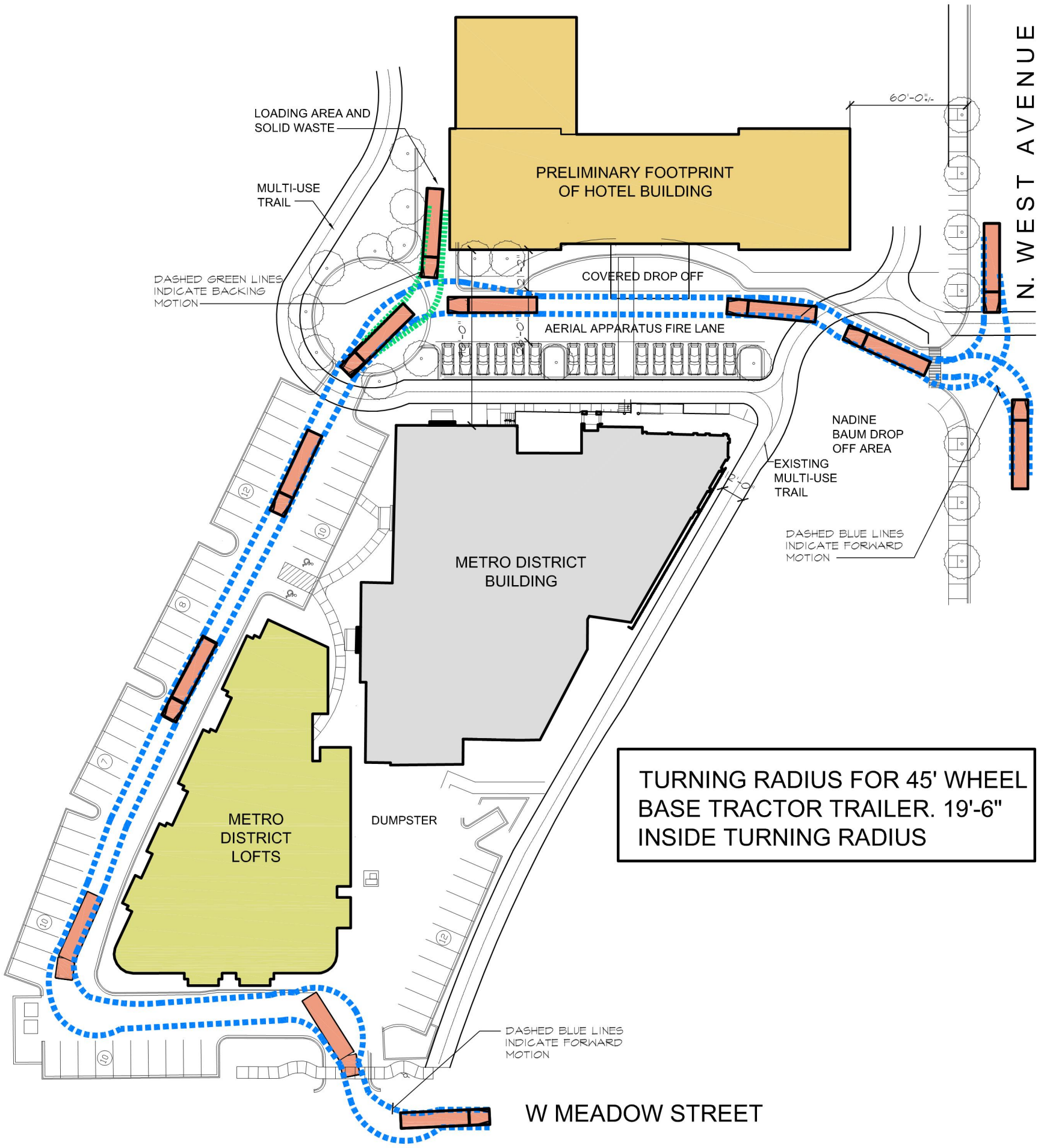
    Answer: These service areas will be located on the west side of the hotel building. These areas are below the level of the bicyle trail and will be screened from view.

17. How will the hotel effect the Upper Ramble in terms of shade?

    Answer: Please refer to attached document Sun Study for seasons of the year and times of day.

Estimated Project Cost, Civic Plaza Hotel

Hotel Rooms, Lobby, and Support Spaces	134	rooms	$	400.00	per sq ft	642 sq ft per room	86,028	sq ft	$ 34,411,200.00
Meeting Rooms, associated spaces			$	300.00	per sq ft		4,000	sq ft	$ 1,200,000.00
Restaurant, Café, and Bar			$	400.00	per sq ft		4,350	sq ft	$ 1,740,000.00
Lease Spaces, Ground floor and Upper Levels			$	250.00	per sq ft		18,000	sq ft	$ 4,500,000.00
Total Project Area							**112,378**	sq ft	
Basement Parking	32	stalls	$	50,000.00	each				$ 1,600,000.00
Total Building Construction Cost									$ 43,451,200.00
Architecture, Engineering, Testing									$ 1,000,000.00
Fixture Finishes and Equipment (FF&E)									$ 3,550,000.00
Land Cost									$ 3,000,000.00
Project Cost									**$ 51,001,200.00**



1 TURNING RADIUS AND ACCESS DIAGRAM

SCALE: 1" = 60'-0"

CIVIC PLAZA HOTEL

COURTYARD BUILDING & BLOCK LLC
100 W. CENTER ST. STE 300
FAYETTEVILLE AR 72701
PHONE: 479.442.0229 E-MAIL: rob@sharparch.net

Maximum Parking Allowance, Civic Plaza Hotel

Hotel Rooms, Lobby, and Support Spaces	134	rooms	1	per Guest Room			134.00	parking stalls
Meeting Rooms, associated spaces	200	seats	0.25	stalls per seat	50	75%	37.50	parking stalls
Restaurant, Café, and Bar	4,350	sq ft	100	sq ft per stall	44	75%	32.63	parking stalls
Lease Spaces, Ground floor and Upper Levels	18,000	sq ft	250	sq ft per stall			72.00	parking stalls
Gross Parking							**276**	parking stalls
Transit Proximity Reduction						15%	-41.42	parking stalls
Bicycle Parking Reduction						10%	-27.61	parking stalls
Motorcycle and Scooter Parking						10%	-27.61	parking stalls
Maximum Parking Allowed							**179**	parking stalls
Basement Parking							32.00	parking stalls
Off Site / Valet Parking							**147**	parking stalls

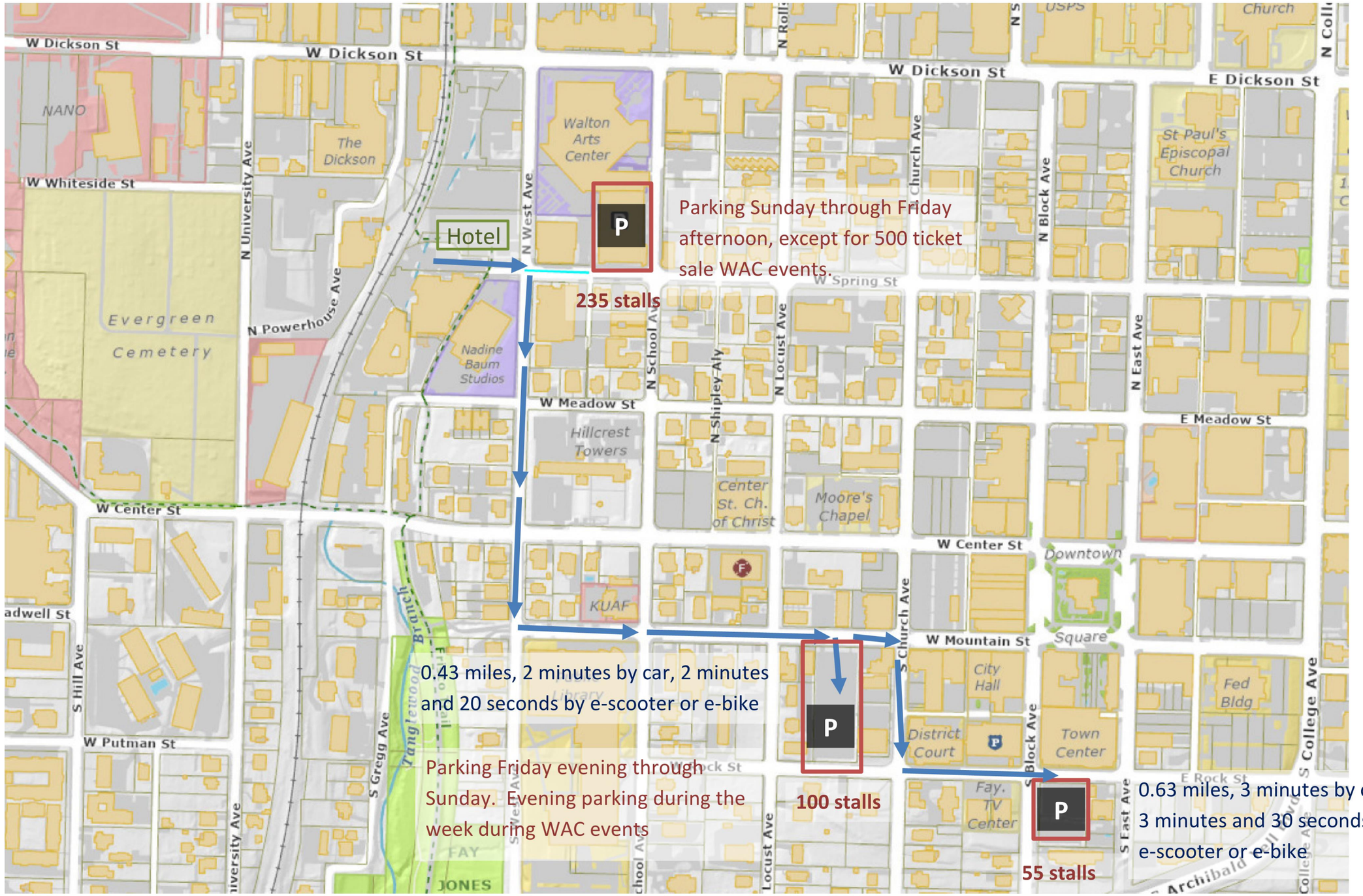
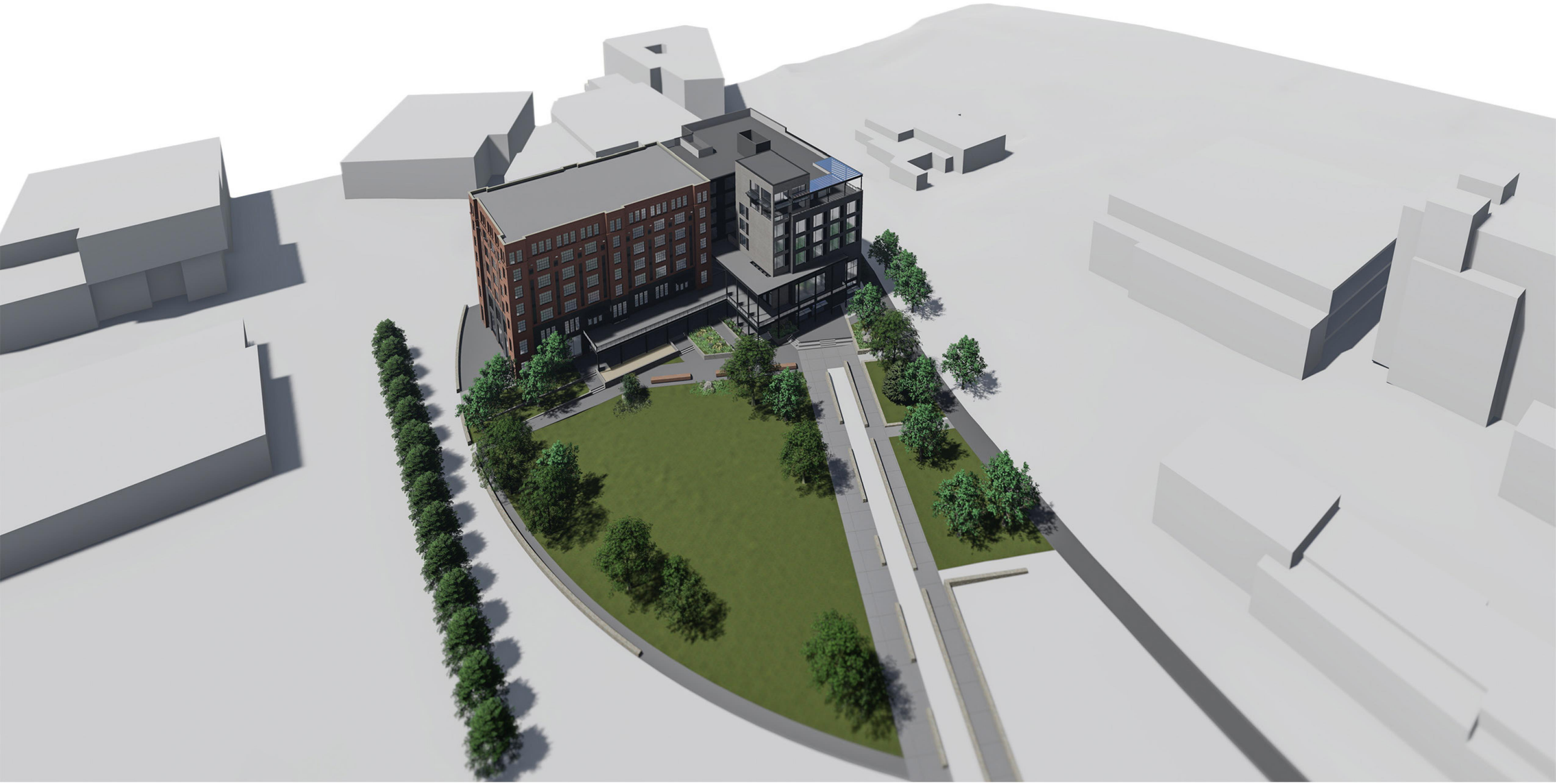


Diagram of Off-Site Valet Parking Locations, City of Fayetteville Owned Parking

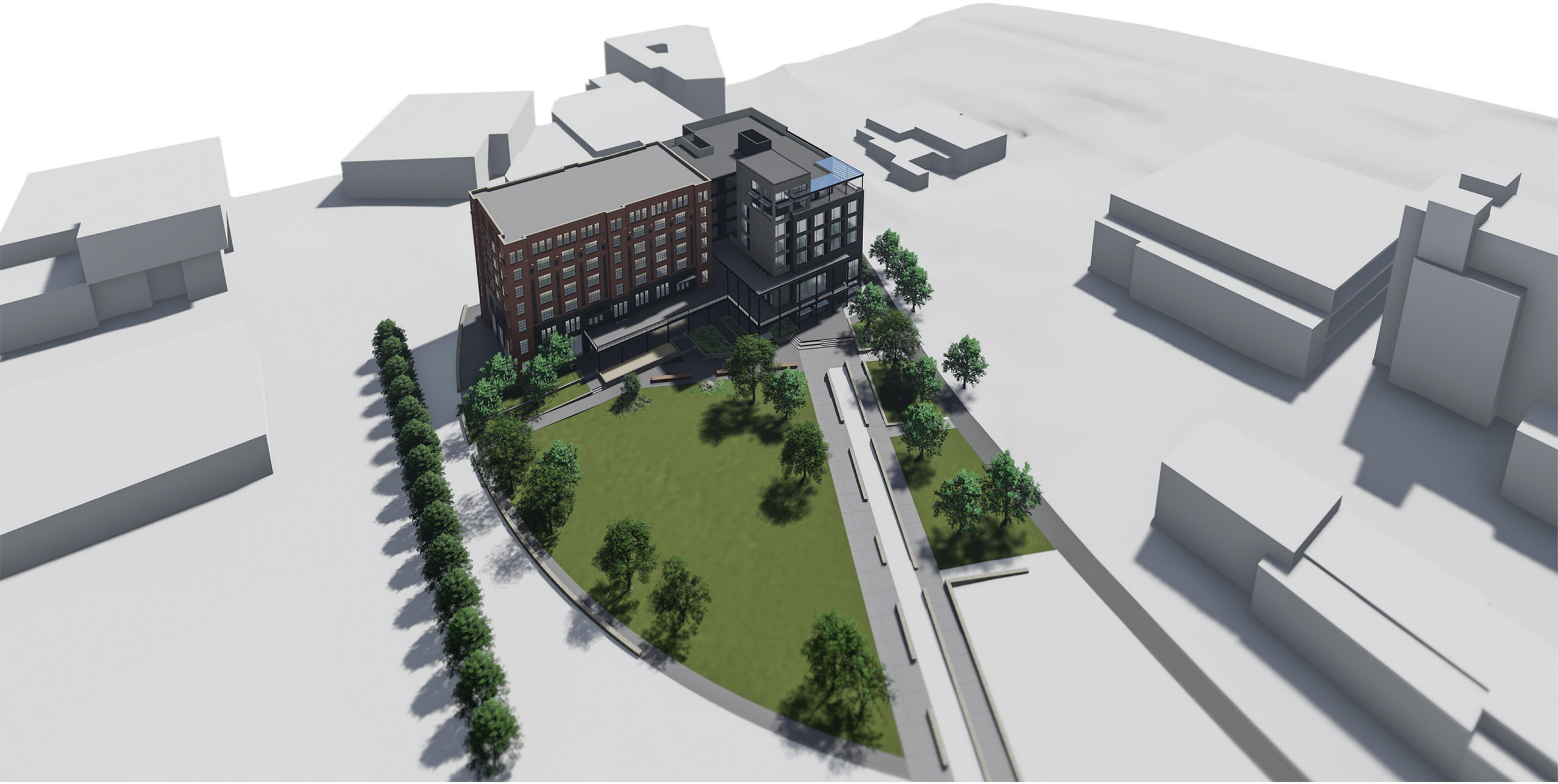
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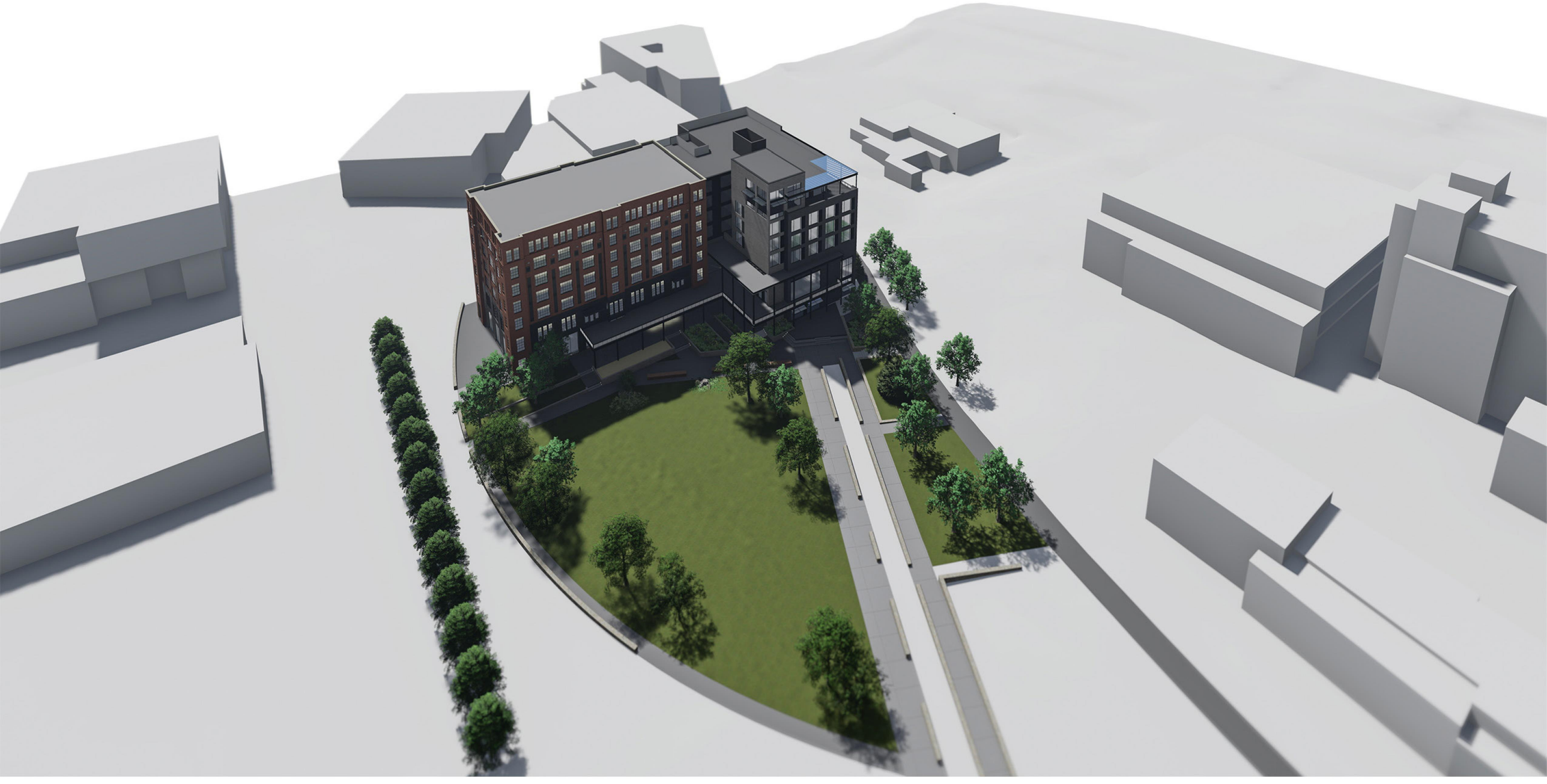
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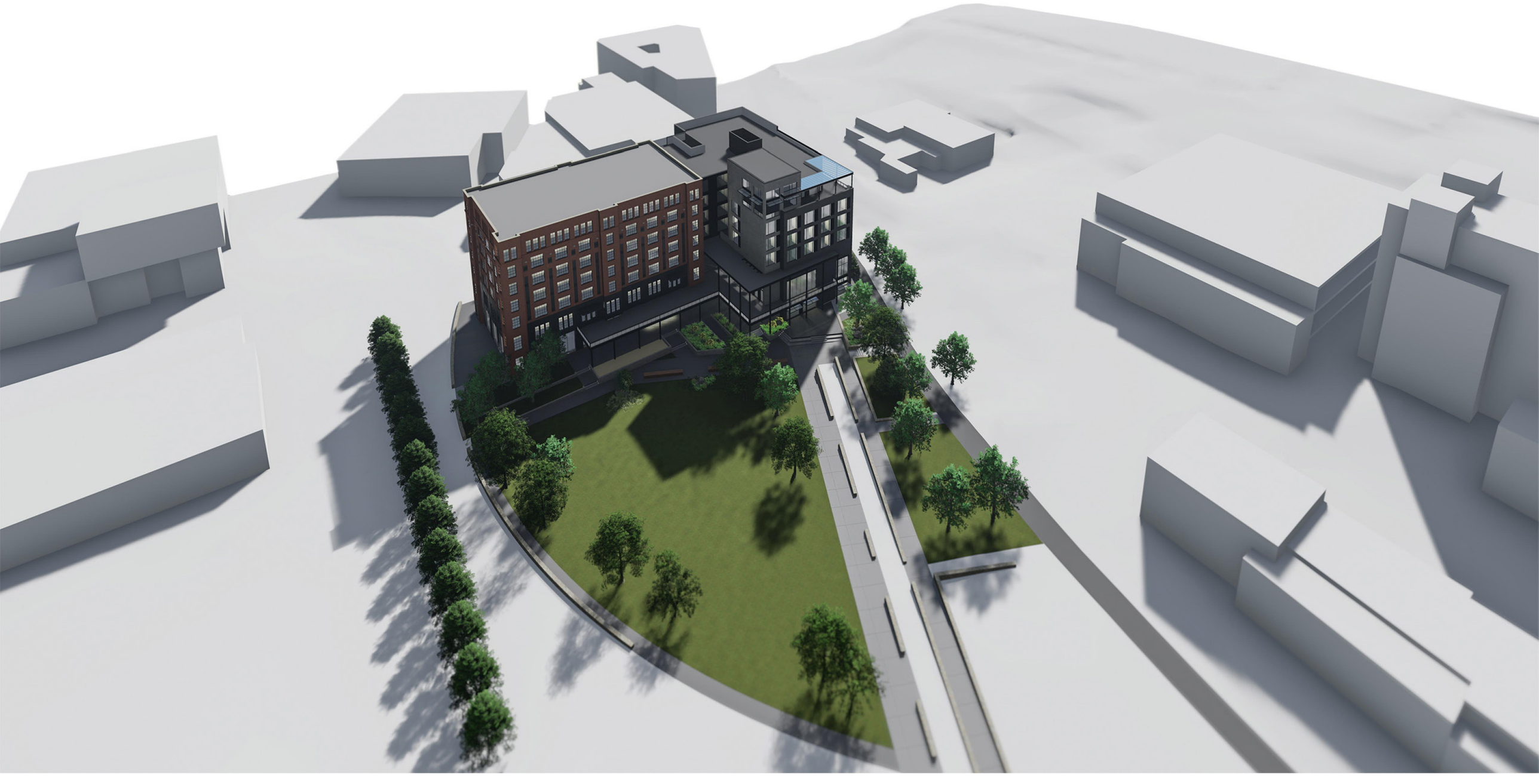
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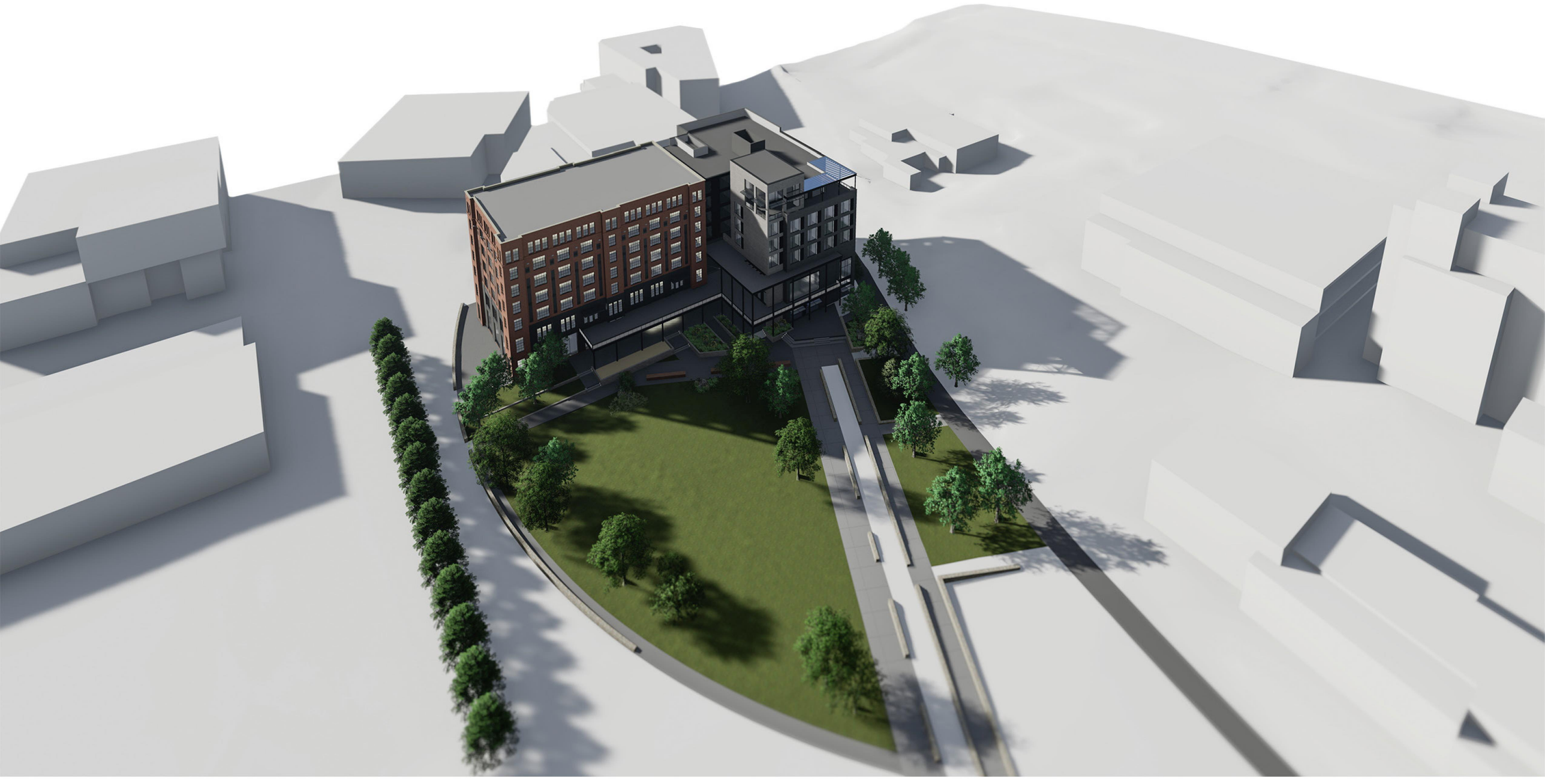
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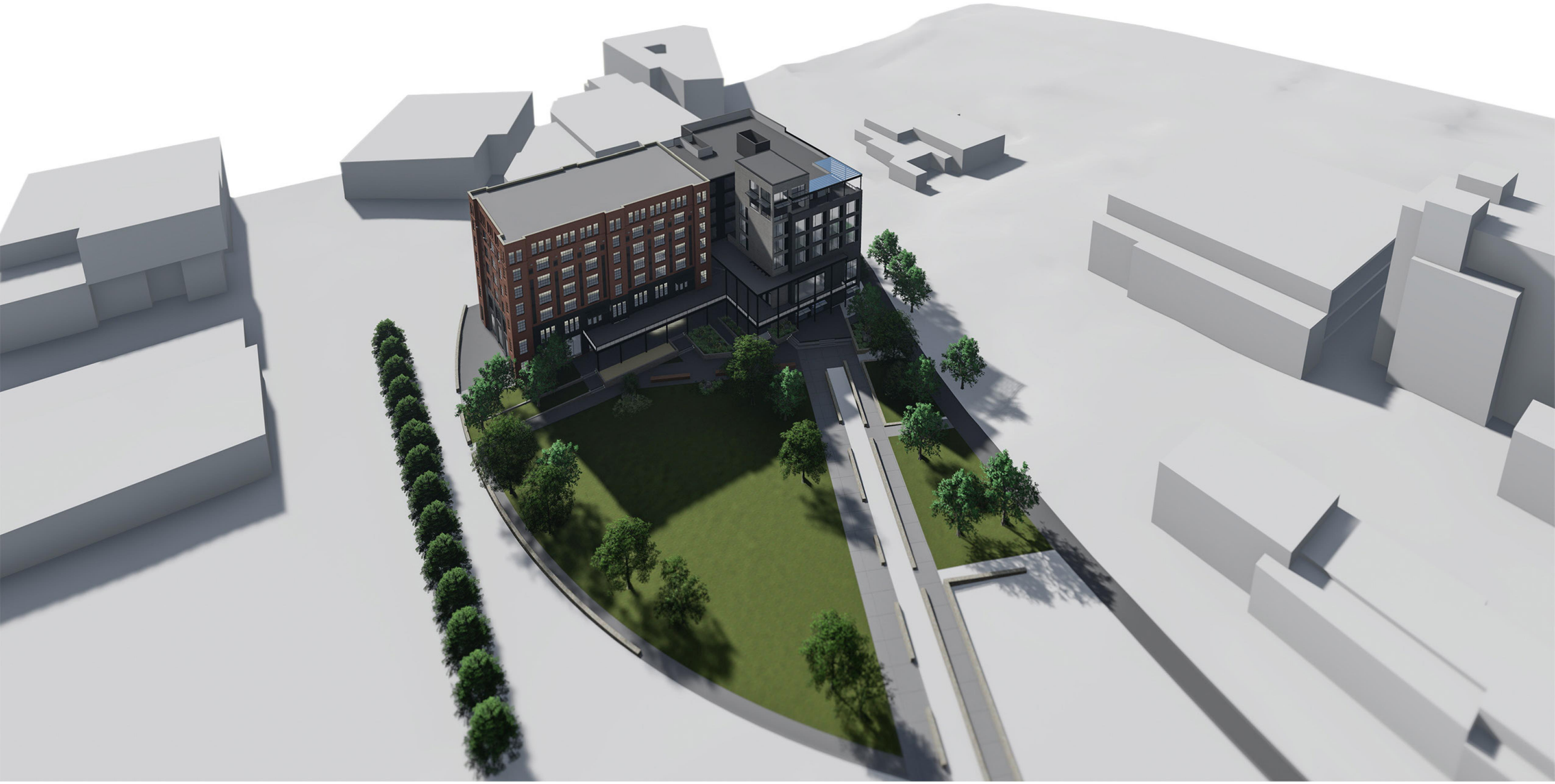
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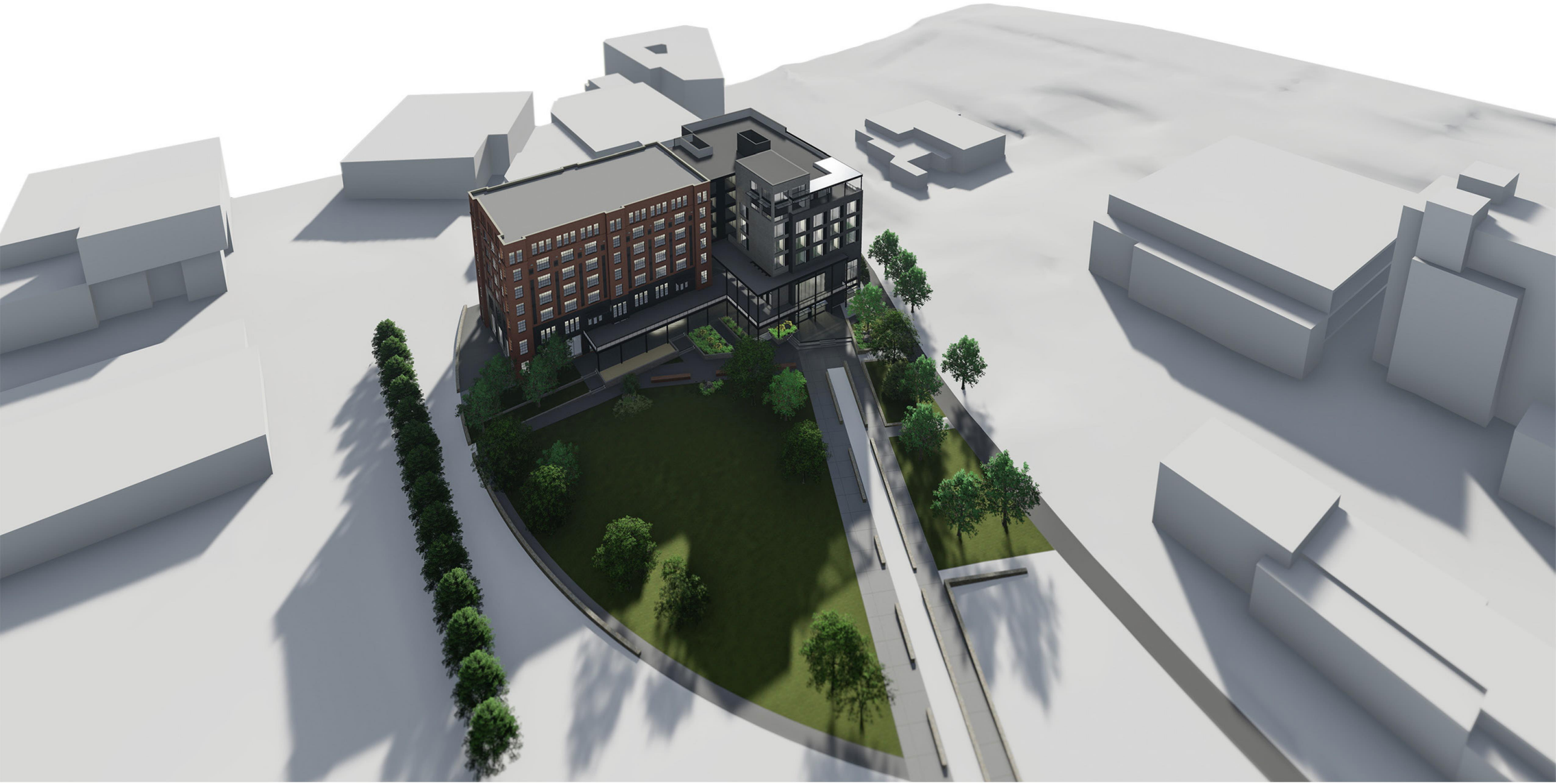
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WINTER | JANUARY 21 NOON



WINTER | JANUARY 21 3PM



KIT WILLIAMS
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Jodi Batker
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Phone 479.575.8313

113 W. Mountain Street, Suite 302
Fayetteville, AR 72701-6083

November 2, 2022

Vicki Bronson
Conner & Winters, LLP
4375 N. Vantage Drive, Suite 405
Fayetteville, AR 72703

vbronson@cwlaw.com

Re: Letter of Intent Amendment

Dear Vicki,

Last night the City Council amended the Letter of Intent to add the "Non-Binding Agreement" language I provided to them from an earlier (2020) Letter of Intent presented by Sage Partners. I have provided this memo to you in Word so you can insert this language as the last paragraph of the Letter of Intent as unanimously agreed by the City Council.

After the City Council amended this language into the Letter of Intent, they passed the Resolution approving the amended Letter of Intent and authorizing Mayor Jordan to sign this amended Letter of Intent. The City Council made no other amendments to the Letter of Intent. Please send the properly amended Letter of Intent to City Clerk Treasurer Kara Paxton for the Mayor's signature.

I believe the passed Letter of Intent will be a good starting point to create a binding contract. I like most of your proposed changes to the original Letter of Intent which can hopefully find their way into the new contract with Reindl Properties, Inc. along with other possible changes I have suggested. Thank you for your work drafting the Letter of Intent.

With kindest regards,

Kit Williams
Fayetteville City Attorney

Cc: Mayor
Kara Paxton, City Clerk/Treasurer
Susan Norton, Chief of Staff
Wade Abernathy, Facilities Management Director

LETTER OF INTENT, CIVIC SPACE AT THE CULTURAL ARTS CORRIDOR, MIXED USE BUILDING

Background:

On April 9, 2019, the voters of the City of Fayetteville ("City") approved a bond issue for the Cultural Arts Corridor (recently renamed the Ramble) in downtown Fayetteville. The Ramble design for the Civic Space at the southwest corner of Dickson Street and West Avenue consists of a gathering and event lawn, community plaza, garden spaces, a public promenade and building sites on the plaza. The southern anchor building site was proposed to support and enhance the experience of the Civic Plaza, to provide community benefit, to frame the view of the Civic Space and to generate tax revenues. On October 26, 2021, the City accepted Request for Proposals for the design and construction of innovative development proposals for the southern anchor building. The City Selection Committee selected Reindl Properties Inc. ("Reindl") to implement the vision of a southern anchor building that is both beautiful and of exceptional architectural quality, material, and urban design befitting this extraordinary location.

This document describes an agreement between the City and Reindl regarding that property on the south end of the Civic Space adjacent to West Avenue and Spring Street, in the approximate location reflected on Exhibit G ('the "Property"), the exact legal description of which to be determined by a survey and final agreement of the parties. The basic terms of the agreement are as follows:

1. The Building:

A. Reindl will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces, including a minimum of one restaurant, café, or coffee shop. The Building may include additional uses as necessary to meet the financial goals of the project. The following Use Units may be allowed, subject to the City's prior approval in conjunction with the City's processes and procedures for considering and approving zoning, development, licenses, and permits, including conditional use restrictions:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

B. Notwithstanding the foregoing paragraph, the following uses will not be permitted on the Property (the "Prohibited Uses"): crematorium; mausoleum; funeral home; furniture repair and refinishing; taxidermist; vape shops; body piercing/tattoo; gunsmith; animal hospital; animal day care; day care; bail bonding agencies; hospital; vehicle sales; convalescent home; boarding/rooming housing (other than is typically associated with hotel use); dormitory; fraternity/sorority housing; and slot car track. Any deed from the City conveying the Property to Reindl will contain a restriction against the Prohibited Uses and the restriction will be a restriction that runs with the Property for a minimum of 75 years.

C. As befits its prominent location, the Building will be a substantial and attractive

building. The building design and site development will be subject to City's development review process, ordinances, and rules. The final building design, plans and specifications, including but not limited to exterior finishes is subject to City Council approval. Nothing in this Letter of Intent is intended to or may be construed as a waiver of any of City's ordinances, rules, or regulations.

D. The Building will have three primary facades; one facing the Civic Plaza to the north, one facing the vacated Spring Street right-of-way to the south, and the third facing West Avenue to the east. All primary facades will be attractive, well-proportioned, and constructed of high-quality materials in accordance with the plans and specifications.

E. The Building shall be designed and built in substantial compliance with the drawings on the attached Exhibits A, B and C which depict the minimum standards for materials, design, and architectural features. Any significant deviation from exterior design reflected on Exhibits A, B, and C is subject to additional City Council approval.

2. The Location:

The Building will be located at the south end of the Civic Space as shown in Exhibits D and E. The indoor-outdoor relationship of the Building to the Civic Plaza will demonstrate sensitivity and engagement towards the Civic Plaza to the north, the West Avenue Promenade to the east, and to the Metro Building to the south. Exhibit G identifies the approximate Building location on City property, however the exact legal description of the property to be conveyed from the City to Reindl, as further described in Paragraph 9, will be determined by a land survey, the cost of which will be shared equally between the City and Reindl.

3. Ground Floor Activity:

Ground floor uses at the Building shall be open and inviting to the general public. The operating plan and design for the ground floor activity shall support activation of the Civic Plaza. It is anticipated that bar, restaurant, café, and retail uses will be included. Hotel lobby shall be designed to be open and inviting. Refer to Exhibit F for a diagrammatic floor plan showing the location of these uses.

4. Public Benefit:

In addition to increasing the beauty and liveliness of the Civic Space, the Building containing a hotel will also have a substantial fiscal impact for the City. A project of this scale, over a 10-year period, would provide approximately $3.5 million to the Fayetteville Public School System and approximately $3.3 million to various City operations such as the library, police and fire departments, roads, and general fund.

During construction, Reindl will make a good faith effort to purchase building supplies locally to increase sales tax revenues for the City.

5. Benefit to Local Merchants and Downtown Business Owners:

A project of this scale will attract visitors to the downtown. Hotel guests will eat, shop, and play in the area. In addition, Reindl has a proven track record in recruiting and retaining local entrepreneurs, which provides both an economic benefit to small business enterprises and enhances

local character.

6. Parking:

Hotel uses are ideal for a smart parking strategy. Valet parking is the best and most convenient way to address the matter. This allows remote storage of cars off-site. Once parked, a hotel guest in this location has access to the University of Arkansas, Dickson Street Entertainment District, Downtown Square, Razorback Greenway, Walton Arts Center, TheatreSquared, and multiple restaurant and shopping opportunities; all within a short walk. Personal mobility devices, such as electronic scooters, can boost the range of the hotel guests. Superb bicycle infrastructure is already in place.

At many times of the day, existing City parking resources are underutilized. The hotel will create parking demand for those off-peak times and will be a significant revenue source for the City's parking resources. Reindl will provide basement level parking in the Building with capacity of a minimum of 32 parking spaces.

City agrees to lease or provide access to City's excess parking spaces to Reindl per current market rates. Reindl is responsible for setting up valet parking services and encouraging the use of valet parking so that hotel guests do not add pressure to existing parking loads in the Dickson Street Entertainment Zone. Reindl will continue to pursue the purchase or lease of off-site parking for the Building. Prior to executing and as a condition of entering into the land purchase agreement, Reindl will have parking agreements in place that comply with City code sections 172.05 and 156.03C(5) and as are deemed sufficient by City.

7. Loading and Solid Waste:

Reindl will provide areas for loading, recycling, and solid waste receptacles on the west side of the Building. No loading, waste removal, or recycling will be done from West Avenue or any other public street.

8. Sustainability:

A. Sustainability has been a core goal of the Cultural Arts Corridor as demonstrated by the City's efforts at making this project the first SITES Certified project in Arkansas. Reindl proposes a furtherance of this sustainability commitment by constructing a healthy, efficient, and durable building on the Civic Plaza.

B. Indoor air quality is a critical aspect of the design, particularly in light of recent health challenges. Proper indoor finish selection and air filtering are vital to the success of any new building, particularly one that involves hospitality and lodging. Reindl will implement the use of design and sufficient air filtering to promote indoor air quality in the Building.

C. Another important characteristic is an efficient building envelope. Keeping water and air out and creating a good thermal barrier is critical. Reindl commits to an efficient and properly designed envelope that will prevent air and water infiltration and reduce thermal bridging. Reindl will implement the use of smart energy-management systems to decrease energy use in the Building. Smart systems will be installed to avoid heating and cooling vacant rooms.

D. The most sustainable aspect of a building is to construct and detail for a long life. A building that lasts several hundred years is superior to one that has a design life of a few decades. The simplicity of the proposed Building design as reflected on Exhibits A, B, and C, is rational and straightforward and will be easy to maintain far into the future.

9. Land Purchase:

A. Reindl will purchase the Property for the Building from City in the approximate location as reflected on Exhibit G.

B. The purchase price for the Property shall be the fair market value for the Property as determined by a third-party real estate appraiser to be selected by both parties. If the parties cannot agree on an appraiser, then each party will select an appraiser and the two selected appraisers shall select a third appraiser. In that event, the purchase price for the Property will be the average of the three appraised values.

C. Costs of the appraisal(s), surveys, and closing costs shall be split evenly between Reindl and City and listed on the settlement statement at closing.

D. A real estate contract will be entered into to formalize the real estate transaction once appraisals, surveys, and market studies have been completed. Closing on the Property is specifically subject to the following conditions: (1) Reindl to have obtained a Building Permit from City that complies with the terms and intent of this Letter of Intent and pursuant to City's processes and procedures for considering and approving PZDs; (2) Reindl shall have complied with all other terms and conditions of this Letter of Intent; and (3) the parties' agreement on the form of the real estate contract.

E. Reindl shall convey real property or grant perpetual easements across real property to City for construction of public walking and biking trails. The consideration for Reindl's property transfer or grant of perpetual easements to City shall be either (1) the fair market value of the real property transfer or perpetual easements determined by a third-party appraiser to be selected by both parties, which shall be deducted from the Purchase Price at Closing, or (2) City will grant Reindl, at Reindl's request, an easement on City owned property, or (3) the option to purchase City property adjoining the development at a restricted use price. To the extent an appraisal is required under this paragraph, the appraised value of the easement(s) shall be included in the appraisal(s) conducted pursuant to Paragraph 9(B).

F. City and Reindl will coordinate design consultants on designing bicycle, pedestrian, automotive, and landscape infrastructure on all sides of the Building. Costs of those improvements and agreement as to which costs will be paid by City and which will be paid by Reindl shall occur prior to entering into the real estate purchase contract and shall be a condition of the real estate contract.

G. Closing on the land purchase transaction will occur within a reasonable time after execution of the real estate contract as agreed between the parties.

10. Infrastructure:

A. Infrastructure costs that will benefit both City and Reindl, such as extending water and

sanitary sewer to the Building site, shall be evenly split between Reindl and City. Any infrastructure cost for the sole benefit of the Reindl will be at its own expense.

B. The City will assist Reindl in coordinating burial of overhead power lines and may, at its sole discretion, choose to share a portion of this cost.

C. Reindl will work with electrical, cable, telephone, and gas utilities to provide and extend service to the Building site. City will reasonably cooperate to provide utility easements if necessary.

11. Restrooms and stage support space:

A. The Building shall contain, at street level, publicly accessible restrooms to serve trail and other public space users (the "City Restrooms"). All City Restrooms must comply with the Americans with Disabilities Act. Access to the City Restrooms shall be from the Frisco Trail.

B. The Building shall also contain at street level a "back of house" space to be used by event organizers.

C. Reindl shall be responsible for the construction of the City Restrooms to a "white box" finish and storage space, however, City shall have oversight of the design of the City Restrooms and storage space.

D. The City Restrooms and stage storage space shall be a minimum of 1,600 square feet. Public restrooms shall face and be accessible from the Razorback Greenway. Stage support space shall be located proximate to the outdoor stage immediately north of the Building.

E. The costs of construction of the City Restrooms as a white box finish and the storage space, including the pro-rata share of the cost of foundations, structure, roof, and exterior walls as well as the electrical, plumbing, and HVAC equipment and services, and all interior finishes, doors, hardware, and other elements desired by the City shall be paid for by the City, and deducted from the Purchase Price at Closing of the real estate transaction. Reindl is responsible for completing and delivering the City Restrooms in a white box finish and City is responsible for contracting for and paying the costs to finish out the interior of the City Restrooms as it deems appropriate with a contractor of its choice.

F. City shall have the exclusive use, control, possession, and right to the City Restrooms and storage space pursuant to a perpetual exclusive easement granted by Reindl, the form of which must be agreed prior to entering into the real estate contract described in paragraph 9.

G. Reindl will provide separate public restrooms for the use of patrons of the Building at its sole expense, in accordance with City's ordinances, rules, and regulations.

12. Adjacent Exterior Features:

NBW, City's landscape design architects, will prepare a landscape design for the north and east sides of the Building and Reindl shall implement and install landscaping on property that is owned by Reindl in accordance with NBW's landscape plan. Use of the exterior spaces shall be coordinated between Reindl and City, anchor institutions adjacent to the land, (e.g., Walton Arts Center,

TheatreSquared, etc.) and any other group selected by the City to represent its interests in creating a lively and attractive park. Use agreements shall be developed to ensure that Building's ground floor uses support the activation of the Civic Plaza. Each party shall be responsible for the maintenance of exterior spaces and landscaping on property it owns. City retains complete control of the Plaza and stage. No use of the Plaza or stage is guaranteed; Reindl may seek permission to use the Plaza or stage utilizing the City's processes as required by any member of the public.

13. Opportunities for Public Art:

Reindl shall provide locations for public art display at the Building. Public art shall be coordinated between Reindl and local arts organizations, including any groups selected by City to represent its interests in creating opportunities for public art.

14. Public Communication and Outreach Event:

In keeping with the open and transparent Cultural Arts Corridor design process, Reindl shall present the design of the Building to anchor institutions and the general public for additional review and comment. Such presentation shall occur within 4 weeks of acceptance of this Letter of Intent.

15. Development Review Process:

Once financing has been secured for the project, but no later than July 1, 2024, Reindl shall submit the Building plans and specifications to the City of Fayetteville's development review process and Building Permit review. To allow an enhanced level of scrutiny, and to address the unique aspects of this site, this project will be submitted as a Planned Zoning Development (PZD), which will document the specific development strategies and design standards that are shown in this document. The PZD process allows review of the project at the level of planning staff and the Planning Commission. At the final step of the PZD process, the full project will be brought back to City Council for review and approval. At both Planning Commission and City Council, members of the public are allowed and encouraged to ask questions of the developer and to comment upon the proposal.

16. Termination Clause:

If Reindl does not secure a Building Permit for the Building within twelve (12) months of substantial completion of City's Civic Space, then this Letter of Intent and all agreements pertaining to this Letter of Intent shall be null and void and neither party shall have any obligations to the other party. In addition, if either party does not substantially comply with the terms and conditions of this Letter of Intent, the other party may, at its sole discretion, declare this Letter of Intent null and void, and neither party shall have any obligations to the other party.

17. City of Fayetteville Right to Buy Back Land

Should Reindl not commence construction of the Building within sixty (60) days of City issuing a Building Permit or should Reindl not complete construction of the Building within twenty-four (24) months of issuance of the Building Permit, then City at its sole discretion shall have the right to buy back the land, and any improvements made as of that date. The purchase price City will pay Reindl will be the original Purchase Price Reindl paid City, plus the fair market value of the completed improvements as determined by a third-party real estate appraiser, less all amounts paid by City for

construction or construction estimates for the City Restrooms and storage space. The provisions for selection of appraisers contained in Paragraph 9B also apply to this Paragraph.

18. Modification.

The terms and conditions of this LOI may be amended at any time prior to any conveyance of the Property to Reindl by a writing executed by both parties.

19. Nonbinding Agreement.

This proposal is not intended as, and does not constitute, a binding agreement by any party, nor an agreement by any party to enter into a binding agreement but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein. Neither party may claim any legal rights against the other by reason of the signing of this letter or by taking any action in reliance thereon. Each party hereto fully understands that no party shall have any legal obligations to the other, or with respect to the proposed transaction, unless and until all the terms and conditions of the proposed transaction have been negotiated, agreed to by all parties and set forth in a definitive agreement which has been signed and delivered by all parties. The only legal obligations, which any party shall have, shall be those contained in such signed and delivered definitive agreement referred to above.

CITY OF FAYETTEVILLE

BY: _____ 11-9-22

Lioneld Jordan, Mayor, City of Fayetteville — Date

Attest:

_____ 11-9-22

City Clerk Treasurer — Date

CITY CLERK / TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

REINDL PROPERTIES, INC.

By _____ 11/9/2022

Brian Reindl, President, Reindl Properties, Inc. — Date

EXHIBIT A: VIEW OF HOTEL FROM WEST AVENUE



EXHIBIT B: VIEW OF HOTEL FROM CIVIC SPACE



EXHIBIT C: EXTERIOR MATERIAL AND DETAIL DIAGRAMS FOR THE HOTEL



VIEW FROM NORTHEAST



VIEW FROM NORTHWEST

EXHIBIT C, continued: EXTERIOR MATERIAL AND DETAIL DIAGRAMS FOR THE HOTEL



VIEW FROM SOUTHEAST



EXHIBIT D: AERIAL VIEW OF HOTEL FROM THE NORTHEAST

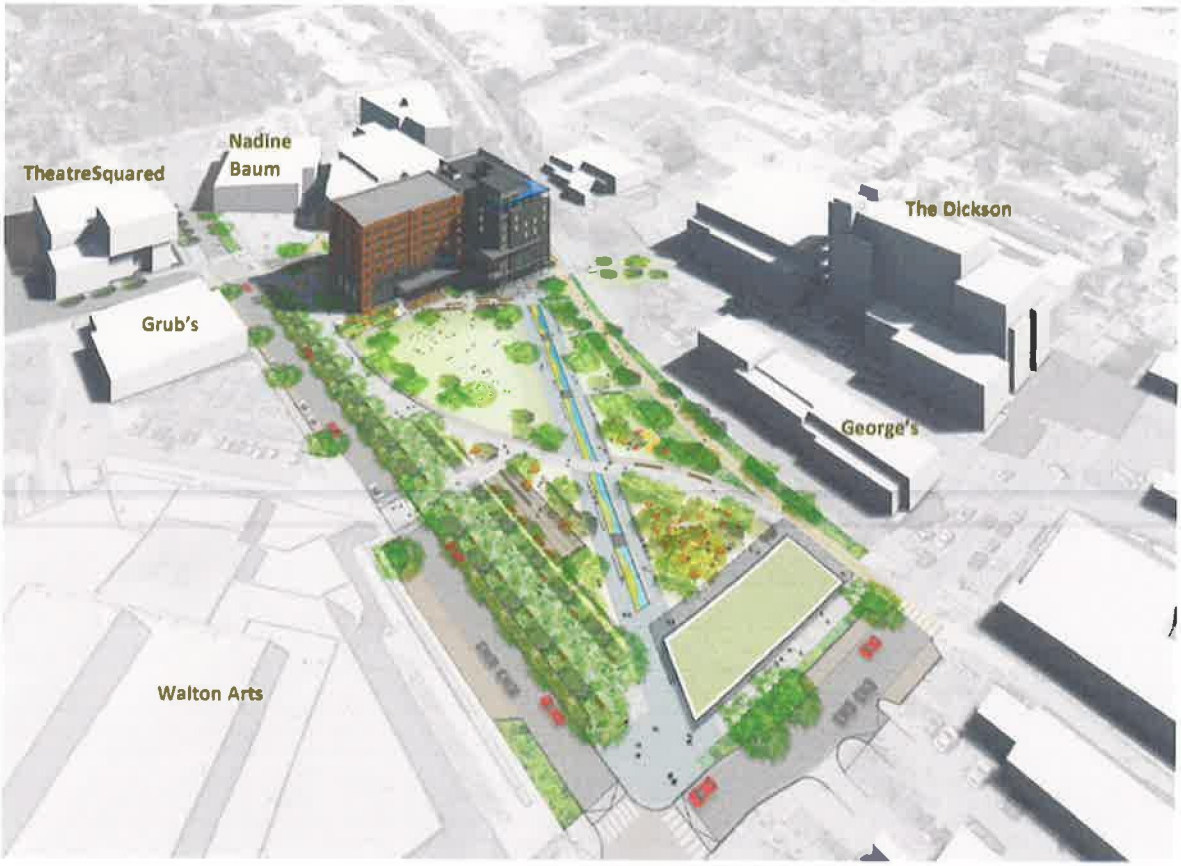


EXHIBIT E: CONCEPTUAL SITE PLAN, PRELIMINARY DESIGN, SHOWING HOTEL AT SOUTH END OF CIVIC SPACE

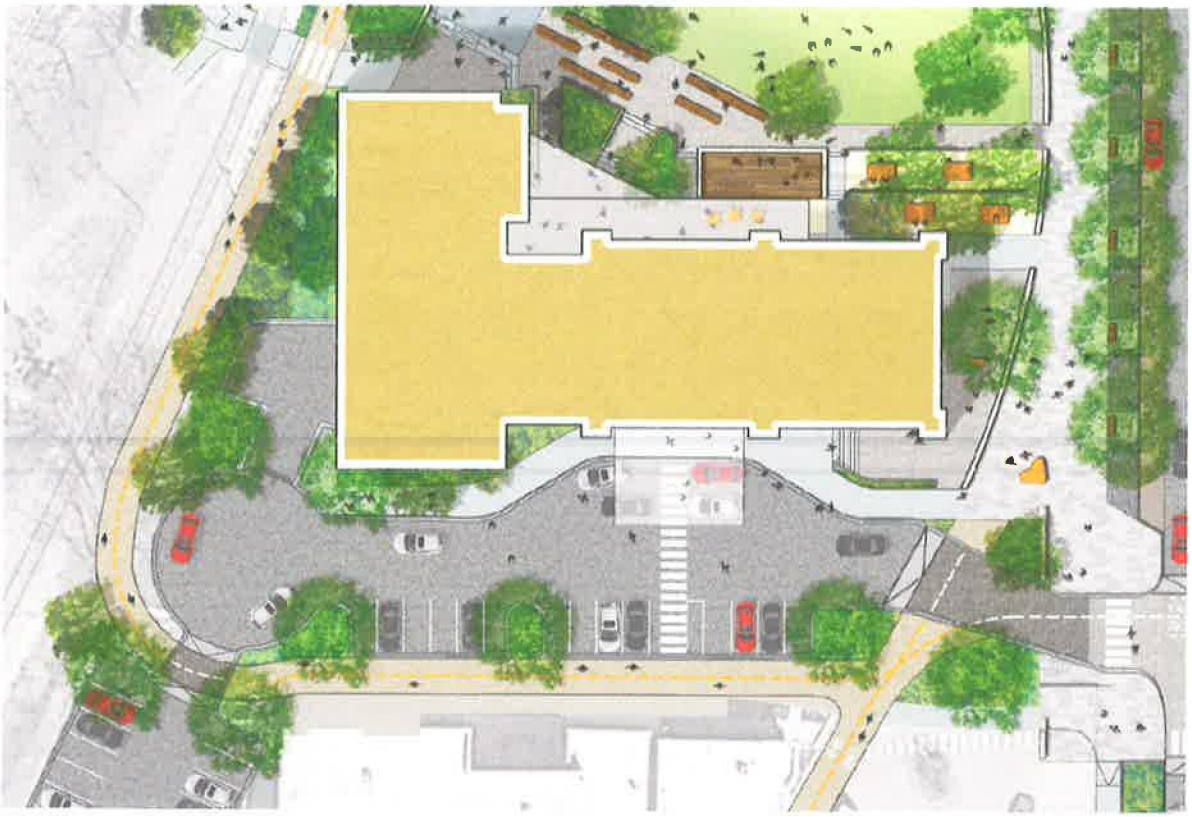
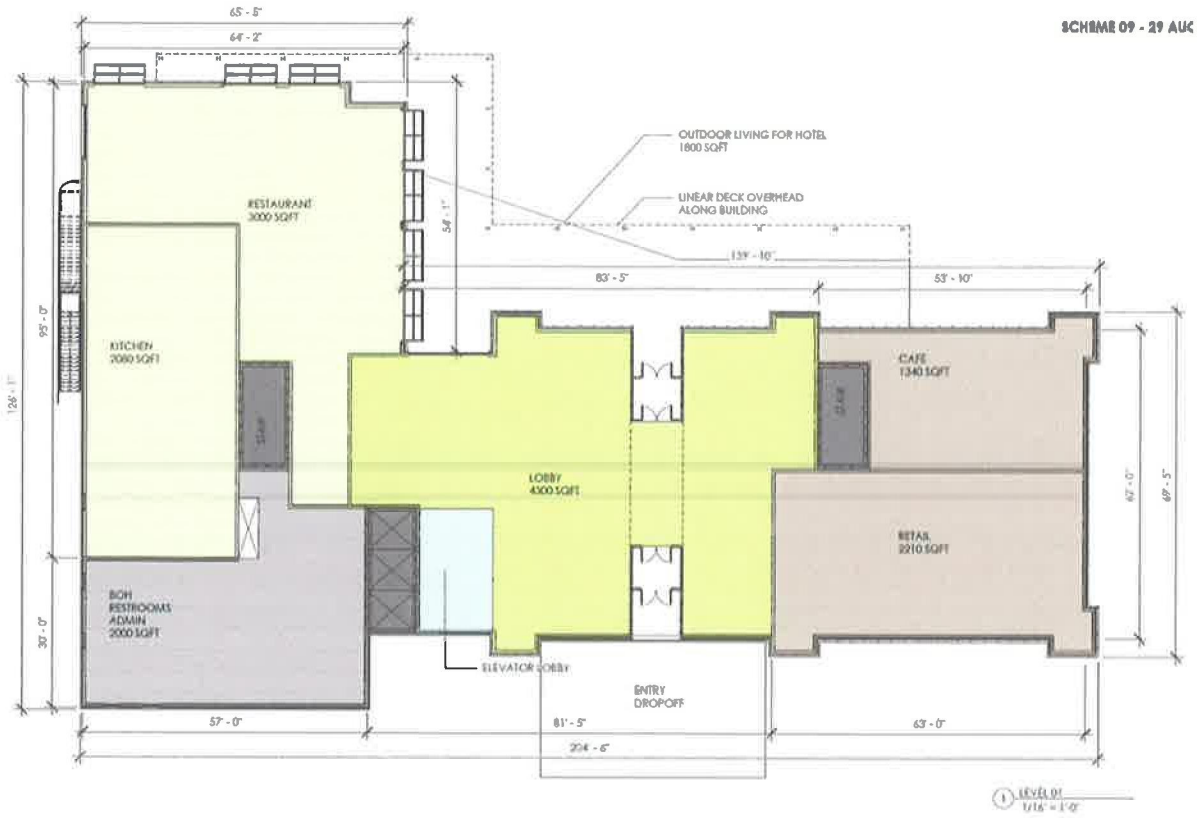


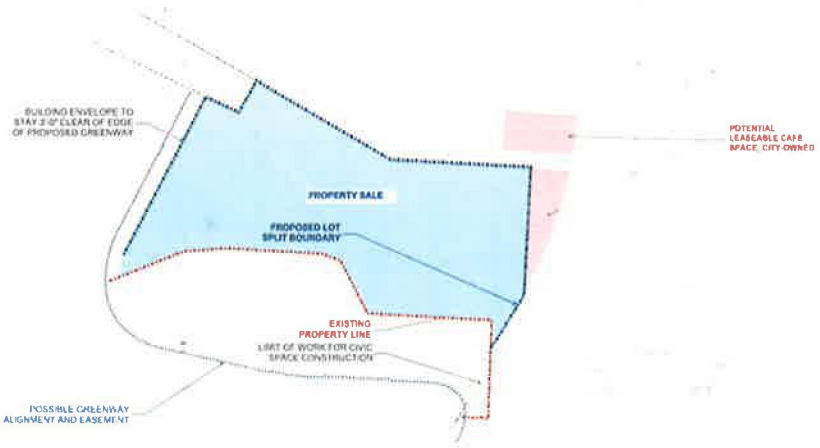
EXHIBIT F: DIAGRAMMATIC PLAN OF GROUND FLOOR SPACES



SPRING STREET SIDE

EXHIBIT G

EXHIBIT G



PROPOSED LOT SPLIT
DEVELOPER AGREEMENT
JULY 19, 2022

Exhibit 2

Received By: Waylon Abernathy 10/10/23



South Façade – Image looking northeast at the hotel main entry

Johnson Nathan Strohe – 10 October 2023

Exhibit 2

Received By: Waylon Abernathy 10/10/23

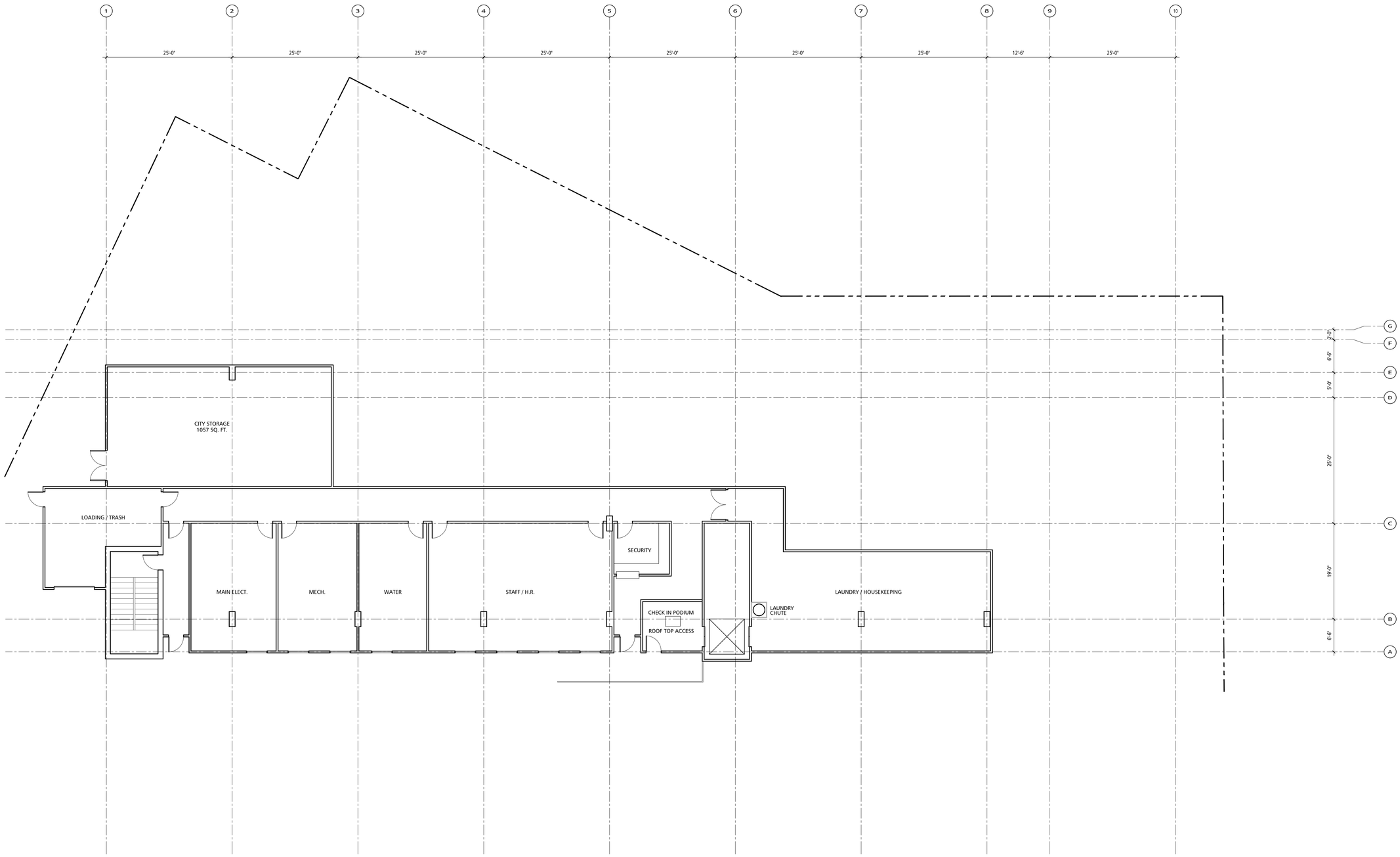


North Façade – Image looking south across the Ramble Park

Johnson Nathan Strohe – 10 October 2023

Exhibit 3 Storage

Received By: Waylon Abernathy 10/10/23



P1 SERVICE LEVEL FLOOR PLAN

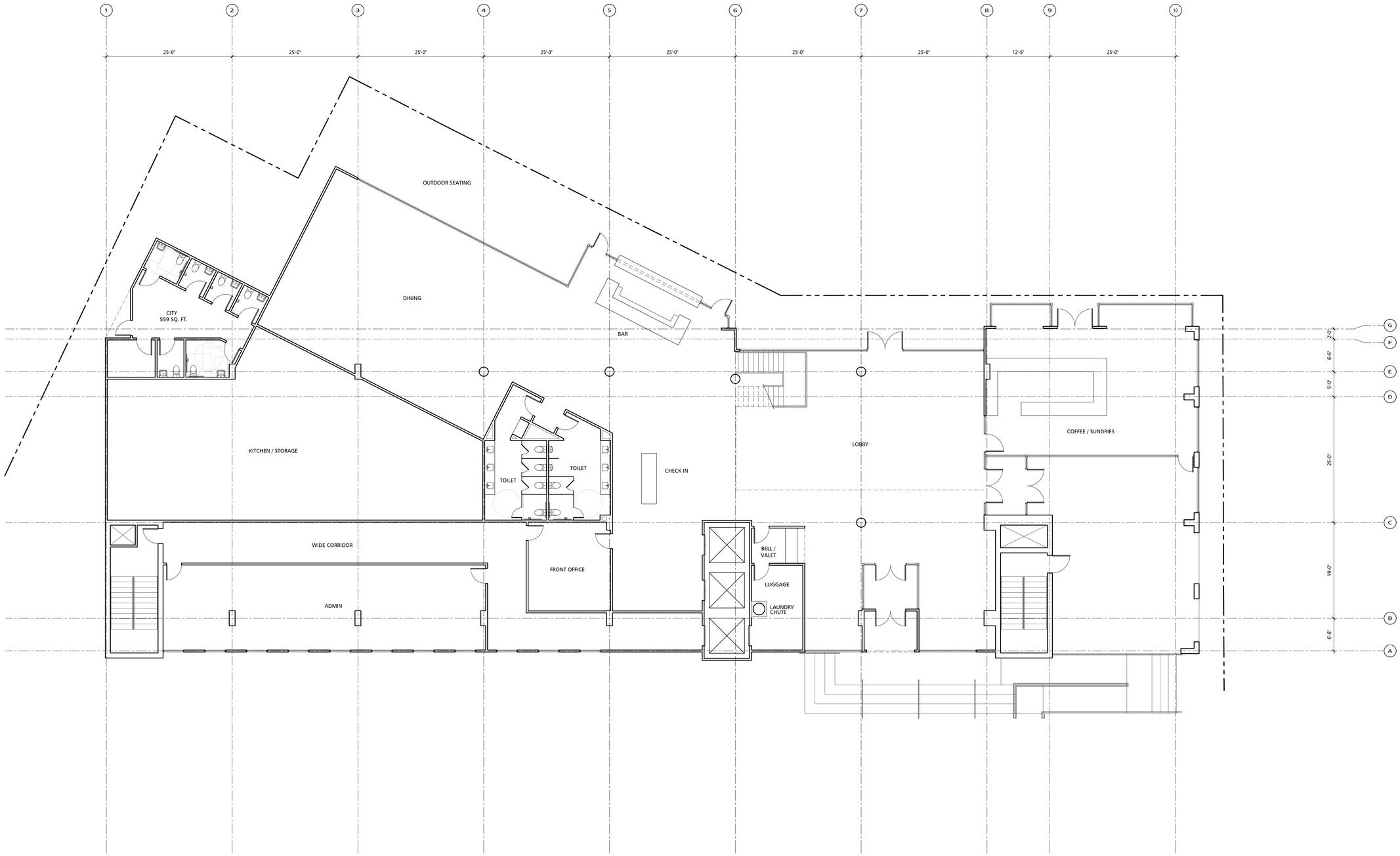
SCALE: 1/8" = 1'-0"

Two TROUT
Development. Design. Management.

10.10.23

Received By: Waylon Abernathy 10/10/23

Exhibit 3



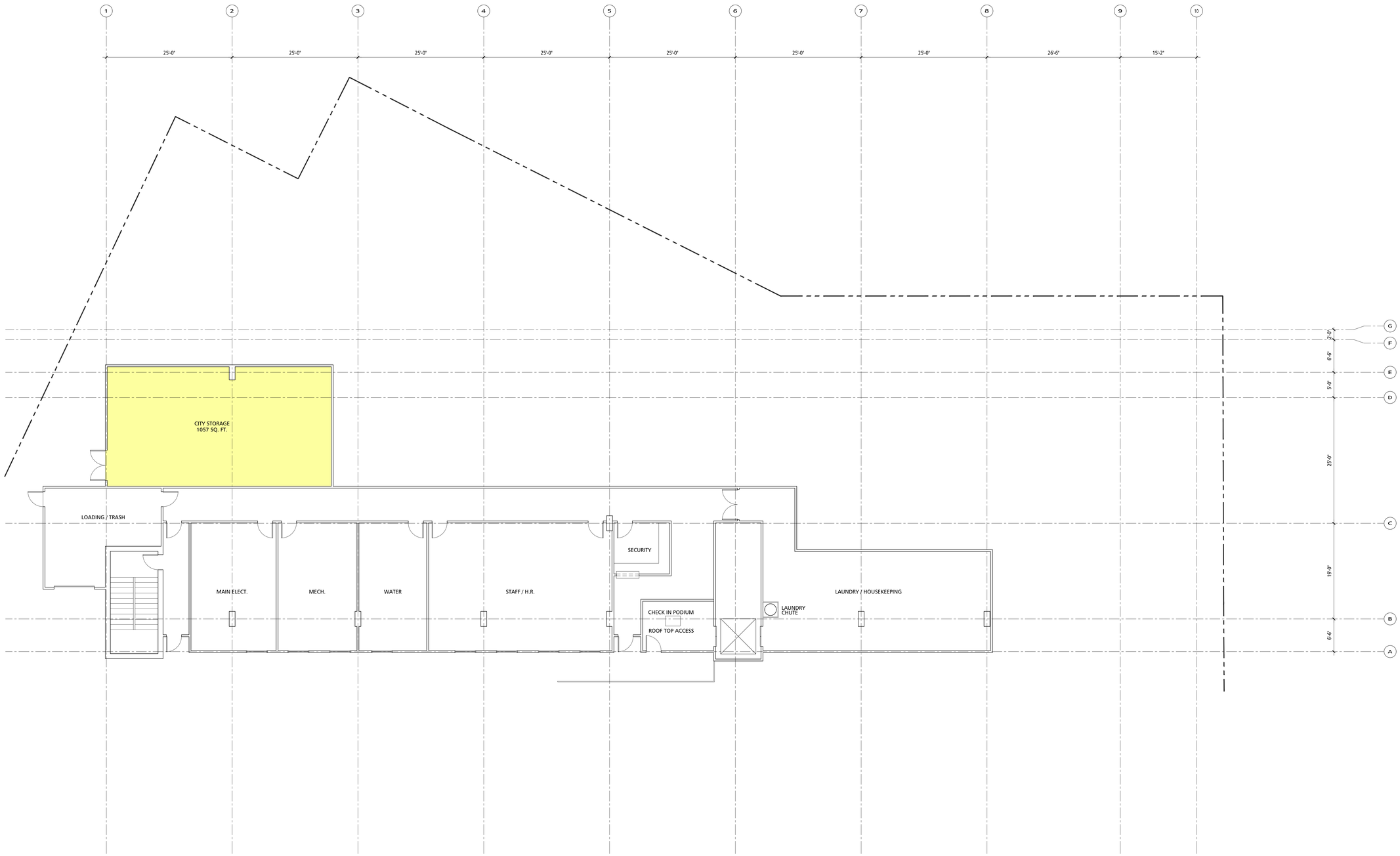
P2 LOBBY LEVEL FLOOR PLAN

SCALE: 1/8" = 1'-0"

Two TROUT
Development. Design. Management.

10.10.23

Received By Waylon Abernathy 10/12/2023 12:45 P.M



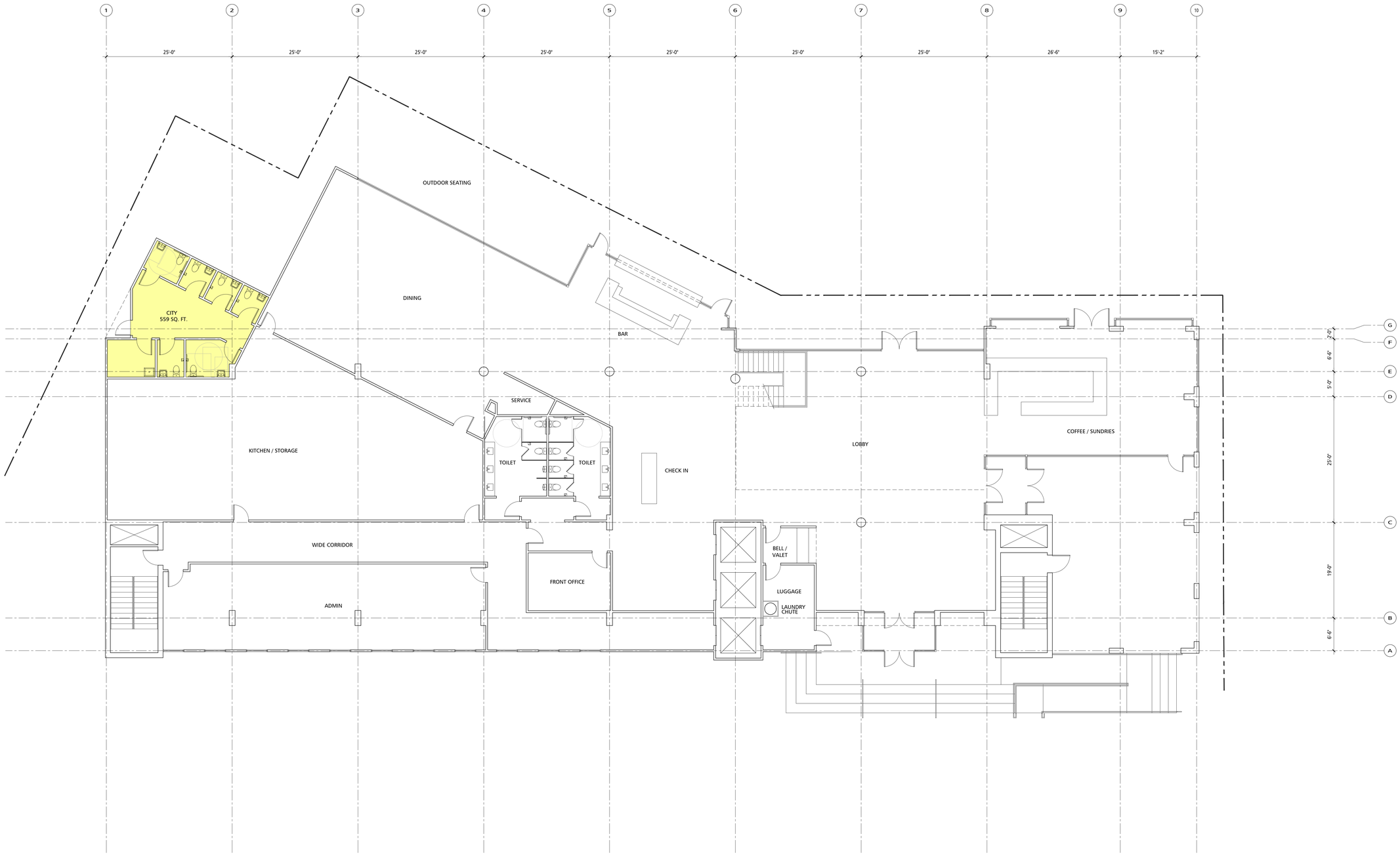
P1 SERVICE LEVEL FLOOR PLAN

SCALE: 1/8" = 1'-0"

Two TROUT
Development. Design. Management.

17 October 2023

Received By Waylon Abernathy 10/12/2023 12:45 P.M



P2 LOBBY LEVEL FLOOR PLAN

SCALE: 1/8" = 1'-0"

TWO TROUT
Development. Design. Management.

17 October 2023



South Façade – Image looking northwest at the hotel main entry

Johnson Nathan Strohe – 17 October 2023



***September 2021**: City of Fayetteville issued RPF for Mixed-use Project at South and North ends of the Ramble Park*

***October 2021**: Reindl Properties' RFP Response*

RFP Response

~ Proposal: Hotel Project

~ Size: 170 guestrooms

~ Parking: Off-site at locations served by valet

~ Anticipated Demand: 84 valet spaces



October 2022

City Council Presentation

~ Project: Worked with local stakeholders , City staff, and the City Council to refine the proposal

~ Size: 135 guestrooms

~ Parking: 32 - 45 below grade parking stalls located in the hotel footprint

~ Anticipated Demand: 66 valet spaces



October 2023

Current Design Presentation

~ Project: Hotel with multiple mixed-use amenity offerings

~ Size: 110 - 115 guestrooms

~ Parking: 57 - 63 valet surface parking space at Owner acquired property for dedicated valet parking

~ Anticipated Demand: 54 valet spaces

~ Design: Simplified the building mass and building scale

~ Connectivity: Provide visual and multiple physical connections at the park level lobby

Reindl Properties - 17 October 2023

Design Progression

REAL ESTATE PURCHASE CONTRACT

THIS **REAL ESTATE PURCHASE CONTRACT** (this "**Contract**") is made and executed as of the ___ day of _____, 2023, by and between **REINDL PROPERTIES, INC**. ("**Buyer**") and **CITY OF FAYETTEVILLE, ARKANSAS** ("**Seller**") as follows:

1. THE PROPERTY

For the price and upon and subject to the terms, conditions and provisions set forth in this Contract, Seller shall sell and convey to Buyer and Buyer shall purchase from Seller that certain real estate owned by Seller located adjacent to West Avenue and Spring Street in Fayetteville, Washington County, Arkansas, (the "**Property**"), in the approximate location as depicted on Exhibit 1 attached hereto, the exact legal description to be determined by survey, together with all Seller's rights, title and interest in all public and private streets, roads, avenues, alleys and passageways, and all and singular the estates, rights, privileges, easements and appurtenances belonging or in any way appertaining to the Property.

2. PURCHASE PRICE

Purchase Price. The purchase price for the Property ("**Purchase Price**") shall be One Million Two Hundred Forty-seven Thousand Four Hundred Fifty-five Dollars ($1,247,455.00,) to be paid in cash at Closing.

3. DEED

On the Closing Date, Seller shall execute a deed to sell and convey to Buyer good and marketable title to the Property by special warranty deed in the form reasonably prescribed by Buyer (the "**Deed**"), subject to no liens, claims, or encumbrances ("**Encumbrances**"), except (a) a restriction concerning Prohibited Uses as defined in Paragraph 31; and (b) liens for ad valorem taxes that are not yet due and payable and (c) those title and survey exceptions either waived or approved in writing by Buyer after Buyer's review of the Commitment, Survey (as those terms are hereinafter defined), and legible copies of all title exception documents identified on the Commitment and Survey (the "**Permitted Exceptions**"). Title to the Real Property as aforesaid shall be insured by the Title Company as provided in Section 5.

4. SURVEY

Buyer will order an ALTA survey (the "**Survey**") within five (5) days of the execution of this Contract. Buyer and Seller will each pay one half of the cost of the Survey. The Survey will include the location and boundaries of the Property and the Public Easement (defined and described in paragraph 30). The Survey and the boundary lines of the areas surveyed therein shall be subject to the mutual agreement of Buyer and Seller.

5. TITLE INSURANCE

Commitment and Title Policy. Within ten (10) business days after the date of this Contract, Seller will order a preliminary title insurance commitment (the "**Commitment**") from Bronson Abstract Company, Fayetteville, Arkansas (the "**Title Company**") pursuant to which

the Title Company shall agree to issue to Buyer, an ATLA owner's policy of title insurance (the "**Title Policy**") in the amount of the Purchase Price, insuring marketable fee simple title to the Real Property in Buyer upon recording of the Deed.

Seller's Title Documents. Seller shall, at Seller's sole expense, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered to the Title Company, on or before the Closing Date, such affidavits and other documents approved by the Seller, as the Title Company shall require as a condition to issuance of the Title Policy in the form herein provided (collectively, "**Seller's Title Documents**").

Buyer's Title Documents. Buyer shall, at Buyer's sole expense, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered to the Title Company, on or before the Closing Date, such affidavits and other documents approved by Buyer, as the Title Company shall require as a condition to issuance of the Title Policy in the form herein provided (collectively, "**Buyer's Title Documents**").

6. TITLE AND SURVEY DEFECTS

Buyer shall have ten (10) days from the receipt of the Title Commitment and copies of documents constituting exceptions to title and the Survey to examine the same and to specify to Seller in writing any matters which Buyer finds objectionable (the "**Encumbrances**").

Seller shall have thirty (30) days to cure or remove all Encumbrances at its cost and expense. If Seller fails to cause all the Encumbrances to be removed within such 30-day period or if Seller notifies Buyer of its decision not to cure or remove some or all of the Encumbrances, Buyer's remedy shall be to:

(i) Terminate this Agreement by giving Seller written notice thereof;

(ii) Agree to extend additional time to Seller to cure or remove all Encumbrances; or

(iii) Elect to purchase the Property subject to the Encumbrances and the Encumbrances not so removed or cured shall be deemed Permitted Exceptions and the Purchase Price shall not be reduced by any amount.

7. INVESTIGATION BY BUYER

Buyer has the right to conduct such due diligence as Buyer deems necessary in Buyer's sole discretion from the date of the execution of this agreement and continuing through five (5) business days prior to Closing; provided, however, Buyer may not conduct any intrusive testing in the subsurface soil or take any bore samples without the prior, written consent of the Seller. If Buyer, in its sole discretion is not satisfied with the results of its due diligence, Buyer may terminate this Contract at any time prior to Closing by providing written notice to Seller, whereupon this Contract shall be terminated and neither party shall have any further obligation to the other party.

8. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer the following through the date hereof and as of the Closing Date to the best of Seller's knowledge:

8.1 Except as disclosed to Buyer in writing there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property in any way.

8.2 Seller represents and warrants that at the time of acceptance hereof and at Closing, Seller is not a "foreign person" as such term is defined in Section 1445(f) of the Internal Revenue Code of 1954.

8.3 There are no actions, suits, lawsuits, proceedings, or claims affecting any part of the Property, or affecting Seller with respect to the ownership, occupancy, use, or operation of any part of the Property pending in or before any court, agency, commission, or board.

8.4 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against Seller.

8.5 Seller has not received notice from any governmental authority, stating that the Property is currently in violation of any zoning, environmental, or other land use regulations or in violation of any required licenses, registrations, certificates, permits, approvals, or other governmental authorizations relating to the use and operation of the Property. If Seller receives such a notice prior to Closing, Seller shall promptly notify Buyer of such a notice and deliver a copy thereof to Buyer.

8.6 Seller has not received any notice relating to its period of ownership of the Property that the Property is in violation of any applicable governmental law, regulation, or requirement relating to environmental or occupational health and safety matters or Hazardous Substances ("Environmental Laws"). As used in this Agreement, the term "Hazardous Substances" means any and all substances, materials, and wastes which are regulated as hazardous or toxic under applicable local, state, or federal law or which are classified as hazardous or toxic under applicable Environmental Laws.

8.7 Seller has not stored, processed, or disposed of hazardous or toxic substances on the Property.

8.8 No underground storage tanks are located on the Property.

For the purposes hereof, the term "Seller's Knowledge" means the actual knowledge of _____, without any duty of inquiry or investigation.

BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN ANY CLOSING DOCUMENT DELIVERED BY SELLER, (A) BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER IN CONNECTION WITH THE PROPERTY OR THIS TRANSACTION, (B) SELLER WILL SELL AND CONVEY TO BUYER, AND BUYER WILL ACCEPT THE PROPERTY "AS IS", "WHERE IS", AND "WITH ALL FAULTS" ON THE CLOSING DATE, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR

REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY SELLER OR ANY THIRD PARTY, AND (C) SELLER DOES NOT, BY THE EXECUTION AND DELIVERY OF THIS AGREEMENT, AND SELLER WILL NOT, BY THE EXECUTION AND DELIVERY OF ANY DOCUMENT OR INSTRUMENT EXECUTED AND DELIVERED IN CONNECTION WITH CLOSING, MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE WHATSOEVER, WITH RESPECT TO THE PROPERTY AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED.

9. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller the following through the date hereof and as of the Closing Date to the best of Buyer's knowledge:

9.1 Buyer represents and warrants that at the time of acceptance hereof and at Closing, Buyer is not a "foreign person" as such term is defined in Section 1445(f) of the Internal Revenue Code of 1954.

9.2 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against Buyer.

9.3 Buyer has full authority to enter into this Contract and fulfill all its obligations pursuant therewith.

"Buyer's Knowledge" means the actual knowledge of Brian Reindl.

10. TAXES AND ASSESSMENTS

No tax prorations will occur because Seller is not subject to real estate taxes. Buyer is responsible for paying all real property taxes and assessments due and payable after the date of Closing.

11. CLOSING COSTS AND ADJUSTMENTS

Seller's Costs. Seller shall pay the cost of (1) one-half of the documentary stamps; (2) the cost of the owner's portion of the title insurance policy; (3) one-half the Title Company's closing fee and document preparation fee; (4) the Title Company's title search fee; (5) all certificates, instruments and documents which Seller is required to deliver or cause to be delivered; (6) one-half of the Survey; (8) one-half of the cost of appraisals required in connection with the Purchase Price of the Property or in connection with the Public Easement as provided in this Contract; and (7) its legal fees and expenses.

Buyer's Costs. Buyer shall pay the cost of (1) one-half of the documentary stamps; (2) one-half the Title Company's closing fee and document preparation fees; (3) the cost of any loan policy of title insurance including all endorsements required by Buyer's lender; (4) all certificates, instruments and documents which Buyer is required to deliver or cause to be delivered; (5) Buyer's legal fees and expenses; (6) one half of the Survey; and (7) one-half of the cost of any third appraisal required in connection with the Purchase Price of the Property or in connection with the Public Easement as provided in this Contract.

12. CONDEMNATION AND CASUALTY

If, prior to the Closing Date, all or any part of the Property shall be condemned by governmental or other lawful authority such that the remaining property is insufficient for Buyer to construct the Mixed Use Building (as defined below), Buyer shall have the option, exercised by delivery to Seller of written notice of such election on or before the fifteenth (15th) business day following the date on which Buyer receives from Seller written notice of such condemnation of either (a) completing this transaction, in which event (i) there shall be no reduction of the Purchase Price, (ii) Seller shall have no duty to repair or restore, (iii) Seller shall pay to Buyer all condemnation proceeds received by Seller with respect to such condemnation, and (iv) Seller shall assign to Buyer all rights of Seller in and to such condemnation proceeds, or (b) terminating this Contract.

13. LEASES AND OTHER AGREEMENTS

During the period from the date of this Contract to and including the Closing Date, Seller shall not, without the prior written consent of Buyer enter into a lease of the Property that has a term extending beyond the Closing Date.

14. CLOSING

Closing Date. Provided all conditions to closing set forth in this Contract have been satisfied or waived by Buyer and Seller, and this Contract has not been terminated in accordance with the provisions herein set forth, the transaction contemplated herein shall close within thirty (30) days of the satisfaction or fulfillment of all conditions of closing, or such other date as is mutually agreeable to Seller and Buyer, PROVIDED, however, that if Closing does not occur on or before _____ , Seller may, in its sole discretion, terminate this Contract and neither party shall have any further obligations to the other party. Such date for the closing of title is herein called the "**Closing Date**" or such occurrence is called the "**Closing**" or "**closing**".

Seller's Deliverables. On or before the Closing Date, Seller shall deliver or cause to be delivered to the Title Company the following: (a) Special Warranty Deed; and (b) Seller's Closing Statement and such other documents as Title Company may require at Closing and which are approved by the Seller.

Buyer's Deliverables. On or before the Closing Date, Buyer shall deliver or cause to be delivered to the Title Company the following: (a) by federal wire transfer of funds to the Title Company's escrow account an amount equal to (i) the balance of the Purchase Price due at closing, adjusted as herein provided, plus (ii) the aggregate amount of closing costs for which Buyer is responsible as provided herein, all as shown on Buyer's closing statement; (b) and Buyer's Closing Statement and such other documents as Title Company may require at Closing.

15. POSSESSION

Exclusive possession of the Property shall be delivered to Buyer on the Closing Date.

16. BROKERAGE

Seller hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction. Buyer hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction.

17. SURVIVAL

Except as otherwise set forth herein, all warranties, representations, covenants, obligations,
and agreements contained in this Contract shall survive the closing hereunder and the transfer and conveyance of the Property and any and all performances hereunder for a period of six (6) months.

18. TIME

Time is of the essence of this Contract.

19. NO WAIVER

Except as herein expressly provided, no waiver by a party of any breach of this Contract or of any warranty or representation hereunder by the other party shall be deemed to be a waiver of any other breach by the other party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Contract or of any representation or warranty hereunder by such other party, whether or not the first party knows of such breach at the time it accepts such payment or performance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by the first party while the other party continues to be so in default.

20. INSTRUMENTS IN WRITING

No agreement, consent, approval, notice, amendment, modification, understanding, or waiver of or with respect to this Contract or any agreement, instrument, or document entered into pursuant to or with respect to this Contract, or any term, provision, covenant, or condition hereof or thereof, nor any approval or consent given under or with respect to any of the foregoing, shall be effective for any purpose unless contained in a writing signed by the party against which such agreement, amendment, modification, understanding, waiver, approval or consent is asserted.

21. NOTICES

Any and all notices, requests, demands, or other communications hereunder shall be deemed to have been duly given if in writing and if transmitted by hand delivery with receipt therefor, by facsimile delivery (with confirmation by hard copy), by overnight courier, or by registered or certified mail, return receipt requested, first class postage prepaid addressed as follows (or to such new address as the addressee of such a communication may have notified the

sender thereof) (the date of such notice shall be the date of actual delivery to the recipient thereof):

If to Buyer: Reindl Properties, LLC
Attn: Brian Reindl
509 W Spring St, Ste 310
Fayetteville, AR 72701

With copy to:
Reed Law Firm
3301 S Market St, Ste 211
Rogers, AR 72758

If to Seller:
City of Fayetteville
Attn: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701
Mayor@fayetteville-ar.gov

With a copy to: Vicki Bronson
Conner & Winters, LLP
4375 N. Vantage Dr., Suite 405
Fayetteville, AR 72703
vbronson@cwlaw.com

Either party may designate a different address or addresses for itself by notice similarly given. Any notice given by registered or certified mail shall be deemed to have been given on the third day after the same is deposited in the mail, and any notice not so given shall be deemed to have been given upon receipt of the same by the party to whom the same is to be given.

22. ENTIRE AGREEMENT

This Contract contains the entire agreement with respect to the transactions contemplated herein, and there are no other terms, conditions, promises, understandings, statements, or representations, express or implied, concerning the same, and neither party is relying on any representation or statement not specifically contained herein.

23. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Arkansas.

24. ESTOPPEL

Each party confirms and agrees that (a) it has read and understood all of the provisions of this Contract; (b) it has negotiated with the other party at arm's length with equal bargaining power; and (c) it has been advised by competent legal counsel of its own choosing.

25. JOINT PREPARATION

This Contract is deemed to have been jointly prepared by the parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any party, but shall be interpreted according to the application of the rules of interpretation for arm's length agreements.

26. ASSIGNMENT

Neither party may assign this contract without the prior written consent of the other party.

27. INTENTIONALLY DELETED.

28. ATTORNEYS FEES

If either party is required to bring litigation to enforce its rights under this contract, the prevailing party shall be entitled to recover its attorney's fees and costs, including expert witness fees.

29. CONTINGENCIES

In addition to any other conditions or contingencies contained herein, the parties' obligations to close on this transaction are conditioned upon satisfaction of the following conditions on or prior to Closing:

A. Buyer and Seller's approval of the Survey.

B. Buyer and Seller's approval and execution of a Development Agreement concerning the Mixed-Use Building as more particularly described in Paragraph 31.

C. Buyer and Seller's approval and Buyer's execution of the Public Easement, as more particularly described in Paragraph 30.

D. Buyer's execution and delivery to Seller of a perpetual easement for the use of the City Restrooms and Storage Space as provided in Paragraph 31.

30. ADDITIONAL CONSIDERATION

As additional consideration for the transactions contemplated herein Buyer agrees to grant a permanent easement to Seller for pedestrian walking and biking trails ("**Public Easement**") located across real property currently owned by Buyer adjacent to the Property. The exact location of the Public Easement shall be determined by the Survey. In consideration for Buyer's conveyance of the Public Easement, Seller will pay Buyer the fair market value for the Public Easement which is estimated to be Two Hundred Fifty-nine Thousand Eighty-four Dollars ($259,084.00), which amount may be adjusted as determined by the parties' appraisals.

31. DEVELOPMENT OF THE MIXED-USE BUILDING

A material condition of Seller's agreement to sell the Property to Buyer is for Buyer to develop and construct a Mixed-Use Building ("Building") on the Property as described in that certain Letter of Intent executed between the parties dated effective November 9, 2022. The

approval of a Development Agreement by Buyer and Seller concerning the design, construction, and use of the Building and allocation of any shared costs associated with the construction of the City Restrooms and Storage Space is an express condition to the Buyer and Seller's obligations under this Contract. The Development Agreement shall incorporate, at a minimum, the following terms:

A. Buyer will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces, and must contain a minimum of one restaurant, café, or coffee shop at ground level. The Building may include additional uses as necessary to meet the financial goals of the project if approved by Seller. The following Use Units *may* be allowed, subject to the Seller's prior approval in conjunction with the Seller's typical processes and procedures for considering and approving zoning, development, licenses, and permits, including conditional use restrictions:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

Provided, however, that nothing contained in this Contract is intended to be nor may be construed to be a promise or agreement that Seller will approve any of the specific uses described above. The uses permitted are subject to Seller's prior approval according to Seller's typical processes and procedures for considering and determining permitted uses. In addition, certain uses which may be allowed under the zoning categories described above require a conditional use permit, including, but not limited to Unit 35: Outdoor Music Establishments. Because of the proximity to the Civic Space (Seller's property adjacent to the Property a/k/a the Ramble) as well as the Walton Arts Center and other local businesses, the use of amplified music on the Property requires specific approval by Seller in advance and is subject to all reasonable conditions which Seller requires, including, but not limited to prohibiting the use of amplified music after 10:00 p.m. Nothing in this Contract is intended to be nor may be construed to be a waiver or release of any of Seller's requirements or conditions for receiving a conditional use permit for any use that may be allowed under the zoning categories stated above.

Further provided, none of the following uses will be permitted on the Property (the "**Prohibited Uses**") at any time: crematorium; mausoleum; funeral home; furniture repair and refinishing; taxidermist; vape shops; body piercing/tattoo; gunsmith; animal hospital; animal day care; day care; bail bonding agencies; hospital; vehicle sales; convalescent home; boarding/rooming housing (other than is typically associated with hotel use); dormitory; fraternity/sorority housing; and slot car track. Any deed from the Seller conveying the Property to Buyer will contain a restriction against the Prohibited Uses and the restriction will be a restriction that runs with the Property for a minimum of 75 years.

B. As befits its prominent location, the Building will be a substantial and attractive building. The Building's design, plans and specifications, including, but not limited to exterior finishes, and site development are subject to Seller's development review process, ordinances,

and rules and must be approved by Fayetteville City Council. Nothing in this Contract is intended to or may be construed as a waiver of any of Seller's ordinances, rules, or regulations.

C. The Building will have three primary facades; one facing the Civic Space to the north, one facing the vacated Spring Street right-of-way to the south, and the third facing West Avenue to the east. All primary facades will be attractive, well-proportioned, and constructed of high-quality materials in accordance with the plans and specifications.

D. The Building shall be designed and built in substantial compliance with the drawings, depictions, and concepts on the attached Exhibit 2 which depict the minimum standards for materials, design, and architectural features. Any significant deviation from exterior design reflected on Exhibit 2 may not be approved by Fayetteville City Council.

E. The design and construction of the Building shall comply with all local, state, and federal building codes, rules, regulations, and laws, including those of Seller.

F. Buyer must present its application for Planned Zoning District (PZD) Review approval, along with all required documents no later than July 1, 2024. The Building and associated improvements are subject to approval pursuant to City of Fayetteville Development Review codes, processes, and procedures, including review by Planning Staff, Planning Commission, and City Council. Documents shall include all building facades, floor plans of all levels, infrastructure improvements, multi-use trail details, and all other requirements of City of Fayetteville codes.

G. Notwithstanding anything contained herein to the contrary, if Buyer does not secure a Building Permit for the Building within twelve (12) months of substantial completion of Seller's Civic Space, then this Contract and all agreements pertaining to this Contract shall be null and void and neither party shall have any obligations to the other party.

H. If Buyer fails to either (a) commence construction of the Building within sixty (60) days of Seller issuing a Building Permit or (b) complete construction of the Building within twenty-four (24) months of issuance of the Building Permit, then Seller at its sole discretion shall have the absolute and unconditional right to buy the Property back from Buyer, and any improvements made as of that date. If Seller elects to exercise its rights under this paragraph, the purchase price Seller will pay Buyer will be the original Purchase Price Buyer paid Seller for the Property, plus the fair market value of the completed improvements on the Property as determined by a third-party real estate appraiser, less all amounts paid by Seller for construction or construction estimates for the City Restrooms and Storage Space. The provisions for selection of appraisers contained in Paragraph 30 also apply to this Paragraph.

I. The Building must be designed and constructed to provide a ground floor that is open and inviting to the public on the north side to accentuate and facilitate the use of the Civic Space. The hotel lobby shall be located on the ground floor and shall be open and inviting. Additionally, a bar, restaurant or café and retail uses will be provided on the ground floor.

J. Buyer agrees to make a good faith effort to purchase building supplies and materials locally to support sales tax revenue for Seller.

K. Buyer must provide all parking required by Seller's parking codes and requirements at Buyer's cost. Buyer must provide the amount of valet parking to Building guests that is usual and typical for the size of the Building. As a condition of this Contract and prior to Closing, Buyer must own or have a written lease for sufficient property to provide parking as required by Seller's parking requirements, including but not limited to City Code sections 172.05 and 156.03C(5). To the extent Seller has any excess parking spaces available Seller agrees to lease the excess parking spaces to Buyer at current market rates. Seller makes no representations that it has any parking spaces available to lease to Buyer.

L. All Building loading recycling, and solid waste and associated receptables must be located on the west side of the Building. No such activities will be permitted from or facing any public street.

M. The Building design and construction will incorporate sufficient air filtering to promote indoor air quality.

N. The Building will be designed and constructed to provide an efficient and properly designed envelope that will prevent air and water infiltration and reduce thermal bridging. The Building will implement the use of smart energy-management systems to decrease energy use in the Building, including but not limited to the installation of smart systems to avoid heating and cooling vacant rooms.

O. Buyer and Seller will coordinate design consultants on designing bicycle, pedestrian, automotive, and landscape infrastructure on all sides of the Building. The amount of the costs of those improvements and an agreement as to which costs will be paid by Seller and which will be paid by Buyer are a condition of this Contract and a condition of Closing. Once the costs for these improvements are established, Buyer and Seller agree to pay their pro-rata share of such costs.

P. Seller agrees to pay one half of the cost of extending water and sanitary sewer to the Building's site to provide water and sewer to the City Restrooms. Once the costs for these improvements are established, Seller agrees to pay that amount to Buyer. The amount of such costs must be reasonable and must be approved by Seller in advance in writing.

Q. Seller will assist Buyer in coordinating burial of existing power lines to the extent necessary; however, Seller has no obligation to incur any costs associated with burying overhead power lines.

R. Buyer is responsible for providing all water, sewer, electrical, cable, telephone, gas, or other utilities to the Building. Seller has no obligation to incur any costs associated with Buyer's installation of utilities except for the costs associated with extending water and sewer to the Building site, if any, for the City Restrooms as described above. If it is necessary for Seller to grant utility easements across its property to provide utilities to the Property, Seller agrees to grant a utility easement, provided however, that the location of the easement and any utility lines and equipment are subject to Seller's prior approval.

S. The Building shall contain public restrooms at street level, accessible from the Frisco Trail to serve trail and other public space users (the "City Restrooms"). The Building shall also contain a storage space for storing equipment associated with the planned performance area of the Civic Space and such other items which City desires ("Storage Space"). In addition:

i. All City Restrooms must comply with the Americans with Disabilities Act.

ii. Buyer shall be responsible for constructing the City Restrooms and Storage Space to a "white box" finish, subject to Seller's approval of the design. The City Restrooms and Storage Space contain a minimum of 1,600 square feet. The Storage Space shall be located on the west side of the Building for convenient access to the City Space. The approximate location of the City Restrooms and Storage Space are shown on Exhibit 3, attached.

iii. The costs of construction of the City Restrooms as a white box finish and the Storage Space, including the pro-rata share of the cost of foundations, structure, roof, and exterior walls as well as the electrical rough in, plumbing, and HVAC equipment and services, and other elements desired by the Seller prior to commencement of construction of the Building. Buyer is responsible for completing and delivering the City Restrooms in a white box finish and Seller is responsible for contracting for and paying the costs to finish out the interior of the City Restrooms as it deems appropriate with a contractor of its choice.

iv. The Seller shall have exclusive use, control, possession, and right to the City Restrooms and Storage Space pursuant to a perpetual exclusive easement to be granted by Buyer, the form of which must be agreed to by the parties and executed prior to or at Closing.

v. In addition to the City Restrooms, the Building must contain separate public restrooms at ground level for the use of the Building's patrons as required by all Seller, state, and federal ordinances, rules, and regulations.

T. The Building shall contain a street level "back of house" space to be used by event organizers in the approximate location as shown on Exhibit 3.

U. Buyer, at its expense, will implement, install, and maintain landscaping on the Property as required by Seller pursuant to plans developed by Seller's landscape design architects.

V. Seller shall maintain exclusive control of all of Seller's property and exterior spaces adjacent to the Building and Property. Should Buyer desire to use any Seller property, the use must be coordinated with Seller and anchor institutions adjacent to the area, (e.g., Walton Arts Center, TheatreSquared, etc.) and any other group selected by the Seller to represent its interests in creating a lively and attractive park and Civic Plaza. Buyer must apply for use of Seller's property in the same manner as any other member of the public.

W. The Building shall provide a location for the display of local art, to be coordinated between Buyer and local arts organizations, schools, or the Seller.

X. All other terms and conditions as the parties may agree.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

BUYER:

REINDL PROPERTIES, INC.

By: 

Brian Reindl

Date: 10/12/2023

SELLER:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Lioneld Jordan, Mayor

Date: _____

ATTEST:

By: _____

Kara Paxton, City Clerk-Treasurer

EXHIBIT 1

Drawing of appropriate location of the Property

EXHIBIT 2

Conceptual Building design and materials

EXHIBIT 3

Depiction of approximate location of City Restrooms, Storage Space,

and back of house space

Walton Arts Center

October 16, 2023

Dear City Council members,

City of Fayetteville staff are recommending approval of a resolution authorizing the mayor to sign the Real Estate Purchase Contract with Reindl Properties, Inc. for the sale of land on the south end of The Ramble civic plaza. The land is slated to be used for a new hotel to anchor The Ramble on the south end.

We continue to have serious concerns about the impact this will have on the Walton Arts Center and the Entertainment District in regard to parking. To date, we have not seen a viable plan for parking hotel guests and staff beyond the approximately 32 onsite parking spaces planned for the site. Instead of including the necessary infrastructure to support the needs of the new hotel from the start, this will only take from the existing, finite parking that is available. Parking is important because it allows those anchor institutions and established businesses in the area to maintain their customer base while also attracting new customers and event attendees for The Ramble. Responsibly assessing and addressing the changing needs of this developing area ensures that established businesses are supported, and all developments are positioned for success.

To that end, the business owners in the area invested in a comprehensive study to assist in identifying future parking needs and making recommendations to address those needs. A copy of that report (attached here) was completed April 2023 and was provided to City Council at that time. The study provider, Kimley-Horn, was made available to Council for information and questions.

You may recall that the parking study indicated the potential need for 500 additional parking spaces during peak events and 125 spaces during non-peak events if the current plans for development on the south end of The Ramble and plans for both sides of Dickson Street on the north end are realized. Adding additional development without also identifying and planning for adequate and proximate parking for that development does not make sense.

We can't just maintain the status quo when it comes to parking. Additional parking demands will come. We consistently hear from patrons that the existing parking options are full as much as 30 minutes prior to performances. It is also not unusual for patrons to miss all or part of a performance because they couldn't find parking in time. Prepaid parking has helped, but that sells out for very popular shows.

As Council continues down the path of approving the proposal to build a hotel in the area, we again implore you to make certain that the project provides the necessary infrastructure to provide adequate parking for hotel guests and staff. Your foresight and planning at this juncture will provide enormous benefits to the many residents of Fayetteville and Northwest Arkansas who will come to the downtown area for our restaurants, arts presentations, and events.

Sincerely,

Peter B. Lane
President/CEO

cc: Nate Hodne/Executive Chair
cc: Mayor Lioneld Jordan

April 25, 2023

DICKSON / BLOCK PARKING STUDY

Fayetteville, AR

Final Report



Prepared By:

Kimley»Horn

Acknowledgements

The Dickson/Block Parking Study was initiated by the Walton Arts Center in September 2022 with the support of a coalition, City of Fayetteville staff, and the Mayor's office. The coalition includes members of the Entertainment District community, including the Dickson Street Merchants, Experience Fayetteville, and the University of Arkansas.

Purpose of Study

As the Dickson/Block corridors within the Entertainment District continue to expand their businesses, events, and arts offerings, the current parking capacity is nearly effectively full, at over 80% during some event conditions.

A strategic approach to accommodate future growth is needed.

The purpose of this study is to:

- Understand the current and future parking needs of the Entertainment District with a focus on the Dickson/Block corridors, various user groups, and size of events,
- Project parking supply needs with new Civic Plaza and proximate future developments, and
- Recommend viable short-, medium-, and longer-term solutions.

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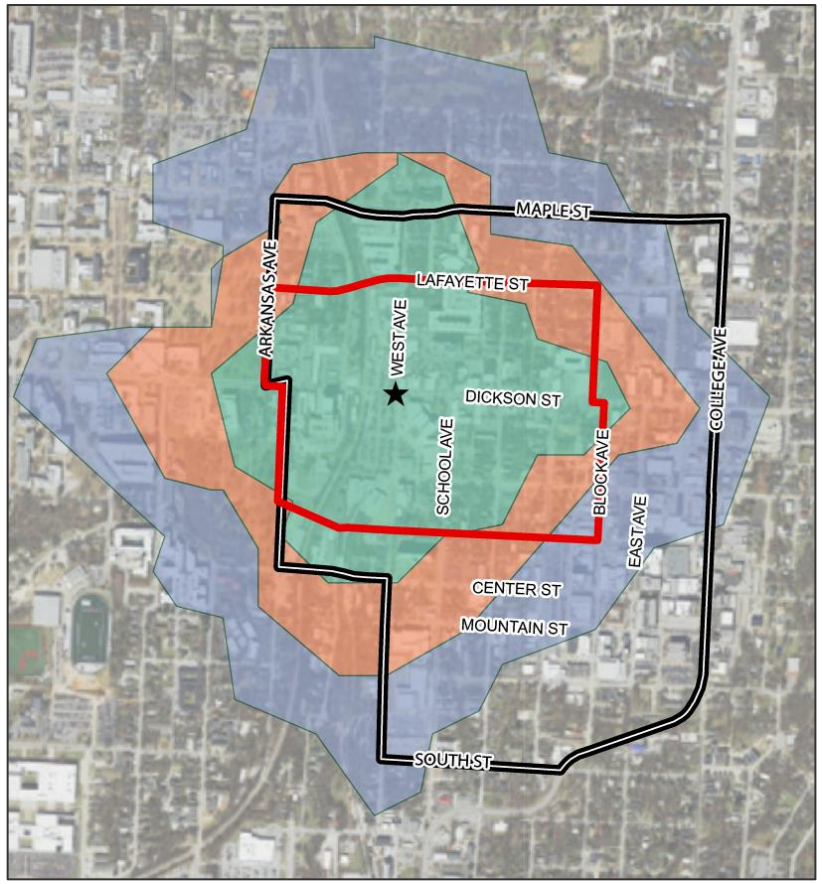
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PROJECT OVERVIEW



Differences from 2017 Mobility Study



Source: City of Fayetteville, AR

In 2017, the City of Fayetteville commissioned a study to understand the existing conditions of the transportation network, which involved the parking ecosystem. Findings from the 2017 Mobility Study align with the Dickson/Block Parking Study, making the two studies complementary.

A key difference between the two studies is that the 2017 Mobility Study had a multimodal focus and included parking as a key element, whereas this study is focused primarily on parking.

The map to the left shows the current study boundaries compared to the one from 2017. The current study is more focused on the Entertainment District (~0.2 square miles), whereas the 2017 Mobility Study had a broader focus on the City of Fayetteville (~0.5 square miles).

Legend

- Current Parking Study Boundaries
- 2017 Mobility Study Boundaries
- 5-min Walkshed
- 7-min Walkshed
- 10-min Walkshed

Differences from 2017 Mobility Study

The 2017 Mobility Study included one (1) weekend to determine baseline parking conditions. The 2023 study collected parking demand data from three (3) weekends with a focus on special events, such as Broadway and University of Arkansas football weekend as well as non-event baseline conditions.

The additional data gathered also brings to light both the growing Entertainment District business community and the University of Arkansas student population as well as the increased number of event offerings, such as Broadway shows.

Best Practice Alert:

Parking studies should be updated about every five (5) years due to the nature of urban development, growth, and to ensure current parking strategies still align with the organization's goals and future vision.

	2017 Mobility Study	2023 Study
Study Area	0.5 Sq miles	0.2 Sq miles
Data Collection	1 weekend to determine baseline	3 weekends with special attention to events (Broadway show, football game, non-event)
Businesses	Dickson St. Merchants formed in 2013 and working to increase vitality of Dickson/Block corridors	New restaurants and businesses in Dickson/Block corridors and new proposed developments
University	27,000 students	30,000 students (11% growth)
Events	WAC was under construction during data collection	7 weeks of Broadway shows at WAC, Tin Roof, TheatreSquared

Context and Study Area

The study area boundaries are Lafayette Street (north), Arkansas and University Avenue (west), Meadow Street (south), and Saint Charles and Block Avenue (east). The map shows the city-managed facilities in red, and lots owned by private entities in blue. Lots that are privately owned but managed by the city are categorized as city-managed, shown in red.

Within the Entertainment District, there are different types of users utilizing the parking throughout the day and year for activities and events such as:

- Daytime activity
- Weekly evening entertainment
- Performing arts and Events
- University of Arkansas Football games

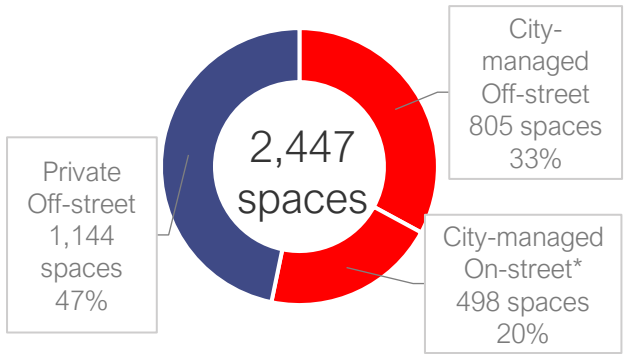
The Dickson/Block Parking Study aims to understand how various users and types of events that happen within the Entertainment District use parking in terms of proximity and availability needs.

The overall parking inventory of the study area is 2,447 spaces, which includes 1,144 spaces in private off-street spaces (47%), 805 spaces in city-managed off-street spaces (33%), and 498 spaces in city-managed on-street spaces (20%).

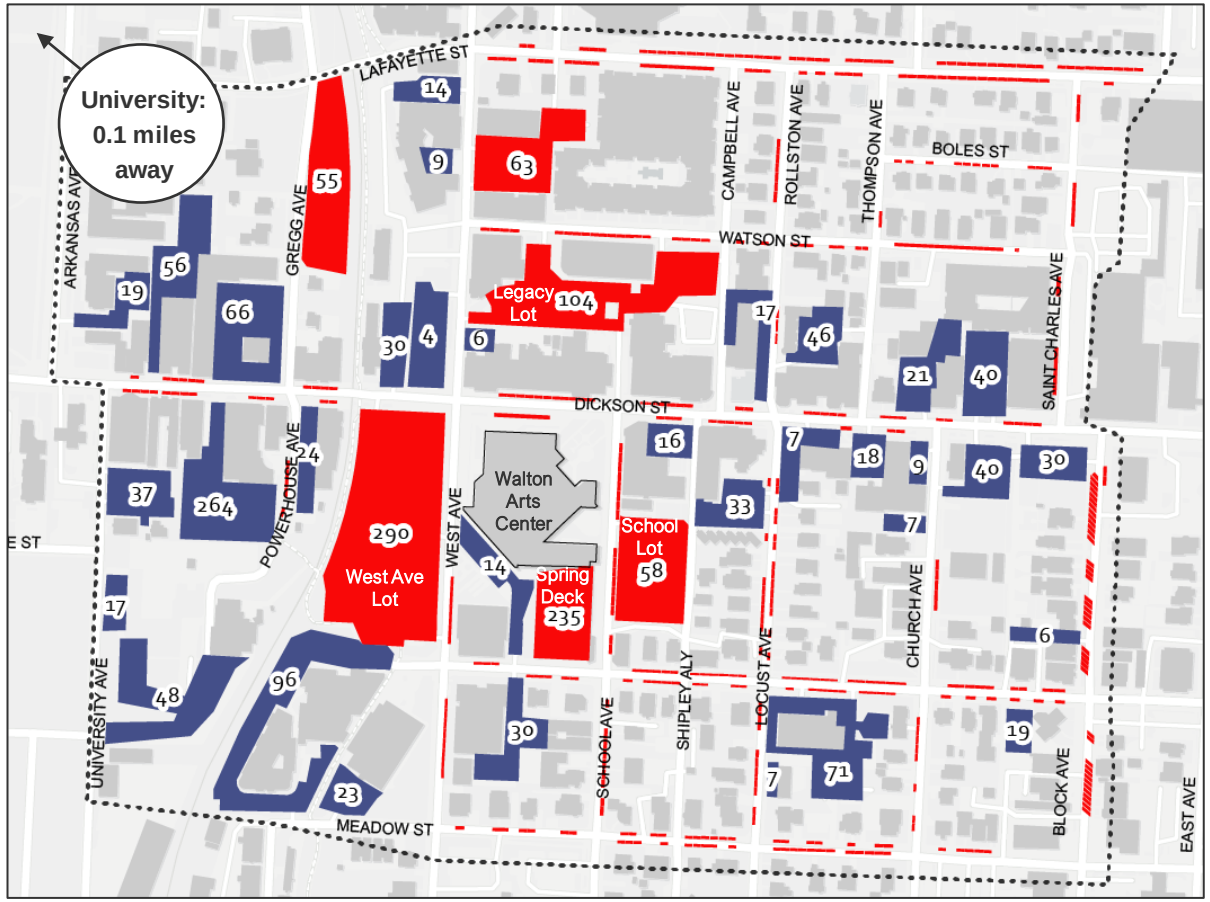
Parking Spaces in Study Area

Total Off-street: 1,949 spaces

Total On-street: 498 spaces*



*114 on-street parking spaces are reserved for resident-only parking



Legend — City-managed Parking — Private Parking — Study Area

Users of the Dickson/Block Area

With the four (4) key user types that frequent the Entertainment District, it is important to understand their parking needs based on their frequency of use, typical ages, walking tolerances, and resulting parking needs.

Walking tolerances are particularly important to take into consideration in a downtown ecosystem because certain user types may not be willing or able to walk over a certain distance.

For example, a daytime patron that is coming to the Entertainment District for a lunchtime break will have a walking tolerance of ~1-3 minutes because they may be picking up lunch or dropping off mail. In comparison, a patron attending a football game at the University of Arkansas may be younger and willing to walk as much as one (1) mile to get to their destination from their parking spot.

Parking locations and intended user types should be taken into consideration when evaluating parking availability.

	Daytime Patrons	Weekly Evening Entertainment Patrons	Performing Arts/Events	Football Games
Frequency	365 days (100% of days/yr.)	52 weeks (100% of weekends/yr.)	37 weeks (70% of weekends/yr.)	6 home games (11% of weekends/yr.)
Typical Ages	Mixed group of students, residents, workers and visitors	Entertainment / younger crowd	Mixed group of patrons, including higher number of people ages 55+	Mixed group of students and football attendees
Walking Tolerances	~1-3 min walk	~ 5 min walk	~ 3 min walk	>15 min walk
Needs	Mix of high turn-over proximate parking and lower cost parking options to access local businesses	Off-street and less proximate parking is acceptable. Patrons willing to walk a further distance than during lunch.	Proximate parking to accommodate mobility needs. Enough parking to accommodate large peak volumes.	Attendees use Entertainment District parking as overflow; Not a primary user group.

Source: How Far Should Parkers have to Walk? (1994), https://www.gsweventcenter.com/GSW_RTC_References/2008_05_Smith-Butcher.pdf

Events in Dickson/Block

When planning for parking needs, a best practice is to evaluate special events and times in which a large amount of people are coming to the Dickson/Block area. This primarily includes:

- Walton Arts Center (1,400 capacity)
- George's Majestic Lounge (700 capacity)
- Tin Roof (600 capacity)
- Theatre Squared (275 capacity)

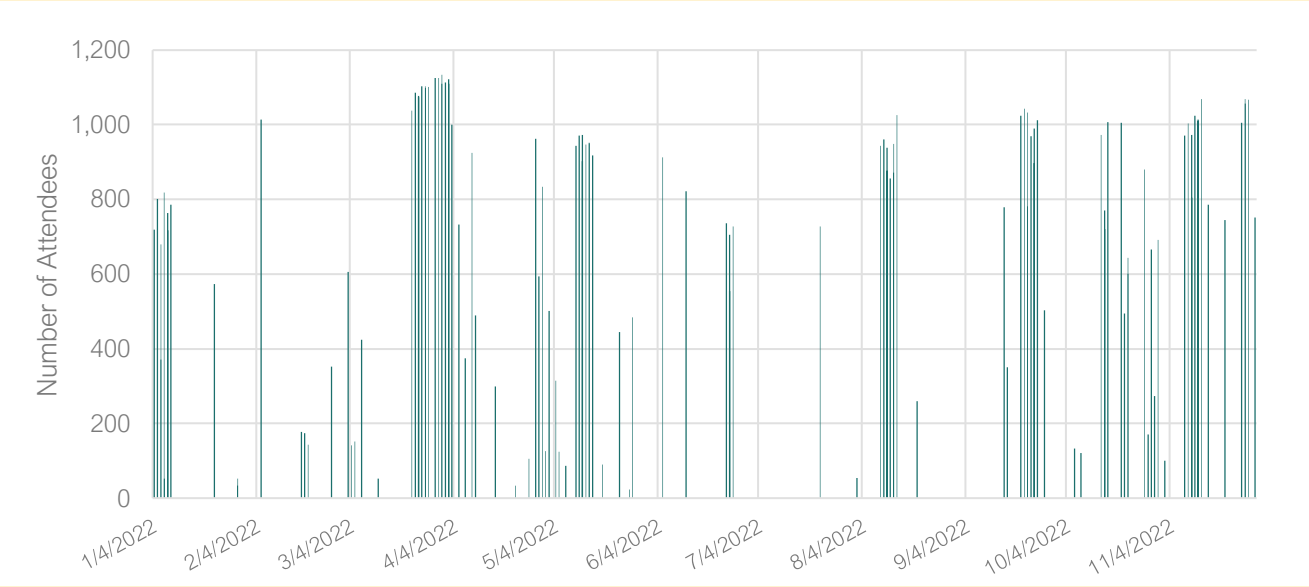
While there are many different event venues in the Dickson/Block area, events are happening more regularly and are a more frequent occurrence. The graphs to the right provide a snapshot of the event regularity throughout 2022 as well as the attendance by number of events. Approximately 50% of the events hosted by WAC attracted 800 attendees or more. In addition, WAC hosts events with over 800 attendees almost 20% of the weekends in a year.

According to the Institute of Transportation Engineers (ITE), approximately one (1) parking space is needed for every three (3) seats within a venue. Therefore, for a parking venue with a 1,400-seat capacity, approximately 420 parking spaces are needed for the event. This is consistent with the data Kimley-Horn collected.

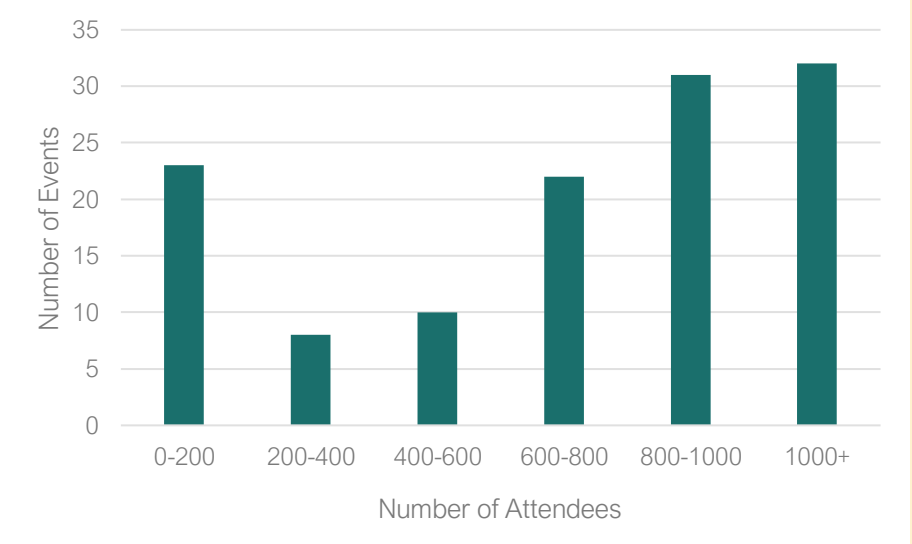
Takeaway

Due to the frequency of special events in the Dickson/Block area, the 2023 study focuses on evaluating and planning for event conditions and uses non-event conditions as a baseline metric.

Distribution of WAC Events throughout the Year



WAC Number of Attendees by Number of Events



The Role of Parking in a Downtown Environment

For efficient downtown parking ecosystems, on- and off-street parking serve different needs and are complementary parts of the same system. The map to the right shows both the on-street (yellow) and off-street parking facilities (black). On-street facilities serve short-term uses, such as lunch pick-up or mail drop-off, and have high patron turnover. Conversely, off-street parking serves longer-term needs and allows users to have access to the facility for an extended period for a lower cost. On-street parking availability is critical for small businesses to have access of their services to their customers. For pricing, on-street parking is typically set at a higher rate than off-street parking to incentivize shorter-term stays and high turnover.

For users to be able to utilize off-street parking spaces and maintain on-street spaces for short-term use, off-street spaces must be easy to find and understand and offer adequate wayfinding and signage.

As a measure of how efficient the parking system is, parking space utilization is used to understand how many spaces are being used at one time. Optimal off-street utilization is between 85-95%, with 85% being more efficient. This analysis uses 90% as a conservative estimate. Optimal on-street utilization is between 65%-85%, with one to two spaces available per block.

Best Practice Alert:

As a parking management best practice, parking revenues cover parking capital, maintenance, and operational costs associated with running a parking system.

Source: Shoup (2005), The High Cost of Free Parking

On-street Parking	• Short-term use • Requires high turnover to be effective • Higher price to incentivize turnover
Off-Street Parking	• Long-term needs • Lower price than on-street • Wayfinding signage needed, especially for garages



DATA COLLECTION METHODOLOGY

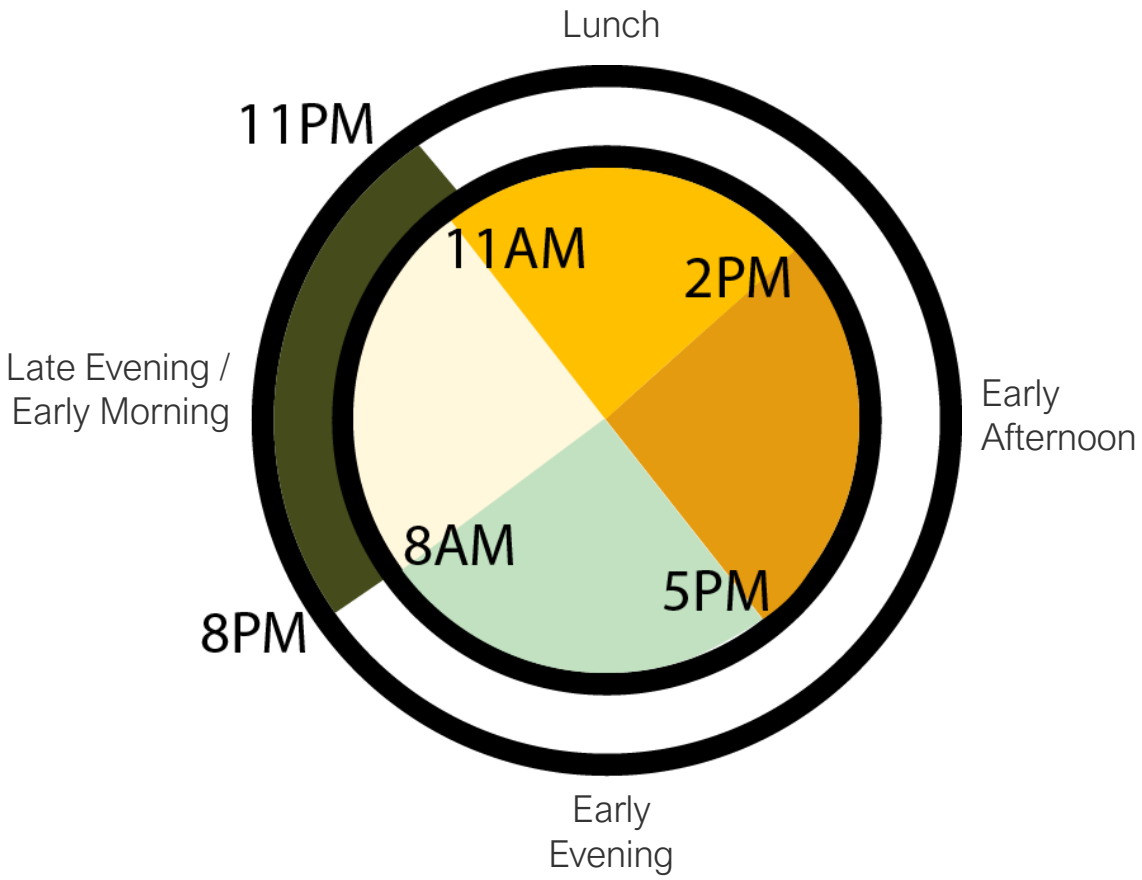


Time Periods Collected

Parking utilization was collected for the following periods:

- **Non-Event Weekend**
  (Thurs, Oct 6th – Fri, Oct 7th)
- **Broadway Show at WAC Weekend**
  (Thurs, Sept 22nd – Sat, Sept 24th)
- **University of Arkansas Football Weekend**
  (Fri, Sept 30th – Sat, Oct 1st)

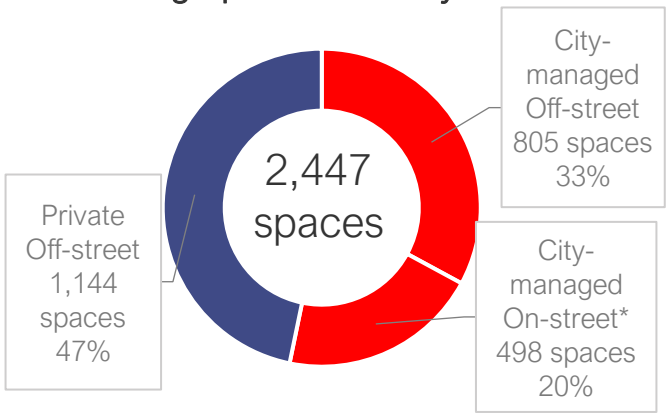
DATA WAS COLLECTED EVERY THREE (3) HOURS:



Data Collection Area

Data was collected for the full study area of 2,447 spaces including 1,949 spaces in off-street facilities and 498 spaces in on-street facilities.

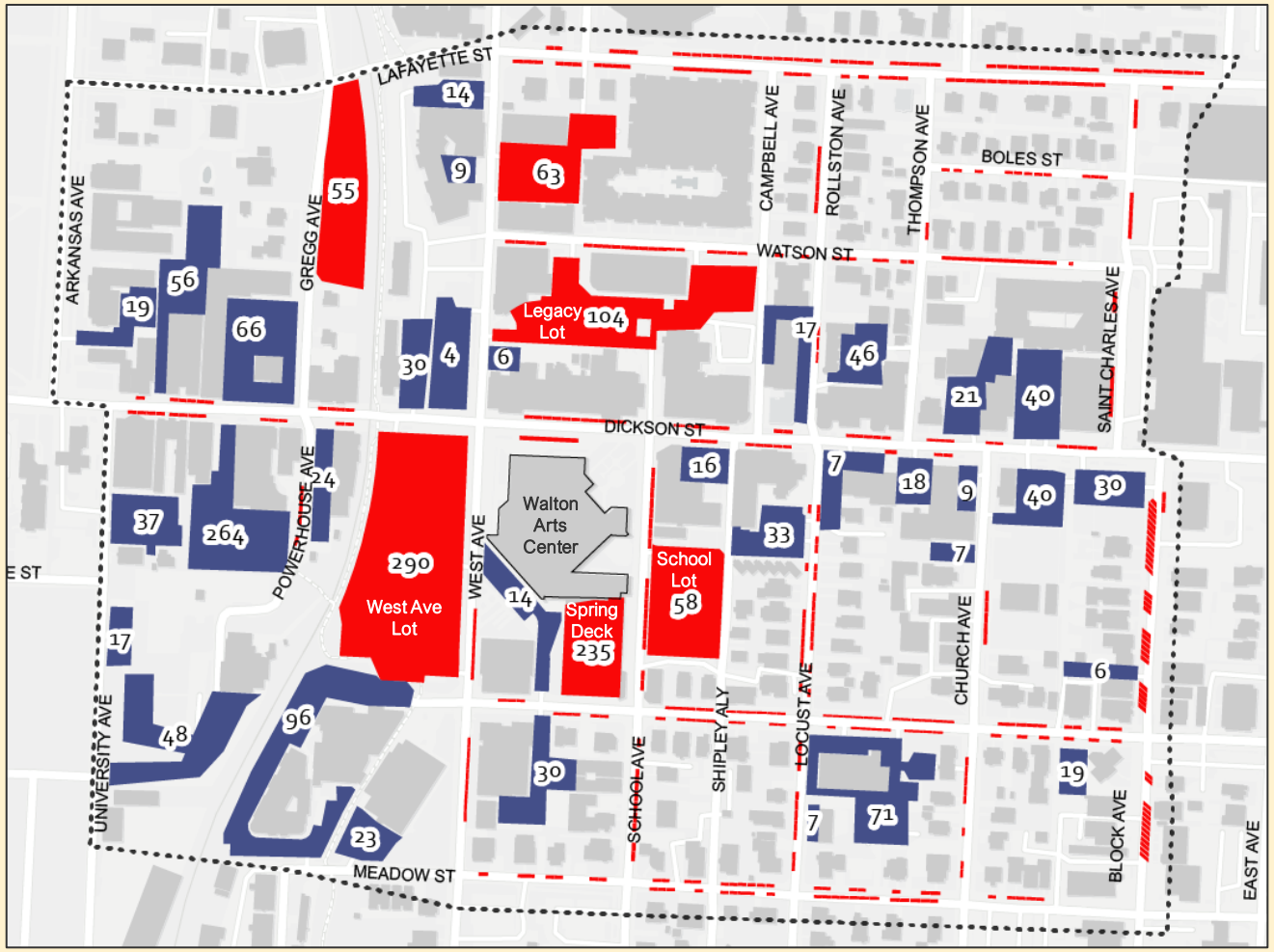
Parking Spaces in Study Area



Total On-street: 498 spaces*

Total Off-street: 1,949 spaces

**114 on-street parking spaces are reserved for resident-only parking*



ON-STREET PARKING FINDINGS



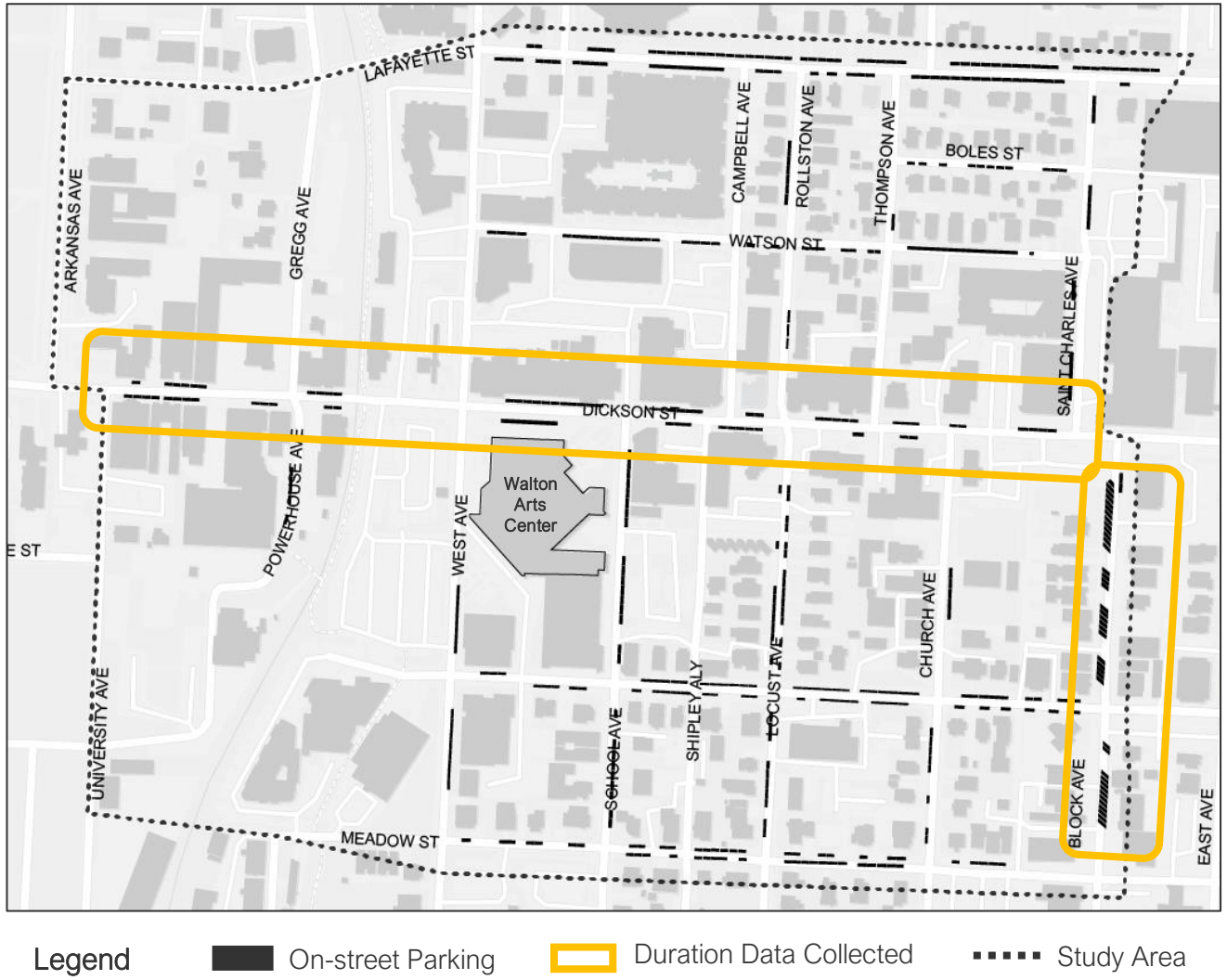
On-Street Characteristics

On-street parking within the Entertainment District is owned and operated by the City of Fayetteville and is free between 2 AM and 2 PM. The cost of parking for all other times is:

- 2 PM – 6 PM: $0.50 per hour
- 6 PM – 2 AM: $1 per hour
- All-day option: $5

Parking fees are collected through the ParkMobile app and pay stations located throughout the District.

Data was collected for both utilization (number of spaces occupied) as well as turnover (how often a new customer is in a parking space). Utilization data was collected for all 498 on-street parking spaces. In addition, turnover data was collected for the 114 on-street spaces along Dickson Street and Block Avenue (highlighted in yellow on the map to the right). Because Dickson and Block are the two primary commercial corridors within the District, the additional turnover information was collected to better understand current parking operations.



Dickson/Block Corridors On-Street Parking Demand

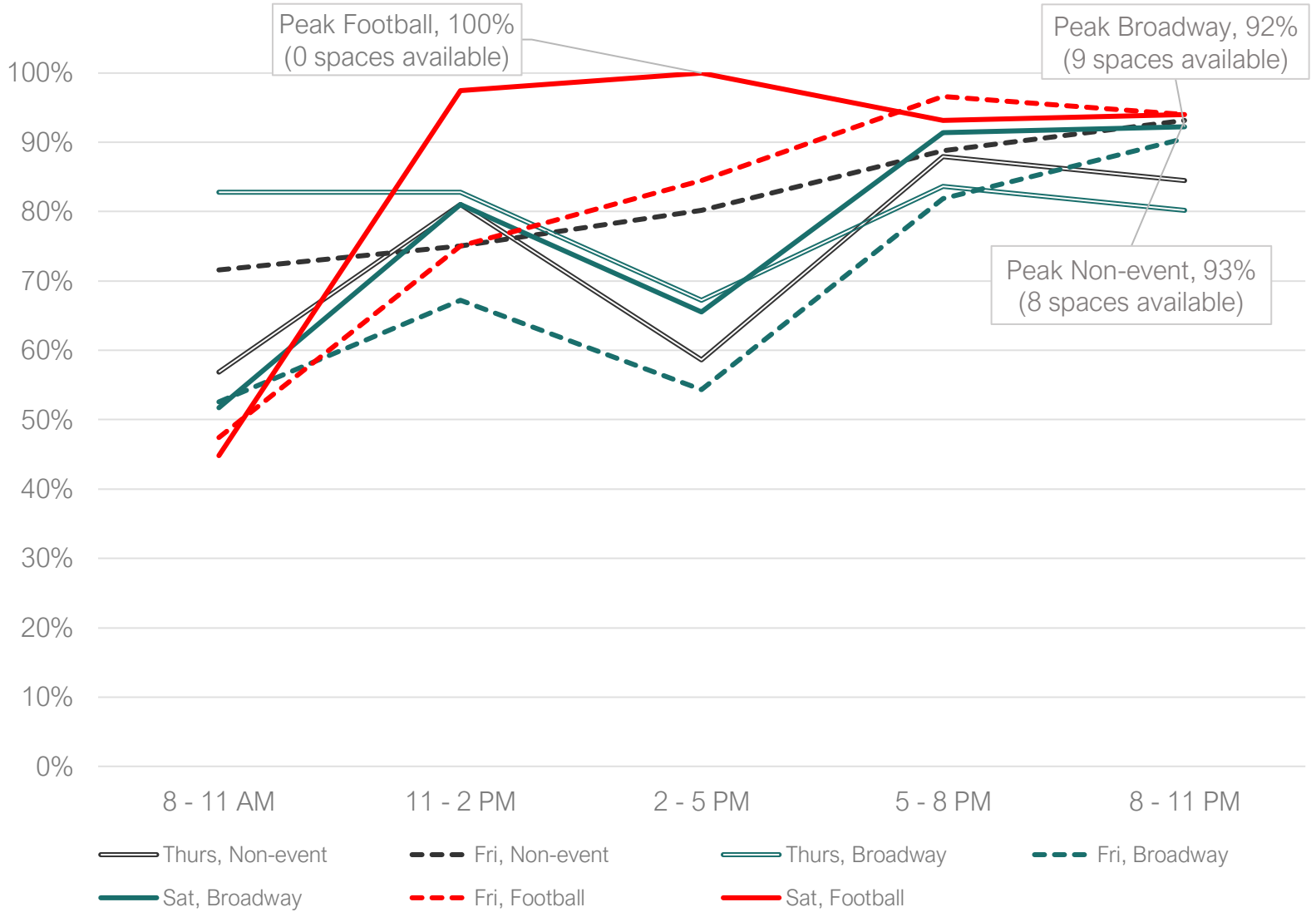
The graph to the right shows an overview of the Dickson/Block corridors on-street parking demand throughout the five (5) data collection time frames for all three (3) data collection weekends including:

- Non-event Weekend (Shown in black)
- Broadway Weekend (Shown in green)
- Football Weekend (Shown in red)

The Dickson/Block corridors showed the highest utilization compared to the rest of the District. Of the data collection weekends, the highest occupancy was observed during the football weekend at 100% occupancy during the 2:00 PM – 5:00 PM time frame. This is in line with the football game start time of 2:30 PM. The Entertainment District experiences spillover from football attendees due to the proximity and low cost of parking.

Because football weekends only occur roughly six (6) times per year, the focus of the data analysis is on the Broadway and non-event weekends.

During non-football weekends, the peak time frame was 8:00 PM – 11:00 PM at 92-93%, which is considered full (>85% occupied*).

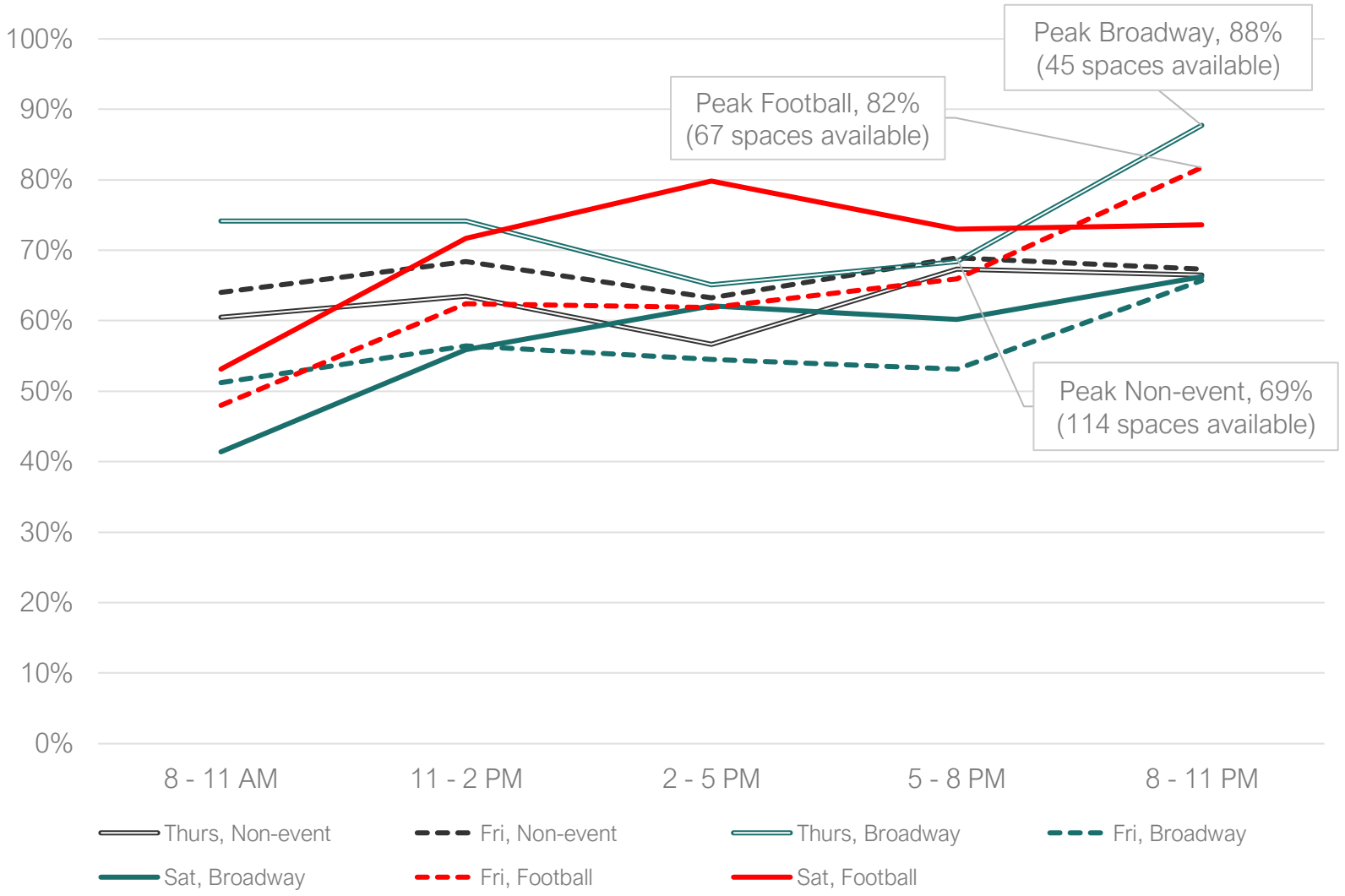


*Optimal on-street utilization is between 65-85%.
Source: Shoup (2005), The High Cost of Free Parking

Non-Dickson/Block Corridors On-Street Parking Demand

Non-Dickson/Block areas are areas with less commercial activity on them. These had lower utilization compared to the Dickson/Block corridors, but they were still highly utilized. In particular, the Broadway weekend had the highest peak occupancy of 88%, which is considered effectively full, during the 8:00 PM – 11:00 PM time frame.

Parking utilization in the Entertainment District is high, with the on-street parking system being especially utilized, even in less commercial areas.



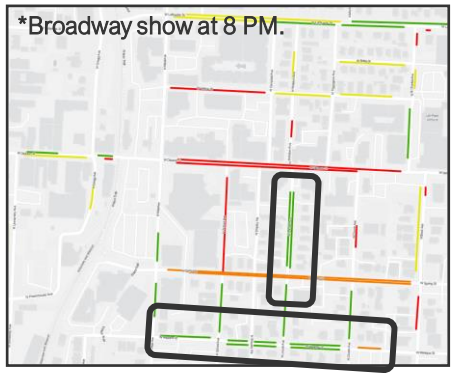
Data Collection Trends – At a Glance

The graphs below show the data on the previous slides in a different way and include the Friday of the Non-Event and Broadway weekends for the five (5) data collection time frames.

Non-event (Friday)

8 – 11 AM	11 - 2 PM	2 – 5 PM	5 – 8 PM	8 – 11 PM
				
Streets north of Dickson **have higher occupancy** than Spring Street. This indicates that residents are using on-street spaces for overnight parking	School Ave jumped from <50% occupied to >75% occupancy; Accommodates overflow from Dickson Street	Heavy lunch/afternoon demand for Dickson St corridor	On-street parking is highest **during dinner-time rush**	Block Ave is busiest during the **nighttime** hours

Broadway (Friday)

8 – 11 AM	11 - 2 PM	2 – 5 PM	5 – 8 PM	8 – 11 PM
				
Typical Demand	Typical Demand	Typical Demand	• Residential parking areas remained underutilized during high demand of Broadway show. • WAC volunteers park on Spring	After show ends, on-street parking is still >90% full; **Broadway patrons use of off-street supply pushed evening entertainment to on-street.**

Legend: 0 – 50% | 50 - 75% | 75 – 90% | 90% +

*Football weekend is less common and reflects an outlier event.

On-Street Duration of Stay

Parking turnover information was collected for the 114 spaces on Dickson Street and Block Avenue, divided into four (4) blocks. Block 2, which has many active businesses, was the area where parkers stayed the longest, at an average duration of about 8 hours. The lowest parking duration was on Block 4, at about 4.5 hours.

The average duration of stay for Dickson/Block corridor parkers was approximately six (6) hours. Parkers are utilizing the low cost of parking, such as the all-day option for $5, to stay parked in one space for a long period of time. Therefore, each parking space can only accommodate about two (2) cars per day.

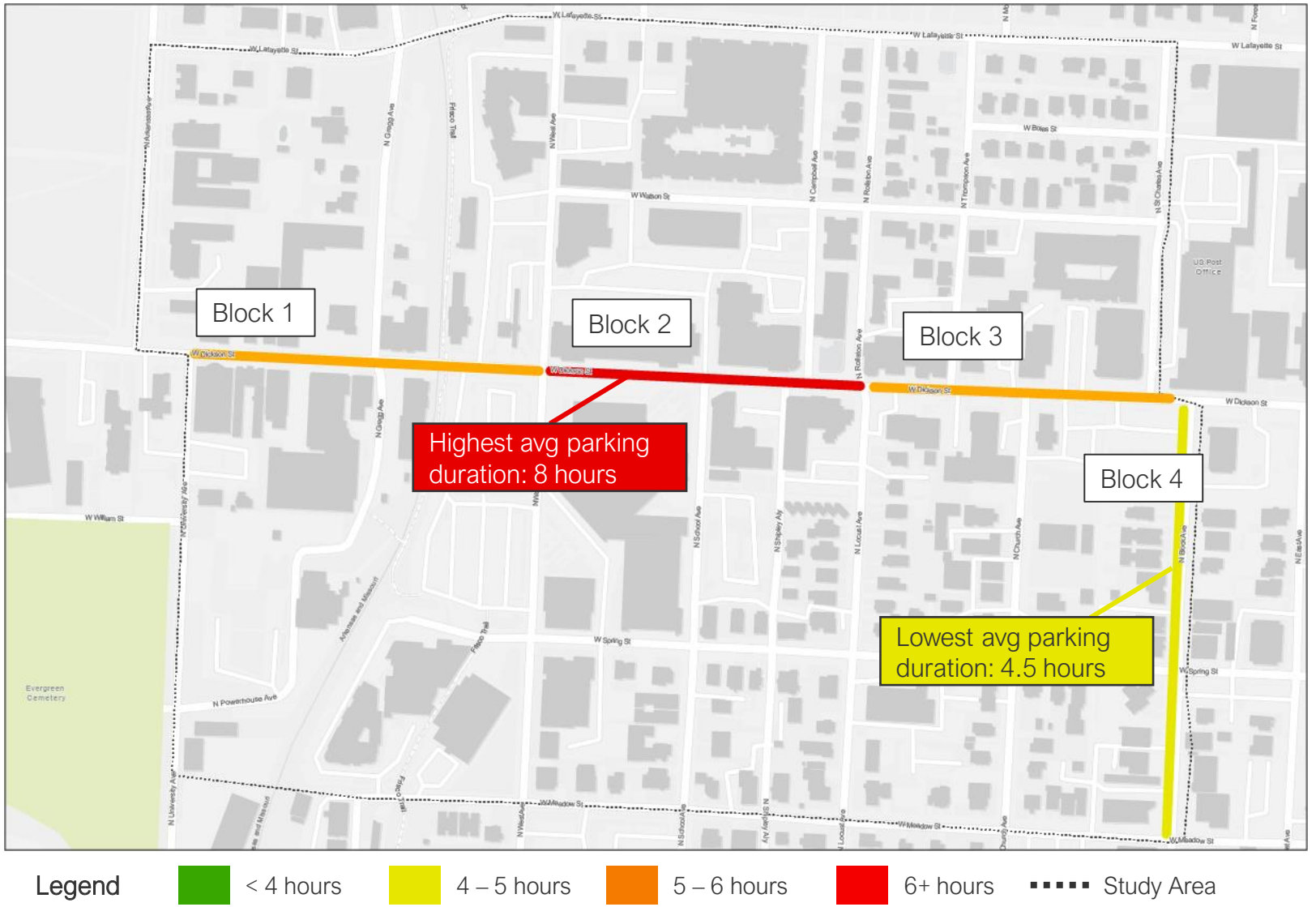
For perspective, there were about 250 unique vehicles that utilized the Dickson/Block corridors on-street spaces per day. If a 2-hour time restriction was implemented, the number of unique vehicles could be 750 vehicles per day.

Takeaways

The lack of turnover within the Dickson/Block corridors is working against the needs of businesses and limits the number of people that can access those businesses.

Additionally, the all-day parking option for $5 per day encourages people to stay for long periods, rather than only using the parking space when it is needed most.

OBSERVED PARKING DURATION DURING SATURDAY (9/24) OF BROADWAY WEEKEND



On-Street Parking Takeaways

- Dickson/Block are the **highest-demand** corridors, which is expected because of the high amount of commercial activity.
- During event conditions, evening entertainment parking demand **gets pushed** to on-street locations further from Dickson/Block.
- On-street parking pricing should be **higher** and **time-limited** to encourage higher turnover needed for businesses.
- Most on-street parking north of Dickson is **de facto residential parking**, presumably serving the needs of multi-family residential. Do residents have enough off-street parking or is on-street more convenient?
- Streets south of Dickson could be converted from **residential to public parking** to take advantage of underutilized on-street spaces. Streets such as Meadow St remained <50% utilized and presents an opportunity to increase the number of spaces available for public parking.

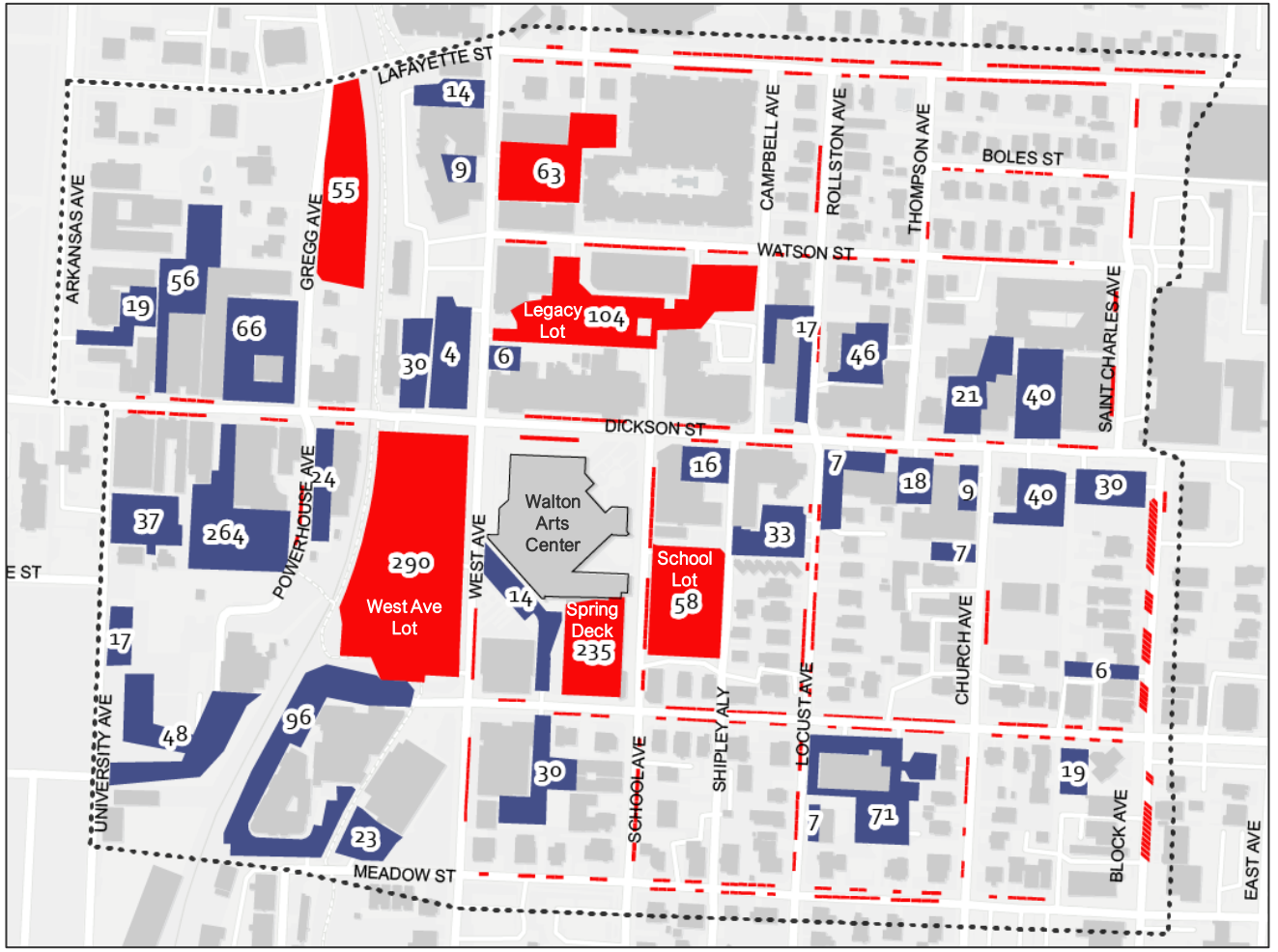
OFF-STREET PARKING FINDINGS



Off-Street Characteristics

There are approximately 1,949 off-street spaces within the Entertainment District. About 59% of the off-street spaces are privately owned and managed, and about 41% are city-managed. For the city-managed off-street facilities, parking is free between 2 AM and 2 PM. The cost of parking for all other times is:

- 2 PM – 6 PM: $0.50 per hour
- 6 PM – 2 AM: $1 per hour
- All-day option: $5



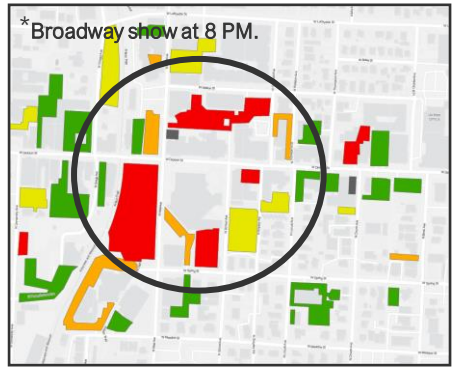
Data Collection Trends – At a Glance

The graphs below show the data on the previous slides in a different way and include the Friday of the Non-event and Broadway weekends for the five (5) data collection time frames.

Non-event (Friday)

8 – 11 AM	11 - 2 PM	2 – 5 PM	5 – 8 PM	8 – 11 PM
				
West Avenue Lot is still **>50% full** in the mornings, indicating long term parking use and potential student use	West Ave and Legacy Lot are **>90% full** before 2 PM. Student parking combined with lunchtime demands result in high utilization	West Ave Lot clears out after the lunchtime rush. This is also when the City starts to charge for parking	Lots proximate to Dickson Street utilized more after 5 PM	Non-event weekends **peak at night-time hours**. Spring Street garage is <50% utilized

Broadway (Friday)

8 – 11 AM	11 - 2 PM	2 – 5 PM	5 – 8 PM	8 – 11 PM
				
Typical Demand	Typical Demand	Typical Demand	• Proximate parking filled **before** Broadway show. • About **360 more cars in off-street lots** compared to non-event.	Broadway was the primary parking demand driver during the show run time and clears out afterward.

Legend: 0 – 50% | 50 - 75% | 75 – 90% | 90% +

*Football weekend is less common and reflects an outlier event.

Off-Street Parking Takeaways

- During non-event conditions, **demand is highest** during the evenings, yet parking decks such as Spring Street remain underutilized. Is there adequate wayfinding in parking decks to guide parkers to available spaces?
- During event conditions, proximate parking **fills up before showtime** and shows a need for additional proximate parking.
- Many lots east and west of the Dickson/Block area appear available during peak conditions. However, many are privately owned and **present a challenge around accessibility**.
- Broadway shows attract about **360 additional cars** to the Dickson/Block area compared to non-event conditions. This is in line with industry standards of about one (1) parking space for every three (3) seats within a venue.

SUMMARIZING EXISTING CONDITIONS



Available Parking within Dickson/Block Corridors

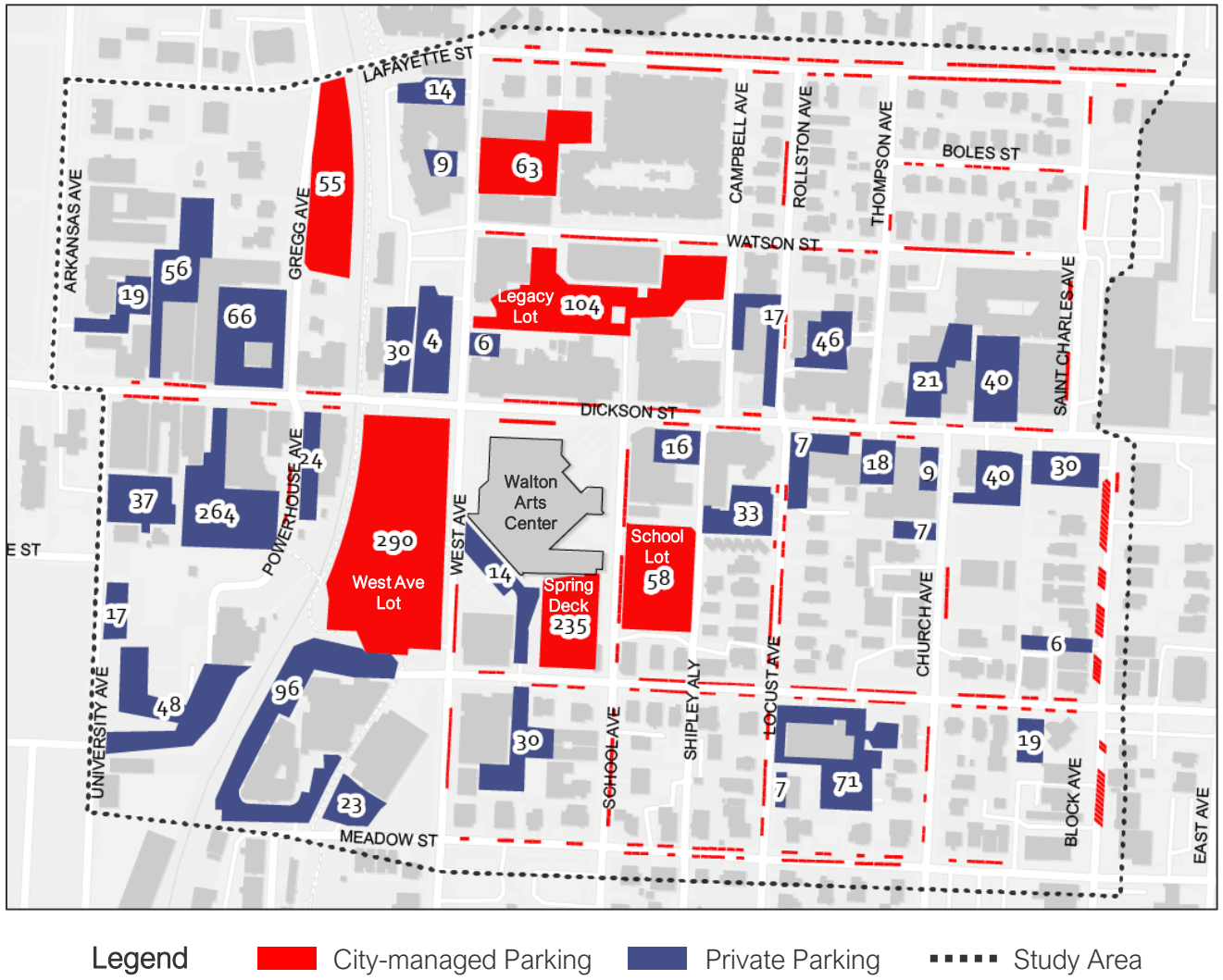
As seen in the existing conditions, many lots east and west of the Dickson/Block corridors remain underutilized. This is due in part to the insufficient wayfinding and signage available to guide parkers to available spaces. Additionally, private lots offer varied prices and different rules for compliant parking. As shown in the below photographs, signage may be hard to understand, unclear, or may not appear available to the public.







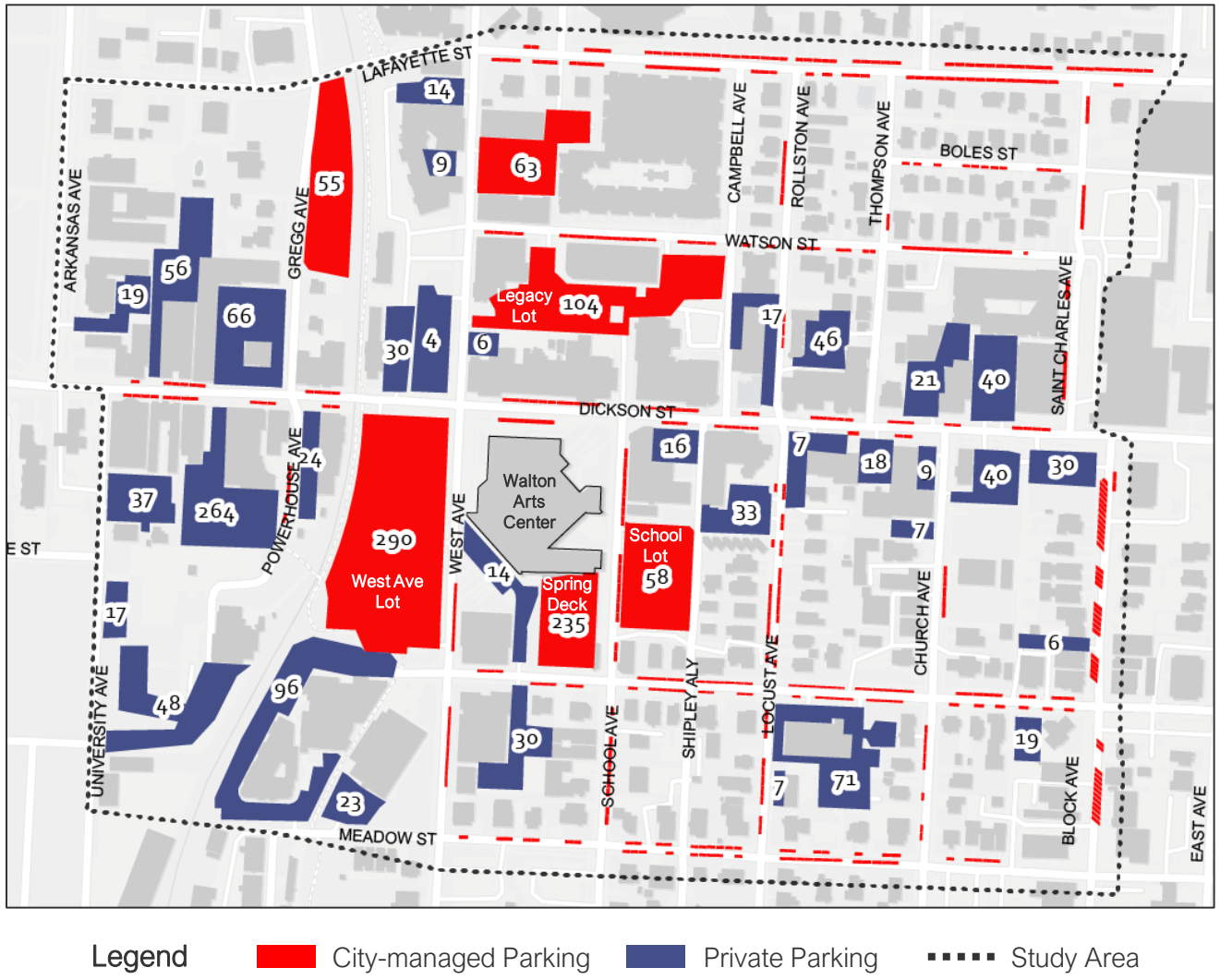
Therefore, before reporting on the existing conditions and availability of parking within the Dickson/Block corridors, an additional analysis is needed to better understand which parking options are useful and accessible to the public during both event and non-event conditions.



Challenge with Using Full Study Area

While there are 2,447 total parking spaces within the Entertainment District, there are challenges with using the full study area as a proxy for overall capacity within the system. In particular, the on-street parking spaces are limited throughout the Dickson/Block area for other uses such as residential and employee parking and are not always available for patrons to use. Off-street parking spaces, particularly privately-owned spaces, have varying rules and pricing. The spaces may be reserved for customer or building tenant use. While the 2017 study recommended the City should leverage private parking lots for additional capacity, this has not been done.

Therefore, patrons may find the parking limitations hard to understand and be unsure which spaces are available or open to the public.

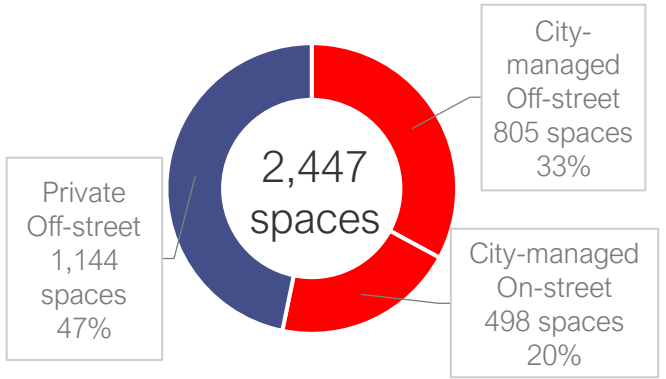


Reasonably Accessible Parking Study Area

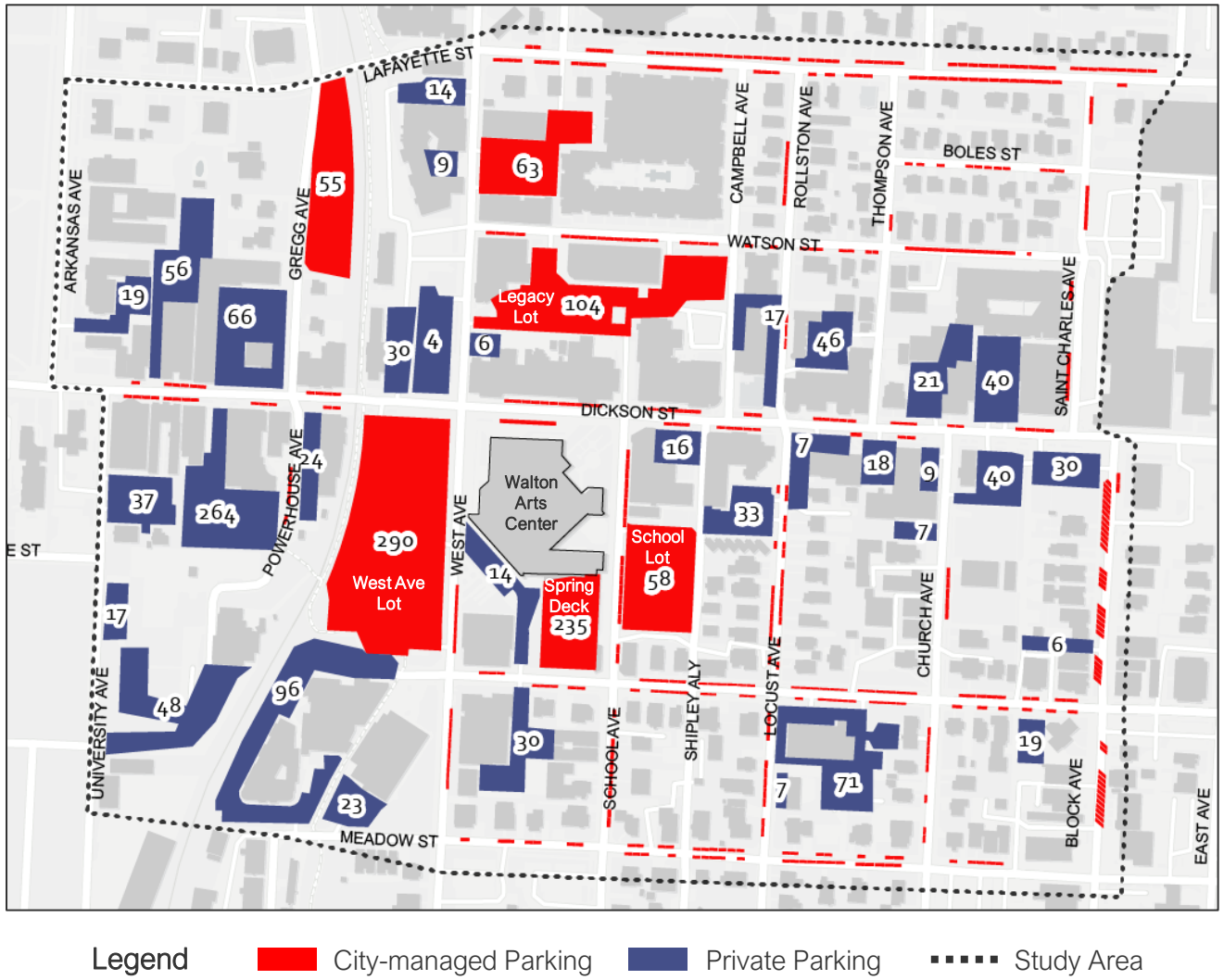
While the study area includes 2,447 parking spaces, most privately-owned spaces are not reasonably accessible to the public. Therefore, an adjusted study area better illustrates the reasonably accessible on-street and off-street parking. The adjusted study area was determined by the Dickson/Block Parking Study Coalition.

Parking Spaces in Full Study Area

Total Off-street: 1,949 spaces



Total On-street: 498 spaces



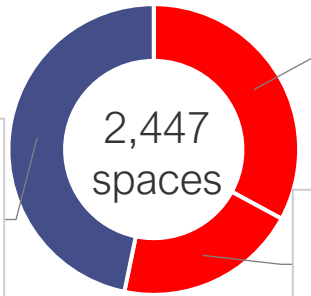
Legend: City-managed Parking; Private Parking; Study Area

Reasonably Accessible Parking Study Area

While the study area includes 2,447 parking spaces, most privately-owned spaces are not reasonably accessible to the public. Therefore, an adjusted study area better illustrates the reasonably accessible on-street and off-street parking. The adjusted study area was determined by the Dickson/Block Parking Study Coalition.

Parking Spaces in Full Study Area

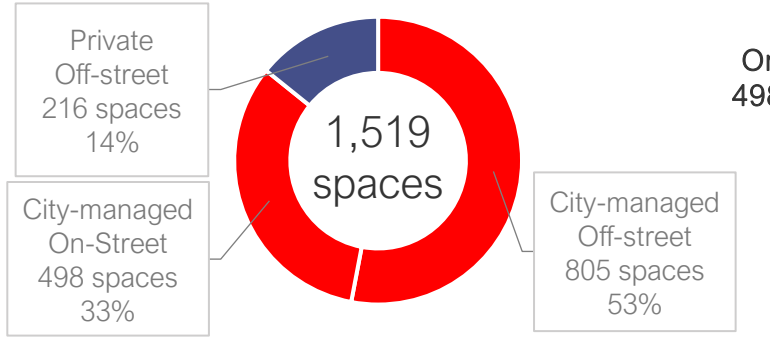
Total Off-street: 1,949 spaces



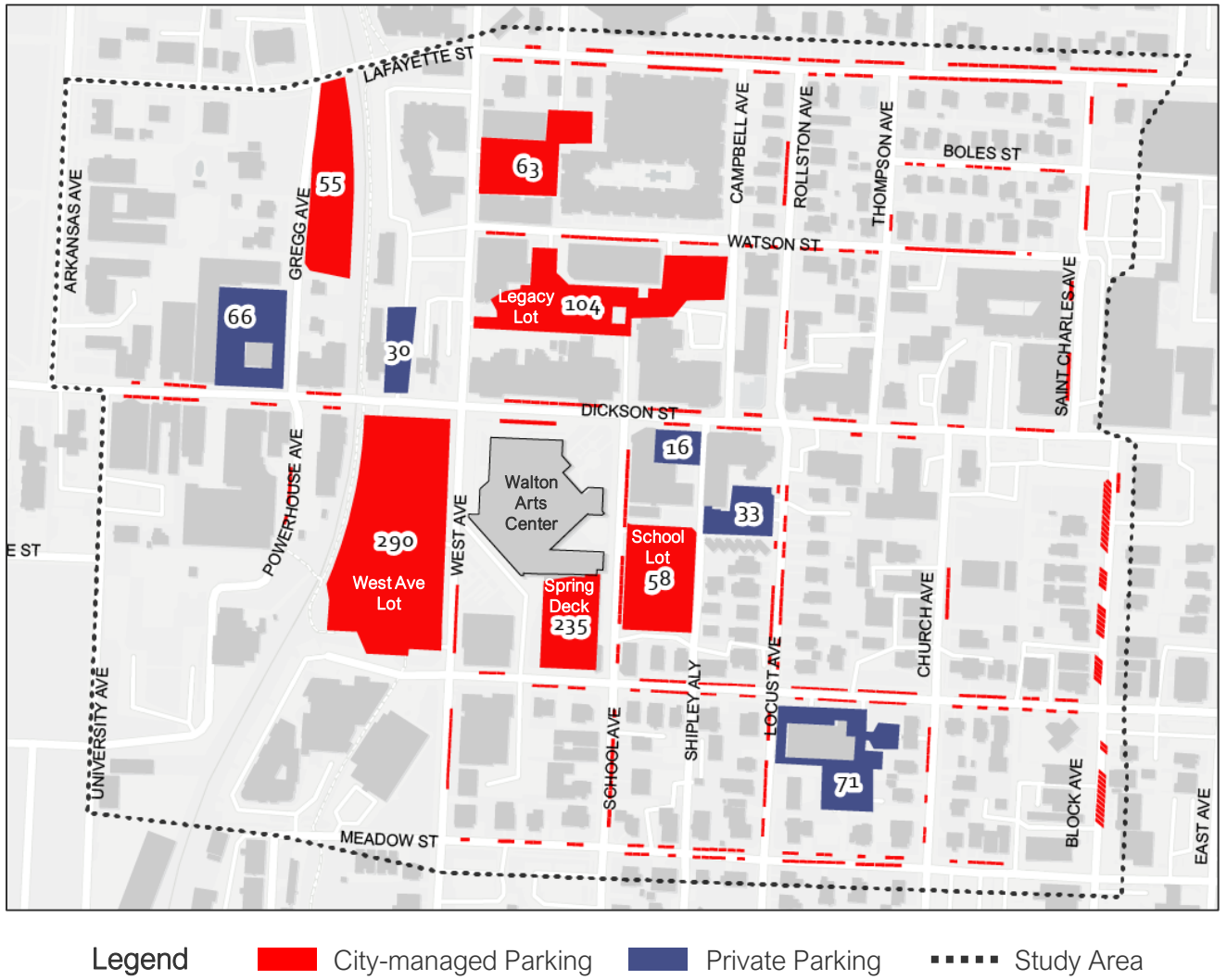
Total On-street: 498 spaces

Parking Spaces in Adjusted Study Area

Total Off-street: 1,021 spaces



Total On-street: 498 spaces



Peak Parking Occupancy – On- and Off-Street

Factor	Full Study Area	Adjusted Study Area
Supply	2,447 spaces	1,519 spaces
Demand	1,733 spaces	1,227 spaces
Occupancy	71%	81%
Availability to "full" (90%)	19% (465 spaces)	9% (137 spaces)

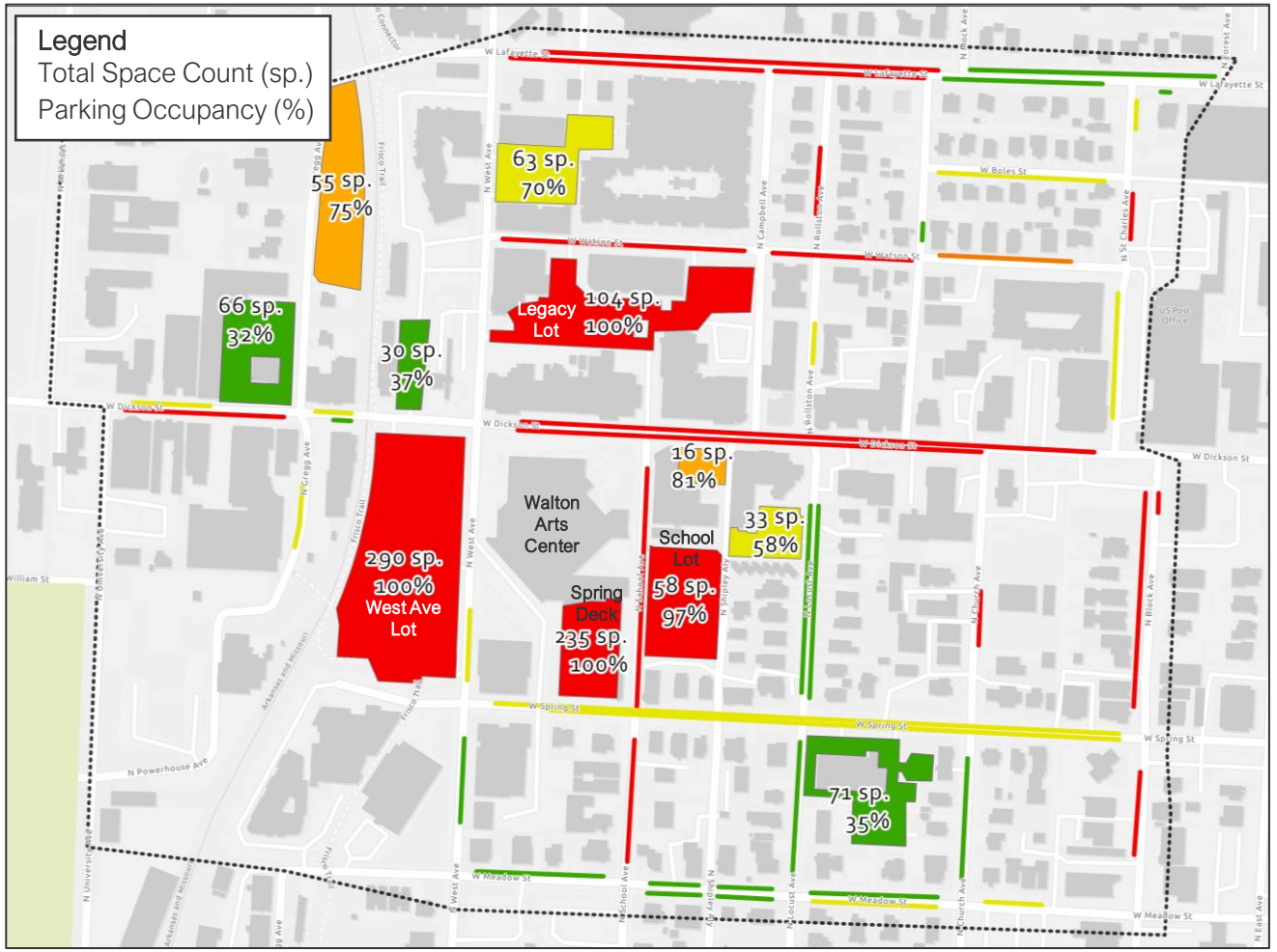
Within the adjusted area, the parking occupancy evaluation tells a different story. During the 11 AM – 2 PM time frame of the Broadway weekend (Thursday), the occupancy was 81% (1,227 spaces filled) compared to 71% occupancy (1,733 spaces filled) in the full study area during the same time frame.

The West Avenue Lot, Legacy Lot, and Spring Deck are effectively full (>90% occupancy). However, there are three (3) lots surrounding the West Ave Lot, Legacy Lot, and Spring Deck that remain <50% occupied. While they are smaller facilities, there is an opportunity to understand their capacity, use, and how they can be better utilized.

An industry best practice is to use "effective supply" (85-95% of total supply) to account for improper parking and finding the last parking space.* Therefore, there is about 9% capacity remaining in the adjusted study area before reaching effectively full (90% of total capacity).

Optimal off-street utilization is between 85-95%, with 85% being more efficient. Optimal on-street utilization is between 65-85%.

THURSDAY (9/22) AT 11 – 2 PM DURING THE BROADWAY WEEKEND



Adjusted Parking Occupancy

The majority of reasonably accessible lots are within a 3 min walk or less of the Dickson/Block corridor. This is in line with the estimated walking tolerance for the performing arts/events user group of 3 minutes or less. Consequentially, the Locust/Spring lot remains largely available and may indicate how far event-goers are willing to walk to an event.

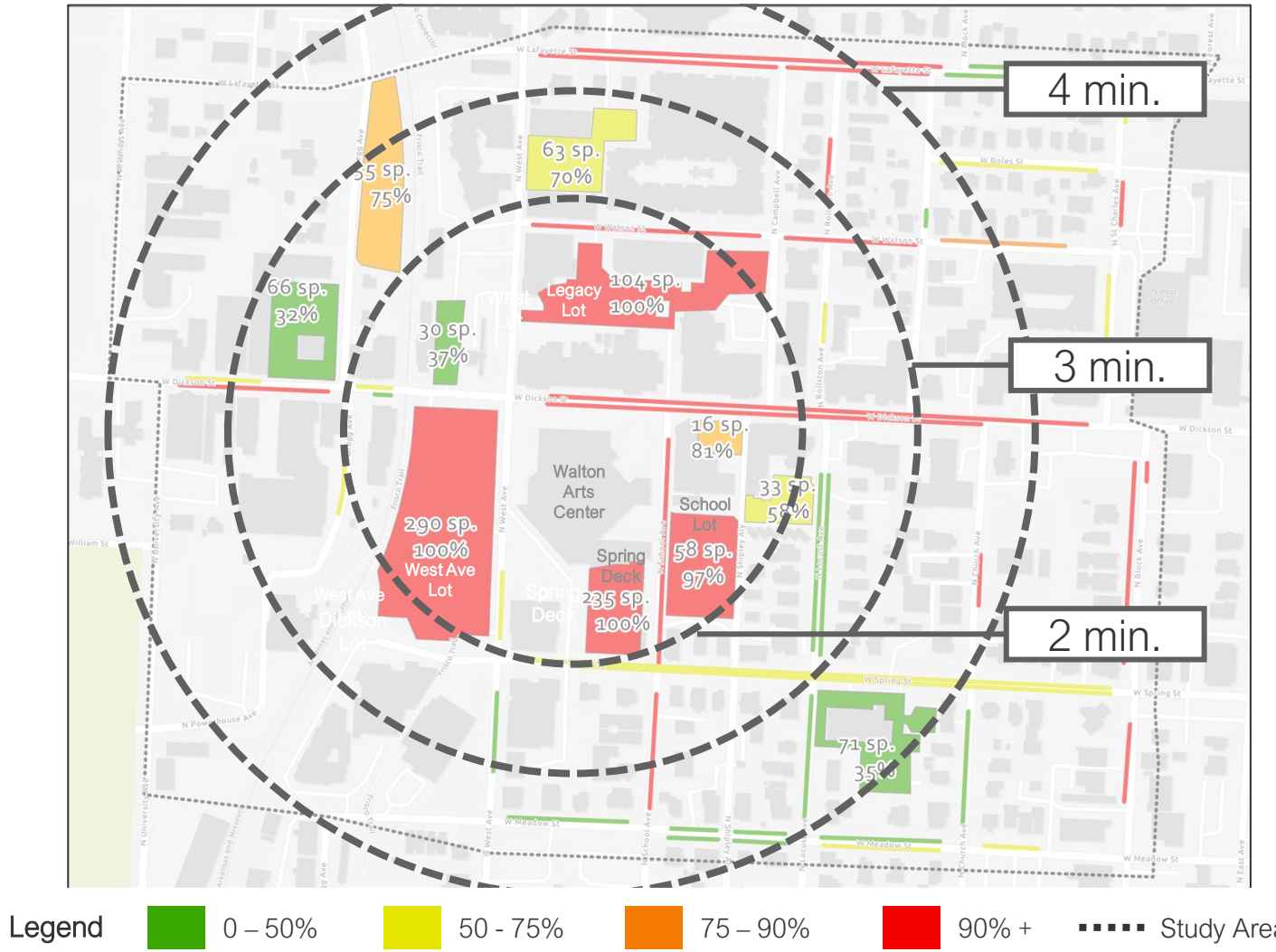
Takeaways

Within the adjusted area, parking occupancy is higher than in the full study area and indicates parkers may not be willing or able to walk over a certain distance.

Consider a focus and priority on building relationships with the owners of private lots within a 3 min walk or less from Dickson/Block corridors for additional capacity.

Adequacy of wayfinding and signage plays an important role in helping parkers find available spaces and understand which facilities are available or open to the public.

FRIDAY (9/23) AT 5-8PM DURING THE BROADWAY WEEKEND



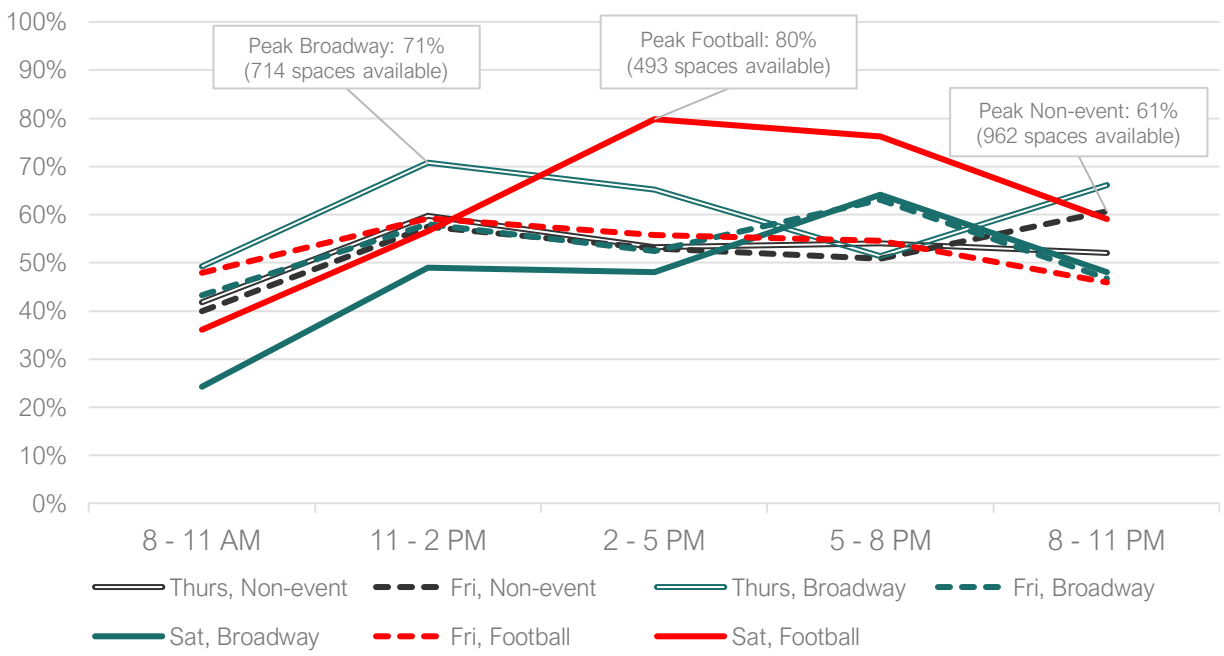
**Optimal off-street utilization is between 85-95%, with 85% being more efficient. Optimal on-street utilization is between 65-85%.*

Utilization Differences

The parking utilization graphs show the differences between the full study area and the reasonably accessible lots throughout the data collection time frames.

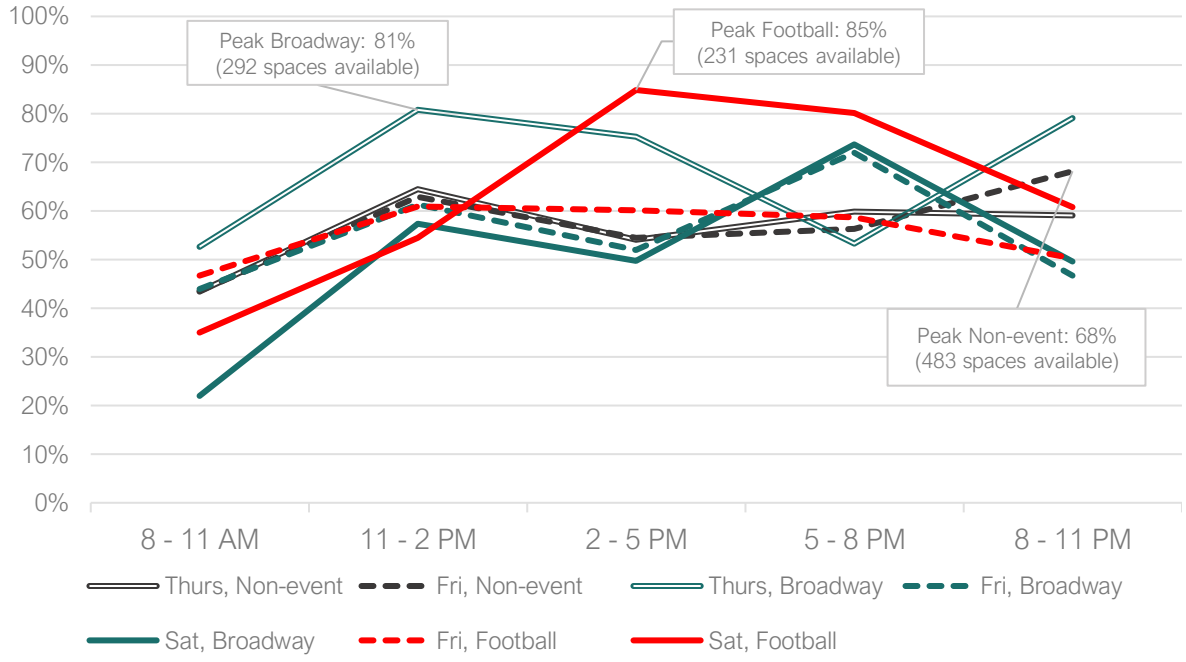
Full study area

- Football weekends are outliers; parking is effectively full
- Events bring the following additional parking demand to the district:
  - Broadway (Lunch, evening)
  - Football (Lunch, evening)
- This data doesn't tell the full story since much of the parking isn't reasonably accessible



Reasonably Accessible Lots

- Reasonably accessible lots showed higher peak times during all collection days compared to full study area
- Parking was highest during Broadway and Football weekends
- When there is a matinee Broadway show, the study area has a parking occupancy of around 81%
- When there is an evening Broadway show, parking occupancy is around 75% occupied



Key Takeaways of the Existing Conditions Assessment

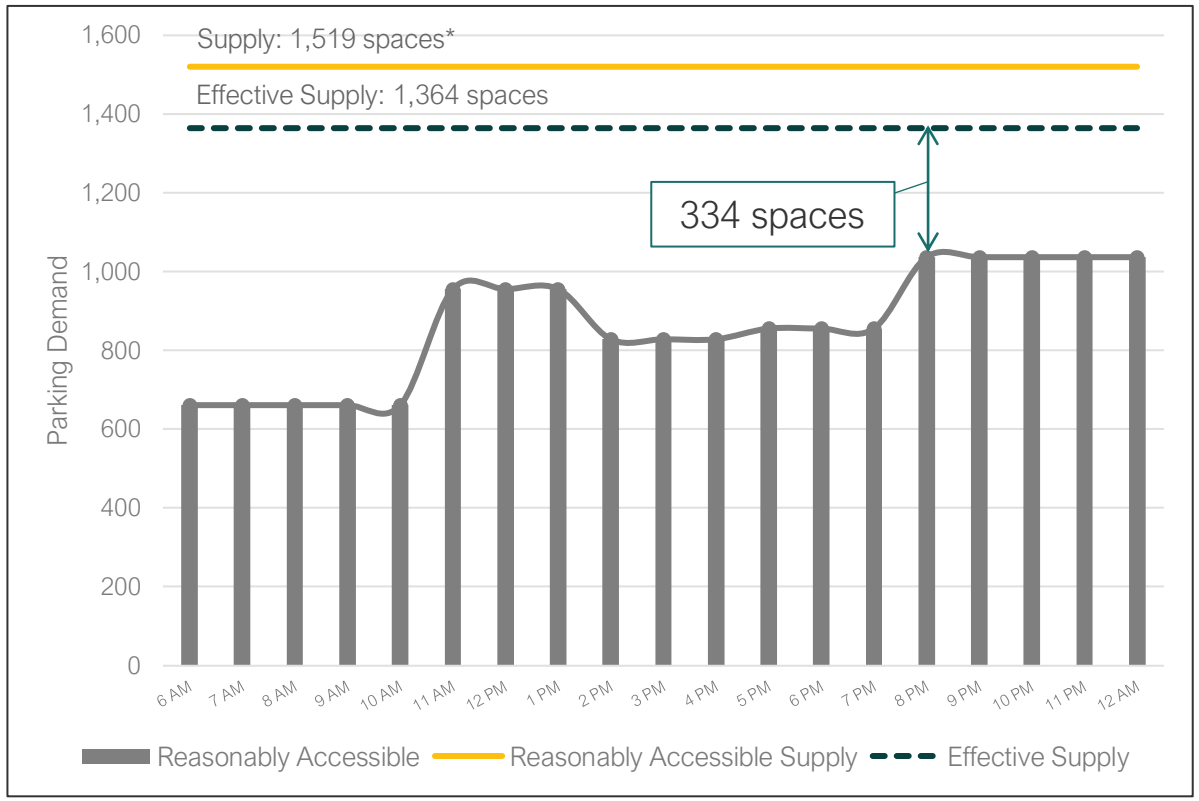
1	All parking in study area vs. reasonably accessible parking	While the study area has 2,447 spaces, parking that is advertised as open to the public in the Dickson/Block corridors in both on- and off-street facilities, totals 1,519 spaces (62% of total parking)
2	Private parking is available but is either restricted or not accessible.	For the full study area, 71% occupancy in off-street lots, compared to 81% occupancy in the reasonably accessible lots during the Broadway weekend
3	Insufficient wayfinding and varying signage	Private lots offer varied prices, signage is hard to understand, and different rules for compliant parking
4	Cost of parking is too low	Parking demand for on- and off-street parking indicate that current pricing is lower than what market would suggest
5	Off-street parking spaces should be used for long-term needs	With an average parking duration >8 hours on Dickson Street, pricing and time restrictions should push on-street parkers to off-street, long-term parking

Summary of Existing Conditions

Non-event Weekend Peak (Friday)

During non-event weekends, the peak day is on Fridays around 8:00 PM.

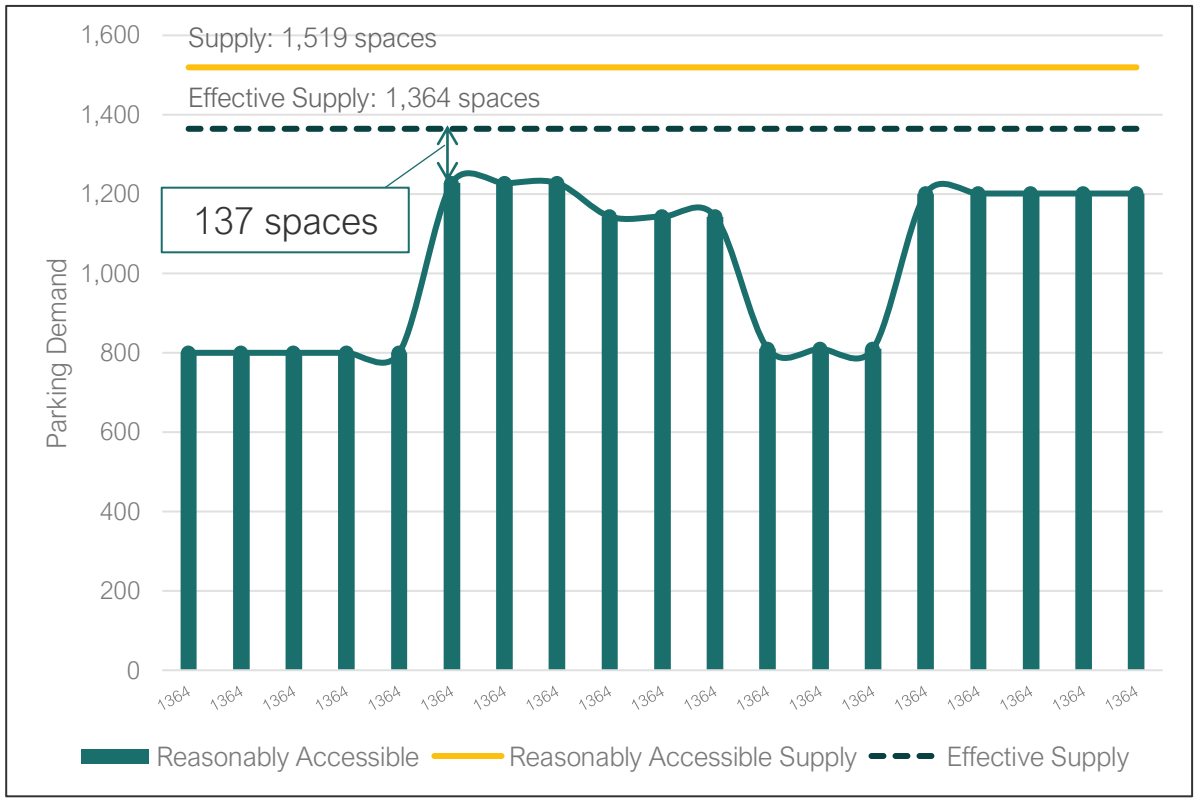
Peak Occupancy: **68% (334 spaces remaining)**



Broadway Weekend Peak (Thursday)

During Broadway weekends, the peak day is on Thursdays around 11:00 AM.

Peak Occupancy: **81% (137 spaces remaining)**



*Football weekend is less common and reflects an outlier event and has been excluded from the baseline conditions comparison

PLANNED FUTURE DEVELOPMENT



Proposed Developments

As the Entertainment District continues to grow, the goal of the future needs assessment is to understand the effect of proposed developments on parking demand. The future needs assessment models the impact on the parking ecosystem when the proposed developments all come online and are completed.

At the 2023 Parking Study kick-off meeting, Kimley-Horn and the Study coalition met with several stakeholders to understand proposed developments and evaluate which developments should be taken into consideration for the next 3-5 years. Stakeholders included:

- Walton Arts Center
- City of Fayetteville
    - Mayor's Office
    - Economic Vitality
    - Parking Management
    - Planning
    - Public Works/Services
    - Engineering
- Experience Fayetteville
- Dickson Street Merchants
- University of Arkansas Facilities Department
- High Street Realty
- Greg House/Dickson-West Development
- South Ramble Hotel Development

Proposed Developments

There are five (5) notable developments that are the most viable and likely to occur and they form the basis of the future parking demand generators:

1. South Civic Plaza Hotel
2. Civic Plaza
3. North Civic Plaza Food Hall
4. Hotel
5. Municipal Bond Parking Deck

Development*	Status	Land Use Densities
1. South Civic Plaza Hotel	Concept	Hotel: 132 keys 200 seat banquet Rooftop Bar/ Café/ Restaurant (unknown)
2. Civic Plaza	Concept	Public Plaza
3. North Civic Plaza Food Hall	Concept	Food Hall: 15,200 GSF
4. Hotel	Concept	Hotel: 125 keys 15,000 GSF Restaurant
5. Municipal Bond Parking Deck	Construction	Office/Retail: 50,000 GSF*



*Development Programs subject to change

Changes to Current Parking Supply

The table below outlines the five (5) notable developments including the status, planned parking, and removed parking to outline the net effect of the development on parking supply. It should be noted that this table presents our current understanding of changes to the parking supply, but it may be subject to alteration or changes in the future. Therefore, the proposed developments may add additional planned parking than shown in the table. Additionally, since the City of Fayetteville eliminated parking minimums for commercial developments in 2015, the table shows the minimum parking proposed at the time of the 2023 Study.

For planned parking, the South Civic Plaza Hotel will add between 32 to 45 spaces on-site, with additional valet spaces off-site. Additionally, the West/Dickson Development will add 330 spaces in the new City garage, for a total of 362 spaces of planned parking.

For removed parking, the Civic Plaza will remove the 290 spaces in the West Ave Lot. The hotel planned for the corner of West and Dickson Street will also remove about 30 spaces, for a total of 320 spaces of removed parking.

This results in a net of +42 spaces within the Dickson/Block area.

Development	Status	Planned Parking	Removed Parking
1. South Civic Plaza Hotel	Concept	**32 - 45 spaces on-site** Off-site spaces (Valet)	N/A
2. Civic Plaza	Concept	N/A	290 spaces
3. North Civic Plaza Food Hall	Concept	N/A	N/A
4. Hotel	Concept	N/A	30 spaces
5. Municipal Bond Parking Deck	Construction*	**330 spaces**	N/A
Total		32 spaces (conservative estimate for Civic Plaza Hotel) + 330 spaces 362 spaces	290 spaces (Municipal Bond Parking Deck provides replacement spaces) +30 spaces 320 spaces
Net New Spaces		+ 42 spaces	



**Only on garage, not development program*

PROJECTING FUTURE DEMAND



ULI Shared Parking Model and Base Ratios

To project the demand from the proposed developments, the Urban Land Institute (ULI) Shared Parking Model was used to determine the cumulative parking demand of future developments.

The ULI model considers multiple land uses, such as soft goods (retail), fine/casual dining, and office in order to project parking demand. The model also breaks down the parking demand in further detail such as by customers and employees, by number of bedrooms, or by visitors and employees. For example, soft goods (<400 KSF) can expect 2.90 spaces/KSF for customers and 0.70 spaces/KSF during peak times, for a total of 3.60 spaces/KSF.

Additionally, the ULI model considers hour-by-hour, day-by-day, and month-by-month **fluctuations** in parking behavior. For instance, an office building's parking demand may peak at 10:00 AM on a weekday, whereas a residential building may peak at 7:00 PM on weeknights and weekends.

Therefore, the ULI model can help to identify opportunities to share parking between land uses to **minimize space and resources** dedicated to parking.

Best Practice Alert:

The ULI Shared Parking model is a national best practice to right-size parking supply to demand while maintaining a vibrant environment.



Soft Goods (<400 KSF)

Customers:	2.90 spaces/KSF
Employees:	0.70 spaces/KSF

Fine/Causal Dining (Food Hall)

Customers:	13.25 spaces/KSF
Employees:	2.25 spaces/KSF

Office (< 25 KSF)

Visitors:	0.30 spaces/KSF
Employees:	3.50 spaces/KSF

Residential (Reserved)

1-Bedrooms:	1.00 space/BR
2-Bedrooms:	1.00 space/BR

Hotel Restaurant

Customers:	6.67 spaces/KSF
Employees:	1.20 spaces/KSF

Banquet Hall (20 – 50 SF/key)

Customers:	26.72 spaces/KSF
Employees:	1.84 spaces/KSF

Hotel

Visitors:	1.00 spaces/key
Employees:	0.15 spaces/key

KSF = thousand square feet

Non-Vehicular Mode and Non-Capture Ratio Adjustments

The ULI Shared Parking Model accounts for trips generated by the site that **don't require parking** through two main mechanisms:

- **Non-vehicular mode adjustment** (walking, biking, transit, and rideshare trips)
- **Non-captive ratio adjustment** (trips originating from outside of the future development)

Therefore, the ULI model allows for reductions to the base ratio and total parking demand through non-vehicular and non-captive ratio adjustments. The adjustments are made to tailor the model to the specific characteristics of the Dickson/Block area.

Soft Goods (<400 KSF)

Driving Adjustment	Trips from Outside
Customers: 100%	Customers: 90%
Employees: 100%	Employees: 100%

Fine/Casual Dining (Food Hall)

Driving Adjustment	Trips from Outside
Customers: 100%	Customers: 75%
Employees: 100%	Employees: 100%

Office (<25 KSF)

Driving Adjustment	Trips from Outside
Visitors: 100%	Visitors: 100%
Employees: 100%	Employees: 100%

Hotel

Driving Adjustment	Trips from Outside
Visitors: 59%	Visitors: 100%
Employees: 100%	Employees: 100%

Non-Vehicular Mode and Non-Capture Ratio Adjustments

The ULI Shared Parking Model accounts for trips generated by the site that **don't require parking** through two main mechanisms:

- **Non-vehicular mode adjustment** (walking, biking, transit, and rideshare trips)
- **Non-captive ratio adjustment** (trips originating from outside of the future development)

Therefore, the ULI model allows for reductions to the base ratio and total parking demand through non-vehicular and non-captive ratio adjustments. The adjustments are made to tailor the model to the specific characteristics of the Dickson/Block area.

Banquet Hall (20 – 50 SF/key)

Driving Adjustment	Trips from Outside
Customers: 68%	Customers: 60%
Employees: 100%	Employees: 100%

Hotel Restaurant

Driving Adjustment	Trips from Outside
Customers: 63%	Customers: 90%
Employees: 100%	Employees: 100%

Residential

Driving Adjustment	Trips from Outside
Residents: 100%	Residents: 100%
Employees: 100%	Employees: 100%

Adjusted Project Ratios

When combined, the land use densities, ULI Shared Parking Model base ratios, the non-vehicular mode, and non-captive ratio adjustments result in the adjusted project ratios used to project the future parking demand.

Soft Goods (<400 KSF)	
Customers:	2.60 spaces/KSF
Employees:	0.70 spaces/KSF
Total:	3.30 spaces/KSF

Office (<25 KSF)	
Visitors:	0.30 spaces/KSF
Employees:	3.50 spaces/KSF
Total:	3.80 spaces/KSF

Banquet Hall (20 – 50 SF/key)	
Customers:	10.90 spaces/KSF
Employees:	1.84 spaces/KSF
Total:	12.74 spaces/KSF

Fine/Casual Dining (Food Hall)	
Customers:	9.94 spaces/KSF
Employees:	2.25 spaces/KSF
Total:	12.19 spaces/KSF

Hotel	
Visitors:	0.59 spaces/key
Employees:	0.15 spaces/key
Total:	0.74 spaces/key

Residential	
1-Bedroom	1.00 space/BR
2-Bedrooms	1.00 space/BR
Total:	1.00 space/BR

Hotel Restaurant	
Customers:	3.78 spaces/KSF
Employees:	1.20 spaces/KSF
Total:	4.98 spaces/KSF

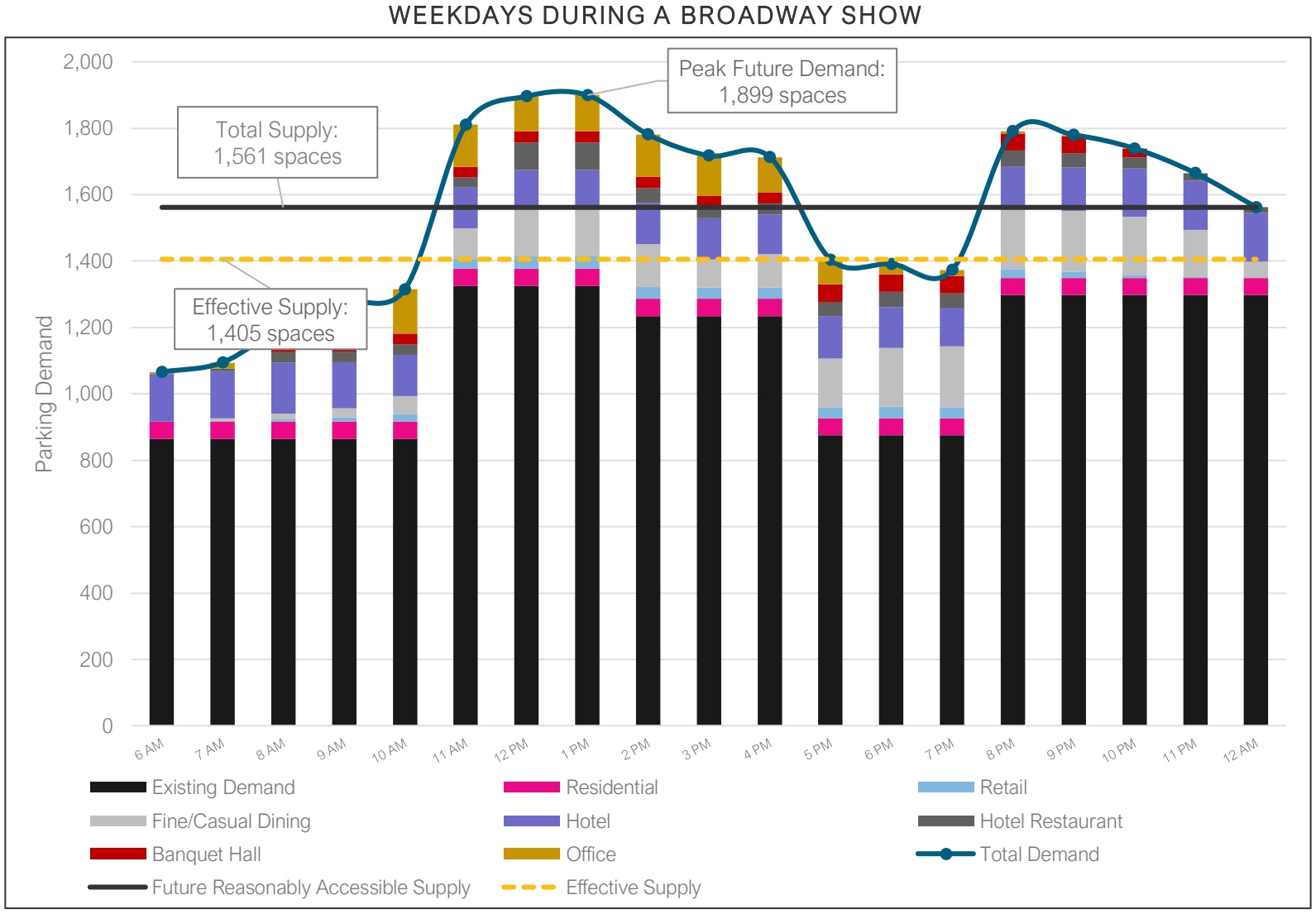
Projected Parking Demand During Events

After accounting for the land use densities, base ratios, and adjustments, the graph shows the resulting projected parking demand during an event weekend for a full day (6 AM to 12 AM). The existing parking demand is shown in black from the Broadway show weekend. In addition, the other stacked columns represent the future developments broken down by their individual land uses, such as dining, residential, and hotel.

Additionally, the graph to the right outlines the Future Reasonably Accessible supply (Total Supply), which accounts for the net 42 spaces **(1,561 spaces total)** from future developments. The graph also outlines the effective supply, an industry best practice to account for improper parking, and finding the last parking space, which is 90% of the Total Supply.

With future developments, the Dickson/Block area is estimated to peak at **1 PM on weekdays**. Future developments account for **574 space demand** at peak times. During **future** performing arts events, there is an estimated total projected **peak demand of 1,899 spaces**.

Of note, this assessment does **not** include demand from special events generated from the Upper Ramble/Civic Plaza.

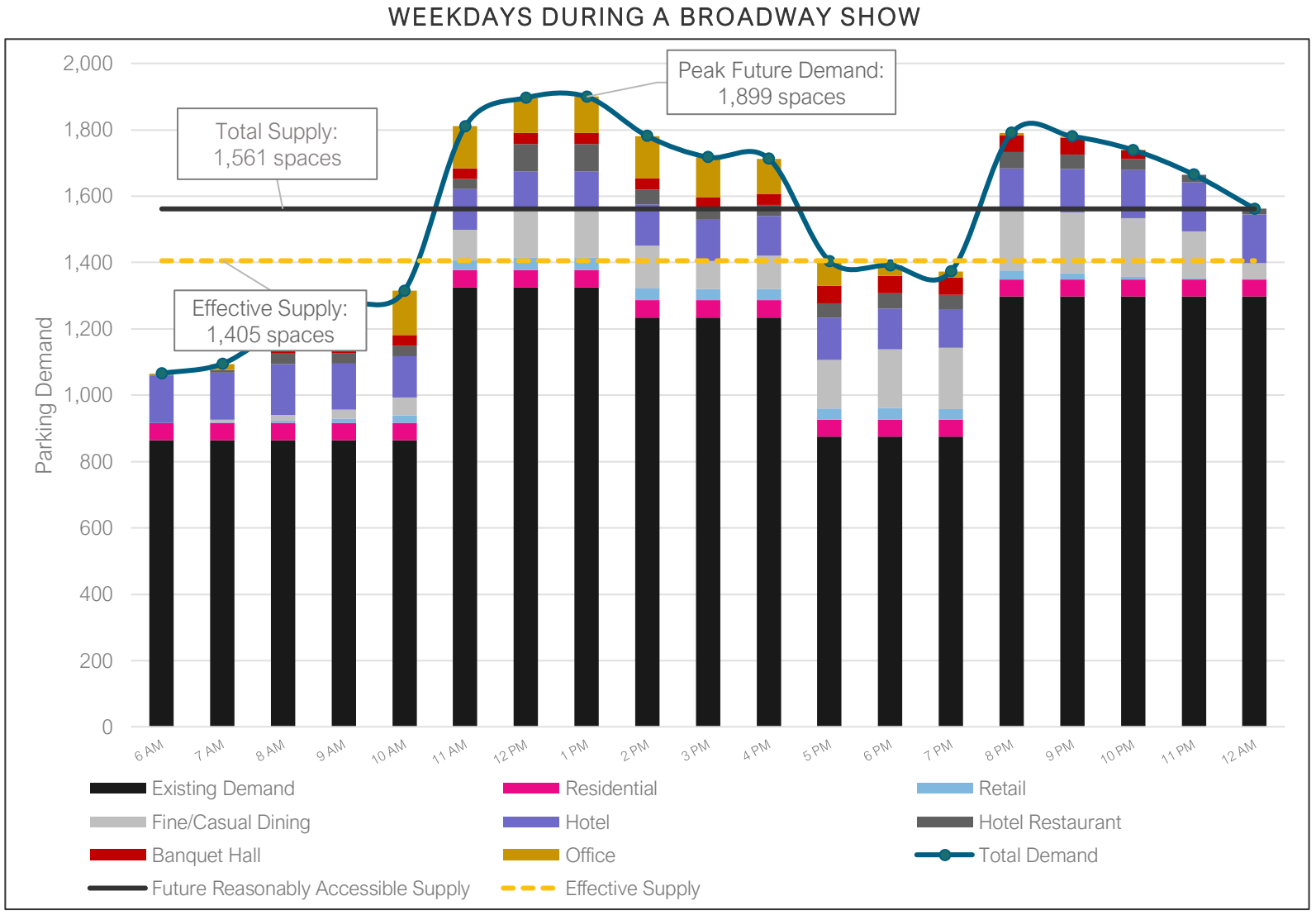


Projected Parking Demand During Events

	Space Count
Supply	
Existing Supply within Reasonably Accessible Area	+ 1,519 spaces
Planned Parking	+ 362 spaces
Removed Parking	- 320 spaces
Net Supply	= 1,561 spaces
Effective Supply	= 1,405 spaces
Demand	
Existing Peak Demand	1,325 spaces*
Future Development Demand	+ 574 spaces
Total Demand	= 1,899 spaces
Spaces Needed	*1,405 spaces (Supply)* *- 1,899 spaces (Demand)* = *494 spaces deficit***

Takeaway

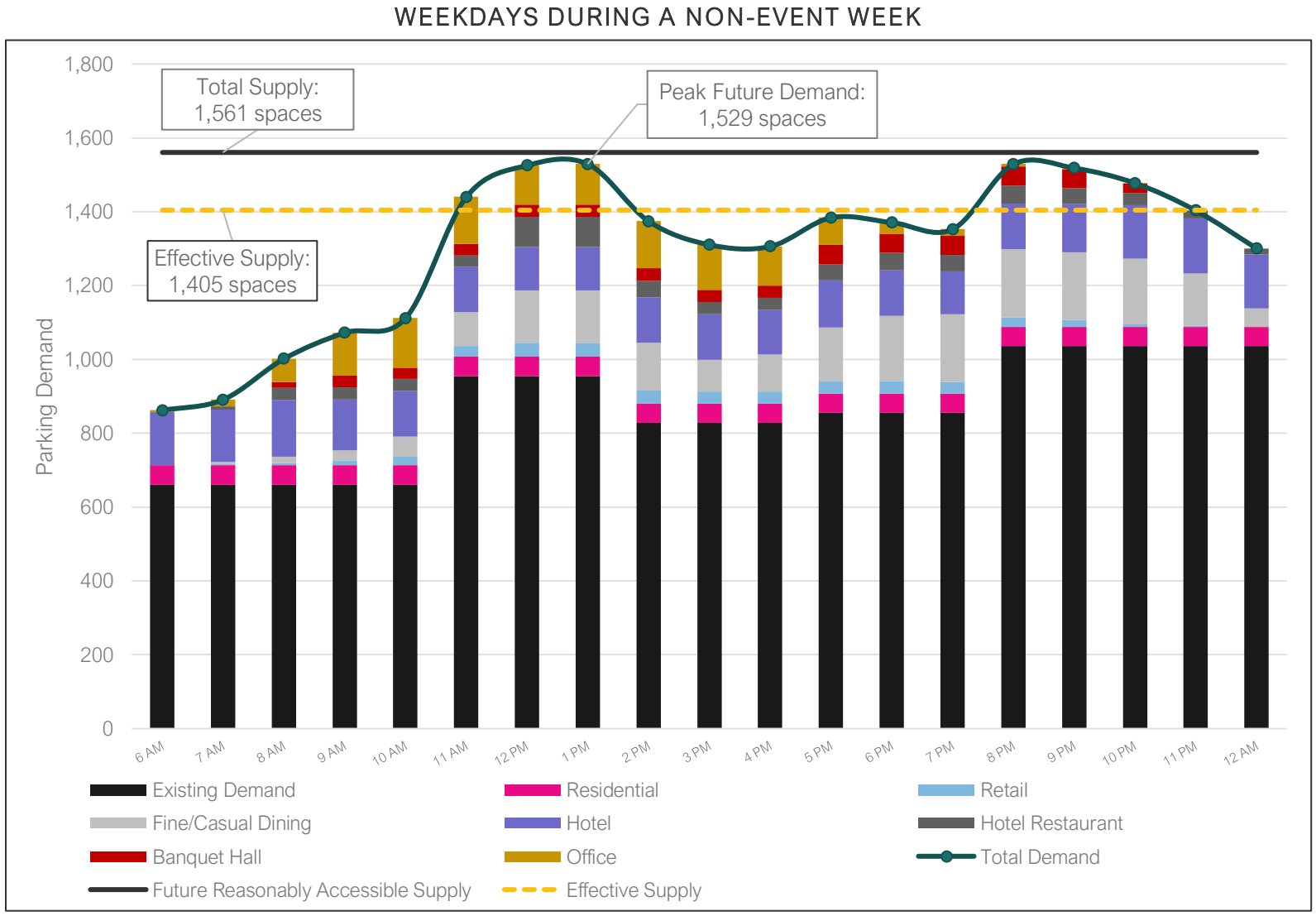
The combination of factors including WAC events, free parking before 2 PM, and longer-term parking needs (employee, student) create an unfavorable environment for parkers. Without further investments in parking within the Dickson/Block area, there will be an estimated **deficit of 494 spaces** during the lunchtime peak.



*Adjusted for peak WAC sell-out events
**Based on effective supply, not total supply

Projected Parking Demand During Non-Events

A similar future developments impact assessment was completed for non-event times. By accounting for future developments, during non-event times, the Dickson/Block area is estimated to peak at **1 PM on weekdays**. Future developments account for **574 space demand** at peak times. During **future** performing arts events, there is an estimated total projected **peak demand of 1,529 spaces.**



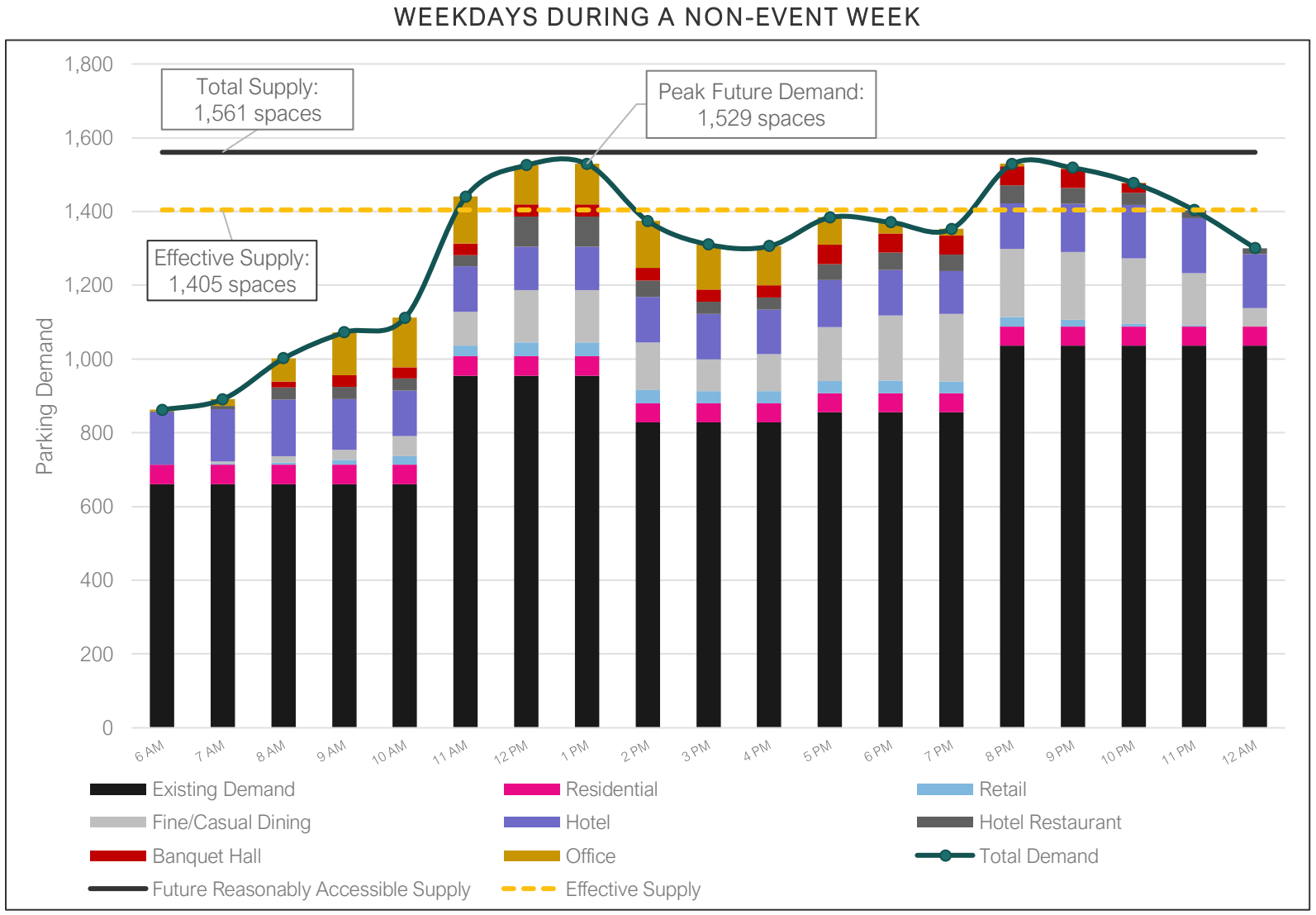
Projected Parking Demand During Non-Events

	Space Count
Supply	
Existing Supply within Reasonably Accessible Area	+ 1,519 spaces
Planned Parking	+ 362 spaces
Removed Parking	- 320 spaces
Net Supply	= 1,561 spaces
Effective Supply	= 1,405 spaces
Demand	
Existing Peak Demand	955 spaces
Future Development Demand	+ 574 spaces
Total Demand	= 1,529 spaces
Spaces Needed	*1,405 spaces (Supply)* *- 1,529 spaces (Demand)* = *124 spaces deficit**

Takeaway

Without further investments in parking within the Dickson/Block area, there will be an estimated **deficit of 124 spaces** during the lunchtime peak.

**Based on effective supply, not total supply*



RECOMMENDATIONS



Mitigation Strategies



Strategies and Actions to Address Insufficient Parking

STRATEGIES



ACTIONS

Balance parking demand

Better utilize existing parking and distribute demand across the district

Effectively price public parking

Prioritize parking turnover on-street, while using off-street for long-term parking needs

Further explore City's role in providing parking vs. private sector providing its own

Consider alleviating concerns about future parking supply by ensuring developments are adequately providing parking, or evaluating if the City should invest in additional City-owned facilities

Build more parking

Related to the above, does private sector, or City provide additional parking for the district?

Balance Parking Demand

Balance Parking Demand

Unified approach to private off-street parking

Recommendation

- Create a parking coalition that advertises private lots throughout the district as “public parking” through consistent hours of operation, pricing, enforcement practices and signage
- Implement ParkMobile payment app for private lots

Considerations

- Limited number of private lots are proximate to Dickson/Block area
- Individual property owners may have different desires and expectations
- Time-intensive to coordinate with private owners
- May require a policy change to be effective
- Work with Dickson/Block coalition to redefine accessibility within proximate private lots
- Recommended in the 2017 study

Balance Parking Demand

District-wide wayfinding

Recommendation

- Install strategically placed real-time parking availability signage directing motorists to public parking
- New parking garage and Spring Deck recommended at a minimum

Considerations

- With distributed parking facilities, this is needed to inform motorists
- Many motorists don't consider where they will park until arriving in the district
- Consider real-time occupancy and pricing information
- Recommended in the 2017 study







EFFECTIVELY PRICED PUBLIC PARKING

Effectively Price Public Parking

Extend paid parking hours

Recommendation

- Extend public parking hours of enforcement to between 8 AM to 2 AM; free parking remains from 2 AM to 8 AM

Considerations

- Charging for parking earlier in the day will deter students and other long-term parkers from parking on-street and give more access to customers for local businesses
- Validate on-street or "core" parking in the short-term to ensure it does not deter patrons

Positive Impacts of Time-Limited On-Street / "Core" Parking in Commercial Areas

	Cost	Time Limit	Turnover
Current	2 AM – 2 PM: Free 2 PM – 6 PM: $0.50/hr. 6 PM – 2 AM: $1/hr. All day option: $5	N/A	~2.2 cars per day*
Proposed	2 AM – 8 AM: Free 8 AM – 2 AM: $1.50/hr.	2-hour limit	9 cars per day

Create a price difference between on and off-street parking

Recommendation

- Charge a higher hourly rate for on-street spaces vs. off-street public parking.

Considerations

- Reevaluate current policies for employee and residential on-street parking use
- On-street spaces are only 20% of total parking supply in study area and should be prioritized for high turnover activity (≤ 2-hour duration)
- Moves long-term parking needs (such as employee parking) to off-street facilities

Effectively Price Public Parking

Match parking revenues to fund future supply

Recommendation

- Continue to focus on long-term financial planning to raise capital for additional entertainment needs, such as streetscape improvements, parking maintenance and new parking structures.

Considerations

- Ensure that parking pricing is continuously monitored and adjusted to fund these future expenditures

CITY vs. PRIVATE SECTOR ROLE IN PROVIDING PARKING

Further Explore City's Role in Providing Parking vs. Private Sector Providing its Own

Option 1: Require future developments to self-park

Recommendation

- Future developments demonstrate through a shared parking study that they can effectively share parking between uses on their own site and build the amount the shared parking methodology indicates it needs, thus not relying on other parking throughout the Dickson/Block area
- If developer does not build the parking needed to serve the site, the developer would be responsible for securing additional spaces needed via lease agreements

Considerations

- Allows developers to reduce parking built to serve their site while also accommodating the needs of their site
- May discourage some development due to cost to build parking

Or…

Option 2: City to build additional parking facilities to serve district demands

Recommendation

- Without a parking requirement for new developments, the City takes responsibility for providing additional parking facilities to meet future development demands throughout the district

Considerations

- Limited by bond capacity
- Parking needs will depend on future developments coming to fruition
- Opportunity cost of using taxpayer dollars to fund parking vs. other needs (such as transit, housing, revitalization efforts, etc.)

BUILDING MORE PARKING

Building More Parking

City-sponsored new parking facility

Opportunity

- Approximately 55-90 spaces per level for a parking garage on the School Lot or another location
- Proximate location to Dickson/Block patrons and event-goers
- New garage can include street-level activation to bring activity to School Street

Considerations

- Lose 58 spaces in the current School Lot
- Parking deficit depends on all future developments coming to fruition
- High cost; ~$13.2M for a 330-space garage in Fayetteville
- Decreases vibrancy of the block with two garages across the street from each other
- May require the purchase of private property to expand garage footprint

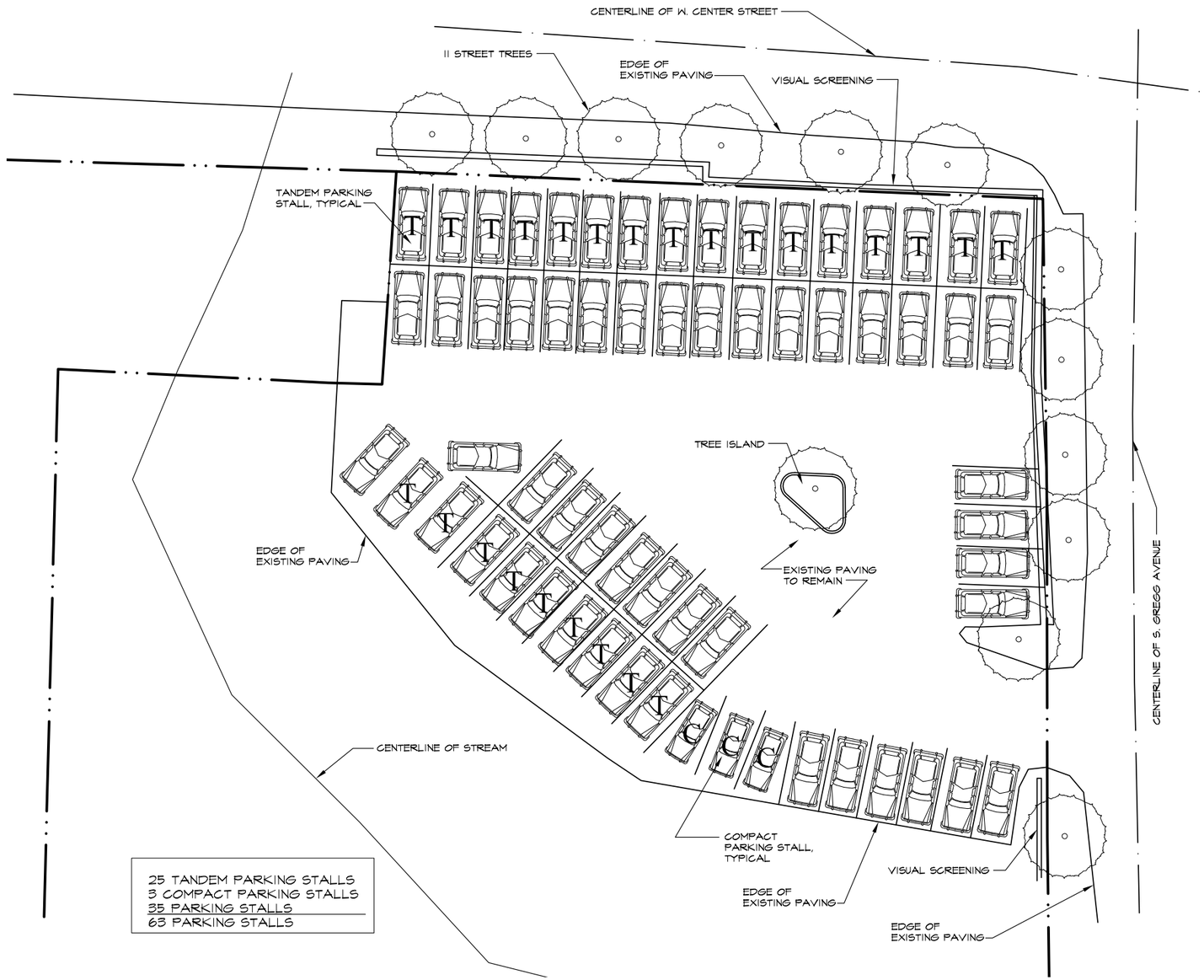
Summary of Recommendations

If all future developments come to fruition, Dickson/Block area will need ~500 additional spaces during an event to account for the increased demand.

Strategy	Actions	Effort	Cost	Impact to Proximate Parking Supply
Manage Current Supply	Unified approach to private off-street parking	Medium	Low	Unknown*
	District-wide wayfinding	Medium	Medium	~50 spaces**
Policy Change / Increase Parking Supply	Extend paid parking hours	Low	Low	Estimated ~100-200 lunchtime, little impact in evenings
	Create a price difference between on and off-street parking	Medium	Low	
	Match parking revenues to fund future supply	Medium	Low	N/A
	Future developments self park (reduced parking through shared parking study)	Low	Low	Satisfied
	City-sponsored new parking facility	High	High	Satisfied

**Conversations with Dickson/Block property owners needed*
*** Squeezes out approximately 10% more capacity of parking facilities signed.*

Received By Waylon Abernathy 10/16/2023 12:36 P.M.



Valet Parking Plan – Diagram with Tandem Usage

Robert Sharp Architect - 17 October 2023

Received By: Stacy Barnes 10/17/2023 2:21 P.M

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor**
City Council

CC: **Susan Norton**, Chief of Staff
Wade Abernathy, Bond Projects & Construction Manager; Facilities Management

FROM: **Kit Williams**, City Attorney

DATE: **October 17, 2023**

RE: **Survival of Contractual Obligations, Representations, and Agreements as Restrictive Covenants**

"Survival" Provision in Proposed Contract Needs to be Amended to Ensure all Warranties, Representations, Covenants, Obligations, and Agreements in the Real Estate Purchase Contract Remain Enforceable as Deed Restrictions

Paragraph 17 SURVIVAL states as follows:

"17. SURVIVAL Except as otherwise set forth herein, all warranties, representations, covenants, obligations, and agreements contained in this Contract shall survive the closing hereunder and the transfer and conveyance of the Property and any and all performances hereunder for a period of six (6) months."

This could reasonably be interpreted and may have been intended to mean that all warranties, representations, covenants, obligations, and agreements in the Real Estate Purchase Contract would become invalid and unenforceable and would not survive beyond six months after Closing. The proposed Real Estate Purchase Contract's Paragraph 31 DEVELOPMENT OF THE MIXED-USE BUILDING goes on for four (4) full pages of representations, covenants, obligations, and agreements requiring Mr. Reindl's corporation to build and operate his mixed-use building in ways beneficial to the City and our citizens.

All of those representations, covenants, agreements and obligations could vanish six months after closing because of the proposed Survival paragraph.

This paragraph should be amended substantially to incorporate all those warranties, representations, covenants, obligations, and agreements into the City's deed conveying the property to Mr. Reindl's corporation as follows:

"17. SURVIVAL. All warranties, representations, covenants, obligations, and agreements contained within this Real Estate Purchase Contract shall survive closing and the transfer and conveyance of the property by being incorporated as restrictive covenants into the deed and so shall remain effective and enforceable by and against the grantor and grantee and their successors until and unless both Brian Reindl for Reindl Properties, Inc. or its successor in interest and the City of Fayetteville through City Council Resolution jointly agree to modify, remove, or otherwise change one or more of the restrictive covenants which reflect the warranties, representations, covenants, obligations, or agreements contained in this Contract."

Hopefully, Brian Reindl for Reindl's Properties, Inc. always intended that the representations, covenants, obligations and agreements within this Real Estate Purchase Contract that he has already agreed to and signed would remain valid and effective during the long life and operation of the Hotel and the many other uses which the mixed-use building businesses would enjoy under this Contract. My proposed amendment would just ensure that these covenants, representations, agreements and obligations would not vanish six months after closing. I do believe the continuing enforceability of all the covenants, obligations, representations and agreements need to remain effective and enforceable to protect our taxpayers' over $30 Million investment in the Cultural Arts Corridor Project. Only if Mr. Reindl does not wish to abide by the promises and commitments he makes in this Contract during the life of this important project would he object to my proposed clarifying language.

The wording of the City's deed can be controlled by this Real Estate Purchase Contract. That is why this Contract's wording must accurately reflect the concerns and interests of the City Council when the Real Estate Purchase Contract is approved. Failure to amend the current Survival paragraph will likely mean that the promises in the Contract will be illusory and unenforceable.

REAL ESTATE PURCHASE CONTRACT

THIS **REAL ESTATE PURCHASE CONTRACT** (this "**Contract**") is made and executed as of the ___ day of _____, 2023, by and between **REINDL PROPERTIES, INC**. ("**Buyer**") and **CITY OF FAYETTEVILLE, ARKANSAS** ("**Seller**") as follows:

1. THE PROPERTY

For the price and upon and subject to the terms, conditions and provisions set forth in this Contract, Seller shall sell and convey to Buyer and Buyer shall purchase from Seller that certain real estate owned by Seller located adjacent to West Avenue and Spring Street in Fayetteville, Washington County, Arkansas, (the "**Property**"), in the approximate location as depicted on Exhibit 1 attached hereto, the exact legal description to be determined by survey, together with all Seller's rights, title and interest in all public and private streets, roads, avenues, alleys and passageways, and all and singular the estates, rights, privileges, easements and appurtenances belonging or in any way appertaining to the Property.

2. PURCHASE PRICE

Purchase Price. The purchase price for the Property ("**Purchase Price**") shall be One Million Two Hundred Forty-seven Thousand Four Hundred Fifty-five Dollars ($1,247,455.00,) to be paid in cash at Closing.

3. DEED

On the Closing Date, Seller shall execute a deed to sell and convey to Buyer good and marketable title to the Property by special warranty deed in the form reasonably prescribed by Buyer (the "**Deed**"), subject to no liens, claims, or encumbrances ("**Encumbrances**"), except (a) a restriction concerning Prohibited Uses as defined in Paragraph 31; (b) a restriction requiring the Property to comply with all City of Fayetteville parking requirements including parking requirements contained in the approved PZD plan for the Building as contained in Paragraph 31(k); (c) liens for ad valorem taxes that are not yet due and payable; and (d) those title and survey exceptions either waived or approved in writing by Buyer after Buyer's review of the Commitment, Survey (as those terms are hereinafter defined), and legible copies of all title exception documents identified on the Commitment and Survey (the "**Permitted Exceptions**"). Title to the Real Property as aforesaid shall be insured by the Title Company as provided in Section 5.

4. SURVEY

Buyer will order an ALTA survey (the "**Survey**") within five (5) days of the execution of this Contract. Buyer and Seller will each pay one half of the cost of the Survey. The Survey will include the location and boundaries of the Property and the Public Easement (defined and described in paragraph 30). The Survey and the boundary lines of the areas surveyed therein shall be subject to the mutual agreement of Buyer and Seller.

5. TITLE INSURANCE

Commitment and Title Policy. Within ten (10) business days after the date of this Contract, Seller will order a preliminary title insurance commitment (the "**Commitment**") from Bronson Abstract Company, Fayetteville, Arkansas (the "**Title Company**") pursuant to which the Title Company shall agree to issue to Buyer, an ATLA owner's policy of title insurance (the "**Title Policy**") in the amount of the Purchase Price, insuring marketable fee simple title to the Real Property in Buyer upon recording of the Deed.

Seller's Title Documents. Seller shall, at Seller's sole expense, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered to the Title Company, on or before the Closing Date, such affidavits and other documents approved by the Seller, as the Title Company shall require as a condition to issuance of the Title Policy in the form herein provided (collectively, "**Seller's Title Documents**").

Buyer's Title Documents. Buyer shall, at Buyer's sole expense, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered to the Title Company, on or before the Closing Date, such affidavits and other documents approved by Buyer, as the Title Company shall require as a condition to issuance of the Title Policy in the form herein provided (collectively, "**Buyer's Title Documents**").

6. TITLE AND SURVEY DEFECTS

Buyer shall have ten (10) days from the receipt of the Title Commitment and copies of documents constituting exceptions to title and the Survey to examine the same and to specify to Seller in writing any matters which Buyer finds objectionable (the "**Encumbrances**").

Seller shall have thirty (30) days to cure or remove all Encumbrances at its cost and expense. If Seller fails to cause all the Encumbrances to be removed within such 30-day period or if Seller notifies Buyer of its decision not to cure or remove some or all of the Encumbrances, Buyer's remedy shall be to:

(i) Terminate this Agreement by giving Seller written notice thereof;

(ii) Agree to extend additional time to Seller to cure or remove all Encumbrances; or

(iii) Elect to purchase the Property subject to the Encumbrances and the Encumbrances not so removed or cured shall be deemed Permitted Exceptions and the Purchase Price shall not be reduced by any amount.

7. INVESTIGATION BY BUYER

Buyer has the right to conduct such due diligence as Buyer deems necessary in Buyer's sole discretion from the date of the execution of this agreement and continuing through five (5) business days prior to Closing; provided, however, Buyer may not conduct any intrusive testing in the subsurface soil or take any bore samples without the prior, written consent of the Seller. If Buyer, in its sole discretion is not satisfied with the results of its due diligence, Buyer may terminate this Contract at any time prior to Closing by providing written notice to Seller, whereupon this Contract shall be terminated and neither party shall have any further obligation to the other party.

8. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer the following through the date hereof and as of the Closing Date to the best of Seller's knowledge:

8.1 Except as disclosed to Buyer in writing there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property in any way.

8.2 Seller represents and warrants that at the time of acceptance hereof and at Closing, Seller is not a "foreign person" as such term is defined in Section 1445(f) of the Internal Revenue Code of 1954.

8.3 There are no actions, suits, lawsuits, proceedings, or claims affecting any part of the Property, or affecting Seller with respect to the ownership, occupancy, use, or operation of any part of the Property pending in or before any court, agency, commission, or board.

8.4 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against Seller.

8.5 Seller has not received notice from any governmental authority, stating that the Property is currently in violation of any zoning, environmental, or other land use regulations or in violation of any required licenses, registrations, certificates, permits, approvals, or other governmental authorizations relating to the use and operation of the Property. If Seller receives such a notice prior to Closing, Seller shall promptly notify Buyer of such a notice and deliver a copy thereof to Buyer.

8.6 Seller has not received any notice relating to its period of ownership of the Property that the Property is in violation of any applicable governmental law, regulation, or requirement relating to environmental or occupational health and safety matters or Hazardous Substances ("Environmental Laws"). As used in this Agreement, the term "Hazardous Substances" means any and all substances, materials, and wastes which are regulated as hazardous or toxic under applicable local, state, or federal law or which are classified as hazardous or toxic under applicable Environmental Laws.

8.7 Seller has not stored, processed, or disposed of hazardous or toxic substances on the Property.

8.8 No underground storage tanks are located on the Property.

For the purposes hereof, the term "Seller's Knowledge" means the actual knowledge of Lionel Jordan, without any duty of inquiry or investigation.

BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN ANY CLOSING DOCUMENT DELIVERED BY SELLER, (A) BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER IN CONNECTION WITH THE PROPERTY OR THIS TRANSACTION, (B) SELLER WILL SELL AND CONVEY TO BUYER, AND BUYER WILL ACCEPT THE PROPERTY "AS IS", "WHERE IS", AND "WITH ALL FAULTS" ON THE CLOSING DATE, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR

REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY SELLER OR ANY THIRD PARTY, AND (C) SELLER DOES NOT, BY THE EXECUTION AND DELIVERY OF THIS AGREEMENT, AND SELLER WILL NOT, BY THE EXECUTION AND DELIVERY OF ANY DOCUMENT OR INSTRUMENT EXECUTED AND DELIVERED IN CONNECTION WITH CLOSING, MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE WHATSOEVER, WITH RESPECT TO THE PROPERTY AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED.

9. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller the following through the date hereof and as of the Closing Date to the best of Buyer's knowledge:

9.1 Buyer represents and warrants that at the time of acceptance hereof and at Closing, Buyer is not a "foreign person" as such term is defined in Section 1445(f) of the Internal Revenue Code of 1954.

9.2 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against Buyer.

9.3 Buyer has full authority to enter into this Contract and fulfill all its obligations pursuant therewith.

"Buyer's Knowledge" means the actual knowledge of Brian Reindl.

10. TAXES AND ASSESSMENTS

No tax prorations will occur because Seller is not subject to real estate taxes. Buyer is responsible for paying all real property taxes and assessments due and payable after the date of Closing.

11. CLOSING COSTS AND ADJUSTMENTS

Seller's Costs. Seller shall pay the cost of (1) one-half of the documentary stamps; (2) the cost of the owner's portion of the title insurance policy; (3) one-half the Title Company's closing fee and document preparation fee; (4) the Title Company's title search fee; (5) all certificates, instruments and documents which Seller is required to deliver or cause to be delivered; (6) one-half of the Survey; (8) one-half of the cost of appraisals required in connection with the Purchase Price of the Property or in connection with the Public Easement as provided in this Contract; and (7) its legal fees and expenses.

Buyer's Costs. Buyer shall pay the cost of (1) one-half of the documentary stamps; (2) one-half the Title Company's closing fee and document preparation fees; (3) the cost of any loan policy of title insurance including all endorsements required by Buyer's lender; (4) all certificates, instruments and documents which Buyer is required to deliver or cause to be delivered; (5) Buyer's legal fees and expenses; (6) one half of the Survey; and (7) one-half of the cost of any third appraisal required in connection with the Purchase Price of the Property or in connection with the Public Easement as provided in this Contract.

12. CONDEMNATION AND CASUALTY

If, prior to the Closing Date, all or any part of the Property shall be condemned by governmental or other lawful authority such that the remaining property is insufficient for Buyer to construct the Mixed Use Building (as defined below), Buyer shall have the option, exercised by delivery to Seller of written notice of such election on or before the fifteenth (15th) business day following the date on which Buyer receives from Seller written notice of such condemnation of either (a) completing this transaction, in which event (i) there shall be no reduction of the Purchase Price, (ii) Seller shall have no duty to repair or restore, (iii) Seller shall pay to Buyer all condemnation proceeds received by Seller with respect to such condemnation, and (iv) Seller shall assign to Buyer all rights of Seller in and to such condemnation proceeds, or (b) terminating this Contract.

13. LEASES AND OTHER AGREEMENTS

During the period from the date of this Contract to and including the Closing Date, Seller shall not, without the prior written consent of Buyer enter into a lease of the Property that has a term extending beyond the Closing Date.

14. CLOSING

Closing Date. Provided all conditions to closing set forth in this Contract have been satisfied or waived by Buyer and Seller, and this Contract has not been terminated in accordance with the provisions herein set forth, the transaction contemplated herein shall close within thirty (30) days of the satisfaction or fulfillment of all conditions of closing, or such other date as is mutually agreeable to Seller and Buyer, PROVIDED, however, that if Closing does not occur on or before _____ , Seller may, in its sole discretion, terminate this Contract and neither party shall have any further obligations to the other party. Such date for the closing of title is herein called the "**Closing Date**" or such occurrence is called the "**Closing**" or "**closing**".

Seller's Deliverables. On or before the Closing Date, Seller shall deliver or cause to be delivered to the Title Company the following: (a) Special Warranty Deed; and (b) Seller's Closing Statement and such other documents as Title Company may require at Closing and which are approved by the Seller.

Buyer's Deliverables. On or before the Closing Date, Buyer shall deliver or cause to be delivered to the Title Company the following: (a) by federal wire transfer of funds to the Title Company's escrow account an amount equal to (i) the balance of the Purchase Price due at closing, adjusted as herein provided, plus (ii) the aggregate amount of closing costs for which Buyer is responsible as provided herein, all as shown on Buyer's closing statement; (b) and Buyer's Closing Statement and such other documents as Title Company may require at Closing.

15. POSSESSION

Exclusive possession of the Property shall be delivered to Buyer on the Closing Date.

16. BROKERAGE

Seller hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction. Buyer hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction.

17. SURVIVAL

Except as otherwise set forth herein, all warranties, representations, covenants, obligations,
and agreements contained in this Contract shall survive the closing hereunder and the transfer and conveyance of the Property and shall remain effective and enforceable by and against the parties and their successors and assigns until and unless both Reindl Properties, Inc. or its successor in interest and the City of Fayetteville through City Council Resolution jointly agree to modify, remove, or otherwise change any such warranties, representations, covenants, obligations, or agreements contained in this Contract.

18. TIME

Time is of the essence of this Contract.

19. NO WAIVER

Except as herein expressly provided, no waiver by a party of any breach of this Contract or of any warranty or representation hereunder by the other party shall be deemed to be a waiver of any other breach by the other party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Contract or of any representation or warranty hereunder by such other party, whether or not the first party knows of such breach at the time it accepts such payment or performance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Contract or shall prevent the exercise of any right by the first party while the other party continues to be so in default.

20. INSTRUMENTS IN WRITING

No agreement, consent, approval, notice, amendment, modification, understanding, or waiver of or with respect to this Contract or any agreement, instrument, or document entered into pursuant to or with respect to this Contract, or any term, provision, covenant, or condition hereof or thereof, nor any approval or consent given under or with respect to any of the foregoing, shall be effective for any purpose unless contained in a writing signed by the party against which such agreement, amendment, modification, understanding, waiver, approval or consent is asserted.

21. NOTICES

Any and all notices, requests, demands, or other communications hereunder shall be deemed to have been duly given if in writing and if transmitted by hand delivery with receipt

therefor, by facsimile delivery (with confirmation by hard copy), by overnight courier, or by registered or certified mail, return receipt requested, first class postage prepaid addressed as follows (or to such new address as the addressee of such a communication may have notified the sender thereof) (the date of such notice shall be the date of actual delivery to the recipient thereof):

If to Buyer: Reindl Properties, LLC
Attn: Brian Reindl
_____
_____

If to Seller:

City of Fayetteville
Attn: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701
Mayor@fayetteville-ar.gov

With a copy to: Vicki Bronson
Conner & Winters, LLP
4375 N. Vantage Dr., Suite 405
Fayetteville, AR 72703
vbronson@cwlaw.com

Either party may designate a different address or addresses for itself by notice similarly given. Any notice given by registered or certified mail shall be deemed to have been given on the third day after the same is deposited in the mail, and any notice not so given shall be deemed to have been given upon receipt of the same by the party to whom the same is to be given.

22. ENTIRE AGREEMENT

This Contract contains the entire agreement with respect to the transactions contemplated herein, and there are no other terms, conditions, promises, understandings, statements, or representations, express or implied, concerning the same, and neither party is relying on any representation or statement not specifically contained herein.

23. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Arkansas.

24. ESTOPPEL

Each party confirms and agrees that (a) it has read and understood all of the provisions of this Contract; (b) it has negotiated with the other party at arm's length with equal bargaining power; and (c) it has been advised by competent legal counsel of its own choosing.

25. JOINT PREPARATION

This Contract is deemed to have been jointly prepared by the parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any party, but shall be interpreted according to the application of the rules of interpretation for arm's length agreements.

26. ASSIGNMENT

Neither party may assign this contract without the prior written consent of the other party.

27. INTENTIONALLY DELETED.

28. ATTORNEYS FEES

If either party is required to bring litigation to enforce its rights under this contract, the prevailing party shall be entitled to recover its attorney's fees and costs, including expert witness fees.

29. CONTINGENCIES

In addition to any other conditions or contingencies contained herein, the parties' obligations to close on this transaction are conditioned upon satisfaction of the following conditions on or prior to Closing:

A. Buyer and Seller's approval of the Survey.

B. Buyer and Seller's approval and execution of a Development Agreement concerning the Mixed-Use Building as more particularly described in Paragraph 31.

C. Buyer and Seller's approval and Buyer's execution of the Public Easement, as more particularly described in Paragraph 30.

D. Buyer's execution and delivery to Seller of a perpetual easement for the use of the City Restrooms and Storage Space as provided in Paragraph 31.

30. ADDITIONAL CONSIDERATION

As additional consideration for the transactions contemplated herein Buyer agrees to grant a permanent easement to Seller for pedestrian walking and biking trails ("**Public Easement**") located across real property currently owned by Buyer adjacent to the Property. The exact location of the Public Easement shall be determined by the Survey. In consideration for Buyer's conveyance of the Public Easement, Seller will pay Buyer the fair market value for the Public Easement which is estimated to be Two Hundred Fifty-nine Thousand Eighty-four Dollars ($259,084.00), which amount may be adjusted as determined by the parties' appraisals prior to the separate closing on the Public Easement, but not to exceed $49.63 per square foot.

31. DEVELOPMENT OF THE MIXED-USE BUILDING

A material condition of Seller's agreement to sell the Property to Buyer is for Buyer to develop and construct a Mixed-Use Building ("Building") on the Property as described in that

certain Letter of Intent executed between the parties dated effective November 9, 2022. The approval of a Development Agreement by Buyer and Seller concerning the design, construction, and use of the Building and allocation of any shared costs associated with the construction of the City Restrooms and Storage Space is an express condition to the Buyer and Seller's obligations under this Contract. The Development Agreement shall incorporate, at a minimum, the following terms:

A. Buyer will construct a multi-story Mixed Use Building (the "Building") containing hotel uses and associated meeting spaces, office spaces, street level retail, and hospitality spaces, and must contain a minimum of one restaurant, café, or coffee shop at ground level. The Building may include additional uses as necessary to meet the financial goals of the project if approved by Seller. The following Use Units *may* be allowed, subject to the Seller's prior approval in conjunction with the Seller's typical processes and procedures for considering and approving zoning, development, licenses, and permits, including conditional use restrictions:

> Unit 4: Cultural and Recreational Facilities; Unit 13: Eating Places; 12a: Limited Business; 12b: General Business; Unit 14: Hotel, Motel and Amusement Facilities; Unit 15: Neighborhood Shopping Goods; Unit 16: Shopping Goods; Unit 19: Commercial Recreation, Small Sites; Unit 25: Offices, Studios, and Related Services; Unit 26: Multi-Family Dwellings; Unit 29: Dance Halls; Unit 34: Liquor Stores; Unit 35: Outdoor Music Establishments; Unit 40: Sidewalk Cafes; Unit 45: Small Scale Production; and Unit 46: Short Term Rentals.

Provided, however, that nothing contained in this Contract is intended to be nor may be construed to be a promise or agreement that Seller will approve any of the specific uses described above. The uses permitted are subject to Seller's prior approval according to Seller's typical processes and procedures for considering and determining permitted uses. In addition, certain uses which may be allowed under the zoning categories described above require a conditional use permit, including, but not limited to Unit 35: Outdoor Music Establishments. Because of the proximity to the Civic Space (Seller's property adjacent to the Property a/k/a the Ramble) as well as the Walton Arts Center and other local businesses, the use of amplified music on the Property requires specific approval by Seller in advance and is subject to all reasonable conditions which Seller requires, including, but not limited to prohibiting the use of amplified music after 10:00 p.m. Nothing in this Contract is intended to be nor may be construed to be a waiver or release of any of Seller's requirements or conditions for receiving a conditional use permit for any use that may be allowed under the zoning categories stated above.

Further provided, none of the following uses will be permitted on the Property (the "**Prohibited Uses**") at any time: crematorium; mausoleum; funeral home; furniture repair and refinishing; taxidermist; vape shops; body piercing/tattoo; gunsmith; animal hospital; animal day care; day care; bail bonding agencies; hospital; vehicle sales; convalescent home; boarding/rooming housing (other than is typically associated with hotel use); dormitory; fraternity/sorority housing; and slot car track. Any deed from the Seller conveying the Property to Buyer will contain a restriction against the Prohibited Uses and the restriction will be a restriction that runs with the Property for a minimum of 75 years.

B. As befits its prominent location, the Building will be a substantial and attractive building. The Building's design, plans and specifications, including, but not limited to exterior

finishes, and site development are subject to Seller's development review process, ordinances, and rules and must be approved by Fayetteville City Council. Nothing in this Contract is intended to or may be construed as a waiver of any of Seller's ordinances, rules, or regulations.

C. The Building will have three primary facades; one facing the Civic Space to the north, one facing the vacated Spring Street right-of-way to the south, and the third facing West Avenue to the east. All primary facades will be attractive, well-proportioned, and constructed of high-quality materials in accordance with the plans and specifications.

D. The Building shall be designed and built in substantial compliance with the drawings, depictions, and concepts on the attached Exhibit 2 which depict the minimum standards for materials, design, and architectural features. Any significant deviation from exterior design reflected on Exhibit 2 may not be approved by Fayetteville City Council.

E. The design and construction of the Building shall comply with all local, state, and federal building codes, rules, regulations, and laws, including those of Seller.

F. Buyer must present its application for Planned Zoning District (PZD) Review approval, along with all required documents no later than July 1, 2024. The Building, associated improvements, and parking plans are subject to approval pursuant to City of Fayetteville Development Review codes, processes, and procedures, including review by Planning Staff, Planning Commission, and City Council. Documents shall include all building facades, floor plans of all levels, infrastructure improvements, multi-use trail details, and all other requirements of City of Fayetteville codes.

G. Notwithstanding anything contained herein to the contrary, if Buyer does not secure a Building Permit for the Building within twelve (12) months of substantial completion of Seller's Civic Space, then this Contract and all agreements pertaining to this Contract shall be null and void and neither party shall have any obligations to the other party.

H. If Buyer fails to either (a) commence construction of the Building within sixty (60) days of Seller issuing a Building Permit or (b) complete construction of the Building within twenty-four (24) months of issuance of the Building Permit, then Seller at its sole discretion shall have the absolute and unconditional right to buy the Property back from Buyer, and any improvements made as of that date. If Seller elects to exercise its rights under this paragraph, the purchase price Seller will pay Buyer will be the original Purchase Price Buyer paid Seller for the Property, plus the fair market value of the completed improvements on the Property as determined by a third-party real estate appraiser, less all amounts paid by Seller for construction or construction estimates for the City Restrooms and Storage Space. The provisions for selection of appraisers contained in Paragraph 30 also apply to this Paragraph.

I. The Building must be designed and constructed to provide a ground floor that is open and inviting to the public on the north side to accentuate and facilitate the use of the Civic Space. The hotel lobby shall be located on the ground floor and shall be open and inviting. Additionally, a bar, restaurant or café and retail uses will be provided on the ground floor.

J. Buyer agrees to make a good faith effort to purchase building supplies and materials locally to support sales tax revenue for Seller.

K. Buyer must provide all parking required by Seller's parking codes and requirements at Buyer's cost. Buyer must provide the amount of valet parking to Building guests that is usual and typical for the size of the Building. As a condition of this Contract and prior to Closing, Buyer must own or have a written lease for sufficient property to provide parking as required by Seller's parking requirements, including but not limited to City Code sections 172.05 and 156.03C(5). Buyer owns a parcel of land located at 601 W. Center Street, Fayetteville, Arkansas containing approximately .8 acres and which shall be used for valet parking for guests of the Building (the "Reindl Parking Parcel"). The Reindl Parking Parcel will provide a minimum of approximately 55 to 65 parking spaces. To the extent Seller has any excess parking spaces available Seller agrees to lease the excess parking spaces to Buyer at current market rates. Seller makes no representations that it has any parking spaces available to lease to Buyer. The deed to Buyer will contain a deed restriction requiring future owners to comply with all City of Fayetteville parking requirements, including, but not limited to the parking requirements contained in the approved PZD plan.

L. All Building loading recycling, and solid waste and associated receptables must be located on the west side of the Building. No such activities will be permitted from or facing any public street.

M. The Building design and construction will incorporate sufficient air filtering to promote indoor air quality.

N. The Building will be designed and constructed to provide an efficient and properly designed envelope that will prevent air and water infiltration and reduce thermal bridging. The Building will implement the use of smart energy-management systems to decrease energy use in the Building, including but not limited to the installation of smart systems to avoid heating and cooling vacant rooms.

O. Buyer and Seller will coordinate design consultants on designing bicycle, pedestrian, automotive, and landscape infrastructure on all sides of the Building. The amount of the costs of those improvements and an agreement as to which costs will be paid by Seller and which will be paid by Buyer are a condition of this Contract and a condition of Closing. Once the costs for these improvements are established, Buyer and Seller agree to pay their pro-rata share of such costs.

P. Seller agrees to pay one half of the cost of extending water and sanitary sewer to the Building's site to provide water and sewer to the City Restrooms. Once the costs for these improvements are established, Seller agrees to pay that amount to Buyer. The amount of such costs must be reasonable and must be approved by Seller in advance in writing.

Q. Seller will assist Buyer in coordinating burial of existing power lines to the extent necessary; however, Seller has no obligation to incur any costs associated with burying overhead power lines.

R. Buyer is responsible for providing all water, sewer, electrical, cable, telephone, gas, or other utilities to the Building. Seller has no obligation to incur any costs associated with Buyer's installation of utilities except for the costs associated with extending water and sewer to the Building site, if any, for the City Restrooms as described above. If it is necessary for Seller to grant utility easements across its property to provide utilities to the Property, Seller agrees to

grant a utility easement, provided however, that the location of the easement and any utility lines and equipment are subject to Seller's prior approval.

S. The Building shall contain public restrooms at street level, accessible from the Frisco Trail to serve trail and other public space users (the "City Restrooms"). The Building shall also contain a storage space for storing equipment associated with the planned performance area of the Civic Space and such other items which City desires ("Storage Space"). In addition:

i. All City Restrooms must comply with the Americans with Disabilities Act.

ii. Buyer shall be responsible for constructing the City Restrooms and Storage Space to a "white box" finish, subject to Seller's approval of the design. The City Restrooms and Storage Space contain a minimum of 1,600 square feet. The Storage Space shall be located on the west side of the Building for convenient access to the City Space. The approximate location of the City Restrooms and Storage Space are shown on Exhibit 3, attached.

iii. The costs of construction of the City Restrooms as a white box finish and the Storage Space, including the pro-rata share of the cost of foundations, structure, roof, and exterior walls as well as the electrical rough in, plumbing, and HVAC equipment and services, and other elements desired by the Seller prior to commencement of construction of the Building. Buyer is responsible for completing and delivering the City Restrooms in a white box finish and Seller is responsible for contracting for and paying the costs to finish out the interior of the City Restrooms as it deems appropriate with a contractor of its choice.

iv. The Seller shall have exclusive use, control, possession, and right to the City Restrooms and Storage Space pursuant to a perpetual exclusive easement to be granted by Buyer, the form of which must be agreed to by the parties and executed prior to or at Closing.

v. In addition to the City Restrooms, the Building must contain separate public restrooms at ground level for the use of the Building's patrons as required by all Seller, state, and federal ordinances, rules, and regulations.

T. The Building shall contain a street level "back of house" space to be used by event organizers in the approximate location as shown on Exhibit 3.

U. Buyer, at its expense, will implement, install, and maintain landscaping on the Property as required by Seller pursuant to plans developed by Seller's landscape design architects.

V. Seller shall maintain exclusive control of all of Seller's property and exterior spaces adjacent to the Building and Property. Should Buyer desire to use any Seller property, the use must be coordinated with Seller and anchor institutions adjacent to the area, (e.g., Walton Arts Center, TheatreSquared, etc.) and any other group selected by the Seller to represent its interests in creating a lively and attractive park and Civic Plaza. Buyer must apply for use of Seller's property in the same manner as any other member of the public.

W. The Building shall provide a location for the display of local art, to be coordinated between Buyer and local arts organizations, schools, or the Seller.

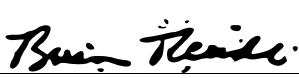
X. All other terms and conditions as the parties may agree.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

(signatures appear on following pages)

BUYER:

REINDL PROPERTIES, INC.

By: 

Brian Reindl

Date: 10/17/2023

SELLER:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Lioneld Jordan, Mayor

Date: _____

ATTEST:

By: _____

Kara Paxton, City Clerk-Treasurer

EXHIBIT 1

Drawing of appropriate location of the Property

EXHIBIT 2

Conceptual Building design and materials

EXHIBIT 3

Depiction of approximate location of City Restrooms, Storage Space,

and back of house space

DOWNTOWN
FAYETTEVILLE
COALITION

October 30, 2023

To the Fayetteville City Council,

The board members of the Downtown Fayetteville Coalition are excited about the opportunities this new hotel development could bring to our downtown entertainment district.

The developers have been open and transparent about their plans for the hotel and have been willing to make adjustments throughout this process based on feedback from stakeholders. We believe their current plan addresses our needs and our concerns for this development, and we **SUPPORT** this project.

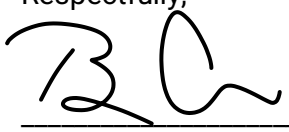
Thank you for your continued efforts in making a strong and successful downtown.

Kelly Rich, DFC Executive Director and Brian Crowne, DFC President

Downtown Fayetteville Coalition Board of Directors

1) Brian Crowne, President
2) Richard Gathright, Treasurer/Secretary
3) Molly Rawn
4) Rachel Pendergraft
5) Morgan Scholz
6) Bo Counts
7) Justin Clay
8) William Waite
9) Jennifer Wilson

Respectfully,



Brian Crowne

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1138

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

DATE:

SUBJECT: **RZN-2023-0025: Rezoning (524 S. WILLOW AVE./BWB WILLOW LLC, 524): Submitted by BUILDERS LAND CAPITAL for property located at 524 S. WILLOW AVE. in WARD 1. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.**

RECOMMENDATION:
City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:
The subject property is located in south Fayetteville, one lot north of Martin Luther King Jr. Boulevard on the east side of Willow Avenue. The property contains approximately 0.22 acres and is currently developed with a 1,344-square-foot, single-family dwelling which Washington County records indicate was built in 1930. Prior to 2008, the subject property and most others in the immediate vicinity were zoned RMF-24, Residential Multi-Family, 24 Units per Acre. With the adoption of the Walker Park Neighborhood Master Plan that year, the property was rezoned to NC, Neighborhood Conservation.

Request: The request is to rezone the subject property from NC, Neighborhood Conservation to DG, Downtown General.

Public Comment: Staff received no public comment prior to the Planning Commission. A community member spoke at the public hearing with comments summarized within the meeting discussion below.

Land Use Compatibility: Staff finds the proposed rezoning from NC to DG to be generally compatible with existing land use and zoning patterns in the surrounding area. Downtown General would allow for residential development and lot sizes that are commonly found nearby, as well as some nonresidential uses which may be suitable at this location given the property's proximity to Martin Luther King Jr. Boulevard and other nonresidential uses. Where NC zoning allows for by-right development of single-family dwellings at a density of 10 units per acre, a rezoning to DG would allow for the development of multi-family dwellings with density informed by building height allowance and development standards. With regard to bulk and area regulations, NC currently allows for the creation of lots with a width of 40 feet and an area of 4,000 square feet, while DG

would allow for the creation of lots with a width of 18 feet without limitation to lot area. When taking the size of the property into consideration, which totals less than a quarter of an acre, staff finds that a rezoning to DG is not likely to result in development of a scale or type that is incompatible with the surrounding area.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. While a similar rezoning mid-block could be considered incompatible, staff finds the requested rezoning to be appropriate since it has the potential to result in increased housing or services near a dense residential area and existing nonresidential uses. Staff also finds the requested rezoning to be generally aligned with Goal 1 of City Plan 2040 since it would encourage infill in an area that has a moderate infill score ranging between 8 and 9.

City Plan 2040 Infill Matrix: City Plan 2040's Infill Matrix indicates a score range between 8 and 9 for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (six-inch main, Willow Avenue)
- Near Water Main (six-inch main, Willow Avenue)
- Near City Park (Jefferson Park, Walker Park)
- Near Paved Trail (Walker Park Trail, Razorback Greenway)
- Near ORT Bus Stop (Route 10, Route 20 East)
- Near Razorback Bus Stop (Route 13)
- Within Master Plan Area (Walker Park Neighborhood)
- Sufficient Intersection Density

DISCUSSION:
At the September 26, 2023 Planning Commission meeting, a vote of 5-2-1 forwarded the request to City Council with a recommendation of approval. Commissioner Sparkman made the motion and Commissioner Payne seconded it. Commissioners Madden and Garlock voted against the request and Commissioner Brink recused. Commissioners opposed to the request expressed concerns about the rezoning resulting in increased traffic and building heights. Commissioners in favor of the request found the rezoning to be appropriate given the presence of DG zoning nearby, and given its potential to result in a greater variety of residential and nonresidential uses. One member of the public spoke against the item at the meeting, expressing concerns about the proposed rezoning impacting the character of the surrounding neighborhood.

BUDGET/STAFF IMPACT:
N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

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

File #: 2023-1138

RZN-2023-0025: Rezoning (524 S. WILLOW AVE./BWB WILLOW LLC, 524): Submitted by BUILDERS LAND CAPITAL for property located at 524 S. WILLOW AVE. in WARD 1. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-025 FOR APPROXIMATELY 0.22 ACRES LOCATED AT 524 SOUTH WILLOW AVENUE IN WARD 1 FROM NC, NEIGHBORHOOD CONSERVATION TO DG, DOWNTOWN GENERAL

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from NC, Neighborhood Conservation to DG, Downtown General.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2023-1138

Item ID

10/17/2023

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jonathan Curth	9/29/2023	DEVELOPMENT REVIEW (630)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

RZN-2023-0025: Rezoning (524 S. WILLOW AVE./BWB WILLOW LLC, 524): Submitted by BUILDERS LAND CAPITAL for property located at 524 S. WILLOW AVE. in WARD 1. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

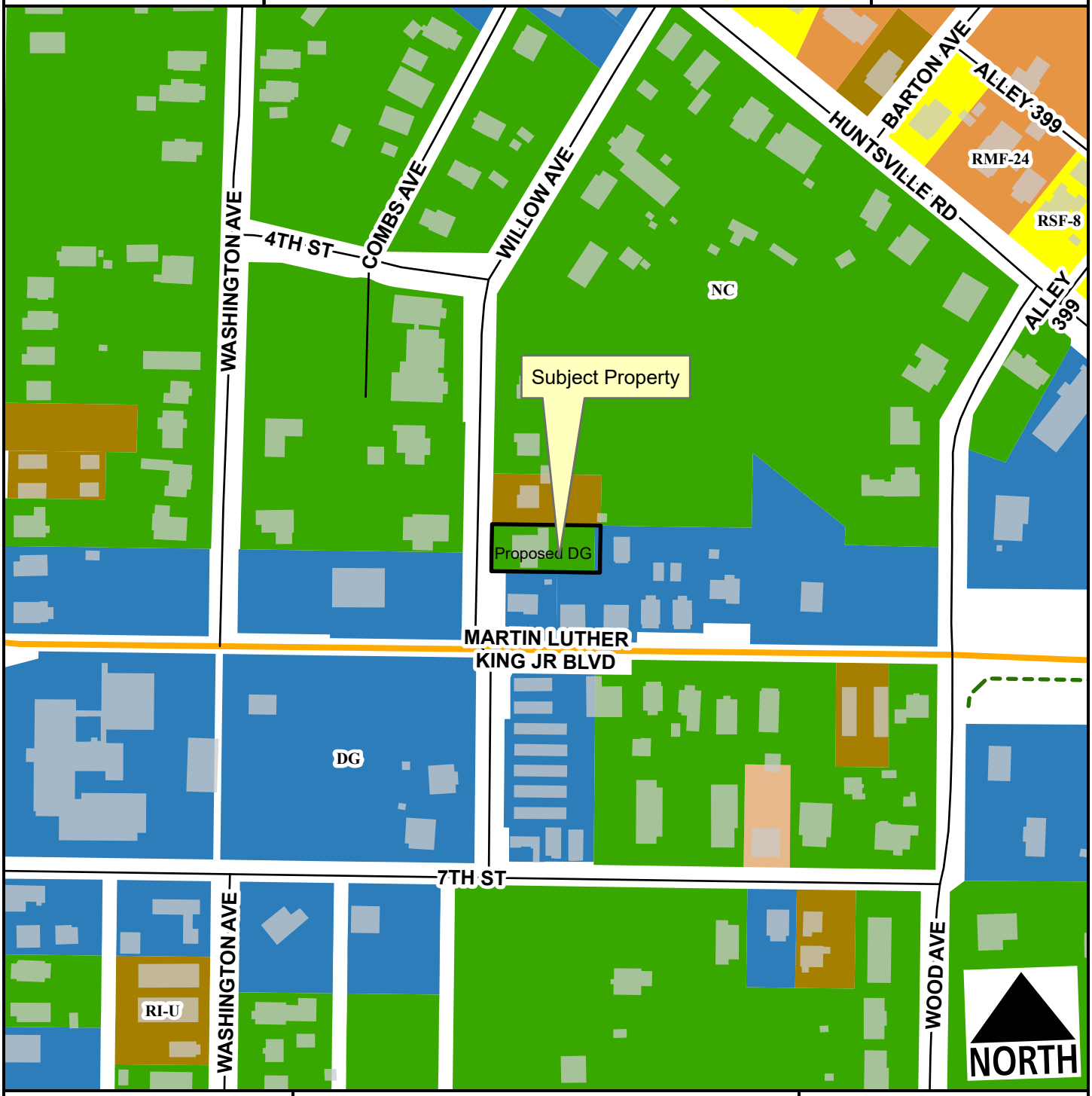
Comments:

RZN-2023-0025

Close Up View

524 S. WILLOW AVE

RZN-2023-0025
EXHIBIT 'A'



- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
DG	0.0	0.2
NC	0.2	0.0

Total 0.2 ac

Legal Description: A part of the Southwest Quarter of the Southwest Quarter of Section 15 in Township 16 North of Range 30 West, described as follows: Beginning 473.5 feet West and 419.8 feet North of the Southeast corner of said forty acre tract, and running thence West 150 feet; thence North 65 feet; thence East 150 feet; thence South 65 feet to the place of beginning, situated in the City of Fayetteville, Washington County, Arkansas.

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 25, 2023 (updated with results)

SUBJECT: **RZN-2023-0025: Rezoning (524 S. WILLOW AVE./BWB WILLOW LLC, 524):** Submitted by BUILDERS LAND CAPITAL for property located at 524 S. WILLOW AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0025** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0025** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is located in south Fayetteville, one lot north of Martin Luther King Jr. Boulevard on the east side of Willow Avenue. The property contains approximately 0.22 acres and is currently developed with a 1,344-square-foot, single-family dwelling which Washington County records indicate was built in 1930. Prior to 2008, the subject property and most others in the immediate vicinity were zoned RMF-24, Residential Multi-Family, 24 Units per Acre. With the adoption of the Walker Park Neighborhood Master Plan that year, the property was rezoned to NC, Neighborhood Conservation. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RI-U, Residential Intermediate-Urban
South	Single-Family Residential; Two-Family Residential	DG, Downtown General
East	Single-Family Residential	DG, Downtown General
West	Single-Family Residential; Undeveloped	NC, Neighborhood Conservation; DG, Downtown General

Request: The request is to rezone the subject property from NC, Neighborhood Conservation to DG, Downtown General.

Public Comment: Staff has not received any public comment regarding this request.

INFRASTRUCTURE:

Streets: The subject property has frontage along Willow Avenue, a partially improved Residential Link street with asphalt paving, curb, and gutter. Any street improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing six-inch water main is present on the west side of Willow Avenue.

Sewer: Sanitary sewer is available to the subject property. An existing six-inch sewer main is present in the center of Willow Avenue.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams are present. The property does, however, contain hydric soils. Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Any improvements or requirements for drainage would be determined at the time of development submittal.

Fire: Station 1, located at 303 W. Center St., protects this site. The property is located approximately 0.9 miles from the fire station with an anticipated drive time of approximately three minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

Police: The Police Department did not comment on this request.

Tree Preservation:

The proposed zoning district of DG, Downtown General requires **10% minimum canopy preservation.** The current zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation.**

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Residential Neighborhood**.

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. Residential Neighborhood encourages highly

connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods. This designation recognizes the existing conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **8-9** for this site with a weighted score of **11** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (six-inch main, Willow Avenue)
- Near Water Main (six-inch main, Willow Avenue)
- Near City Park (Jefferson Park, Walker Park)
- Near Paved Trail (Walker Park Trail, Razorback Greenway)
- Near ORT Bus Stop (Route 10, Route 20 East)
- Near Razorback Bus Stop (Route 13)
- Within Master Plan Area (Walker Park Neighborhood)
- Sufficient Intersection Density

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:*** **Staff finds the proposed rezoning from NC to DG to be generally compatible with existing land use and zoning patterns in the surrounding area. Downtown General would allow for residential development and lot sizes that are commonly found nearby, as well as some nonresidential uses which may be suitable at this location given the property's proximity to Martin Luther King Jr. Boulevard and other nonresidential uses. Where NC zoning allows for by-right development of single-family dwellings at a density of 10 units per acre, a rezoning to DG would allow for the development of multi-family dwellings without limitation to density. With regard to bulk and area regulations, NC currently allows for the creation of lots with a width of 40 feet and an area of 4,000 square feet, while DG would allow for the creation of lots with a width of 18 feet without limitation to lot area. When taking the size of the property into consideration, which totals less than a quarter of an acre, staff finds that a rezoning to DG is not likely to result in development of a scale or type that is incompatible with the surrounding area.**

Land Use Plan Analysis: **Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. While a similar rezoning mid-block could be considered incompatible, staff finds the requested rezoning to be appropriate since it has the potential to result in increased housing or services near a dense residential area and existing nonresidential uses. Staff also finds the requested rezoning to be generally aligned with Goal 1 of City**

Plan 2040 since it would encourage infill in an area that has a moderate infill score ranging between 8 and 9.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **Staff finds that rezoning the subject property from NC to DG is justified since it would encourage the development of contextually-sensitive residential and nonresidential uses near downtown Fayetteville where services, amenities, and residential areas are at their greatest concentration.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **A rezoning from NC to DG has the potential to increase traffic at this location when considering that DG would allow for development that is greater in density and intensity that the existing NC zoning. Nevertheless, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given the small size of the lot and its limited access onto Willow Avenue.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, the property currently has access to public streets, water, and sewer, and any necessary upgrades to existing infrastructure would be determined at the time of development review. Fayetteville Public Schools did not comment on this request.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0025 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	❒ **Tabled**	☒ **Forwarded** with a recommendation of approval	❒ **Denied**
Motion: Sparkman			
Second: Payne			
Vote: 5-2-1			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code:
  - §161.28 Downtown General
  - §161.29 Neighborhood Conservation
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.28 Downtown General

(A) *Purpose.* Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the Downtown Core or Main Street/Center. Downtown General includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than Neighborhood Conservation. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 50% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

161.29 Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15>; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6211 , §1, 8-6-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Rezoning Request

August 16, 2023

Fayetteville Development Services
c/o Ms. Masters
125 W. Mountain St.
Fayetteville, AR 72701

RE: Request to Rezone to DG (Downtown General)

Ms. Masters,

On behalf of my client, BWB Willow LLC, I am requesting a rezone to the property located at **524 S. Willow Ave., Fayetteville AR 72701** from NC (Neighborhood Conservation) to DG (Downtown General). At this time, my clients do not have any development plans to accompany this request.

Compatibility: As shown the property is bordered to the East and South by properties currently zoned DG and does not appear to be incompatible with those properties.

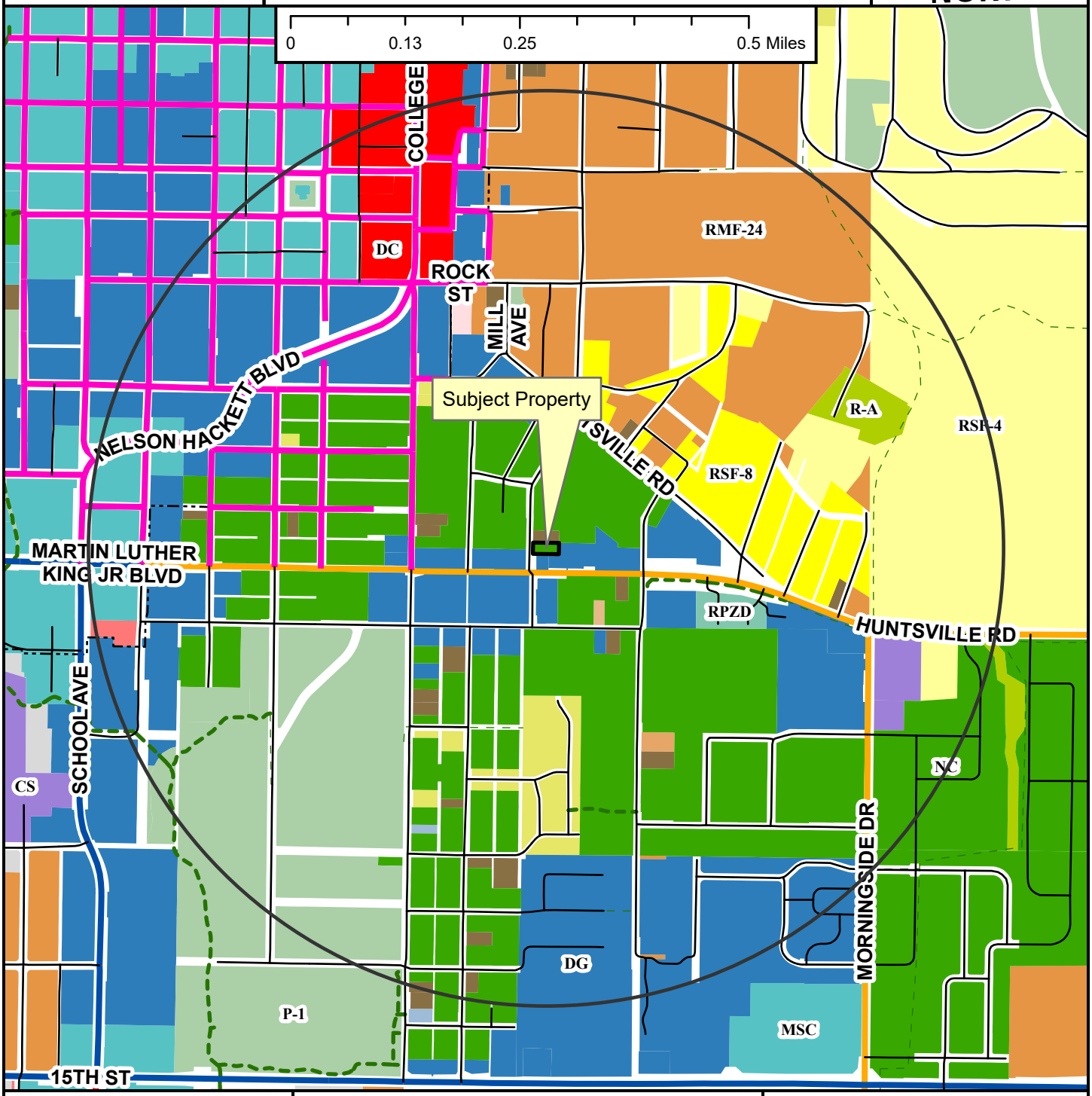
Legal Description: A part of the Southwest Quarter of the Southwest Quarter of Section 15 in Township 16 North of Range 30 West, described as follows: Beginning 473.5 feet West and 419.8 feet North of the Southeast corner of said forty acre tract, and running thence West 150 feet; thence North 65 feet; thence East 150 feet; thence South 65 feet to the place of beginning, situated in the City of Fayetteville, Washington County, Arkansas.

RZN-2023-0025

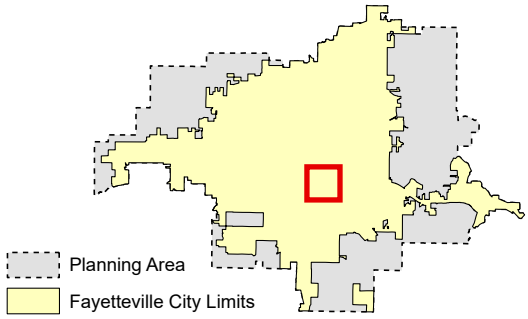
One Mile View

524 S. WILLOW AVE

NORTH



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

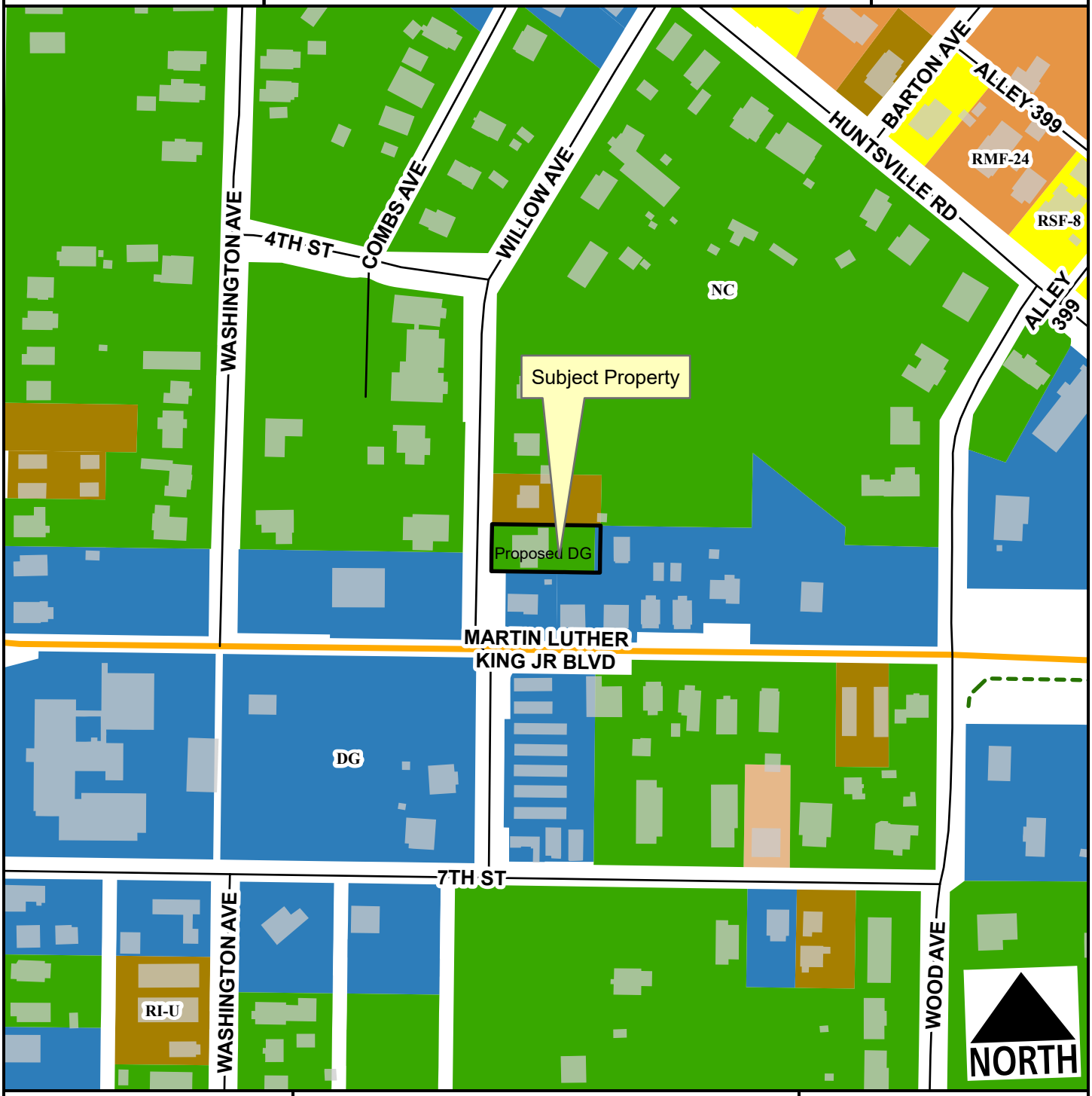
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

RZN-2023-0025

Close Up View

524 S. WILLOW AVE



- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
DG	0.0	0.2
NC	0.2	0.0

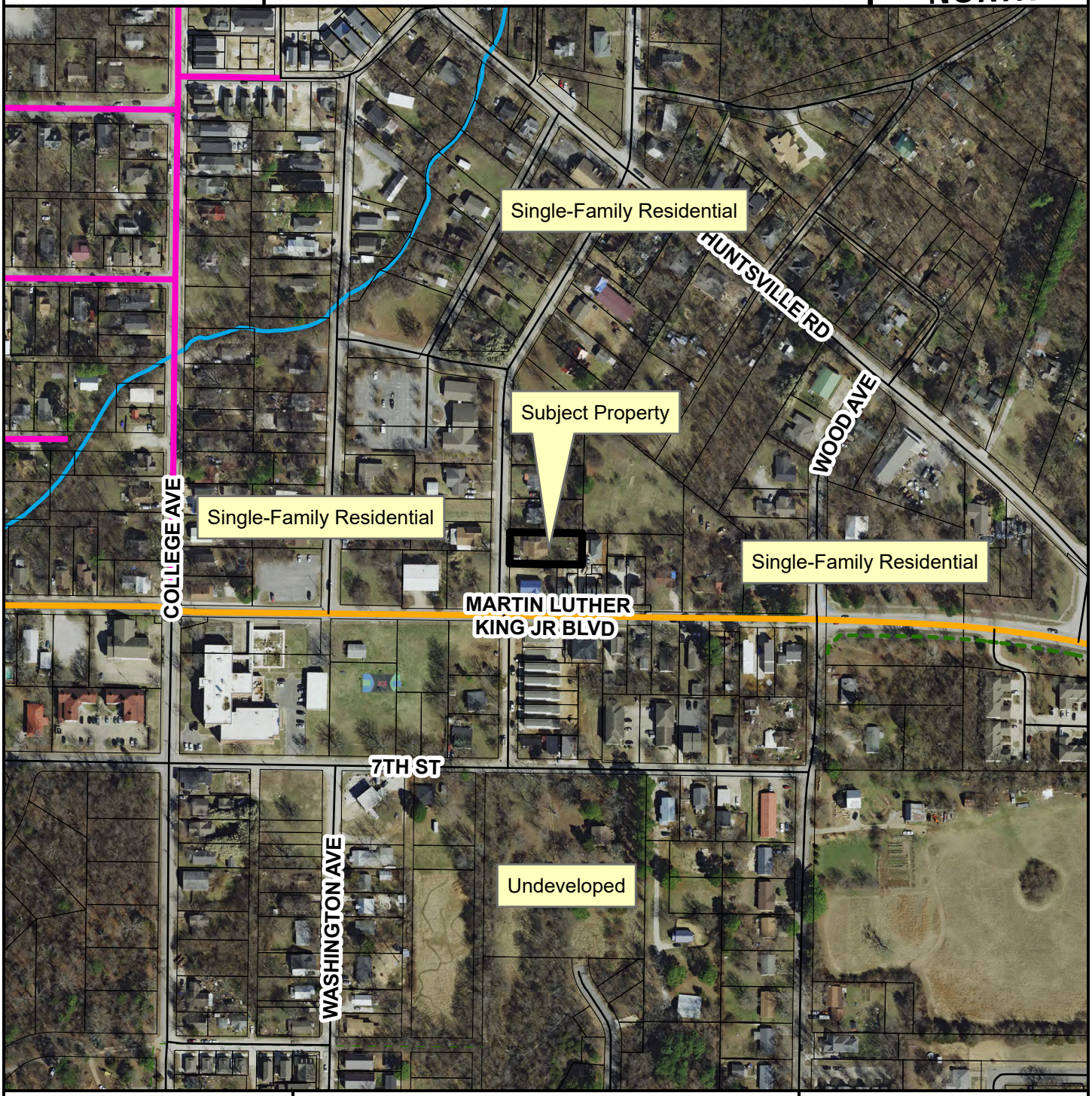
Total 0.2 ac

RZN-2023-0025

Current Land Use

524 S. WILLOW AVE

NORTH



- Neighborhood Link
- Urban Center
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

RZN-2023-0025

Future Land Use

524 S. WILLOW AVE



Neighborhood Link
Urban Center
Unclassified
Alley
Residential Link
Planning Area
Fayetteville City Limits
Trail (Proposed)
Design Overlay District

Feet

0 145 290 580 870 1,160

1:4,800

City Neighborhood
Civic Institutional
Civic and Private Open Space
Industrial
Natural
Non-Municipal Government
Residential Neighborhood
Rural Residential
Urban Center

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1183

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Mike Reynolds, Police Chief

DATE: October 10, 2023

SUBJECT: **Private Club Application for "Crown Hookah Lounge, Inc."**

RECOMMENDATION:
Staff recommends approval of the private club application for Crown Hookah Lounge, Inc. located at 550 West Dickson Street, Suite #2.

BACKGROUND:
Arkansas statute 3-9-222 requires City Council approve by ordinance this application before this establishment can seek a private club permit from the Arkansas Alcohol Beverage Control Board and operate in the City of Fayetteville.

DISCUSSION:
Hana Chefke submitted a City of Fayetteville private club application for "Crown Hookah Lounge, Inc.". The new ownership (Hana Chefke) and private club permit application replaces the existing private club, Rendezvous Hookah Lounge, which has been both a compliant and reputable business in the Entertainment District. Staff has no objections to the private club application and has no reason to believe the existing level of cooperation and partnership will not continue under the new private club permit Crown Hookah Lounge Inc. nor the new ownership of Hana Chefke.

BUDGET/STAFF IMPACT:
This item has no budget or staff impact.

ATTACHMENTS: SRF - Crown Hookah Lounge (#3), SRM - Crown Hookah Lounge (#4), Private Club Permit App - Crown Hookah Lounge (#5), Ark Code 3-9-222 (#6)

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

File #: 2023-1183

Private Club Application for "Crown Hookah Lounge, Inc."

AN ORDINANCE TO APPROVE THE APPLICATION OF HANA CHEFKE, ON BEHALF OF CROWN HOOKAH LOUNGE, INC. FOR A PERMIT TO OPERATE AS A PRIVATE CLUB IN THE CITY OF FAYETTEVILLE AT 550 WEST DICKSON STREET, SUITE NUMBER 2

WHEREAS, Act 1112 of 2017, which amended the permitting procedure set forth in Ark. Code Ann. § 3-9-222 for private clubs in the State of Arkansas, requires the City Council to approve "by ordinance an application for a permit to operate as a private club" before the applicant can submit the application to the state Alcoholic Beverage Control Division.

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 application of Hana Chefke, on behalf of Crown Hookah Lounge, Inc., a copy of which is attached to this Resolution, for a permit to operate as a private club in the City of Fayetteville at 550 W. Dickson Street, Suite #2.

City of Fayetteville Staff Review Form

2023-1183

Item ID

11/7/2023

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

Mike Reynolds	10/6/2023	POLICE (200)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approval of the private club application for Crown Hookah Lounge, Inc. located at 550 West Dickson Street, Suite #2.

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$ -
		Expenses (Actual+Encum)	$ -
		Available Budget	$ -
Does item have a direct cost?	No	Item Cost	$ -
Is a Budget Adjustment attached?	No	Budget Adjustment	$ -
		Remaining Budget	$ -

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF NOVEMBER 7, 2023

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

DATE: October 6, 2023

SUBJECT: **Private Club Application for "Crown Hookah Lounge, Inc."**

RECOMMENDATION:

Staff recommends approval of the private club application for Crown Hookah Lounge, Inc. located at 550 West Dickson Street, Suite #2.

BACKGROUND:

Arkansas statute 3-9-222 requires City Council approve by ordinance this application before this establishment can seek a private club permit from the Arkansas Alcohol Beverage Control Board and operate in the City of Fayetteville.

DISCUSSION:

Hana Chefke submitted a City of Fayetteville private club application for "Crown Hookah Lounge, Inc.". The new ownership (Hana Chefke) and private club permit application replaces the existing private club, Rendezvous Hookah Lounge, which has been both a compliant and reputable business in the Entertainment District. Staff has no objections to the private club application and has no reason to believe the existing level of cooperation and partnership will not continue under the new private club permit Crown Hookah Lounge Inc. nor the new ownership of Hana Chefke.

BUDGET/STAFF IMPACT:

This item has no budget or staff impact.

Attachments:

Private Club Application – Crown Hookah Lounge, Inc.
Arkansas Code 3-9-222

Private Club Application

Process of filing application for Private Club

1. You will have to contact ABC and request for the Private Club Application.

2. Once you get the application, please fill it out and upload it under the Prerequisites section.

3. Please go to the below listed website and make sure that your address is a VERIFIED address.

http://www.fayetteville-ar.gov/3263/Address-Verification

Please print and attach page 1 and 2 of the "Official Address Verification" letter.

4. Please upload all necessary documents and fill out all the information. You do not have to fill out the Notarization section at this time.

5. Submit the form without filling out notarization section. You can at this time download and print the form.

6. When your completed application has been received, your request will be added to a City Council agenda for a public hearing and you will be notified of the date of the meeting. Please plan to attend the meeting to present your proposal to the City Council and answer any questions Council Members may have

7. Once the Ordinance is passed by the city, you will be notified.

8. You will send the Ordinance to ABC, so that ABC can mail you the Permit.

9. You will finally submit the Notarized copy of this application, a check in the amount of $250 and the State Copy.

Prerequisites

ABC Application	ABC application.pdf	21.99MB

Official Address Verification	Crown Club address verification.pdf	1.29MB
Member List	Member List.pdf (No less than 100 members)	2.59MB
Lease/Deed agreement	550 W Dickson Street executed contract.pdf (for the building that will be used)	28.22MB
Certificate of Good Standing	Crown Hookah Lounge Inc. Good Standing.pdf	321.86KB

Start Application

I (We) do hereby make application to the City of Fayetteville, Arkansas, for a Private Club Permit.

Private Club Name

Crown Hookah Lounge Inc. DBA Crown Club LLC

Business Address

Street Address

550 W Dickson Street Suite #2

Address Line 2

City

Fayetteville

State / Province / Region

AR

Postal / Zip Code

72701

Is Mailing address same as Billing address

No

Mailing Address

Street Address
209 Graystone Circle
Address Line 2
City
Centerton
State / Province / Region
AR
Postal / Zip Code
72719

List All Persons Owning or Holding an Interest in the Private Club (Attach supplement, if necessary)

Name	Address (#, Street, City, State, Zip)	Phone	Birth Date
Hana Chefke	215 SE 34th Street	619-339-8182 000-000-0000	03/13/1989 mm/dd/yyyy

Owner of building in which business is located:

Name	Address	Phone
Greg House	19 E. Mountain Street Fayetteville, AR 72701	479-521-9177 000-000-0000

Date Club Organized 04/20/2021
mm/dd/yyyy

Current Number of Members 120

Amount of Membership Dues	$0.00
Check One	☑ Annual ☐ Monthly ☐ N/A
Method used for dispensing alcoholic beverages:	☐ Locker System (Beverages owned by members individually) : ☑ Pool or revolving fund system (Beverages owned in common by membership) :
Applicant's Name	Hana Chefke (Please Print) (Must be person listed on State Permit)
Title	Owner
Date of Birth	03/13/1989 mm/dd/yyyy
Applicant's signature	Hana Chefke (Must be person listed on State Permit)

Notarization

Subscribed and sworn before me this _____ day of _____ , 20_____

_____

Notary Public

My commission expires

(Seal)

Internal

Police Comments	The Fayetteville Police Department has no objections to this permit. All appropriate documentation provided by the applicant appears to be in order. It should be noted a similar private private club was previously permitted to operate in this same space with no objection from the police department.
Attorney's Office Comments	Everything appears in order. No comments.
Chief of Staff Comments	It appears to me all of the necessary documents are included.
Chief's Comments	Arkansas statute 3-9-222 requires City Council approve by ordinance this application before this establishment can seek a private club permit from the Arkansas Alcohol Beverage Control Board and operate in the City of Fayetteville. The Fayetteville Police Department has no objections to this permit. All appropriate documentation provided by the applicant appears to be in order. It should be noted a similar private club was previously permitted to operate in this same space with no objection from the police department. Mike Reynolds Chief of Police

Final Comments * No additional comments.

Previous Next

A.C.A. § 3-9-222

Copy Citation

Current through all legislation of the 2023 Regular Session, including corrections and edits by the Arkansas Code Revision Commission.

3-9-222. Private clubs — Procedure for obtaining permit.

(a)

(1) Application for a permit to operate as a private club may be made to the governing body of the county or municipality in which the private club seeks to be located.

(2) If the governing body of the county or municipality approves by ordinance an application for a permit to operate as a private club under subdivision (a)(1) of this section, the Alcoholic Beverage Control Division may issue a permit to operate as a private club to the applicant for the proposed location.

(b)

(1) The application for a private club shall be submitted to the division and accompanied by an annual permit fee of one thousand five hundred dollars ($1,500).

(2) The application for a bed and breakfast private club shall be submitted to the division and accompanied by an annual permit fee of seventy-five dollars ($75.00).

(3) In an area in which the sale of intoxicating liquor has not been authorized by local option as provided under § 3-8-201 et seq., the application for a private club permit shall be submitted to the division and accompanied by an additional application fee of one thousand five hundred dollars ($1,500).

(c)

(1) After filing an acceptable application with the Director of the Alcoholic Beverage Control Division, the applicant shall cause to be published at least one (1) time each week for four (4) consecutive weeks in a legal newspaper of general circulation in the city in which the premises are situated or, if the premises are not in a city, in a newspaper of general circulation for the locality where the business is to be conducted, a notice that the applicant has applied for a permit to dispense alcoholic beverages on the premises.

(2) The notice shall be in such form as the director shall prescribe by rule or order and shall be verified.

(3) The notice shall give the names of the managing agent and the nonprofit corporation or, in the case of a bed and breakfast private club, the name of the business owner, and shall state:

(A) That the manager, or in the case of a bed and breakfast private club, the owner, at least one (1) partner, or the majority stockholder is a citizen of Arkansas;

(B) That he or she is of good moral character;

(C) That he or she has never been convicted of a felony or had a license to sell or dispense alcoholic beverages revoked within the five (5) years preceding the date of the notice; and

(D) That he or she has never been convicted of violating the laws of this state or of any other state governing the sale or dispensing of alcoholic beverages.

(d)

(1) Within five (5) days after filing an application for a permit to dispense alcoholic beverages on the premises, a notice of the application shall be posted in a conspicuous place at the entrance to the premises.

(2) The applicant shall notify the director of the date when the notice is first posted.

(3) No permit shall be issued to any applicant until proper notice has been so posted on the premises for at least thirty (30) consecutive days.

(4)

(A) The notice shall be in such form as the director shall prescribe by rule or order.

(B) The notice shall be:

(i) At least eleven inches (11”) in width and seventeen inches (17”) in height; and

(ii) Printed in black lettering on a yellow background.

(e)

(1) Upon receipt by the director of an application for a permit, written notice thereof, which shall include a copy of the application, the application shall immediately be mailed by the director to the sheriff, chief of police, if located within a city, prosecuting attorney of the locality in which the premises are situated, and city board of directors or other governing body of the city in which the premises are situated if within an incorporated area. The provisions of this section shall be retroactive to July 28, 1995.

(2) No license shall be issued by the director until at least thirty (30) days have passed from the mailing by the director of the notices required by this section.

(3) Upon receipt by the director within the thirty (30) days of a protest against the issuance of a permit by a governing official of the city or county to whom the notice of an application for permit has been mailed, the director shall not issue the license until he or she has held a public hearing.

(f) Upon the director's determining that the applicant is qualified hereunder and that the application is in the public interest, a permit may be issued as authorized in this section.

History

Acts 1969, No. 132, § 10; 1975 (Extended Sess., 1976), No. 1016, § 1; A.S.A. 1947, § 48-1410; reen. Acts 1987, No. 949, § 1; 1989, No. 297, § 1; 1997, No. 1010, § 3; 1997, No.

1060, § 3; 1999, No. 1063, § 3; 2007, No. 735, § 3; 2009, No. 294, § 22; 2009, No. 763, § 5; 2017, No. 1112, § 1.

Arkansas Code of 1987 Annotated Official Edition
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CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1180

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

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

DATE: October 16, 2023

SUBJECT: **Approval of Amendments to Chapter 33, Article III of the Fayetteville Code of Ordinances**

RECOMMENDATION:
Staff recommends approving the updates to Chapter 33, Article III, Department of Parks and Recreation of the Fayetteville Code of Ordinances.

BACKGROUND:
In 1965 Ordinance 1526 created the Parks and Recreation Department and the Parks and Recreation Advisory Board. The department has grown significantly and changed since that time and updates are needed.

DISCUSSION:
In 2021 the Department was restructured to include Arts and Culture, and renamed Parks, Natural Resources and Cultural Affairs. At the same time, maintenance functions were moved into the Public Works department. With this restructuring came new responsibilities. The proposed amendments to Article 33.

Major updates include updating the department name throughout, updating the duties of the department to include arts and culture and clarify coordination with Public Works, and updating the duties of the advisory board.

The Parks and Recreation Advisory Board reviewed these updates and unanimously recommended approval.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS: SRF (#3), Chapter 33 Article III __Existing (#4), Chapter 33 Article III___DEPARTMENT_OF_PARKS_AND_RECREATION_REDLINE (#5), Chapter 33, Article III___DEPARTMENT_OF_PARKS_AND_RECREATION_CLEAN (#6)

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

File #: 2023-1180

Approval of Amendments to Chapter 33, Article III of the Fayetteville Code of Ordinances

AN ORDINANCE TO AMEND ARTICLE III DEPARTMENT OF PARKS AND RECREATION IN CHAPTER 33 DEPARTMENTS, BOARDS, COMMISSIONS, AND AUTHORITIES OF THE FAYETTEVILLE CITY CODE TO UPDATE THE NAME AND REVISE THE DUTIES OF THE DEPARTMENT AND ITS ADVISORY BOARD

WHEREAS, in 1965, Ordinance 1526 created the Parks and Recreation Department and the Parks and Recreation Advisory Board; and

WHEREAS, in 2021, the department was restructured to include arts and culture and was renamed the Parks, Natural Resources, and Cultural Affairs Department; and

WHEREAS, City staff and the Parks and Recreation Advisory Board recommend amending the City Code to reflect the significant growth and changes to the department.

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 amends the title of Article III – **Department of Parks and Recreation** to "**Department of Parks, Natural Resources, and Cultural Affairs**."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 33.015 **Establishment** of the City Code and enacts a new § 33.015 as follows:

"**33.015 Establishment**

There is hereby established the Department of Parks, Natural Resources and Cultural Affairs."

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 33.016 **Administration** of the City Code and enacts a new § 33.016 as follows

"**33.016 Administration**

The Department of Parks, Natural Resources and Cultural Affairs shall be administered and directed by a qualified person appointed by the Mayor, who shall be known as the Director of Parks, Natural Resources and Cultural Affairs. Said director shall have one or more assistants and such staff as the City

Council from time to time shall authorize."

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 33.017 **Duties** of the City Code and enacts a new § 33.017 as follows:

"**33.017 Duties**

It shall be the duty of the Department of Parks, Natural Resources and Cultural Affairs to:

A. Develop a ten-year Park System Master Plan to assist the Department and city in providing parks and recreation facilities and services;
B. Develop and coordinate all recreation activities of the city;
C. Prepare development plans for present parks and for future park areas;
D. Investigate federal, state, and private programs for park, recreation and cultural development and prepare necessary forms;
E. Provide and manage aquatic venues;
F. Develop an Arts and Culture Master Plan and implement programming in alignment with the Plan;
G. Coordinate management of the city's natural resources and urban forest;
H. Coordinate city-wide beautification efforts;
I. Perform such other duties and conduct such other activities in connection with the park, recreation and cultural needs of the inhabitants of the city, as the City Council shall from time to time provide;
J. Coordinate with and advise the Public Works Department concerning park maintenance needs and schedules; and
K. Work with other agencies and non-profits to expand arts, parks, and recreation opportunities and amenities in the city where appropriate

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 33.018 **Parks and Recreation Advisory Board** of the City Code and enacts a new § 33.018 as follows:

"**33.018 Parks, Natural Resources and Cultural Affairs Advisory Board**

(A) Composition.

(1) Nine (9) members shall be appointed by the City Council for terms of three (3) years. Such terms shall be staggered so that three (3) members will be appointed each year.
(2) All members of the Parks, Natural Resources and Cultural Affairs Advisory Board shall serve without compensation.

(B) Meetings of Advisory Board and Responsibilities.

(1) The Parks, Natural Resources and Cultural Affairs Advisory Board shall meet monthly with the

Director.
(2) The Advisory Board shall advise and recommend to the Director, Mayor and City Council on all aspects of parks, natural resources and cultural affairs activities.
(3) The Advisory Board shall coordinate with other boards such as the Urban Forestry Advisory Board and the Fayetteville Arts Council as needed to stay informed on topics related to the Parks, Natural Resources and Cultural Affairs Department.
(4) Annually, the Advisory Board shall advise on work program priorities.
(5) The Advisory Board shall also recommend priorities for capital improvements and means for financing same and shall prepare an annual progress report on department activities."

City of Fayetteville Staff Review Form

2023-1180

Item ID

11/7/2023

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

Alison Jumper	10/9/2023	PARKS & RECREATION (520)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approving the updates to Chapter 33, Article III, Department of Parks and Recreation of the Fayetteville Code of Ordinances.

Budget Impact:

NA	NA
Account Number	Fund
NA	NA
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 1526

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

ARTICLE III - DEPARTMENT OF PARKS AND RECREATION

33.015 - Establishment

There is hereby established the Department of Parks and Recreation of the city.

(Code 1965, §2-95; Ord. No. 1526, 1-3-67; Code 1991, §33.015)

33.016 - Administration

The Department of Parks and Recreation shall be administered and directed by a person appointed by the Mayor, who shall be known as the Director of Parks and Recreation. Said director shall have one or more assistants and such staff as the City Council from time to time shall authorize.

(Code 1965, §2-96; Ord. No. 1526, 1-3-67; Code 1991, §33.016)

33.017 - Duties

It shall be the duties of the Department of Parks and Recreation to:

(A) Develop and coordinate all recreation activities of the city;

(B) Prepare development plans for present parks and for future park areas;

(C) Investigate all federal programs for park and recreation development and prepare necessary forms;

(D) Supervise swimming pool operations;

(E) Develop and supervise a park maintenance program;

(F) Coordinate city wide beautification efforts; and

(G) Perform such other duties and conduct such other activities in connection with the park, recreation and cultural needs of the inhabitants of the city, as the City Council shall from time to time provide.

(Code 1965, §2-97; Ord. No. 1526, 1-3-67; Code 1991, §33.017)

33.018 - Parks And Recreation Advisory Board

(A) *Composition.*

(1) The Parks and Recreation Advisory Board shall be composed of nine (9) members appointed by the City Council for terms of three (3) years. Such terms shall be staggered so that three (3) members will be appointed each year.

(2) All members of the Parks and Recreation Advisory Board shall serve without compensation.

(B) *Meetings of Advisory Board and Responsibilities.* The Parks and Recreation Advisory Board shall meet monthly with the Director of Parks and Recreation. The Advisory Board shall advise and recommend to the Director of Parks and Recreation, Mayor and City Council on all aspects of parks and recreation activities. Annually, the Advisory Board shall develop a suggested work program and operating budget to be submitted to the city by November of each year for the subsequent year. The Advisory Board shall also recommend priorities for capital improvements and means for financing same, and shall prepare an annual progress report on parks and recreation activities.

(Code 1965, §§2-98, 2-99; Ord. No. 1526, 1-3-67; Ord. No. 3058, 12-18-84; Ord. No. 3074, 3-19-85; Ord. No. 4290, 2-20-01; Code 1991, §33.018; Ord. No. 5023, 6-5-07; Ord. No. 5158, 8-5-08; Ord. No. 5446, 10-4-11)

33.019—33.029 - Reserved

ARTICLE III *PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS* ~~***DEPARTMENT OF PARKS AND RECREATION***~~

33.015 Establishment

There is hereby established the Department of ~~Parks and Recreation of the city. The scope of work of the department has changed to now include Natural Resources and Cultural Affairs and no longer includes maintenance. The department will be called~~ Parks, Natural Resources and Cultural Affairs.

(Code 1965, §2-95; Ord. No. 1526, 1-3-67; Code 1991, §33.015)

33.016 Administration

The Department of Parks, Natural Resources and Cultural Affairs~~Parks and Recreation~~ shall be administered and directed by a qualified person appointed by the Mayor, who shall be known as the Director of Parks, Natural Resources and Cultural Affairs~~Parks and Recreation~~. Said director shall have one or more assistants and such staff as the City Council from time to time shall authorize.

(Code 1965, §2-96; Ord. No. 1526, 1-3-67; Code 1991, §33.016)

33.017 Duties

It shall be the dut~~ies~~y of the Department of Parks, Natural Resources and Cultural Affairs ~~Parks and Recreation~~ to:

(A) Develop a ten-year Park System Master Plan to assist the Department and city in providing parks and recreation facilities and services;~~.~~

(B) Develop and coordinate all recreation activities of the city;

(C~~B~~) Prepare development plans for present parks and for future park areas;

(D~~C~~) Investigate ~~all~~ federal ~~and~~, state, and private programs for park ~~and~~, recreation and cultural development and prepare necessary forms;

(E~~D~~) ~~Supervise swimming pool~~ Provide and manage aquatic venues; ~~operations;~~

(F~~E~~) Develop an Arts and Culture Master Plan and ~~P~~implement programming in alignment with the Plan;

(G~~F~~) Coordinate management of the city's natural resources and urban forest;~~Develop and supervise a park maintenance program;~~

(H~~F~~) Coordinate city wide beautification efforts;~~; and~~

(I~~G~~) Perform such other duties and conduct such other activities in connection with the park, recreation and cultural needs of the inhabitants of the city, as the City Council shall from time to time provide;~~.~~

(j) Coordinate with and advise the Public Works Department concerning park maintenance needs and schedules; and~~.~~

(k) ~~Where appropriate partner~~Work with other agencies and non-profits to expand arts, parks, and recreation opportunities and amenities in the city where appropriate.

(Code 1965, §2-97; Ord. No. 1526, 1-3-67; Code 1991, §33.017)

33.018 Parks, Natural Resources and Cultural Affairs ~~Parks And Recreation~~ Advisory Board

(A) *Composition.*

(1) ~~The Parks and Recreation Advisory Board shall be composed of n~~Nine (9) members shall be appointed by the City Council for terms of three (3) years. Such terms shall be staggered so that three (3) members will be appointed each year.

(2) All members of the Parks, Natural Resources and Cultural Affairs ~~Parks and Recreation~~ Advisory Board shall serve without compensation.

(B) *Meetings of Advisory Board and Responsibilities.*

(1) The Parks, Natural Resources and Cultural Affairs ~~and Recreation~~ Advisory Board shall meet monthly with the Director. ~~of Parks and Recreation.~~

(2) The Advisory Board shall advise and recommend to the Director ~~of Parks and Recreation~~, Mayor and City Council on all aspects of parks, natural resources and cultural affairs ~~and recreation~~ activities.

(3) The Advisory Board shall coordinate with other boards such as the Urban Forestry Advisory Board and the Fayetteville Arts Council as needed to stay informed on topics related to the Parks, Natural Resources and Cultural Affairs Department.

(4) Annually, the Advisory Board shall advise on ~~develop a suggested~~ work program priorities. ~~and operating budget to be submitted to the city by November of each year for the subsequent year.~~

(5) The Advisory Board shall also recommend priorities for capital improvements and means for financing same and shall prepare an annual progress report on department~~parks and recreation~~ activities.

(Code 1965, §§2-98, 2-99; Ord. No. 1526, 1-3-67; Ord. No. 3058, 12-18-84; Ord. No. 3074, 3-19-85; Ord. No. 4290, 2-20-01; Code 1991, §33.018; Ord. No. 5023, 6-5-07; Ord. No. 5158, 8-5-08; Ord. No. 5446, 10-4-11)

33.019—33.029 Reserved

ARTICLE III PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS

33.015 Establishment

There is hereby established the Department of Parks, Natural Resources and Cultural Affairs.

(Code 1965, §2-95; Ord. No. 1526, 1-3-67; Code 1991, §33.015)

33.016 Administration

The Department of Parks, Natural Resources and Cultural Affairs shall be administered and directed by a qualified person appointed by the Mayor, who shall be known as the Director of Parks, Natural Resources and Cultural Affairs. Said director shall have one or more assistants and such staff as the City Council from time to time shall authorize.

(Code 1965, §2-96; Ord. No. 1526, 1-3-67; Code 1991, §33.016)

33.017 Duties

It shall be the duty of the Department of Parks, Natural Resources and Cultural Affairs to:

(A) Develop a ten-year Park System Master Plan to assist the Department and city in providing parks and recreation facilities and services;

(B) Develop and coordinate all recreation activities of the city;

(C) Prepare development plans for present parks and for future park areas;

(D) Investigate federal, state, and private programs for park, recreation and cultural development and prepare necessary forms;

(E) Provide and manage aquatic venues;

(F) Develop an Arts and Culture Master Plan and implement programming in alignment with the Plan;

(G) Coordinate management of the city's natural resources and urban forest;

(H) Coordinate city wide beautification efforts;

(I) Perform such other duties and conduct such other activities in connection with the park, recreation and cultural needs of the inhabitants of the city, as the City Council shall from time to time provide;

(j) Coordinate with and advise the Public Works Department concerning park maintenance needs and schedules; and

(k) Work with other agencies and non-profits to expand arts, parks, and recreation opportunities and amenities in the city where appropriate.

(Code 1965, §2-97; Ord. No. 1526, 1-3-67; Code 1991, §33.017)

33.018 Parks, Natural Resources and Cultural Affairs Advisory Board

(A) *Composition.*

(1) Nine (9) members shall be appointed by the City Council for terms of three (3) years. Such terms shall be staggered so that three (3) members will be appointed each year.

(2) All members of the Parks, Natural Resources and Cultural Affairs Advisory Board shall serve without compensation.

(B) *Meetings of Advisory Board and Responsibilities.*

(1) The Parks, Natural Resources and Cultural Affairs Advisory Board shall meet monthly with the Director.

(2) The Advisory Board shall advise and recommend to the Director, Mayor and City Council on all aspects of parks, natural resources and cultural affairs activities.

(3) The Advisory Board shall coordinate with other boards such as the Urban Forestry Advisory Board and the Fayetteville Arts Council as needed to stay informed on topics related to the Parks, Natural Resources and Cultural Affairs Department.

(4) Annually, the Advisory Board shall advise on work program priorities.

(5) The Advisory Board shall also recommend priorities for capital improvements and means for financing same and shall prepare an annual progress report on department activities.

(Code 1965, §§2-98, 2-99; Ord. No. 1526, 1-3-67; Ord. No. 3058, 12-18-84; Ord. No. 3074, 3-19-85; Ord. No. 4290, 2-20-01; Code 1991, §33.018; Ord. No. 5023, 6-5-07; Ord. No. 5158, 8-5-08; Ord. No. 5446, 10-4-11)

33.019—33.029 Reserved

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1181

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Alison

DATE: October 17, 2023

SUBJECT: **Approval of Amendments to Title IX Chapter 97, Park, Natural Resources and Cultural Affairs**

RECOMMENDATION:
Staff recommends approving the amendments to Title IX, Chapter 97, Parks, Natural Resources and Cultural Affairs.

BACKGROUND:
Several updates are needed to Chapter 97 to address evolving recreation trends, as well as safety concerns and protection of resources. The proposed amendments also clarify and simplify language throughout.

DISCUSSION:
Several minor changes are proposed including clearly defining the term Director, referring to the City instead of Parks and Recreation throughout the chapter, and updating the department name to Parks, Natural Resources and Cultural Affairs where needed.

Substantive changes include increasing protections of natural resources located in parks, adding protection of cultural resources including adding a permit process for the use of metal detectors and other remote sensing devices; and regulating the use of electric bikes on soft surface trails.

Lastly, the proposed language addresses the sunset date of December 21, 2022 on the current allowance for Director of Park, Natural Resources and Cultural Affairs to approve vendors or appoint market organizers to sell food, non-alcoholic beverages, and arts and crafts in parks as part of City-sponsored event by making this allowance permanent.

Proposed amendments were discussed at the August and September Parks Board meetings, and unanimously approved in October.

BUDGET/STAFF IMPACT:
None.

ATTACHMENTS: SRF (#3), CHAPTER_97___PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS_EXISTING (#4), CHAPTER_97____PARKS__NATURAL_RESOURCES__AND_CULTURAL_AFFAIRS_REDLINE (#5),

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

File #: 2023-1181

Approval of Amendments to Title IX Chapter 97, Park, Natural Resources and Cultural Affairs

AN ORDINANCE TO AMEND CHAPTER 97, PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS OF THE CITY CODE TO ADDRESS EVOLVING RECREATION TRENDS, SAFETY CONCERNS, PROTECTION OF NATURAL AND CULTURAL RESOURCES, AND TO CLARIFY AND SIMPLIFY LANGUAGE

WHEREAS, several updates are needed to Chapter 97 to address evolving recreation trends, as well as safety concerns and protection of resources; and

WHEREAS, several minor changes are proposed, including clearly defining the term Director, referring to the City instead of Parks and Recreation throughout the chapter, and updating the department name to Parks, Natural Resources and Cultural Affairs where needed; and

WHEREAS, substantive changes include increasing protection of natural resources located in parks, adding protection of cultural resources including adding a permit process for the use of metal detectors and other remote sensing devices; and regulating the use of electric bikes on soft surface trails; and

WHEREAS, the proposed language also makes permanent the current temporary allowance for the Director of Park, Natural Resources and Cultural Affairs to approve vendors or appoint market organizers to sell food, non-alcoholic beverages, and arts and crafts in parks as part of City-sponsored events; and

WHEREAS, City staff and the Parks and Recreation Advisory Board recommend approving these amendments.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals Chapter 97, **Parks, Natural Resources and Cultural Affairs** of the City Code and enacts a new Chapter 97 as shown in Exhibit A attached to this Ordinance.

City of Fayetteville Staff Review Form

2023-1181

Item ID

11/7/2023

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

Alison Jumper	10/16/2023	PARKS & RECREATION (520)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends approving the updates to Title IX, Chapter 97, Parks, Natural Resources and Cultural Affairs.

Budget Impact:

NA	NA
Account Number	Fund
NA	NA
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # 6664

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

CHAPTER 97: - PARKS, NATURAL RESOURCES, AND CULTURAL AFFAIRS

Footnotes:
--- (1) ---
Editor's note— *Ord. No. 6664 , §1, adopted May 16, 2023, amended the title of Ch. 97 to read as herein set out. The former Ch. 97 title pertained to Parks and Recreation.*

ARTICLE I - GENERAL PROVISIONS

97.001 - Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City. The City of Fayetteville, Arkansas.

Director. A person immediately in charge of any park area and its activities, and to whom all park attendants of such area are responsible.

Park. A park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

Vehicle. Any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled and shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks.

(Code 1965, §17-A-1; Ord. No. 1594, 4-1-68; Code 1991, §97.001)

(Code 1965, §17A-2; Ord. No. 1594, 4-1-68; Code 1991, §97.002)

97.002—97.014 - Reserved

ARTICLE II - PARK OPERATIONS; ADMINISTRATION AND ENFORCEMENT

97.015 - Operating Hours

(A) Except for unusual emergencies, city parks shall be open to the public every day of the year from daylight until 11:00 p.m. except Shared Use Paved Trails as designated on the Parks and Trails Interactive Map which are open 24 hours every day. Any section or part of any park may be declared closed to the public by the city or its duly authorized representative at any time and for any interval of time.

(B) Parks and Recreation staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.

(Code 1965, §17A-32; Ord. No. 1594, 4-1-68; Code 1991, §97.015; Ord. No. 5501, 6-5-12; Ord. No. 582 8, §1(Exh. A), 12-15-15)

97.016 - Fee For City Park Athletic Facilities And Trails For Tournaments And Special Events

(A) For the use of city park athletic facilities or city trails for tournaments and special events, the Mayor shall establish fees to be charged to defray the costs of event setup, maintenance, trash pickup and removal, equipment use, water, and electricity. Fayetteville Trails will remain open to the public, with the exception of annual events approved by the city and operated by

non-profit entities and events organized in conjunction with the City of Fayetteville. Trails and park areas shall not be closed more than four (4) hours at any time unless approved by the Mayor.

(B) The sponsors of any tournament or special event shall pay a trash and key deposit and arrange for all necessary umpires and/or coordinators. Upon conclusion of each tournament or event, the sponsor shall restore each facility or trail to the same condition it was in prior to the tournament or event in order for deposit to be returned.

(Code 1965, §2-100; Ord. No. 2714, 4-7-81; Ord. No. 4115, 8-18-98; Code 1991, §97.016; Ord. No. 5681, 4-15-14; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.017 - Fees For City Swimming Pools

Upon the recommendation of the Parks and Recreation Advisory Board, the Mayor, or his/her designee, shall establish and make periodic adjustments to the schedule of fees charged for the use of city swimming pools.

(Ord. No. 4371, 2-19-02; Code 1991, §97.017)

97.018 - Enforcement By Director, Park Staff, And City Police

The Director, park staff and city police shall in connection with their official duties diligently enforce the provisions of this chapter.

(Code 1965, 17A-33; Ord. No. 1594, 4-1-68; Code 1991, §97.018; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.019—97.029 - Reserved

ARTICLE III - CARE OF PARK PROPERTY

97.030 - Buildings And Other Property

No person in a park shall wilfully mark, deface, disfigure, injure or tamper with any buildings, monuments, bridges, tables, benches, fireplaces, signs, public utilities or other structures or equipment, facilities, or park property or appurtenances whatsoever, either real or personal.

(Code 1965, §17A-3; Ord. No. 1594, 4-1-68; Code 1991, §97.030)

97.031 - Restrooms And Washrooms

No person in a park shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex.

(Code 1965, §17A-4; Ord. No. 1594, 4-1-68; Code 1991, §97.031)

97.032 - Removal Of Natural Resources

No person in a park shall dig, or remove any sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency, except on special written permit obtained from the city.

(Code 1965, §17A-5; Ord. No. 1594, 4-1-68; Code 1991, §97.032)

97.033 - Damaging Trees, Shrubs And Flowers

No person except for City Parks and Recreation Department employees or those authorized by the Parks and Recreation Director shall damage, cut, climb, carve, injure, transplant or remove any tree, shrub or flower from a city park, nor attach any rope, wire, or other contrivance to any tree or shrub in a city park.

(Code 1965, §17A-7; Ord. No. 1594, 4-1-68; Code 1991, §97.033; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.034 - Pollution Of Water

No person in a park shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance which will or may result in the pollution of said waters.

(Code 1965, §17A-9; Ord. No. No. 1594, 4-1-68; Code 1991, §97.034)

97.035 - Wild Animals, Birds, Fish, And The Like

No person in a park shall hunt, molest, harm, frighten, poison, kill, trap or remove any animal, reptile, fish, or bird; nor remove the eggs, nest or young of any wild animal, fish, reptile, or bird.

(Code 1965, §17A-8; Ord. No. No. 1594, 4-1-68; Code 1991, §97.035)

97.036 - Erection Of Structures

No person in a park shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit obtained from the city.

(Code 1965, §17A-6; Ord. No. No. 1594, 4-1-68; Code 1991, §97.036)

97.037 - Refuse And Trash

No person shall bring any refuse or trash into a park. Trash generated by picnicking or other activities in the park shall be placed within proper receptacles if available or carried out of the park for proper disposal.

(Code 1965, §17A-10; Ord. No. 1594, 4-1-68; Code 1991, §97.037; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.038 - Animals To Be Leashed

Owners must keep their animals on a leash in a park. Dogs are allowed to be off leash in designated dog parks and Lake Wilson Park except that all vicious animals and dangerous animals as defined and regulated in Chapter 92 **Animals** may never be allowed to be off leash in any city park. Owners and anyone in control of a pet shall pick up, remove and properly dispose of their pet's waste as also required by §92.06 **Animal Waste, Offensive Odors Prohibited.**

(Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.039—97.049 - Reserved

ARTICLE IV - TRAFFIC RULES

97.050 - Compliance With State And City Motor Vehicle Laws Required

No person in a park shall fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such applicable regulations as are contained in this chapter and Title VII of this Code of Ordinances.

(Code 1965, §17A-11; Ord. No. 1594, 4-1-68; Code 1991, §97.050)

97.051 - Speed Of Vehicles

No person in a park shall ride or drive a vehicle at a rate of speed exceeding 10 miles per hour, except upon such roads as the city may designate, by posted signs, for speedier travel.

(Code 1965, §17A-12; Ord. No. 1594, 4-1-68; Code 1991, §97.051)

97.052 - Parking

No person in a park shall park a vehicle in other than an established or designated parking area, and such use shall also be in accordance with the provisions of Chapter 72 of this Code of Ordinances.

(Code 1965, §17A-13; Ord. No. 1594, 4-1-68; Code 1991, §97.052)

97.053 - Vehicles Prohibited After Closing Hours

No person except city staff shall enter, operate, park, leave or abandon a vehicle within a park after the closing hour of 11:00 p.m. No person except city staff shall operate a vehicle anywhere other than on a paved vehicular road or path designated for vehicular access.

(Code 1965, §17A-14; Ord. No. 1594, 4-1-68; Code 1991, §97.053; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.054 - Bicycles, Motorbikes, Skateboards And The Like

No person in a park shall ride, drive, operate or push a bicycle, motorbike, scooter, skateboard, roller skates and the like on other than a paved vehicular road, path, or course designated for that purpose.

(Code 1965, §17A-15; Ord. No. 1594, 4-1-68; Code 1991, §97.054)

97.055—97.064 - Reserved

ARTICLE V - RECREATIONAL ACTIVITIES

97.065 - Bathing And Swimming; Bathhouses

(A) No person in a park shall swim, bathe, or wade in any waters or waterways in any park, except in such waters as are provided therefor and except during such hours of the day as shall be designated by the city. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the city upon a finding that such use of the water would be dangerous or otherwise inadvisable. Groups wishing to have a special event at Lake Fayetteville that includes swimming shall obtain a special use permit from the City Parks and Recreations staff, see section 97.071.

(B) No person in a park shall dress or undress in any vehicle, toilet or other place, except in such bathing houses or structures as may be provided for that purpose.

(Code 1965, §17A-17; Ord. No. 1594, 4-1-68; Code 1991, §97.065; Ord. No. 5285, 11-17-09)

97.066 - Hunting And Firearms

(A) No person in a park shall hunt, trap or pursue wildlife at any time; provided that the trapping of muskrats, beavers or other burrowing animals may be permitted on city reservoirs and waterways upon approval of the Mayor for the protection of earthen dams. No person except city police and Animal Control Officers shall use, carry, or possess firearms of any description or air rifles, spring guns, slings, traps, or other weapons or devices potentially inimical to wildlife or dangerous to human safety. Bows and arrows will be permitted on archery ranges so designated and supervised by the city.

(B) Subsection (A) shall not be interpreted to prohibit the possession of firearms in city parks by on-duty law enforcement officers or other persons if such prohibition would not be allowed by state law.

(Code 1965, §17A-18; Ord. No. 1594, 4-1-68; Ord. No. 1963, 11-20-73; Code 1991, §97.066; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6222 , §1, 9-3-19)

97.067 - Picnic Facilities; Duty Of Picnicker

(A) No person in a park shall use any portion of the park or recreational facilities to the exclusion of other persons; nor shall any person use such areas and facilities for an unreasonable time if the facilities are crowded. Use of individual grills, tables, benches, and recreational facilities will generally follow the rule of "first come, first served" unless otherwise scheduled by the Parks and Recreation Department.

(B) No person in a park shall leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. Where no such trash receptacles are available, the refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(Code 1965, §17A-19; Ord. No. 1594, 4-1-68; Code 1991, §97.067; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.068 - Camping Prohibited

No person in a park shall set up or use tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person bring in or leave in a city park after closing hours any structure or vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like without a Camping Permit approved by the Parks and Recreation Director. Boy Scouts and other groups who have served the Parks and Recreation Department through approved work programs in parks may be permitted to camp at designated park campsites with an approved Camping Permit authorized by the Parks and Recreation Director. Tournament directors of park related sanctioned tournaments may be permitted to camp at designated tournament facility sites with an approved Camping Permit authorized by the Parks and Recreation Director. Special event and/or Race Directors and event participants may be permitted to camp at designated campsites with an approved Camping Permit authorized by the Parks and Recreation Director.

(Code 1965, §17A-20; Ord. No. 1594, 4-1-68; Code 1991, §97.068; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6415 §1, 2-18-21)

97.069 - Horseback Riding

No person in a park shall ride a horse except on designated bridle trails approved by the Parks and Recreation Director. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care and shall not be allowed to go unattended.

(Code 1965, §17A-22; Ord. No. 1594, 4-1-68; Code 1991, §97.069; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.070 - Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson

(A) *Hours.* Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided:

(1) Lake Fayetteville shall be closed on Thanksgiving Day and from sunset on December 23rd through January 14th.

(2) The Director of the Parks and Recreation Department is authorized to extend the operating hours of a lake when reasonable and necessary to accommodate a tournament, special event, or seasonal weather conditions.

(B) *Permits for Fishing and Boating.* Fishing and boating permits are required for Lake Fayetteville. There is no permit requirement for Lake Wilson, Lake Sequoyah or other Park areas containing fishable waters.

(1) *Permits:*

(a) Annual boating and fishing permit (age sixty-five (65) and older and veterans) $40.00

(b) Annual boating and fishing permit (sixteen (16)—sixty-four (64)) $50.00

(c) Daily boating and fishing permit (sixty-five (65) and older and veterans) $5.00

(d) Daily boating and fishing permit (sixteen (16)—sixty-four (64)) $6.00

(e) Annual fishing/use permit (sixty-five (65) and older and veterans) $20.00

(f) Annual fishing/use permit (sixteen (16)—sixty-four (64)) $30.00

(g) Daily fishing/use permit (sixty-five (65) and older and veterans) $2.00

(h) Daily fishing/use permit (sixteen (16)—sixty-four (64)) $3.00

(i) Daily fishing/use permit (under sixteen (16) with permitted adult) .....Free

(j) Daily non-motorized boating (canoes, inflatables, kayaks, paddle boats and sailboats) $3.00

(k) Annual non-motorized boating (per patron, nontransferable) $20.00

(2) *Miscellaneous.*

(a) Each person sixteen (16) years of age or older is required to purchase a fishing/use permit for fishing on the lake or any stream within the city owned lake property at Lake Fayetteville.

(b) There will be two (2) free fishing weekends each year where city fishing/use permits will not be required. One (1) weekend will coincide with the Arkansas Game and Fish free fishing weekend. The Parks and Recreation Director will designate the second weekend annually.

(c) A boating permit applies to the boat rather than the occupants thereof; however, all occupants of a boat, sixteen (16) years of age or older must purchase a fishing/use permit. Daily permits are valid only for use on the date of purchase.

(d) Juveniles and their supervisors shall be exempt from the boating and fishing permit fee if they are part of Washington County government rehabilitation program approved by the Director of the Fayetteville Parks and Recreation Department for the location, date and time of lake access.

(C) *Boat Docking.* Boat docking shall be permitted at Lake Fayetteville on a space available basis to season boating and fishing permit holders for the following per boat annual fees:

(1) City resident $250.00

(2) Non-resident $325.00

(D) *Fishing.* All fishing shall be done only from the bank, designated docks or boat. No wading, swimming, paddle boards or belly boats shall be permitted in all city lakes. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught; however, the Fayetteville Parks and Recreation Department may provide additional limitations necessary to manage the fish population. All persons fishing at Lake Fayetteville should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, limb lines, cast nets, yo-yos or jug fishing.

(E) *Boating.* A boating permit for each boat must be purchased before its use on Lake Fayetteville. All boats must be docked or removed from the lake at closing time. No boats except those used by lake employees or the Environmental Study Center will be docked at any other location on the lake. Boating may be closed to the public by the Parks and Recreation Department during a special event that includes swimming.

(F)

Place of Entry. All persons boating at Lake Fayetteville shall enter the lake only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution. All persons boating at Lake Sequoyah and Lake Wilson shall enter the lake only at the boat ramp.

(G) *Use of Motors on Boats.*

(1) In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof. All city lakes are no wake lakes. Speeding and boat racing is not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.

(2) No boats shall be permitted within 500 feet of the spillway of any lake.

(3) No houseboats, paddle boards, water skiing, or jet skis are permitted.

(4) All state laws governing boats must be complied with before using a boat on any city lake.

(5) The city will not be responsible for any damage to or theft of boats, motors, or equipment.

(H) *Picnicking or Other Recreational Activities.* Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which are controlled by the city.

(I) *Committing Nuisances.* No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the city, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.

(J) *Fishing and Boating Prohibited Near Intake Tower.* No one shall climb upon, enter, or fish from the intake towers of the lakes.

(K) *Fishing on Stream Below Dam.* State laws governing fishing below dams shall be applicable on city property. Fishing permits are required to fish in the stream on city property below the dam at Lake Fayetteville.

(L) *Firearms and Hunting.* No firearms, hunting or trapping will be permitted on city owned property at any time.

(M) *Use of Motor Vehicles.* No person at Lake Fayetteville, Lake Sequoyah, or Lake Wilson shall drive a motor vehicle or ride a motorcycle, ATV or bicycle on other than a paved vehicular road or path designated for that purpose.

(N) *Revoking Permits.* The city shall have the right to revoke any permit issued under this section if it is determined that the permittee willfully violated any of the provisions of this section. When a permit is revoked, there will be no refunds.

(Code 1965, §13-12; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Ord. No. 3437, 7-5-89; Ord. No. 3533, 2-19-91; Ord. No. 4168, 6-1-99; Code 1991, §97.070; Ord. No. 4707, 06-07-05; Ord. No. 4811, 12-20-05; Ord. No. 5139, 5-6-08; Ord. No. 5229, 3-17-09; Ord. No. 5285, 11-17-09; Ord. No. 5596, 07-02-13; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6597 , §1(Exh. A), 9-6-22)

97.071 - Fayetteville Special Use Permit For Events That Include A Swimming Component

(A) *Special Events That Include Swimming.* Special events that include a swimming component, such as a triathlon, may be permitted at Lake Fayetteville with a special use permit issued by the Director of the City Parks and Recreation Department. Such issuance will be at the sole discretion of the Director and should comply with the following:

(1) A special event permit should be processed through the City Parks and Recreation Department at least ninety (90) days prior to the event.

(2) A water testing fee of $250.00 and a special event fee in an amount sufficient to cover all city costs to administer the event shall be charged to the event organizer for the use of the Lake Fayetteville Park space and facilities. A further security deposit to ensure complete clean up or repair of any damage may be required. The Director may require an event organizer to obtain sufficient liability insurance and take measures to increase swimmers' safety.

(3) The city does not warrant the safety or cleanliness of any lake for swimmers. Event organizers shall provide notice of the inherent danger of swimming in the lake to all persons requesting to swim and shall obtain waivers of liability and responsibility for the City of Fayetteville from all participants.

(4) The City of Fayetteville reserves the right to allow swimming only in designated areas during the event and prohibit boating in these areas.

(5) The City of Fayetteville reserves the right to cancel previously approved special events due to unacceptable water quality, inclement weather or other valid reason.

(Ord. No. 5285, 11-17-09)

97.072—97.079 - Reserved

ARTICLE VI - CONDUCT IN PARKS

97.080 - Gambling Prohibited; Recreational Activities To Take Place Only In Suitable Areas

No person in a park shall gamble, or participate in, or abet any game of chance. Nor shall any person take part in or abet the playing of other forms of recreation except in areas set apart for or conducive to the particular form of recreation.

(Code 1965, §17A-21; Ord. No. 1594, 4-1-68; Code 1991, §97.080)

97.081 - Intoxicating Beverages

(A) No person in a park shall bring into or consume alcoholic beverages within a city park, nor shall any person enter a park when under the influence of intoxicating beverages.

(B) Notwithstanding the above prohibition:

(1) The Botanical Garden Society of the Ozarks may allow alcoholic beverages to be served on the premises they have leased within the Lake Fayetteville park area for fundraisers, wedding receptions and other special events as long as they fully comply with all alcoholic beverage control requirements.

(2) The Mayor or the Mayor's designee may issue a permit allowing the temporary possession, sale and consumption of alcoholic beverages in city parks for special events as long as the event sponsors fully comply with all applicable state and local laws and regulations, including alcoholic beverage control requirements. The permit may include any conditions necessary to ensure public safety and the protection of city property.

(3) Alcoholic beverages may be possessed or consumed in a city park or other recreational facility within the Downtown Outdoor Refreshment Area boundaries pursuant to the provisions of §111.07 of the Fayetteville City Code and any additional administrative regulations.

(Code 1965, §17A-23; Ord. No. 1594, 4-1-68; Code 1991, §97.081; Ord. No. 4865, 05-16-06; Ord. No. 6029 , §1, 1-2-18; Ord. No. 6469 , §§ 1, 2, 8-17-21)

97.082 - Fires; Fireworks And Explosives

(A) No person in a park shall build or attempt to build a fire except in fireplaces or facilities so designed for such use, nor leave any fire unattended. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes, or cigars, tobacco papers or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(B) No person in a park shall bring in, explode or cause to be exploded, discharge or burn any firecrackers, torpedoes, skyrockets, roman candles or other fireworks, explosives or inflammable materials without having first obtained prior written consent pursuant to the requirements of §94.05(G).

(Code 1965, §§17A-24, 17A-26; Ord. No. 1594, 4-1-68; Code 1991, §97.082; Ord. No. 5860 , §1, 3-15-16)

97.083 - Smoking And Use Of Tobacco Products

(A) Smoking and use of tobacco products includes holding a lighted pipe, cigar, or cigarette of any kind, or lighting, or emitting or exhaling the smoke of, a pipe, cigar, or cigarette of any kind. It also includes the use of all smokeless tobacco and nicotine-containing products (including, but not limited to, chewing tobacco, snuff, dip, and snus), electronic cigarettes, vapor devices, or heated devices.

(B) It shall be prohibited for any person to smoke or use tobacco products in any city owned or operated recreational facilities, parks, and trails.

(C) Exemption: Cessation products approved by the United States Food and Drug Administration such as nicotine gum, nicotine lozenges, nicotine patches, pharmaceutical nicotine inhalers (not including any form of electronic products), and nicotine nasal sprays are specifically exempted from this section and can be used in city owned or operated recreational facilities, parks, and trails.

(D) The city shall post signs in city owned or operated parks, trails, and recreational facilities at the discretion of the Director of Parks and Recreation notifying the public that smoking and tobacco use of any kind are prohibited.

(E) Any person who smokes or uses tobacco products in an area where it is prohibited by this section shall be guilty of a violation punishable by a fine not exceeding $50.00 per occurrence.

(Ord. No. 6046 , §1, 3-6-18)

97.084 - Entering Closed Areas

No person in a park shall enter an area posted as "Closed to the Public", nor shall any person use, or abet the use of, any area in violation of posted notices.

(Code 1965, §17A-27; Ord. No. 1594, 4-1-68; Code 1991, §97.084)

97.085 - Going Onto Ice

No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating fields, and provided a safety signal is displayed.

(Code 1965, §17A-28; Ord. No. 1594, 4-1-68; Code 1991, §97.085)

97.086 - Vending And Peddling

(A) *General Prohibition of Selling in City Parks.* No person or business shall within a city park sell anything.

(B) *Exemptions.*

(1) The city's regularly licensed concessionaires acting pursuant to the authority and regulation of the city are exempt from subsection (A).

(2) Nonprofit organizations which have obtained a special events permit may sell nonalcoholic beverages, food and other approved items during an annual event.

(3) Sponsors of the Gulley Park Concert Series and other special events offered by the Department of Parks, Natural Resources, and Cultural Affairs may sell food, nonalcoholic beverages, and other approved items during the event when specifically approved by the Director of Parks, Natural Resources, and Cultural Affairs. Approved merchandise may be sold at special events by performers and hosts if approved in advance by the Director of Parks, Natural Resources, and Cultural Affairs.

(4) The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays, Saturdays and one (1) weekday within a portion of the Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the society) as shown on Exhibit A.



(5) Organizations the city directly funds, event sponsors and the non-profit Friends of Fayetteville Parks are allowed at no charge to setup a table to distribute information at park events upon approval of the Director of Parks, Natural Resources, and Cultural Affairs.

(6) The Director of Parks, Natural Resources, and Cultural Affairs is authorized to appoint a market organizer to coordinate and oversee the administration of vendors to sell food, nonalcoholic beverages, and other approved items as a part of the Gulley Park Concert Series. The provisions of this subsection shall expire on December 31, 2023.

(C) Food trucks permitted pursuant to §178.05 may operate in city parks as described below:

(1) Food trucks may not locate in the same area that is actively being served by a contracted concessionaire as shown on Exhibit C during regular season Fayetteville Parks, Natural Resources, and Cultural Affairs leagues and tournaments.

(2) Food trucks may locate at Gulley Park during a Gulley Park Concert or special event in other parks such as tournaments, reserved park gatherings, etc. if approved by the Director of Parks, Natural Resources, and Cultural Affairs.

(D) For special events, food trucks and sales of items other than food may be approved by the Director of Parks, Natural Resources, and Cultural Affairs through a special event permit.

(Code 1965, §17A-29; Ord. No. 1594, 4-1-68; Code 1991, §97.086, Ord. No. 5310, 4-6-10; Ord. No. 5531, 10-02-12; Ord. No. 5666, 3-18-14; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 5940 , §2, 12-20-16; Ord. No. 6664 , §2(Exh. A), 5-16-23)

97.087 - Advertising Prohibited

No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(Code 1965, §17A-30; Ord. No. 1594, 4-1-68; Code 1991, §97.087)

97.088 - Signs Prohibited

(A) No person in a park shall paste, glue, tack, or otherwise post any sign, placards, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park, except as set forth herein below.

(B) *Exceptions.*

(1) *Athletic Field Signage.* Signs shall be permitted on softball/baseball outfield fences and scoreboards at locations and in sizes designated by the Parks and Recreation Director. Uniform fees shall be charged dependent upon placement and size of the permitted signs. The content of the sign and whether it is commercial or non-commercial may not be considered. Designated spaces shall be sold at the established price on a first come basis. The owner of a sign at a designated location shall have first right to renew before others can purchase the size/location for a new or replacement sign.

(2) *Recognition Signs.* Signs located in city parks or on city trails that are used for the purpose of memorializing a person or family through naming, recognition of significant donors, or recognition of contributions to the facility or amenity on which the sign is installed shall meet the following conditions:

(a) *Maximum Number of Recognition Signs.* Most donor or honoree recognition signs shall be limited to one for the facility financed by the donor or memorializing the honoree. For a park or a major facility with more than one major entrance, a second recognition sign may be recommended by the Parks and Recreation Advisory Board and approved by the City Council.

(b) *Maximum Size of Recognition Signs.*

(i) Donor recognition signs in city parks shall be sized in accordance with Exhibit "A", Donor Recognition Signs, unless otherwise determined by City Council resolution.

(ii) Trail Recognition Signs shall not exceed four square feet for trailhead facilities. Recognition signs along the trail for park benches, etc., shall not exceed 1.5 square feet and should be incorporated within or attached to the bench or amenity sponsored by the donor.

(c) *Design Requirements.* All recognition signs must comply with the following requirements and shall adhere to the aesthetic values and design of the park or trail.

(i) The recognition sign shall include only the name of the person memorialized or the name of the organization, person or business which has donated significant funds to the park facility. A company or organization logo (without company colors, any advertising or slogans) may be used on the sign.

(ii) The design of the sign shall be incorporated into the park facility and shall be approved by the Director of Parks and Recreation who shall ensure the signs' high quality and durable construction and its consistency with other recognition signs within the park.

(iii) Recognition signs shall comply with the Donor Operational Policy unless exempted by the City Council.

(d) *Facility Naming.* The naming of facilities is permitted so long as the donor or honoree has made a significant contribution to the city, the facility or the Parks and Recreation Department in terms of financial donations, voluntarism or dedicated public service. Final naming of facility may be as recommended by the Parks and Recreation Advisory Board with final selection and approval by the City Council. Naming of the facilities should meet the Naming Park Facilities Policy attached as Exhibit "B", unless otherwise determined by City Council resolution.

(e) Adopt-A-Park or trail groups may post a sign while they are actively working on a park project that provides information about their organization or group. The sign must be approved in advance by the Parks and Recreation staff.

Exhibit "A"

CITY OF Fayetteville ARKANSAS	**Parks and Recreation Department Policies and Procedures Manual**		SUBJECT: OPERATIONS POLICY FOR DONOR RECOGNITION SIGNS	
	NUMBER:	REVISIONS:	EFFECTIVE DATE: 6-16-2015	PAGE: 1 OF 1
	SUPERSEDES:	APPROVED BY:		

DONOR RECOGNITION SIGNS

PURPOSE

The purpose of this directive is to provide policies which will govern the naming of park facilities currently owned or acquired by the City of Fayetteville. This policy statement takes precedence over any previous policies and guidelines which may have governed the naming of these facilities.

POLICY

In order to provide important capital facilities in Fayetteville Parks, it is pragmatic in a time of shrinking public dollars to seek outside funding. It is essential to have specific boundaries and criteria in establishing fair and proper recognition of significant facility donations. This policy sets guidelines for donations within parks as well as on trails. All sign and plaque designs must be incorporated into the design of the facility. Donor recognition signs shall adhere to the aesthetic values and design of the park.

Donor recognition in parks is based upon the type of facility donated. Donor recognition on trails is limited on the trailheads unless there is an educational and/or art feature that is appropriate to be displayed along the trail. Recognition signs may not be predominant within the educational and/or art component.

Recognition for each donation will be determined pursuant to the Recognition for Parks and Trails Facilities Policy. Any exceptions to this policy must be approved by City Council. Park Planners have the latitude to design signs recognizing donations based on site location and donor specific criteria. Naming of facilities donated must meet the Naming Park Facilities Operational Policy unless accepted under City Council resolution. The naming proposal will be presented to the Parks and Recreation Advisory Board for their recommendation to City Council. City Council has final approval of the park facility name, including the right to approve a different name. The option for naming facilities is only permitted under the Park Facility Diamond, Platinum, Gold and Silver categories. Minor items such as trash receptacles and flower beds cannot be named.

CITY OF Fayetteville ARKANSAS	Parks and Recreation Department Policies and Procedures Manual		SUBJECT: RECOGNITION FOR PARKS AND TRAILS FACILITIES POLICY	
	NUMBER: PRK-	REVISIONS:	EFFECTIVE DATE: 6-16-2015	PAGE: 1 OF 3
	SUPERSEDES:	APPROVED BY:		

RECOGNITION FOR PARKS AND TRAILS FACILITIES POLICY

Bronze Category: Recognition on Donor Wall for 25 year period

Donation of $25,000 up to $250,000 for park amenities. Examples include:	
Bleachers	Picnic Table and Grill
Batting Cages	Art Sculpture
Bike Racks	Single Playground Apparatus (climbing
Lighting	rocks/swing set)
Drinking Fountain with Dog Bowl	Landscape Feature
Prefabricated Pavilion	
Size of donor wall and names to be approved by the City Council.	

Silver Category: Naming Rights for 10 year period

Donation of 75% cost of new facility over $250,000. Examples include:	
Soccer Field	One Mile Asphalt/Concrete Park Trail
Baseball Field	Small Amphitheater (seating for 150)
Tennis Court	Water Feature
Basketball Court	Parking Lot (25 cars)
Disc Golf Course	Greenhouse
Concession Stand/Restroom	Playground
Park Restroom	

Gold Category: Naming Rights for a Field/Court/Facility for 25 year period

Donation of 100% cost of new facility over $250,000. Examples include:	
Soccer Field	One Mile Asphalt/Concrete Park Trail
Baseball Field	Small Amphitheater (seating for 150)
Tennis Court	Water Feature
Basketball Court	Parking Lot (25 cars)
Disc Golf Course	Greenhouse
Concession Stand/Restroom	Playground

Park Restroom	Dog Park

Platinum Category: Naming Rights of a Complex for 30 year period

Donation of $1 million up to $5 million to name a complete complex. Examples include:	
Sport Complex: 4—6 field lighted	Aquatic center
complex such as softball, baseball,	Amphitheater- seating for 1,200
soccer, tennis	Development of a new park

Diamond Category: Naming Rights of a Park

Donation over $5 million to name a park.
RECOGNITION FOR EXISTING PARK FACILITIES
$200,000 per baseball or softball field for 10 years, or $350,000 for two fields
$150,000 per soccer field for 10 years or $250,000 for two fields
TRAIL FACILITIES

Silver Category receives donor recognition of a press release, ribbon cutting ceremony, plaque constructed of high quality durable materials up to 1.5 sq ft.

Trail Facilities donated in the Silver Category may only be located along trails for educational purposes or as an integral part of an art feature.

Gold Category receives donor recognition of a press release, ribbon cutting ceremony, sign constructed of high quality durable materials up to 4 sq ft.

Trail Facilities donated in the Gold Category may only be located at trailheads for a 25 year period and include the following:	
Parking Lot	Restroom
Pavilion	One Mile Asphalt/Concrete Trail

City Process

1. Parks and Recreation Staff or the Friends of Parks Board meets with donor to discuss donation including amount of donation, development of facility/amenity, recognition operational policy, naming rights (if applicable), sign appearance/style/construction, time requirements and other pertinent topics. Donor must meet the Operational Policy for Donor Recognition Signs.
2. Request is presented for approval from Parks and Recreation Advisory Board. If the facility donated is granted the option to name the facility, the name must meet Park Naming Facility Operational Policy.
3. Request presented to Planning Office for approval.
4. Request presented to City Council for final park name selection and approval.
5. All donors will have first right to re-new their naming rights for an appropriate donation upon conclusion of the time period.
6. The city will reserve the right to remove a donor's name from the facility if the City Council determines by resolution that a donor would otherwise cause undue embarrassment or other issues for the City or its citizens.

Exhibit "B"

CITY OF Fayetteville ARKANSAS	**Parks and Recreation Department Policies and Procedures Manual**		SUBJECT: OPERATIONS POLICY FOR NAMING PARK FACILITIES	
	NUMBER: PRK-	REVISIONS:	EFFECTIVE DATE:	PAGE: 1 OF 1
	SUPERSEDES:	APPROVED BY:		

NAMING PARK FACILITIES

PURPOSE

The purpose of this directive is to provide policies which will govern the naming of park facilities currently owned or acquired by the City of Fayetteville. This policy statement takes precedence over any previous policies and guidelines which may have governed the naming of these facilities.

POLICY

Upon acquisition of a new park, the Director of Parks and Recreation will assign a nondescript temporary working name or subdivision name for the park facility to be used until park development begins.

Once park development begins, the Parks and Recreation Department will receive and forward park facility name suggestions to the Parks and Recreation Advisory Board for review. The Parks and Recreation Advisory Board will discuss and approve the recommendations at their monthly meeting. Once a recommended name has been selected, the Parks and Recreation staff will forward the name to the City Council for its final park name selection including a potentially different name.

The following items should be considered when proposing names for any park facilities:

- Geographic location of the facility
- Outstanding features of the facility
- Commonly recognized historical event, group, or individual
- Individual or group who contributed significantly to the acquisition or development of a facility
- Individual who provided an exceptional service in the interest of the park system

For an individual to be considered, the recommended name must be accompanied by a biographical sketch which provides evidence of historical significance or contributions to the Parks and Recreation Department or City of Fayetteville.

The naming of plaques, markers, and memorials within park facilities must follow the policies as stated above.

Note: A name recommendation from the Active Transportation Committee for trail facilities will be required prior to forwarding to the Parks and Recreation Advisory Board.

(Code 1965, §17A-31; Ord. No. 3677, §2, 3-2-93; Code 1991, §97.088; Ord. No. 5335, 7-20-10; Ord. No. 5778, 6-16-15; >Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.089—97.998 - Reserved

97.999 - Penalty

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be fined not more than $500.00 or double that sum for each repetition of such offense, or violation; provided, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. If the violation of the chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed $250.00 for each day the same is unlawfully continued.

(B) Any person violating any provision of §97.070 shall be guilty of a misdemeanor and shall be punished by a fine of not more than $500.00.

(Code 1965, §§1-5, 13-12; Ord. No. 2128, 7-15-75; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Code 1991, §97.999)

CHAPTER 97: PARKS, NATURAL RESOURCES, AND CULTURAL AFFAIRS[1]

ARTICLE I GENERAL PROVISIONS

97.001 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City. The City of Fayetteville, Arkansas.

Director. ~~A person immediately in charge of any park area and its activities, and to whom all park attendants of such area are responsible~~The Director of Parks, Natural Resources and Cultural Affairs.

Park. A park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

Person. Any ~~person~~individual, firm, partnership, association, corporation, company, or organization of any kind.

Vehicle. Any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled ~~and shall~~ includinge any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks.

(Code 1965, §17-A-1; Ord. No. 1594, 4-1-68; Code 1991, §97.001)

(Code 1965, §17A-2; Ord. No. 1594, 4-1-68; Code 1991, §97.002)

97.002—97.014 Reserved

ARTICLE II PARK OPERATIONS; ADMINISTRATION AND ENFORCEMENT

97.015 Operating Hours

(A) Except for unusual emergencies, city parks shall be open to the public every day of the year from daylight until 11:00 p.m. except Shared Use Paved Trails as designated on the Parks and Trails Interactive Map which are open 24 hours every day. Any section or part of any park may be declared closed to the public by the city or its duly authorized representative at any time and for any interval of time.

(B) ~~Parks and Recreation~~City staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.

(Code 1965, §17A-32; Ord. No. 1594, 4-1-68; Code 1991, §97.015; Ord. No. 5501, 6-5-12; Ord. No. 582 8, §1(Exh. A), 12-15-15)

[1]Editor's note(s)—Ord. No. 6664 , §1, adopted May 16, 2023, amended the title of Ch. 97 to read as herein set out. The former Ch. 97 title pertained to Parks and Recreation.

97.016 Fee For City Park Athletic Facilities And Trails For Tournaments And Special Events

(A) For the use of city park athletic facilities or city trails for tournaments and special events, the Mayor shall establish fees to be charged to defray the costs of event setup, maintenance, trash pickup and removal, equipment use, water, and electricity. Fayetteville Trails will remain open to the public, with the exception of annual events approved by the city and operated by non-profit entities and events organized in conjunction with the City of Fayetteville. Trails and park areas shall not be closed more than four (4) hours at any time unless approved by the Mayor.

(B) The sponsors of any tournament or special event shall pay a trash and key deposit and arrange for all necessary umpires and/or coordinators. Upon conclusion of each tournament or event, the sponsor shall restore each facility or trail to the same condition it was in prior to the tournament or event in order for deposit to be returned.

(Code 1965, §2-100; Ord. No. 2714, 4-7-81; Ord. No. 4115, 8-18-98; Code 1991, §97.016; Ord. No. 5681, 4-15-14; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.017 Fees For City Swimming Pools

Upon the recommendation of the Parks and Recreation Advisory Board, the Mayor, or his/her designee, shall establish and make periodic adjustments to the schedule of fees charged for the use of city swimming pools.

(Ord. No. 4371, 2-19-02; Code 1991, §97.017)

97.018 Enforcement ~~B~~by Director, Park Staff, And City Police

The Director, City~~park~~ staff and ~~city police~~the Fayetteville Police Department shall in connection with their official duties diligently enforce the provisions of this chapter.

(Code 1965, 17A-33; Ord. No. 1594, 4-1-68; Code 1991, §97.018; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.019—97.029 Reserved

ARTICLE III CARE OF PARK PROPERTY

97.030 Buildings And Other Property

No person in a park shall wilfully mark, deface, disfigure, injure or tamper with any buildings, monuments, bridges, tables, benches, fireplaces, signs, public utilities or other structures or equipment, facilities, or park property or appurtenances whatsoever, either real or personal.

(Code 1965, §17A-3; Ord. No. 1594, 4-1-68; Code 1991, §97.030)

97.031 Restrooms And Washrooms

No person in a park shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex.

(Code 1965, §17A-4; Ord. No. 1594, 4-1-68; Code 1991, §97.031)

97.032 Removal ~~O~~of ~~O~~or Damage to Natural Resources, Trees, Shrubs, and Flowers

No person in a park except for those authorized by the Director shall damage, cut, climb, carve, injure, transplant, dig, or remove any sand, whether submerged or not, ~~or any~~ soil, rock, stones, trees, shrubs, flowers ~~or~~ plants, down timber or other wood or materials, nor shall any person attach any rope, wire, or other contrivance to any tree or shrub in the park or make any excavation by tool, equipment, blasting, or other means or agency, except on special written permit obtained from the city. However, nothing in this Section shall be construed to prohibit any person from hanging or suspending a hammock from any tree in a park, provided that the hammock is not hung in a manner likely to cause damage to any tree, flower, plant, or other natural resource.

(Code 1965, §17A-5; Ord. No. 1594, 4-1-68; Code 1991, §97.032)

~~97.033 Damaging Trees, Shrubs And Flowers~~

~~No person except for City Parks and Recreation Department employees or those authorized by the Parks and Recreation Director shall damage, cut, climb, carve, injure, transplant or remove any tree, shrub or flower from a city park, nor attach any rope, wire, or other contrivance to any tree or shrub in a city park.~~

~~(Code 1965, §17A-7; Ord. No. 1594, 4-1-68; Code 1991, §97.033; Ord. No. 5828 , §1(Exh. A), 12-15-15)~~

97.033 Removal of Cultural Resources

No person in a park except for those authorized by the Director shall unearth, remove, damage, transplant, or take for possession any cultural resource, whether submerged or not. For the purposes of this provision, "cultural resource" shall mean any artifact or other such item that physically evidences past human activity or society on the property, including but not limited to: fragments of bone, shell or pottery, stone flakes, arrow or spear points, tools, and other such artifacts.

97.034 Pollution Of Water

No person in a park shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance which will or may result in the pollution of said waters.

(Code 1965, §17A-9; Ord. No. No. 1594, 4-1-68; Code 1991, §97.034)

97.035 Wild Animals, Birds, Fish, And The Like

No person in a park shall hunt, molest, harm, frighten, poison, kill, trap or remove any animal, reptile, fish, or bird; nor remove the eggs, nest or young of any wild animal, fish, reptile, or bird.

(Code 1965, §17A-8; Ord. No. No. 1594, 4-1-68; Code 1991, §97.035)

97.036 Erection Of Structures

No person in a park shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit obtained from the city.

(Code 1965, §17A-6; Ord. No. No. 1594, 4-1-68; Code 1991, §97.036)

97.037 Refuse And Trash

No person shall bring any refuse or trash into a park. Trash generated by picnicking or other activities in the park shall be placed within proper receptacles if available or carried out of the park for proper disposal.

(Code 1965, §17A-10; Ord. No. 1594, 4-1-68; Code 1991, §97.037; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.038 Animals To Be Leashed

Owners must keep their animals on a leash in a park. Dogs are allowed to be off leash in designated dog parks and Lake Wilson Park except that all vicious animals and dangerous animals as defined and regulated in Chapter 92 **Animals** may never be allowed to be off leash in any city park. Owners and anyone in control of a pet shall pick up, remove and properly dispose of their pet's waste as also required by §92.06**Animal Waste, Offensive Odors Prohibited.**

(Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.039 Permit Required for Metal Detectors and Other Remote Sensing Devices

No person shall use a metal detector or other remote sensing technology on City property without a permit issued by the Director. Permittees shall comply with all conditions of the permit.

97.040—97.049 Reserved

ARTICLE IV TRAFFIC RULES

97.050 Compliance With State And City Motor Vehicle Laws Required

No person in a park shall fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such applicable regulations as are contained in this chapter and Title VII of this Code of Ordinances.

(Code 1965, §17A-11; Ord. No. 1594, 4-1-68; Code 1991, §97.050)

97.051 Speed Of Vehicles

No person in a park shall ride or drive a vehicle at a rate of speed exceeding 10 miles per hour, except upon such roads as the city may designate, by posted signs, for speedier travel.

(Code 1965, §17A-12; Ord. No. 1594, 4-1-68; Code 1991, §97.051)

97.052 Parking

No person in a park shall park a vehicle in other than an established or designated parking area, and such use shall also be in accordance with the provisions of Chapter 72 of this Code of Ordinances.

(Code 1965, §17A-13; Ord. No. 1594, 4-1-68; Code 1991, §97.052)

97.053 Vehicles Prohibited After Closing Hours

No person except city staff shall enter, operate, park, leave or abandon a vehicle within a park after the closing hour of 11:00 p.m. No person except city staff shall operate a vehicle anywhere within a park other than on a paved vehicular road or path designated for vehicular access.

(Code 1965, §17A-14; Ord. No. 1594, 4-1-68; Code 1991, §97.053; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.054 Bicycles, Motorbikes, Skateboards ~~A~~and The Like

(A) No person in a park shall ride, drive, operate or push a bicycle, motorbike, scooter, skateboard, roller skates and the like on any road other than a paved vehicular road, path, or course designated for that purpose.

(B) Natural surface trails are multi-use for bicycles, Class 1 electrical bicycles (e-bikes) as defined by Ark. Code Ann. § 27-51-1702, and pedestrians only unless otherwise designated.

(C) Use of natural surface trails is prohibited when closed or conditions are such that damage would be caused by use.

(D) The restrictions of subsections (A) and (B) shall not apply to adaptive cycles, vehicles being operated by City employees to perform park maintenance, or police, fire, and other emergency vehicles.

(Code 1965, §17A-15; Ord. No. 1594, 4-1-68; Code 1991, §97.054)

97.055 Use of Motor Vehicles.

No person in any City park shall drive a motor vehicle (including, but not limited to passenger cars and trucks, commercial motor vehicles, golf carts, motorcycles, ATVs or the like) on other than a paved vehicular road or path designated for that purpose, or with the express written authorization of the Director.

97.056—97.064 Reserved

ARTICLE V RECREATIONAL ACTIVITIES

97.065 Bathing ~~And~~and Swimming; Bathhouses

(A) No person in a park shall swim, bathe, or wade in any waters or waterways in any park, except in such waters as are provided therefor and except during such hours of the day as shall be designated by the C~~c~~ity. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the C~~c~~ity upon a finding that such use of the water would be dangerous or otherwise inadvisable. Groups wishing to have a special event at Lake Fayetteville that includes swimming shall obtain a special use permit from the City ~~Parks and Recreations staff,~~ see section 97.071.

(B) No person in a park shall dress or undress in any vehicle, toilet or other place, except in such bathing houses or structures as may be provided for that purpose.

(Code 1965, §17A-17; Ord. No. 1594, 4-1-68; Code 1991, §97.065; Ord. No. 5285, 11-17-09)

97.066 Hunting ~~And~~and Firearms

(A) No person in a park shall hunt, trap or pursue wildlife at any time; provided that the trapping of muskrats, beavers or other burrowing animals may be permitted on city reservoirs and waterways upon approval of the Mayor for the protection of earthen dams. No person except C~~c~~ity police and Animal Control Officers shall use, carry, or possess firearms of any description or air rifles, spring guns, slings, traps, or other weapons or devices potentially inimical to wildlife or dangerous to human safety. Bows and arrows will be permitted on archery ranges so designated and supervised by the C~~c~~ity.

(B) Subsection (A) shall not be interpreted to prohibit the possession of firearms in city parks by on-duty law enforcement officers or other persons if such prohibition would not be allowed by state law.

(Code 1965, §17A-18; Ord. No. 1594, 4-1-68; Ord. No. 1963, 11-20-73; Code 1991, §97.066; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6222 , §1, 9-3-19)

97.067 Picnic Facilities; Duty ~~Of~~of Picnicker

(A) No person in a park shall use any portion of the park or recreational facilities to the exclusion of other persons; nor shall any person use such areas and facilities for an unreasonable time if the facilities are crowded. Use of individual grills, tables, benches, and recreational facilities will generally follow the rule of "first come, first served" unless otherwise scheduled by the ~~Parks and Recreation Department~~City.

(B) No person in a park shall leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. Where no such trash receptacles are available, the refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(Code 1965, §17A-19; Ord. No. 1594, 4-1-68; Code 1991, §97.067; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.068 Camping Prohibited

No person in a park shall set up or use tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person bring in or leave in a city park after closing hours any structure or vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like without a Camping Permit approved by the ~~Parks and Recreation~~ Director. Boy Scouts and other groups who have served the ~~Parks and Recreation Department~~CIty through approved work programs in parks may be permitted to camp at designated park campsites with an approved Camping Permit authorized by the ~~Parks and Recreation~~ Director. Tournament directors of park related sanctioned tournaments may be permitted to camp at designated tournament facility sites with an approved Camping Permit authorized by the ~~Parks and Recreation~~ Director. Special event and/or Race Directors and event participants may be permitted to camp at designated campsites with an approved Camping Permit authorized by the Parks and Recreation Director.

(Code 1965, §17A-20; Ord. No. 1594, 4-1-68; Code 1991, §97.068; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6415 §1, 2-18-21)

97.069 Horseback Riding

No person in a park shall ride a horse except on designated bridle trails approved by the ~~Parks and Recreation~~ Director. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care and shall not be allowed to go unattended.

(Code 1965, §17A-22; Ord. No. 1594, 4-1-68; Code 1991, §97.069; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.070 Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson

(A) *Hours.* Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided:

(1) Lake Fayetteville shall be closed on Thanksgiving Day and from sunset on December 23rd through January 14th.

(2) The Director ~~of the Parks and Recreation Department~~ is authorized to extend the operating hours of a lake when reasonable and necessary to accommodate a tournament, special event, or seasonal weather conditions.

(B) *Permits for Fishing and Boating.* Fishing and boating permits are required for Lake Fayetteville. There is no permit requirement for Lake Wilson, Lake Sequoyah or other Park areas containing fishable waters.

(1) *Permits:*

(a) Annual boating and fishing permit (age sixty-five (65) and older and veterans)$40.00

(b) Annual boating and fishing permit (sixteen (16)—sixty-four (64))$50.00

(c) Daily boating and fishing permit (sixty-five (65) and older and veterans)$5.00

(d) Daily boating and fishing permit (sixteen (16)—sixty-four (64))$6.00

(e) Annual fishing/use permit (sixty-five (65) and older and veterans)$20.00

(f) Annual fishing/use permit (sixteen (16)—sixty-four (64))$30.00

(g) Daily fishing/use permit (sixty-five (65) and older and veterans)$2.00

(h) Daily fishing/use permit (sixteen (16)—sixty-four (64))$3.00

(i) Daily fishing/use permit (under sixteen (16) with permitted adult)Free

(j) Daily non-motorized boating (canoes, inflatables, kayaks, paddle boats and sailboats)$3.00

(k) Annual non-motorized boating (per patron, nontransferable)$20.00

(2) *Miscellaneous.*

(a) Each person sixteen (16) years of age or older is required to purchase a fishing/use permit for fishing on the lake or any stream within the city owned lake property at Lake Fayetteville.

(b) There will be two (2) free fishing weekends each year where city fishing/use permits will not be required. One (1) weekend will coincide with the Arkansas Game and Fish free fishing weekend. The ~~Parks and Recreation~~ Director will designate the second weekend annually.

(c) A boating permit applies to the boat rather than the occupants thereof; however, all occupants of a boat, sixteen (16) years of age or older must purchase a fishing/use permit. Daily permits are valid only for use on the date of purchase.

(d) Juveniles and their supervisors shall be exempt from the boating and fishing permit fee if they are part of Washington County government rehabilitation program approved by the Director ~~of the Fayetteville Parks and Recreation Department~~ for the location, date and time of lake access.

(C) *Boat Docking.* Boat docking shall be permitted at Lake Fayetteville on a space available basis to season boating and fishing permit holders for the following per boat annual fees:

(1) City resident$250.00

(2) Non-resident$325.00

(D) *Fishing.* All fishing shall be done only from the bank, designated docks or boat. No wading, swimming, paddle boards or belly boats shall be permitted in all city lakes. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught; however, the ~~Fayetteville Parks and Recreation Department~~City may provide additional limitations necessary to manage the fish population. All persons fishing at Lake Fayetteville should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, limb lines, cast nets, yo-yos or jug fishing.

(E) *Boating.* A boating permit for each boat must be purchased before its use on Lake Fayetteville. All boats must be docked or removed from the lake at closing time. No boats except those used by lake employees or the Environmental Study Center will be docked at any other location on the lake. Boating may be closed to the public by the ~~Parks and Recreation Department~~City during a special event that includes swimming.

(F) *Place of Entry.* All persons boating at Lake Fayetteville shall enter the lake only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution. All persons boating at Lake Sequoyah and Lake Wilson shall enter the lake only at the boat ramp.

(G) *Use of Motors on Boats.*

(1) In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof. All city lakes are no wake lakes. Speeding and boat racing ~~is~~ are not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.

(2) No boats shall be permitted within 500 feet of the spillway of any lake.

(3) No houseboats, paddle boards, water skiing, or jet skis are permitted.

(4) All state laws governing boats must be complied with before using a boat on any city lake.

(5) The city will not be responsible for any damage to or theft of boats, motors, or equipment.

(H) *Picnicking or Other Recreational Activities.* Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which are controlled by the ~~city~~City.

(I) *Committing Nuisances.* No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the city, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.

(J) *Fishing and Boating Prohibited Near Intake Tower.* No one shall climb upon, enter, or fish from the intake towers of the lakes.

(K) *Fishing on Stream Below Dam.* State laws governing fishing below dams shall be applicable on city property. Fishing permits are required to fish in the stream on city property below the dam at Lake Fayetteville.

(L) *Firearms and Hunting.* Except as otherwise provided in § 97.066 of this Chapter, ~~N~~no firearms, hunting or trapping will be permitted on city owned property at any time.

~~(M) *Use of Motor Vehicles.* No person at Lake Fayetteville, Lake Sequoyah, or Lake Wilson shall drive a motor vehicle or ride a motorcycle, ATV or bicycle on other than a paved vehicular road or path designated for that purpose.~~

(~~N~~M) *Revoking Permits.* The city shall have the right to revoke any permit issued under this section if it is determined that the permittee willfully violated any of the provisions of this section. When a permit is revoked, there will be no refunds.

(Code 1965, §13-12; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Ord. No. 3437, 7-5-89; Ord. No. 3533, 2-19-91; Ord. No. 4168, 6-1-99; Code 1991, §97.070; Ord. No. 4707, 06-07-05; Ord. No. 4811, 12-20-05; Ord. No. 5139, 5-6-08; Ord. No. 5229, 3-17-09; Ord. No. 5285, 11-17-09; Ord. No. 5596, 07-02-13; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6597 , §1(Exh. A), 9-6-22)

97.071 Fayetteville Special Use Permit For Events That Include A Swimming Component

(A) *Special Events That Include Swimming.* Special events that include a swimming component, such as a triathlon, may be permitted at Lake Fayetteville with a special use permit issued by the Director ~~of the City Parks and Recreation Department~~. Such issuance will be at the sole discretion of the Director and should comply with the following:

(1) A special event permit should be processed through the City ~~Parks and Recreation Department~~ at least ninety (90) days prior to the event.

(2) A water testing fee of $250.00 and a special event fee in an amount sufficient to cover all ~~city~~ City costs to administer the event shall be charged to the event organizer for the use of the Lake Fayetteville Park space and facilities. A further security deposit to ensure complete clean up or repair of any damage may be required. The Director may require an event organizer to obtain sufficient liability insurance and take measures to increase swimmers' safety.

(3) The ~~city~~ City does not warrant the safety or cleanliness of any lake for swimmers. Event organizers shall provide notice of the inherent danger of swimming in the lake to all persons requesting to swim and shall obtain waivers of liability and responsibility for the City of Fayetteville from all participants.

(4) The City ~~of Fayetteville~~ reserves the right to allow swimming only in designated areas during the event and prohibit boating in these areas.

(5) The City ~~of Fayetteville~~ reserves the right to cancel previously approved special events due to unacceptable water quality, inclement weather or other valid reason.

(Ord. No. 5285, 11-17-09)

97.072—97.079 Reserved

ARTICLE VI CONDUCT IN PARKS

97.080 Gambling Prohibited; Recreational Activities To Take Place Only In Suitable Areas

No person in a park shall gamble, or participate in, or abet any game of chance. Nor shall any person take part in or abet the playing of other forms of recreation except in areas set apart for or conducive to the particular form of recreation.

(Code 1965, §17A-21; Ord. No. 1594, 4-1-68; Code 1991, §97.080)

97.081 Intoxicating Beverages

(A) No person in a park shall bring into or consume alcoholic beverages within a city park, nor shall any person enter a park when under the influence of intoxicating beverages.

(B) Notwithstanding the above prohibition:

(1) The Botanical Garden Society of the Ozarks may allow alcoholic beverages to be served on the premises they have leased within the Lake Fayetteville park area for fundraisers, wedding receptions and other special events as long as they fully comply with all alcoholic beverage control requirements.

(2) The Mayor or the Mayor's designee may issue a permit allowing the temporary possession, sale and consumption of alcoholic beverages in city parks for special events as long as the event sponsors fully comply with all applicable state and local laws and regulations, including alcoholic beverage control requirements. The permit may include any conditions necessary to ensure public safety and the protection of city property.

(3) Alcoholic beverages may be possessed or consumed in a city park or other recreational facility within the Downtown Outdoor Refreshment Area boundaries pursuant to the provisions of §111.07 of the Fayetteville City Code and any additional administrative regulations.

(Code 1965, §17A-23; Ord. No. 1594, 4-1-68; Code 1991, §97.081; Ord. No. 4865, 05-16-06; Ord. No. 6029 , §1, 1-2-18; Ord. No. 6469 , §§ 1, 2, 8-17-21)

97.082 Fires; Fireworks And Explosives

(A) No person in a park shall build or attempt to build a fire except in fireplaces or facilities so designed for such use, nor leave any fire unattended. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes, or cigars, tobacco papers or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(B) No person in a park shall bring in, explode or cause to be exploded, discharge or burn any firecrackers, torpedoes, skyrockets, roman candles or other fireworks, explosives or inflammable materials without having first obtained prior written consent pursuant to the requirements of §94.05(G).

(Code 1965, §§17A-24, 17A-26; Ord. No. 1594, 4-1-68; Code 1991, §97.082; Ord. No. 5860 , §1, 3-15-16)

97.083 Smoking And Use Of Tobacco Products

(A) Smoking and use of tobacco products includes holding a lighted pipe, cigar, or cigarette of any kind, or lighting, or emitting or exhaling the smoke of, a pipe, cigar, or cigarette of any kind. It also includes the use of all smokeless tobacco and nicotine-containing products (including, but not limited to, chewing tobacco, snuff, dip, and snus), electronic cigarettes, vapor devices, or heated devices.

(B) It shall be prohibited for any person to smoke or use tobacco products in any city owned or operated recreational facilities, parks, and trails.

(C) Exemption: Cessation products approved by the United States Food and Drug Administration such as nicotine gum, nicotine lozenges, nicotine patches, pharmaceutical nicotine inhalers (not including any form of electronic products), and nicotine nasal sprays are specifically exempted from this section and can be used in city owned or operated recreational facilities, parks, and trails.

(D) The city shall post signs in city owned or operated parks, trails, and recreational facilities at the discretion of the Director ~~of Parks and Recreation~~ notifying the public that smoking and tobacco use of any kind are prohibited.

(E) Any person who smokes or uses tobacco products in an area where it is prohibited by this section shall be guilty of a violation punishable by a fine not exceeding $50.00 per occurrence.

(Ord. No. 6046 , §1, 3-6-18)

97.084 Entering Closed Areas

No person in a park shall enter an area posted as "Closed to the Public", nor shall any person use, or abet the use of, any area in violation of posted notices.

(Code 1965, §17A-27; Ord. No. 1594, 4-1-68; Code 1991, §97.084)

97.085 Going Onto Ice

No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating fields, ~~and~~ provided a safety signal is displayed.

(Code 1965, §17A-28; Ord. No. 1594, 4-1-68; Code 1991, §97.085)

97.086 Vending And Peddling

(A) *General Prohibition of Selling in City Parks.* No person or business shall within a city park sell anything subject to the exemptions set forth in subsection (B) of this Chapter.

(B) *Exemptions.*

(1) The city's regularly licensed concessionaires acting pursuant to the authority and regulation of the city are exempt from subsection (A).

(2) Nonprofit organizations which have obtained a special events permit may sell nonalcoholic beverages, food and other approved items during an annual event.

(3) Sponsors of the Gulley Park Concert Series and other special events offered by the Department of Parks, Natural Resources, and Cultural Affairs may sell food, nonalcoholic beverages, and other approved items during the event when specifically approved by the Director of Parks, Natural Resources, and Cultural Affairs. Approved merchandise may be sold at special events by performers and hosts if approved in advance by the Director of Parks, Natural Resources, and Cultural Affairs.

(4) The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays, Saturdays and one (1) weekday within a portion of the Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the society) as shown on Exhibit A.



Farmers' Market at Lake Fayetteville Park within Botanical Garden leased area

(5) Organizations the city directly funds, event sponsors and the non-profit Friends of Fayetteville Parks are allowed at no charge to setup a table to distribute information at park events upon approval of the Director of Parks, Natural Resources, and Cultural Affairs.

(6) The Director of Parks, Natural Resources, and Cultural Affairs ~~is authorized to appoint a market organizer to coordinate and oversee the administration of vendors to sell food, nonalcoholic beverages, and other approved items as a part of the Gulley Park Concert Series. The provisions of this subsection shall expire on December 31, 2023~~may approve vendors or appoint market organizers to sell food, nonalcoholic beverages, and arts and crafts in parks as part of City-sponsored events.

(C) Food trucks permitted pursuant to §178.05 may operate in city parks as described below:

(1) Food trucks may not locate in the same area that is actively being served by a contracted concessionaire as shown on Exhibit C during regular season Fayetteville Parks, Natural Resources, and Cultural Affairs leagues and tournaments.

(2) Food trucks may locate at Gulley Park during a Gulley Park Concert or special event in other parks such as tournaments, reserved park gatherings, etc. if approved by the Director of Parks, Natural Resources, and Cultural Affairs.

(D) For special events, food trucks and sales of items other than food may be approved by the Director of Parks, Natural Resources, and Cultural Affairs through a special event permit.

(Code 1965, §17A-29; Ord. No. 1594, 4-1-68; Code 1991, §97.086, Ord. No. 5310, 4-6-10; Ord. No. 5531, 10-02-12; Ord. No. 5666, 3-18-14; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 5940 , §2, 12-20-16; Ord. No. 6664 , §2(Exh. A), 5-16-23)

97.087 Advertising Prohibited

No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(Code 1965, §17A-30; Ord. No. 1594, 4-1-68; Code 1991, §97.087)

97.088 Signs Prohibited

(A) No person in a park shall paste, glue, tack, or otherwise post any sign, placards, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park, except as set forth herein below.

(B) *Exceptions.*

(1) *Athletic Field Signage.* Signs shall be permitted on softball/baseball outfield fences and scoreboards at locations and in sizes designated by the ~~Parks and Recreation~~ Director. Uniform fees shall be charged dependent upon placement and size of the permitted signs. The content of the sign and whether it is commercial or non-commercial may not be considered. Designated spaces shall be sold at the established price on a first~~-~~come basis. The owner of a sign at a designated location shall have first right to renew before others can purchase the size/location for a new or replacement sign.

(2) *Recognition Signs.* Signs located in city parks or on city trails that are used for the purpose of memorializing a person or family through naming, recognition of significant donors, or recognition of contributions to the facility or amenity on which the sign is installed shall meet the following conditions:

(a) *Maximum Number of Recognition Signs.* Most donor or honoree recognition signs shall be limited to one for the facility financed by the donor or memorializing the honoree. For a park or a major facility with more than one major entrance, a second recognition sign may be recommended by the Parks and Recreation Advisory Board and approved by the City Council.

(b) *Maximum Size of Recognition Signs.*

(i) Donor recognition signs in city parks shall be sized in accordance with Exhibit "A", Donor Recognition Signs, unless otherwise determined by City Council resolution.

(ii) Trail Recognition Signs shall not exceed four square feet for trailhead facilities. Recognition signs along the trail for park benches, etc., shall not exceed 1.5 square feet and should be incorporated within or attached to the bench or amenity sponsored by the donor.

(c) *Design Requirements.* All recognition signs must comply with the following requirements and shall adhere to the aesthetic values and design of the park or trail:~~-~~

(i) The recognition sign shall include only the name of the person memorialized or the name of the organization, person or business which has donated significant funds to the park facility. A company or organization logo (without company colors, any advertising or slogans) may be used on the sign.

(ii) The design of the sign shall be incorporated into the park facility and shall be approved by the Director ~~of Parks and Recreation~~ who shall ensure the signs' high quality and durable construction and its consistency with other recognition signs within the park.

(iii) Recognition signs shall comply with the Donor Operational Policy unless exempted by the City Council.

(d) *Facility Naming.* The naming of facilities is permitted so long as the donor or honoree has made a significant contribution to the C~~c~~ity, ~~the facility or the Parks and Recreation Department~~ in terms of financial donations, voluntarism or dedicated public service. Final naming of facility may be as recommended by the Parks and Recreation Advisory Board with final selection and approval by

the City Council. Naming of the facilities should meet the Naming Park Facilities Policy attached as Exhibit "B", unless otherwise determined by City Council resolution.

(e) Adopt-A-Park or trail groups may post a sign while they are actively working on a park project that provides information about their organization or group. The sign must be approved in advance by the ~~Parks and Recreation staff~~City.

Exhibit "A"

CITY OF Fayetteville ARKANSAS	**Parks and Recreation Department Policies and Procedures Manual**		SUBJECT: OPERATIONS POLICY FOR DONOR RECOGNITION SIGNS	
	NUMBER:	REVISIONS:	EFFECTIVE DATE: 6-16-2015	PAGE: 1 OF 1
	SUPERSEDES:	APPROVED BY:		

DONOR RECOGNITION SIGNS

PURPOSE

The purpose of this directive is to provide policies which will govern the naming of park facilities currently owned or acquired by the City of Fayetteville. This policy statement takes precedence over any previous policies and guidelines which may have governed the naming of these facilities.

POLICY

In order to provide important capital facilities in Fayetteville Parks, it is pragmatic in a time of shrinking public dollars to seek outside funding. It is essential to have specific boundaries and criteria in establishing fair and proper recognition of significant facility donations. This policy sets guidelines for donations within parks as well as on trails. All sign and plaque designs must be incorporated into the design of the facility. Donor recognition signs shall adhere to the aesthetic values and design of the park.

Donor recognition in parks is based upon the type of facility donated. Donor recognition on trails is limited on the trailheads unless there is an educational and/or art feature that is appropriate to be displayed along the trail. Recognition signs may not be predominant within the educational and/or art component.

Recognition for each donation will be determined pursuant to the Recognition for Parks and Trails Facilities Policy. Any exceptions to this policy must be approved by City Council. Park Planners have the latitude to design signs recognizing donations based on site location and donor specific criteria. Naming of facilities donated must meet the Naming Park Facilities Operational Policy unless accepted under City Council resolution. The naming proposal will be presented to the Parks and Recreation Advisory Board for their recommendation to City Council. City Council has final approval of the park facility name, including the right to approve a different name. The option for naming facilities is only permitted under the Park Facility Diamond, Platinum, Gold and Silver categories. Minor items such as trash receptacles and flower beds cannot be named.

CITY OF Fayetteville ARKANSAS	Parks and Recreation Department Policies and Procedures Manual		SUBJECT: RECOGNITION FOR PARKS AND TRAILS FACILITIES POLICY	
	NUMBER: PRK-	REVISIONS:	EFFECTIVE DATE: 6-16-2015	PAGE: 1 OF 3
	SUPERSEDES:	APPROVED BY:		

RECOGNITION FOR PARKS AND TRAILS FACILITIES POLICY

Bronze Category: Recognition on Donor Wall for 25 year period

Donation of $25,000 up to $250,000 for park amenities. Examples include:	
Bleachers	Picnic Table and Grill
Batting Cages	Art Sculpture
Bike Racks	Single Playground Apparatus (climbing
Lighting	rocks/swing set)
Drinking Fountain with Dog Bowl	Landscape Feature
Prefabricated Pavilion	
Size of donor wall and names to be approved by the City Council.	

Silver Category: Naming Rights for 10 year period

Donation of 75% cost of new facility over $250,000. Examples include:	
Soccer Field	One Mile Asphalt/Concrete Park Trail
Baseball Field	Small Amphitheater (seating for 150)
Tennis Court	Water Feature
Basketball Court	Parking Lot (25 cars)
Disc Golf Course	Greenhouse
Concession Stand/Restroom	Playground
Park Restroom	

Gold Category: Naming Rights for a Field/Court/Facility for 25 year period

Donation of 100% cost of new facility over $250,000. Examples include:	

Soccer Field	One Mile Asphalt/Concrete Park Trail
Baseball Field	Small Amphitheater (seating for 150)
Tennis Court	Water Feature
Basketball Court	Parking Lot (25 cars)
Disc Golf Course	Greenhouse
Concession Stand/Restroom	Playground
Park Restroom	Dog Park

Platinum Category: Naming Rights of a Complex for 30 year period

Donation of $1 million up to $5 million to name a complete complex. Examples include:	
Sport Complex: 4—6 field lighted	Aquatic center
complex such as softball, baseball,	Amphitheater- seating for 1,200
soccer, tennis	Development of a new park

Diamond Category: Naming Rights of a Park

Donation over $5 million to name a park.	
RECOGNITION FOR EXISTING PARK FACILITIES	
$200,000 per baseball or softball field for 10 years, or $350,000 for two fields	
$150,000 per soccer field for 10 years or $250,000 for two fields	
TRAIL FACILITIES	

Silver Category receives donor recognition of a press release, ribbon cutting ceremony, plaque constructed of high quality durable materials up to 1.5 sq ft.

Trail Facilities donated in the Silver Category may only be located along trails for educational purposes or as an integral part of an art feature.	

Gold Category receives donor recognition of a press release, ribbon cutting ceremony, sign constructed of high quality durable materials up to 4 sq ft.

Trail Facilities donated in the Gold Category may only be located at trailheads for a 25 year period and include the following:	
Parking Lot	Restroom
Pavilion	One Mile Asphalt/Concrete Trail

City Process

1. Parks and Recreation Staff or the Friends of Parks Board meets with donor to discuss donation including amount of donation, development of facility/amenity, recognition operational policy, naming rights (if applicable), sign appearance/style/construction, time requirements and other pertinent topics. Donor must meet the Operational Policy for Donor Recognition Signs.
2. Request is presented for approval from Parks and Recreation Advisory Board. If the facility donated is granted the option to name the facility, the name must meet Park Naming Facility Operational Policy.
3. Request presented to Planning Office for approval.
4. Request presented to City Council for final park name selection and approval.
5. All donors will have first right to re-new their naming rights for an appropriate donation upon conclusion of the time period.
6. The city will reserve the right to remove a donor's name from the facility if the City Council determines by resolution that a donor would otherwise cause undue embarrassment or other issues for the City or its citizens.

Exhibit "B"

CITY OF Fayetteville ARKANSAS	**Parks and Recreation Department Policies and Procedures Manual**		SUBJECT: OPERATIONS POLICY FOR NAMING PARK FACILITIES	
	NUMBER: PRK-	REVISIONS:	EFFECTIVE DATE:	PAGE: 1 OF 1
	SUPERSEDES:	APPROVED BY:		

NAMING PARK FACILITIES

PURPOSE

The purpose of this directive is to provide policies which will govern the naming of park facilities currently owned or acquired by the City of Fayetteville. This policy statement takes precedence over any previous policies and guidelines which may have governed the naming of these facilities.

POLICY

Upon acquisition of a new park, the Director of Parks and Recreation will assign a nondescript temporary working name or subdivision name for the park facility to be used until park development begins.

Once park development begins, the Parks and Recreation Department will receive and forward park facility name suggestions to the Parks and Recreation Advisory Board for review. The Parks and Recreation Advisory Board will

discuss and approve the recommendations at their monthly meeting. Once a recommended name has been selected, the Parks and Recreation staff will forward the name to the City Council for its final park name selection including a potentially different name.

The following items should be considered when proposing names for any park facilities:

- Geographic location of the facility
- Outstanding features of the facility
- Commonly recognized historical event, group, or individual
- Individual or group who contributed significantly to the acquisition or development of a facility
- Individual who provided an exceptional service in the interest of the park system

For an individual to be considered, the recommended name must be accompanied by a biographical sketch which provides evidence of historical significance or contributions to the Parks and Recreation Department or City of Fayetteville.

The naming of plaques, markers, and memorials within park facilities must follow the policies as stated above.

Note: A name recommendation from the Active Transportation Committee for trail facilities will be required prior to forwarding to the Parks and Recreation Advisory Board.

(Code 1965, §17A-31; Ord. No. 3677, §2, 3-2-93; Code 1991, §97.088; Ord. No. 5335, 7-20-10; Ord. No. 5778, 6-16-15; >Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.089—97.998 Reserved

~~97.999 Penalty~~

~~(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be fined not more than $500.00 or double that sum for each repetition of such offense, or violation; provided, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. If the violation of the chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed $250.00 for each day the same is unlawfully continued.~~

~~(B) Any person violating any provision of §97.070 shall be guilty of a misdemeanor and shall be punished by a fine of not more than $500.00.~~

~~(Code 1965, §§1-5, 13-12; Ord. No. 2128, 7-15-75; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Code 1991, §97.999)~~

CHAPTER 97: PARKS, NATURAL RESOURCES, AND CULTURAL AFFAIRS[1]

ARTICLE I GENERAL PROVISIONS

97.001 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City. The City of Fayetteville, Arkansas.

Director. The Director of Parks, Natural Resources and Cultural Affairs.

Park. A park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

Person. Any individual, firm, partnership, association, corporation, company, or organization of any kind.

Vehicle. Any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled including any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks.

(Code 1965, §17-A-1; Ord. No. 1594, 4-1-68; Code 1991, §97.001)

(Code 1965, §17A-2; Ord. No. 1594, 4-1-68; Code 1991, §97.002)

97.002—97.014 Reserved

ARTICLE II PARK OPERATIONS; ADMINISTRATION AND ENFORCEMENT

97.015 Operating Hours

(A) Except for unusual emergencies, city parks shall be open to the public every day of the year from daylight until 11:00 p.m. except Shared Use Paved Trails as designated on the Parks and Trails Interactive Map which are open 24 hours every day. Any section or part of any park may be declared closed to the public by the city or its duly authorized representative at any time and for any interval of time.

(B) City staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.

(Code 1965, §17A-32; Ord. No. 1594, 4-1-68; Code 1991, §97.015; Ord. No. 5501, 6-5-12; Ord. No. 582 8, §1(Exh. A), 12-15-15)

[1]Editor's note(s)—Ord. No. 6664 , §1, adopted May 16, 2023, amended the title of Ch. 97 to read as herein set out. The former Ch. 97 title pertained to Parks and Recreation.

97.016 Fee For City Park Athletic Facilities And Trails For Tournaments And Special Events

(A) For the use of city park athletic facilities or city trails for tournaments and special events, the Mayor shall establish fees to be charged to defray the costs of event setup, maintenance, trash pickup and removal, equipment use, water, and electricity. Fayetteville Trails will remain open to the public, with the exception of annual events approved by the city and operated by non-profit entities and events organized in conjunction with the City of Fayetteville. Trails and park areas shall not be closed more than four (4) hours at any time unless approved by the Mayor.

(B) The sponsors of any tournament or special event shall pay a trash and key deposit and arrange for all necessary umpires and/or coordinators. Upon conclusion of each tournament or event, the sponsor shall restore each facility or trail to the same condition it was in prior to the tournament or event in order for deposit to be returned.

(Code 1965, §2-100; Ord. No. 2714, 4-7-81; Ord. No. 4115, 8-18-98; Code 1991, §97.016; Ord. No. 5681, 4-15-14; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.017 Fees For City Swimming Pools

Upon the recommendation of the Parks and Recreation Advisory Board, the Mayor, or his/her designee, shall establish and make periodic adjustments to the schedule of fees charged for the use of city swimming pools.

(Ord. No. 4371, 2-19-02; Code 1991, §97.017)

97.018 Enforcement by Director, Park Staff, And City Police

The Director, City staff and the Fayetteville Police Department shall in connection with their official duties diligently enforce the provisions of this chapter.

(Code 1965, 17A-33; Ord. No. 1594, 4-1-68; Code 1991, §97.018; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.019—97.029 Reserved

ARTICLE III CARE OF PARK PROPERTY

97.030 Buildings And Other Property

No person in a park shall wilfully mark, deface, disfigure, injure or tamper with any buildings, monuments, bridges, tables, benches, fireplaces, signs, public utilities or other structures or equipment, facilities, or park property or appurtenances whatsoever, either real or personal.

(Code 1965, §17A-3; Ord. No. 1594, 4-1-68; Code 1991, §97.030)

97.031 Restrooms And Washrooms

No person in a park shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex.

(Code 1965, §17A-4; Ord. No. 1594, 4-1-68; Code 1991, §97.031)

97.032 Removal of or Damage to Natural Resources, Trees, Shrubs, and Flowers

No person in a park except for those authorized by the Director shall damage, cut, climb, carve, injure, transplant, dig, or remove any sand, whether submerged or not, soil, rock, stones, trees, shrubs, flowers plants, down timber or other wood or materials, nor shall any person attach any rope, wire, or other contrivance to any tree or shrub in the park or make any excavation by tool, equipment, blasting, or other means or agency, except on special written permit obtained from the city. However, nothing in this Section shall be construed to prohibit any person from hanging or suspending a hammock from any tree in a park, provided that the hammock is not hung in a manner likely to cause damage to any tree, flower, plant, or other natural resource.

(Code 1965, §17A-5; Ord. No. 1594, 4-1-68; Code 1991, §97.032)

97.033 Removal of Cultural Resources

No person in a park except for those authorized by the Director shall unearth, remove, damage, transplant, or take for possession any cultural resource, whether submerged or not. For the purposes of this provision, "cultural resource" shall mean any artifact or other such item that physically evidences past human activity or society on the property, including but not limited to: fragments of bone, shell or pottery, stone flakes, arrow or spear points, tools, and other such artifacts.

97.034 Pollution Of Water

No person in a park shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance which will or may result in the pollution of said waters.

(Code 1965, §17A-9; Ord. No. No. 1594, 4-1-68; Code 1991, §97.034)

97.035 Wild Animals, Birds, Fish, And The Like

No person in a park shall hunt, molest, harm, frighten, poison, kill, trap or remove any animal, reptile, fish, or bird; nor remove the eggs, nest or young of any wild animal, fish, reptile, or bird.

(Code 1965, §17A-8; Ord. No. No. 1594, 4-1-68; Code 1991, §97.035)

97.036 Erection Of Structures

No person in a park shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit obtained from the city.

(Code 1965, §17A-6; Ord. No. No. 1594, 4-1-68; Code 1991, §97.036)

97.037 Refuse And Trash

No person shall bring any refuse or trash into a park. Trash generated by picnicking or other activities in the park shall be placed within proper receptacles if available or carried out of the park for proper disposal.

(Code 1965, §17A-10; Ord. No. 1594, 4-1-68; Code 1991, §97.037; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.038 Animals To Be Leashed

Owners must keep their animals on a leash in a park. Dogs are allowed to be off leash in designated dog parks and Lake Wilson Park except that all vicious animals and dangerous animals as defined and regulated in Chapter 92 **Animals** may never be allowed to be off leash in any city park. Owners and anyone in control of a pet shall pick up, remove and properly dispose of their pet's waste as also required by §92.06**Animal Waste, Offensive Odors Prohibited.**

(Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.039 Permit Required for Metal Detectors and Other Remote Sensing Devices

No person shall use a metal detector or other remote sensing technology on City property without a permit issued by the Director. Permittees shall comply with all conditions of the permit.

97.040—97.049 Reserved

ARTICLE IV TRAFFIC RULES

97.050 Compliance With State And City Motor Vehicle Laws Required

No person in a park shall fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such applicable regulations as are contained in this chapter and Title VII of this Code of Ordinances.

(Code 1965, §17A-11; Ord. No. 1594, 4-1-68; Code 1991, §97.050)

97.051 Speed Of Vehicles

No person in a park shall ride or drive a vehicle at a rate of speed exceeding 10 miles per hour, except upon such roads as the city may designate, by posted signs, for speedier travel.

(Code 1965, §17A-12; Ord. No. 1594, 4-1-68; Code 1991, §97.051)

97.052 Parking

No person in a park shall park a vehicle in other than an established or designated parking area, and such use shall also be in accordance with the provisions of Chapter 72 of this Code of Ordinances.

(Code 1965, §17A-13; Ord. No. 1594, 4-1-68; Code 1991, §97.052)

97.053 Vehicles Prohibited After Closing Hours

No person except city staff shall enter, operate, park, leave or abandon a vehicle within a park after the closing hour of 11:00 p.m. No person except city staff shall operate a vehicle anywhere within a park other than on a paved vehicular road or path designated for vehicular access.

(Code 1965, §17A-14; Ord. No. 1594, 4-1-68; Code 1991, §97.053; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.054 Bicycles, Motorbikes, Skateboards and The Like

(A) No person in a park shall ride, drive, operate or push a bicycle, motorbike, scooter, skateboard, roller skates and the like on any road other than a paved vehicular road, path, or course designated for that purpose.

(B) Natural surface trails are multi-use for bicycles, Class 1 electrical bicycles (e-bikes) as defined by Ark. Code Ann. § 27-51-1702, and pedestrians only unless otherwise designated.

(C) Use of natural surface trails is prohibited when closed or conditions are such that damage would be caused by use.

(D) The restrictions of subsections (A) and (B) shall not apply to adaptive cycles, vehicles being operated by City employees to perform park maintenance, or police, fire, and other emergency vehicles.

(Code 1965, §17A-15; Ord. No. 1594, 4-1-68; Code 1991, §97.054)

97.055 Use of Motor Vehicles.

No person in any City park shall drive a motor vehicle (including, but not limited to passenger cars and trucks, commercial motor vehicles, golf carts, motorcycles, ATVs or the like) on other than a paved vehicular road or path designated for that purpose, or with the express written authorization of the Director.

97.056—97.064 Reserved

ARTICLE V RECREATIONAL ACTIVITIES

97.065 Bathing and Swimming; Bathhouses

(A) No person in a park shall swim, bathe, or wade in any waters or waterways in any park, except in such waters as are provided therefor and except during such hours of the day as shall be designated by the City. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the City upon a finding that such use of the water would be dangerous or otherwise inadvisable. Groups wishing to have a special event at Lake Fayetteville that includes swimming shall obtain a special use permit from the City see section 97.071.

(B) No person in a park shall dress or undress in any vehicle, toilet or other place, except in such bathing houses or structures as may be provided for that purpose.

(Code 1965, §17A-17; Ord. No. 1594, 4-1-68; Code 1991, §97.065; Ord. No. 5285, 11-17-09)

97.066 Hunting and Firearms

(A) No person in a park shall hunt, trap or pursue wildlife at any time; provided that the trapping of muskrats, beavers or other burrowing animals may be permitted on city reservoirs and waterways upon approval of the Mayor for the protection of earthen dams. No person except City police and Animal Control Officers shall use, carry, or possess firearms of any description or air rifles, spring guns, slings, traps, or other weapons or devices potentially inimical to wildlife or dangerous to human safety. Bows and arrows will be permitted on archery ranges so designated and supervised by the City.

(B) Subsection (A) shall not be interpreted to prohibit the possession of firearms in city parks by on-duty law enforcement officers or other persons if such prohibition would not be allowed by state law.

(Code 1965, §17A-18; Ord. No. 1594, 4-1-68; Ord. No. 1963, 11-20-73; Code 1991, §97.066; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6222 , §1, 9-3-19)

97.067 Picnic Facilities; Duty of Picnicker

(A) No person in a park shall use any portion of the park or recreational facilities to the exclusion of other persons; nor shall any person use such areas and facilities for an unreasonable time if the facilities are crowded. Use of individual grills, tables, benches, and recreational facilities will generally follow the rule of "first come, first served" unless otherwise scheduled by the City.

(B) No person in a park shall leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. Where no such trash receptacles are available, the refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(Code 1965, §17A-19; Ord. No. 1594, 4-1-68; Code 1991, §97.067; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.068 Camping Prohibited

No person in a park shall set up or use tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person bring in or leave in a city park after closing hours any structure or vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like without a Camping Permit approved by the Director. Boy Scouts and other groups who have served the CIty through approved work programs in parks may be permitted to camp at designated park campsites with an approved Camping Permit authorized by the Director. Tournament directors of park related sanctioned tournaments may be permitted to camp at designated tournament facility sites with an approved Camping Permit authorized by the Director. Special event and/or Race Directors and event participants may be permitted to camp at designated campsites with an approved Camping Permit authorized by the Parks and Recreation Director.

(Code 1965, §17A-20; Ord. No. 1594, 4-1-68; Code 1991, §97.068; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6415 §1, 2-18-21)

97.069 Horseback Riding

No person in a park shall ride a horse except on designated bridle trails approved by the Director. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care and shall not be allowed to go unattended.

(Code 1965, §17A-22; Ord. No. 1594, 4-1-68; Code 1991, §97.069; Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.070 Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson

(A) *Hours.* Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided:

(1) Lake Fayetteville shall be closed on Thanksgiving Day and from sunset on December 23rd through January 14th.

(2) The Director is authorized to extend the operating hours of a lake when reasonable and necessary to accommodate a tournament, special event, or seasonal weather conditions.

(B) *Permits for Fishing and Boating.* Fishing and boating permits are required for Lake Fayetteville. There is no permit requirement for Lake Wilson, Lake Sequoyah or other Park areas containing fishable waters.

(1) *Permits:*

(a) Annual boating and fishing permit (age sixty-five (65) and older and veterans)$40.00

(b) Annual boating and fishing permit (sixteen (16)—sixty-four (64))$50.00

(c) Daily boating and fishing permit (sixty-five (65) and older and veterans)$5.00

(d) Daily boating and fishing permit (sixteen (16)—sixty-four (64))$6.00

(e) Annual fishing/use permit (sixty-five (65) and older and veterans)$20.00

(f) Annual fishing/use permit (sixteen (16)—sixty-four (64))$30.00

(g) Daily fishing/use permit (sixty-five (65) and older and veterans)$2.00

(h) Daily fishing/use permit (sixteen (16)—sixty-four (64))$3.00

(i) Daily fishing/use permit (under sixteen (16) with permitted adult)Free

(j) Daily non-motorized boating (canoes, inflatables, kayaks, paddle boats and sailboats)$3.00

(k) Annual non-motorized boating (per patron, nontransferable)$20.00

(2) *Miscellaneous.*

(a) Each person sixteen (16) years of age or older is required to purchase a fishing/use permit for fishing on the lake or any stream within the city owned lake property at Lake Fayetteville.

(b) There will be two (2) free fishing weekends each year where city fishing/use permits will not be required. One (1) weekend will coincide with the Arkansas Game and Fish free fishing weekend. The Director will designate the second weekend annually.

(c) A boating permit applies to the boat rather than the occupants thereof; however, all occupants of a boat, sixteen (16) years of age or older must purchase a fishing/use permit. Daily permits are valid only for use on the date of purchase.

(d) Juveniles and their supervisors shall be exempt from the boating and fishing permit fee if they are part of Washington County government rehabilitation program approved by the Director for the location, date and time of lake access.

(C) *Boat Docking.* Boat docking shall be permitted at Lake Fayetteville on a space available basis to season boating and fishing permit holders for the following per boat annual fees:

(1) City resident$250.00

(2) Non-resident$325.00

(D) *Fishing.* All fishing shall be done only from the bank, designated docks or boat. No wading, swimming, paddle boards or belly boats shall be permitted in all city lakes. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught; however, the City may provide additional limitations necessary to manage the fish population. All persons fishing at Lake Fayetteville should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, limb lines, cast nets, yo-yos or jug fishing.

(E) *Boating.* A boating permit for each boat must be purchased before its use on Lake Fayetteville. All boats must be docked or removed from the lake at closing time. No boats except those used by lake employees or the Environmental Study Center will be docked at any other location on the lake. Boating may be closed to the public by the City during a special event that includes swimming.

(F) *Place of Entry.* All persons boating at Lake Fayetteville shall enter the lake only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution. All persons boating at Lake Sequoyah and Lake Wilson shall enter the lake only at the boat ramp.

(G) *Use of Motors on Boats.*

(1) In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof. All city lakes are no wake lakes. Speeding and boat racing are not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.

(2) No boats shall be permitted within 500 feet of the spillway of any lake.

(3) No houseboats, paddle boards, water skiing, or jet skis are permitted.

(4) All state laws governing boats must be complied with before using a boat on any city lake.

(5) The city will not be responsible for any damage to or theft of boats, motors, or equipment.

(H) *Picnicking or Other Recreational Activities.* Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which are controlled by the City.

(I) *Committing Nuisances.* No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the city, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.

(J) *Fishing and Boating Prohibited Near Intake Tower.* No one shall climb upon, enter, or fish from the intake towers of the lakes.

(K) *Fishing on Stream Below Dam.* State laws governing fishing below dams shall be applicable on city property. Fishing permits are required to fish in the stream on city property below the dam at Lake Fayetteville.

(L) *Firearms and Hunting.* Except as otherwise provided in § 97.066 of this Chapter, no firearms, hunting or trapping will be permitted on city owned property at any time.

(M) *Revoking Permits.* The city shall have the right to revoke any permit issued under this section if it is determined that the permittee willfully violated any of the provisions of this section. When a permit is revoked, there will be no refunds.

(Code 1965, §13-12; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Ord. No. 3437, 7-5-89; Ord. No. 3533, 2-19-91; Ord. No. 4168, 6-1-99; Code 1991, §97.070; Ord. No. 4707, 06-07-05; Ord. No. 4811, 12-20-05; Ord. No. 5139, 5-6-08; Ord. No. 5229, 3-17-09; Ord. No. 5285, 11-17-09; Ord. No. 5596, 07-02-13; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 6597 , §1(Exh. A), 9-6-22)

97.071 Fayetteville Special Use Permit For Events That Include A Swimming Component

(A) *Special Events That Include Swimming.* Special events that include a swimming component, such as a triathlon, may be permitted at Lake Fayetteville with a special use permit issued by the Director. Such issuance will be at the sole discretion of the Director and should comply with the following:

(1) A special event permit should be processed through the City at least ninety (90) days prior to the event.

(2) A water testing fee of $250.00 and a special event fee in an amount sufficient to cover all City costs to administer the event shall be charged to the event organizer for the use of the Lake Fayetteville Park space and facilities. A further security deposit to ensure complete clean up or repair of any damage may be required. The Director may require an event organizer to obtain sufficient liability insurance and take measures to increase swimmers' safety.

(3) The City does not warrant the safety or cleanliness of any lake for swimmers. Event organizers shall provide notice of the inherent danger of swimming in the lake to all persons requesting to swim and shall obtain waivers of liability and responsibility for the City of Fayetteville from all participants.

(4) The City reserves the right to allow swimming only in designated areas during the event and prohibit boating in these areas.

(5) The City reserves the right to cancel previously approved special events due to unacceptable water quality, inclement weather or other valid reason.

(Ord. No. 5285, 11-17-09)

97.072—97.079 Reserved

ARTICLE VI CONDUCT IN PARKS

97.080 Gambling Prohibited; Recreational Activities To Take Place Only In Suitable Areas

No person in a park shall gamble, or participate in, or abet any game of chance. Nor shall any person take part in or abet the playing of other forms of recreation except in areas set apart for or conducive to the particular form of recreation.

(Code 1965, §17A-21; Ord. No. 1594, 4-1-68; Code 1991, §97.080)

97.081 Intoxicating Beverages

(A) No person in a park shall bring into or consume alcoholic beverages within a city park, nor shall any person enter a park when under the influence of intoxicating beverages.

(B) Notwithstanding the above prohibition:

(1) The Botanical Garden Society of the Ozarks may allow alcoholic beverages to be served on the premises they have leased within the Lake Fayetteville park area for fundraisers, wedding receptions and other special events as long as they fully comply with all alcoholic beverage control requirements.

(2) The Mayor or the Mayor's designee may issue a permit allowing the temporary possession, sale and consumption of alcoholic beverages in city parks for special events as long as the event sponsors fully comply with all applicable state and local laws and regulations, including alcoholic beverage control

requirements. The permit may include any conditions necessary to ensure public safety and the protection of city property.

(3) Alcoholic beverages may be possessed or consumed in a city park or other recreational facility within the Downtown Outdoor Refreshment Area boundaries pursuant to the provisions of §111.07 of the Fayetteville City Code and any additional administrative regulations.

(Code 1965, §17A-23; Ord. No. 1594, 4-1-68; Code 1991, §97.081; Ord. No. 4865, 05-16-06; Ord. No. 6029 , §1, 1-2-18; Ord. No. 6469 , §§ 1, 2, 8-17-21)

97.082 Fires; Fireworks And Explosives

(A) No person in a park shall build or attempt to build a fire except in fireplaces or facilities so designed for such use, nor leave any fire unattended. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes, or cigars, tobacco papers or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(B) No person in a park shall bring in, explode or cause to be exploded, discharge or burn any firecrackers, torpedoes, skyrockets, roman candles or other fireworks, explosives or inflammable materials without having first obtained prior written consent pursuant to the requirements of §94.05(G).

(Code 1965, §§17A-24, 17A-26; Ord. No. 1594, 4-1-68; Code 1991, §97.082; Ord. No. 5860 , §1, 3-15-16)

97.083 Smoking And Use Of Tobacco Products

(A) Smoking and use of tobacco products includes holding a lighted pipe, cigar, or cigarette of any kind, or lighting, or emitting or exhaling the smoke of, a pipe, cigar, or cigarette of any kind. It also includes the use of all smokeless tobacco and nicotine-containing products (including, but not limited to, chewing tobacco, snuff, dip, and snus), electronic cigarettes, vapor devices, or heated devices.

(B) It shall be prohibited for any person to smoke or use tobacco products in any city owned or operated recreational facilities, parks, and trails.

(C) Exemption: Cessation products approved by the United States Food and Drug Administration such as nicotine gum, nicotine lozenges, nicotine patches, pharmaceutical nicotine inhalers (not including any form of electronic products), and nicotine nasal sprays are specifically exempted from this section and can be used in city owned or operated recreational facilities, parks, and trails.

(D) The city shall post signs in city owned or operated parks, trails, and recreational facilities at the discretion of the Director notifying the public that smoking and tobacco use of any kind are prohibited.

(E) Any person who smokes or uses tobacco products in an area where it is prohibited by this section shall be guilty of a violation punishable by a fine not exceeding $50.00 per occurrence.

(Ord. No. 6046 , §1, 3-6-18)

97.084 Entering Closed Areas

No person in a park shall enter an area posted as "Closed to the Public", nor shall any person use, or abet the use of, any area in violation of posted notices.

(Code 1965, §17A-27; Ord. No. 1594, 4-1-68; Code 1991, §97.084)

97.085 Going Onto Ice

No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating fields, provided a safety signal is displayed.

(Code 1965, §17A-28; Ord. No. 1594, 4-1-68; Code 1991, §97.085)

97.086 Vending And Peddling

(A) *General Prohibition of Selling in City Parks.* No person or business shall within a city park sell anything subject to the exemptions set forth in subsection (B) of this Chapter.

(B) *Exemptions.*

(1) The city's regularly licensed concessionaires acting pursuant to the authority and regulation of the city are exempt from subsection (A).

(2) Nonprofit organizations which have obtained a special events permit may sell nonalcoholic beverages, food and other approved items during an annual event.

(3) Sponsors of the Gulley Park Concert Series and other special events offered by the Department of Parks, Natural Resources, and Cultural Affairs may sell food, nonalcoholic beverages, and other approved items during the event when specifically approved by the Director of Parks, Natural Resources, and Cultural Affairs. Approved merchandise may be sold at special events by performers and hosts if approved in advance by the Director of Parks, Natural Resources, and Cultural Affairs.

(4) The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays, Saturdays and one (1) weekday within a portion of the Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the society) as shown on Exhibit A.



Farmers' Market at Lake Fayetteville Park within Botanical Garden leased area

(5) Organizations the city directly funds, event sponsors and the non-profit Friends of Fayetteville Parks are allowed at no charge to setup a table to distribute information at park events upon approval of the Director of Parks, Natural Resources, and Cultural Affairs.

(6) The Director of Parks, Natural Resources, and Cultural Affairs may approve vendors or appoint market organizers to sell food, nonalcoholic beverages, and arts and crafts in parks as part of City-sponsored events.

(C) Food trucks permitted pursuant to §178.05 may operate in city parks as described below:

(1) Food trucks may not locate in the same area that is actively being served by a contracted concessionaire as shown on Exhibit C during regular season Fayetteville Parks, Natural Resources, and Cultural Affairs leagues and tournaments.

(2) Food trucks may locate at Gulley Park during a Gulley Park Concert or special event in other parks such as tournaments, reserved park gatherings, etc. if approved by the Director of Parks, Natural Resources, and Cultural Affairs.

(D) For special events, food trucks and sales of items other than food may be approved by the Director of Parks, Natural Resources, and Cultural Affairs through a special event permit.

(Code 1965, §17A-29; Ord. No. 1594, 4-1-68; Code 1991, §97.086, Ord. No. 5310, 4-6-10; Ord. No. 5531, 10-02-12; Ord. No. 5666, 3-18-14; Ord. No. 5828 , §1(Exh. A), 12-15-15; Ord. No. 5940 , §2, 12-20-16; Ord. No. 6664 , §2(Exh. A), 5-16-23)

97.087 Advertising Prohibited

No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(Code 1965, §17A-30; Ord. No. 1594, 4-1-68; Code 1991, §97.087)

97.088 Signs Prohibited

(A) No person in a park shall paste, glue, tack, or otherwise post any sign, placards, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park, except as set forth herein below.

(B) *Exceptions.*

(1) *Athletic Field Signage.* Signs shall be permitted on softball/baseball outfield fences and scoreboards at locations and in sizes designated by the Director. Uniform fees shall be charged dependent upon placement and size of the permitted signs. The content of the sign and whether it is commercial or non-commercial may not be considered. Designated spaces shall be sold at the established price on a first-come basis. The owner of a sign at a designated location shall have first right to renew before others can purchase the size/location for a new or replacement sign.

(2) *Recognition Signs.* Signs located in city parks or on city trails that are used for the purpose of memorializing a person or family through naming, recognition of significant donors, or recognition of contributions to the facility or amenity on which the sign is installed shall meet the following conditions:

(a) *Maximum Number of Recognition Signs.* Most donor or honoree recognition signs shall be limited to one for the facility financed by the donor or memorializing the honoree. For a park or a major

facility with more than one major entrance, a second recognition sign may be recommended by the Parks and Recreation Advisory Board and approved by the City Council.

(b) *Maximum Size of Recognition Signs.*

(i) Donor recognition signs in city parks shall be sized in accordance with Exhibit "A", Donor Recognition Signs, unless otherwise determined by City Council resolution.

(ii) Trail Recognition Signs shall not exceed four square feet for trailhead facilities. Recognition signs along the trail for park benches, etc., shall not exceed 1.5 square feet and should be incorporated within or attached to the bench or amenity sponsored by the donor.

(c) *Design Requirements.* All recognition signs must comply with the following requirements and shall adhere to the aesthetic values and design of the park or trail:

(i) The recognition sign shall include only the name of the person memorialized or the name of the organization, person or business which has donated significant funds to the park facility. A company or organization logo (without company colors, any advertising or slogans) may be used on the sign.

(ii) The design of the sign shall be incorporated into the park facility and shall be approved by the Director who shall ensure the signs' high quality and durable construction and its consistency with other recognition signs within the park.

(iii) Recognition signs shall comply with the Donor Operational Policy unless exempted by the City Council.

(d) *Facility Naming.* The naming of facilities is permitted so long as the donor or honoree has made a significant contribution to the City, in terms of financial donations, voluntarism or dedicated public service. Final naming of facility may be as recommended by the Parks and Recreation Advisory Board with final selection and approval by the City Council. Naming of the facilities should meet the Naming Park Facilities Policy attached as Exhibit "B", unless otherwise determined by City Council resolution.

(e) Adopt-A-Park or trail groups may post a sign while they are actively working on a park project that provides information about their organization or group. The sign must be approved in advance by the City.

Exhibit "A"

CITY OF Fayetteville ARKANSAS	**Parks and Recreation Department Policies and Procedures Manual**		SUBJECT: OPERATIONS POLICY FOR DONOR RECOGNITION SIGNS	
	NUMBER:	REVISIONS:	EFFECTIVE DATE: 6-16-2015	PAGE: 1 OF 1
	SUPERSEDES:	APPROVED BY:		

DONOR RECOGNITION SIGNS

PURPOSE

The purpose of this directive is to provide policies which will govern the naming of park facilities currently owned or acquired by the City of Fayetteville. This policy statement takes precedence over any previous policies and guidelines which may have governed the naming of these facilities.

POLICY

In order to provide important capital facilities in Fayetteville Parks, it is pragmatic in a time of shrinking public dollars to seek outside funding. It is essential to have specific boundaries and criteria in establishing fair and proper recognition of significant facility donations. This policy sets guidelines for donations within parks as well as on trails. All sign and plaque designs must be incorporated into the design of the facility. Donor recognition signs shall adhere to the aesthetic values and design of the park.

Donor recognition in parks is based upon the type of facility donated. Donor recognition on trails is limited on the trailheads unless there is an educational and/or art feature that is appropriate to be displayed along the trail. Recognition signs may not be predominant within the educational and/or art component.

Recognition for each donation will be determined pursuant to the Recognition for Parks and Trails Facilities Policy. Any exceptions to this policy must be approved by City Council. Park Planners have the latitude to design signs recognizing donations based on site location and donor specific criteria. Naming of facilities donated must meet the Naming Park Facilities Operational Policy unless accepted under City Council resolution. The naming proposal will be presented to the Parks and Recreation Advisory Board for their recommendation to City Council. City Council has final approval of the park facility name, including the right to approve a different name. The option for naming facilities is only permitted under the Park Facility Diamond, Platinum, Gold and Silver categories. Minor items such as trash receptacles and flower beds cannot be named.

CITY OF Fayetteville ARKANSAS	Parks and Recreation Department Policies and Procedures Manual		SUBJECT: RECOGNITION FOR PARKS AND TRAILS FACILITIES POLICY	
	NUMBER: PRK-	REVISIONS:	EFFECTIVE DATE: 6-16-2015	PAGE: 1 OF 3
	SUPERSEDES:	APPROVED BY:		

RECOGNITION FOR PARKS AND TRAILS FACILITIES POLICY

Bronze Category: Recognition on Donor Wall for 25 year period

Donation of $25,000 up to $250,000 for park amenities. Examples include:	
Bleachers	Picnic Table and Grill
Batting Cages	Art Sculpture
Bike Racks	Single Playground Apparatus (climbing
Lighting	rocks/swing set)
Drinking Fountain with Dog Bowl	Landscape Feature
Prefabricated Pavilion	
Size of donor wall and names to be approved by the City Council.	

Silver Category: Naming Rights for 10 year period

Donation of 75% cost of new facility over $250,000. Examples include:	
Soccer Field	One Mile Asphalt/Concrete Park Trail
Baseball Field	Small Amphitheater (seating for 150)
Tennis Court	Water Feature
Basketball Court	Parking Lot (25 cars)
Disc Golf Course	Greenhouse
Concession Stand/Restroom	Playground
Park Restroom	

Gold Category: Naming Rights for a Field/Court/Facility for 25 year period

Donation of 100% cost of new facility over $250,000. Examples include:	

Soccer Field	One Mile Asphalt/Concrete Park Trail
Baseball Field	Small Amphitheater (seating for 150)
Tennis Court	Water Feature
Basketball Court	Parking Lot (25 cars)
Disc Golf Course	Greenhouse
Concession Stand/Restroom	Playground
Park Restroom	Dog Park

Platinum Category: Naming Rights of a Complex for 30 year period

Donation of $1 million up to $5 million to name a complete complex. Examples include:	
Sport Complex: 4—6 field lighted	Aquatic center
complex such as softball, baseball,	Amphitheater- seating for 1,200
soccer, tennis	Development of a new park

Diamond Category: Naming Rights of a Park

Donation over $5 million to name a park.	
RECOGNITION FOR EXISTING PARK FACILITIES	
$200,000 per baseball or softball field for 10 years, or $350,000 for two fields	
$150,000 per soccer field for 10 years or $250,000 for two fields	
TRAIL FACILITIES	

Silver Category receives donor recognition of a press release, ribbon cutting ceremony, plaque constructed of high quality durable materials up to 1.5 sq ft.

Trail Facilities donated in the Silver Category may only be located along trails for educational purposes or as an integral part of an art feature.	

Gold Category receives donor recognition of a press release, ribbon cutting ceremony, sign constructed of high quality durable materials up to 4 sq ft.

Trail Facilities donated in the Gold Category may only be located at trailheads for a 25 year period and include the following:	
Parking Lot	Restroom
Pavilion	One Mile Asphalt/Concrete Trail

City Process

1. Parks and Recreation Staff or the Friends of Parks Board meets with donor to discuss donation including amount of donation, development of facility/amenity, recognition operational policy, naming rights (if applicable), sign appearance/style/construction, time requirements and other pertinent topics. Donor must meet the Operational Policy for Donor Recognition Signs.
2. Request is presented for approval from Parks and Recreation Advisory Board. If the facility donated is granted the option to name the facility, the name must meet Park Naming Facility Operational Policy.
3. Request presented to Planning Office for approval.
4. Request presented to City Council for final park name selection and approval.
5. All donors will have first right to re-new their naming rights for an appropriate donation upon conclusion of the time period.
6. The city will reserve the right to remove a donor's name from the facility if the City Council determines by resolution that a donor would otherwise cause undue embarrassment or other issues for the City or its citizens.

Exhibit "B"

CITY OF Fayetteville ARKANSAS	Parks and Recreation Department Policies and Procedures Manual		SUBJECT: OPERATIONS POLICY FOR NAMING PARK FACILITIES	
	NUMBER: PRK-	REVISIONS:	EFFECTIVE DATE:	PAGE: 1 OF 1
	SUPERSEDES:	APPROVED BY:		

NAMING PARK FACILITIES

PURPOSE

The purpose of this directive is to provide policies which will govern the naming of park facilities currently owned or acquired by the City of Fayetteville. This policy statement takes precedence over any previous policies and guidelines which may have governed the naming of these facilities.

POLICY

Upon acquisition of a new park, the Director of Parks and Recreation will assign a nondescript temporary working name or subdivision name for the park facility to be used until park development begins.

Once park development begins, the Parks and Recreation Department will receive and forward park facility name suggestions to the Parks and Recreation Advisory Board for review. The Parks and Recreation Advisory Board will

discuss and approve the recommendations at their monthly meeting. Once a recommended name has been selected, the Parks and Recreation staff will forward the name to the City Council for its final park name selection including a potentially different name.

The following items should be considered when proposing names for any park facilities:

- Geographic location of the facility
- Outstanding features of the facility
- Commonly recognized historical event, group, or individual
- Individual or group who contributed significantly to the acquisition or development of a facility
- Individual who provided an exceptional service in the interest of the park system

For an individual to be considered, the recommended name must be accompanied by a biographical sketch which provides evidence of historical significance or contributions to the Parks and Recreation Department or City of Fayetteville.

The naming of plaques, markers, and memorials within park facilities must follow the policies as stated above.

Note: A name recommendation from the Active Transportation Committee for trail facilities will be required prior to forwarding to the Parks and Recreation Advisory Board.

(Code 1965, §17A-31; Ord. No. 3677, §2, 3-2-93; Code 1991, §97.088; Ord. No. 5335, 7-20-10; Ord. No. 5778, 6-16-15; >Ord. No. 5828 , §1(Exh. A), 12-15-15)

97.089—97.998 Reserved

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1186

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

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

FROM: Matt Mihalevich, Active Transportation Manager

DATE: October 13, 2023

SUBJECT: **Vehicle Restrictions for Shared-Use Paved Trails & Rules of the Road for Fayetteville Trails, Ordinance Change**

RECOMMENDATION:
Staff recommends amending section 71.170 and 71.171 of City code to update the types of electric bicycle and other devices allowed and restricted from using the City's shared-use paved trails.

BACKGROUND:
Section 71.170 of City code "Restrictions of Type Of Vehicles Allowed on City Trails and section 71.171 "Rules of the Road for Fayetteville Trails" was adopted in 2011. The existing ordinance pre-dates the State's 2019 e-bike legislation officially defining and classifying e-bikes.

Arkansas State law definition of e-bikes:

2019 Arkansas Code Title 27 – Transportation Subtitle 4 - Motor Vehicular Traffic Chapter 51 - Operation of Vehicles - Rules of the Road Subchapter 17 - Electric Bicycle Act § 27-51-1702. Definitions

"Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the operator is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of twenty miles per hour (20 m.p.h.);

"Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that is not capable of providing assistance when the electric bicycle reaches the speed of twenty miles per hour (20 m.p.h.);

"Class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the operator is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of twenty-eight miles per hour (28 m.p.h.); and

"Electric bicycle" means a bicycle equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts (750 W) that meets one (1) of the classifications defined in subdivisions (1)-(3) of this section.

The proposed ordinance change has been drafted with support from the City Attorney's office and presented at the following public committee meetings and unanimously supported by all voting members.

- Parks and Recreation Advisory Board, August 7th and October 2nd meeting
- The Active Transportation Advisory Committee, August 9th and October 11th meeting
- Transportation Committee, August 29th meeting

DISCUSSION:
The proposed amendment would explicitly allow all e-bikes (as legally defined by State law) as well as other electrified personal mobility devices to be operated legally on the City's shared-use paved trails while restricting the use of vehicles, such as electric motorcycles, with motors 750 watts or greater. The proposed amendment also updates language throughout the ordinance to correct place names and device types.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS: 2023-1186 Code Amendment 71.170 & 71.171 RESTRICTION OF TYPES OF VEHICLES ON TRAILS (#3)

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

File #: 2023-1186

Vehicle Restrictions for Shared-Use Paved Trails & Rules of the Road for Fayetteville Trails, Ordinance Change

AN ORDINANCE TO AMEND § 71.170 VEHICLE RESTRICTIONS FOR SHARED-USE PAVED TRAILS AND §71.171 RULES OF THE ROAD FOR FAYETTEVILLE TRAILS OF THE FAYETTEVILLE CITY CODE TO UPDATE THE TYPES OF VEHICLES ALLOWED ON THE CITY'S SHARED-USE PAVED TRAILS

WHEREAS, § 71.170 **Restrictions of Type of Vehicles Allowed on City Trails** and § 71.171 **Rules of the Road for Fayetteville Trails** were adopted prior to the enactment of the Electric Bicycle Act, Ark. Code Ann. §27-51-1702, the State's 2019 e-bike legislation officially defining and classifying e-bikes; and

WHEREAS, staff recommends amending § 71.170 and § 71.171 to adopt the definition of e-bikes to align with the Electric Bicycle Act, to clarify the types of vehicles authorized for use on the City's shared-use paved trails, and to use consistent language in the rules of the road for Fayetteville trails.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 71.170 **Restrictions of Type of Vehicles Allowed on City Trails** and enacts a replacement § 71.170 as follows:

"**71.170 Restriction Of Type Of Vehicles Allowed On City Shared-Use Paved Trails**

(A) No golf carts or comparable sized vehicles nor any gas-powered vehicles or electric vehicles with motor outputs exceeding 750 watts (1 horsepower) (except city maintenance or emergency vehicles) shall be driven or operated on any other city shared-use paved trail, except as follows.

(1) Pedicabs may be operated on city trails pursuant to the authorization and restrictions of §117.102(D) of the Fayetteville Code.

(2) A segment of the Meadow Valley Trail from the Stephen Carr Memorial Blvd underpass through University of Arkansas property and Washington County Fair property adjacent to Interstate 49 shall allow the use of motor vehicles during the annual Washington County Fair or other special events authorized by the Washington County Fair Board or as authorized by the University of Arkansas.

(3) A portion of the Clear Creek Trail from Highway 71 to an existing cabin shall allow motor vehicles for access to the cabin, but only with the permission of the owner of the cabin.

(B) Electrically powered personal mobility devices, including but not limited to electrical bicycles (e-

bikes) as defined in Ark. Code Ann. § 27-51-1702; and electric motorized scooters (e-scooters) as defined in Ark. Code Ann. § 27-51-1902 may be used on City shared-use paved trails only when their use does not create a safety hazard for other trail users. "

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 71.171 **Rules of the Road for Fayetteville Trails** and enacts a replacement § 71.171 as follows:

"71.171 Rules Of The Road For Fayetteville Trails

(A) *Pedestrians and Joggers.* Pedestrians, skaters and joggers should walk, skate or jog near the right side of the trail to accommodate faster runners, skaters, bicyclists, and faster traffic to pass on the left side of the lane.
(B) *Bicyclists, Skaters, Runners and Others.* Persons should ride their bicycles, electrical bikes (e-bikes), skateboards, scooters, and electric motorized scooters (e-scooters) on the right side of the lane unless passing. Persons running, skating, or riding bicycles, e-bikes skateboards, scooters, and e-scooters shall give an audible warning prior to passing slower traffic. Passers shall not cross the solid yellow line. Passers shall not cross the dashed yellow line if oncoming traffic is close enough that the passer cannot return to his/her lane before reaching oncoming traffic or if crossing the dashed yellow line causes any safety hazard.
(C) *Speed Limit.*

(1) No person shall travel on a city shared-use paved trail at a speed greater than is reasonable and prudent under the conditions then existing.
(2) No person shall travel on a city shared-use paved trail at a speed greater than 15 m.p.h..
(3) Persons traveling on a city shared-use paved trail in such a manner as to indicate a reckless disregard for the safety of others shall not only be subject to punishment set forth in §10.99, but may have their right to use the city trails suspended for up to one year. Any person violating a suspension period shall be guilty of a separate violation of this subsection."

City of Fayetteville Staff Review Form

2023-1186

Legistar File ID

11/7/2023

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

Matt Mihalevich	10/11/2023	ENGINEERING (621)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Staff recommends amending section 71.170 and 71.171 of City code to update the types of electric bicycle and other devices allowed and restricted from using the City's shared-use paved trails.

Budget Impact:

N/A	N/A
Account Number	Fund
N/A	N/A
Project Number	Project Title

Budgeted Item?	NA	Current Budget	$	-
		Funds Obligated	$	-
		Current Balance	$	-
Does item have a cost?	NA	Item Cost	$	-
Budget Adjustment Attached?	NA	Budget Adjustment	$	-
		Remaining Budget	$	-

V20180321

Purchase Order Number:

Previous Ordinance or Resolution # 5385 & 5182

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

71.170 Restriction Of Type Of Vehicles Allowed On City Shared-Use Paved Trails

(A) No golf carts or comparable sized vehicles nor any gas- powered vehicles or electric vehicles with motor outputs exceeding 750 watts (1 horsepower) (except city maintenance or emergency vehicles) shall be driven or operated on any other city shared-use paved trail, except as follows.

(1) Pedicabs may be operated on city trails pursuant to the authorization and restrictions of §117.102(D) of the Fayetteville Code.

(2) A segment of the proposed Meadow Valley tTrail from the Stephen Carr Memorial Blvd Porter Road underpass through University of Arkansas property and Washington County Fair property along an existing gravel road (as shown on the attached map)adjacent to Interstate 49 shall allow the use of gas powered motor vehicles during the annual Washington County Fair or other special events if authorized by the Washington County Fair Board or as authorized by the University of Arkansas.

(3) A portion of the Clear Creek Trail from Highway 71 to an existing cabin shall allow gas powered motor vehicles for access to the cabin, but only with the permission of the owner of the cabin.

(B) Skates, skateboards, and Eelectrically powered personal mobility devices, including but not limited to scooters, electrical bicycles (e-bikes)-bikes as defined in Arkansas CodeArk. Code Ann. § 27-51-1702; §§ 27-51-1703 to 1706 and bicycles, segways, electric motorized scooters (e-scooters) as defined byin Arkansas Code Electric Motorized Scooter Act Ark. Code Ann. § 27-51-1902 etc. may be used on cityCity shared-use paved trails only when their use does not create a safety hazard for any other trail users. pedestrians, wheelchairs or human powered bicycles.

(Ord. No. 5385, 2-3-11)

71.171 Rules Of The Road For Fayetteville Trails

(A) *Pedestrians and Joggers.* Pedestrians, skaters and joggers should walk, skate or jog near the right side of the trail to accommodate faster runners, skaters, bicyclists, and faster traffic to pass on the left side of the lane."

(B) *Bicyclists, Skaters, Runners and Others.* Persons should ride their bicycles, segways, electrical bikes (-e-bikes), skateboards and, scooters, and electric motorized scooters (e-scooters) on the right side of the lane unless passing. Persons running, skating, or riding bicycles, Segways, e-bikes skateboards, scooters, and e-scooters and runners shall give an audible warning prior to passing slower traffic. Passers shall not cross the solid yellow line. Passers shall not cross the dashed yellow line if oncoming traffic is close enough that the passer cannot return to his/her lane before reaching oncoming traffic or if crossing the dashed yellow line causes any safety hazard.

(C) *Speed Limit.*

(1) No person shall skate or ride his bicycle, segway, skateboard, scooter or other vehicle on a travel on a city shared-use paved trail at a speed greater than is reasonable and prudent under the conditions then existing.

(2) No person shall skate or ride his bicycle, segway, skateboard, scooter or other vehicle travel on a city shared-use paved trail at a speed greater than 15 m.p.h. on a city trail.

(3) No person shall skate or ride his bicycle, segway, skateboard, scooter or other vehicle at a speed greater than 10 m.p.h. on a city trail when oncoming traffic is present or when passing traffic going the same direction.

(43) Persons traveling on a city shared-use paved skating or riding bicycles, segways, skateboards, scooters, or other vehicles on a city trail in such a manner as to indicate a reckless disregard for the safety of

others shall not only be subject to punishment set forth in §10.99, but may have their right to ~~skate or ride their vehicle upon~~ use the city trails suspended for up to one year. Any person violating a suspension period shall be guilty of a separate violation of this subsection.

(Ord. No. 5182, 10-07-08)

71.170 Restriction Of Type Of Vehicles Allowed On City Shared-Use Paved Trails

(A) No golf carts or comparable sized vehicles nor any gas-powered vehicles or electric vehicles with motor outputs exceeding 750 watts (1 horsepower) (except city maintenance or emergency vehicles) shall be driven or operated on any other city shared-use paved trail, except as follows.

(1) Pedicabs may be operated on city trails pursuant to the authorization and restrictions of §117.102(D) of the Fayetteville Code.

(2) A segment of the Meadow Valley Trail from the Stephen Carr Memorial Blvd underpass through University of Arkansas property and Washington County Fair property adjacent to Interstate 49 shall allow the use of motor vehicles during the annual Washington County Fair or other special events authorized by the Washington County Fair Board or as authorized by the University of Arkansas.

(3) A portion of the Clear Creek Trail from Highway 71 to an existing cabin shall allow motor vehicles for access to the cabin, but only with the permission of the owner of the cabin.

(B) Electrically powered personal mobility devices, including but not limited to electrical bicycles (e-bikes) as defined in Ark. Code Ann. § 27-51-1702; and electric motorized scooters (e-scooters) as defined in Ark. Code Ann. § 27-51-1902 may be used on City shared-use paved trails only when their use does not create a safety hazard for other trail users.

(Ord. No. 5385, 2-3-11)

71.171 Rules Of The Road For Fayetteville Trails

(A) *Pedestrians and Joggers.* Pedestrians, skaters and joggers should walk, skate or jog near the right side of the trail to accommodate faster runners, skaters, bicyclists, and faster traffic to pass on the left side of the lane.

(B) *Bicyclists, Skaters, Runners and Others.* Persons should ride their bicycles, electrical bikes (e-bikes), skateboards, scooters, and electric motorized scooters (e-scooters) on the right side of the lane unless passing. Persons running, skating, or riding bicycles, e-bikes skateboards, scooters, and e-scooters shall give an audible warning prior to passing slower traffic. Passers shall not cross the solid yellow line. Passers shall not cross the dashed yellow line if oncoming traffic is close enough that the passer cannot return to his/her lane before reaching oncoming traffic or if crossing the dashed yellow line causes any safety hazard.

(C) *Speed Limit.*

(1) No person shall travel on a city shared-use paved trail at a speed greater than is reasonable and prudent under the conditions then existing.

(2) No person shall travel on a city shared-use paved trail at a speed greater than 15 m.p.h..

(3) Persons traveling on a city shared-use paved trail in such a manner as to indicate a reckless disregard for the safety of others shall not only be subject to punishment set forth in §10.99, but may have their right to use the city trails suspended for up to one year. Any person violating a suspension period shall be guilty of a separate violation of this subsection.

(Ord. No. 5182, 10-07-08)

IS MY eBIKE ALLOWED?

SOFT SURFACE

Class 1

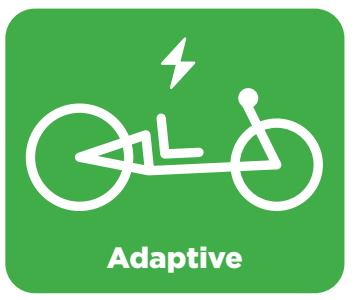
Class 1 bicycles have pedals and a motor that provides assistance up to 20mph while the rider pedals.
Adaptive bicycles have pedals and/or a throttle-assisted motor specifically designed for each rider's needs.

HARD SURFACE

Class 1, 2, & 3

Class 1 bicycles have pedals and a motor that provides assistance up to 20mph while the rider pedals.
Class 2 bicycles have pedals and a throttle-assisted motor that provides assistance up to 20mph.
Class 3 bicycles have pedals and a motor that provides assistance up to 28mph while the rider pedals.
Adaptive bicycles have pedals and/or a throttle-assisted motor specifically designed for each rider's needs.





NOT ALLOWED

750 Watts or Greater

Throttle driven bikes with motor power of 750 watts or greater are not allowed even if pedals are present.





CITY OF FAYETTEVILLE ARKANSAS

*The following Arkansas laws are referenced: Ark. Code §§ 27-20-101, 27-20-106.

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1217

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

DATE: October 19, 2023

SUBJECT: **VAC-2023-0012: Vacation (546 W. CENTER ST/CAMPBELL FAMILY TRUST, 484): Submitted by CLARK LAW FIRM PLLC for property located at 546 W. CENTER ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.63 acres. The request is to vacate a general utility easement totaling approximately 0.04 acres.**

RECOMMENDATION:
Staff recommends approval of VAC-2023-0012 as shown in the attached Exhibits 'A' and 'B', and with the following conditions of approval:

1. Any damage or relocation of any existing facilities will be at the applicant's expense.
2. Any existing services and customers shall be disconnected per the existing customers, then AT&T will have no objections removing the existing aerial service lines in the alley.
3. Relocation of impacted water and sewer lines will be required. Detailed engineering plans must be reviewed and approved by the City of Fayetteville prior to construction.

BACKGROUND:
The subject property is in downtown Fayetteville and contains one parcel that is approximately 0.63 acres (765-01886-000). The site is developed with two Quonset hut structures that contain local businesses, and is adjacent to the Razorback Greenway on the east. The structures were built in 1935, according to County records.

Request: The applicant proposes to vacate a portion of an existing general utility easement as indicated in the attached exhibits and totaling approximately 0.04 acres. This easement is required to be vacated in order to continue with an associated proposed project for multi-family housing.

DISCUSSION:
The applicant submitted the required approvals with no objections, though with the added conditions from franchise utility providers as listed above. With submittal of the required vacation forms and utility consent, staff recommends approval.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Applicant Request Letter (#6), Petition to Vacate (#7), Survey (#8)

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

File #: 2023-1217

VAC-2023-0012: Vacation (546 W. CENTER ST/CAMPBELL FAMILY TRUST, 484): Submitted by CLARK LAW FIRM PLLC for property located at 546 W. CENTER ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.63 acres. The request is to vacate a general utility easement totaling approximately 0.04 acres.

AN ORDINANCE TO APPROVE VAC 23-12 FOR PROPERTY LOCATED AT 546 WEST CENTER STREET IN WARD 2 TO VACATE A 0.04 ACRE PORTION OF UTILITY EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of utility easement is not required for corporate purposes.

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 vacates the portion of utility easement as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3: This vacation approval is subject to the following conditions:

1. Any damage to or relocation of any existing facilities will be at the applicant's expense.
2. Any existing services and customers shall be disconnected per the existing customers, then AT&T will have no objections removing the existing aerial service lines in the alley.
3. All impacted water and sewer lines shall be relocated and detailed engineering plans must be reviewed and approved by the City of Fayetteville prior to construction.

City of Fayetteville Staff Review Form

2023-1217

Legistar File ID

11/9/2023

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

Jonathan Curth	10/20/2023	DEVELOPMENT REVIEW (630)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

VAC-2023-0012: Vacation (546 W. CENTER ST/CAMPBELL FAMILY TRUST, 484): Submitted by CLARK LAW FIRM PLLC for property located at 546 W. CENTER ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.63 acres. The request is to vacate a general utility easement.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	No	Current Budget	$ -
		Funds Obligated	$ -
		Current Balance	$ -
Does item have a cost?	No	Item Cost	$ -
Budget Adjustment Attached?	No	Budget Adjustment	$ -
		Remaining Budget	$ -

V20210527

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

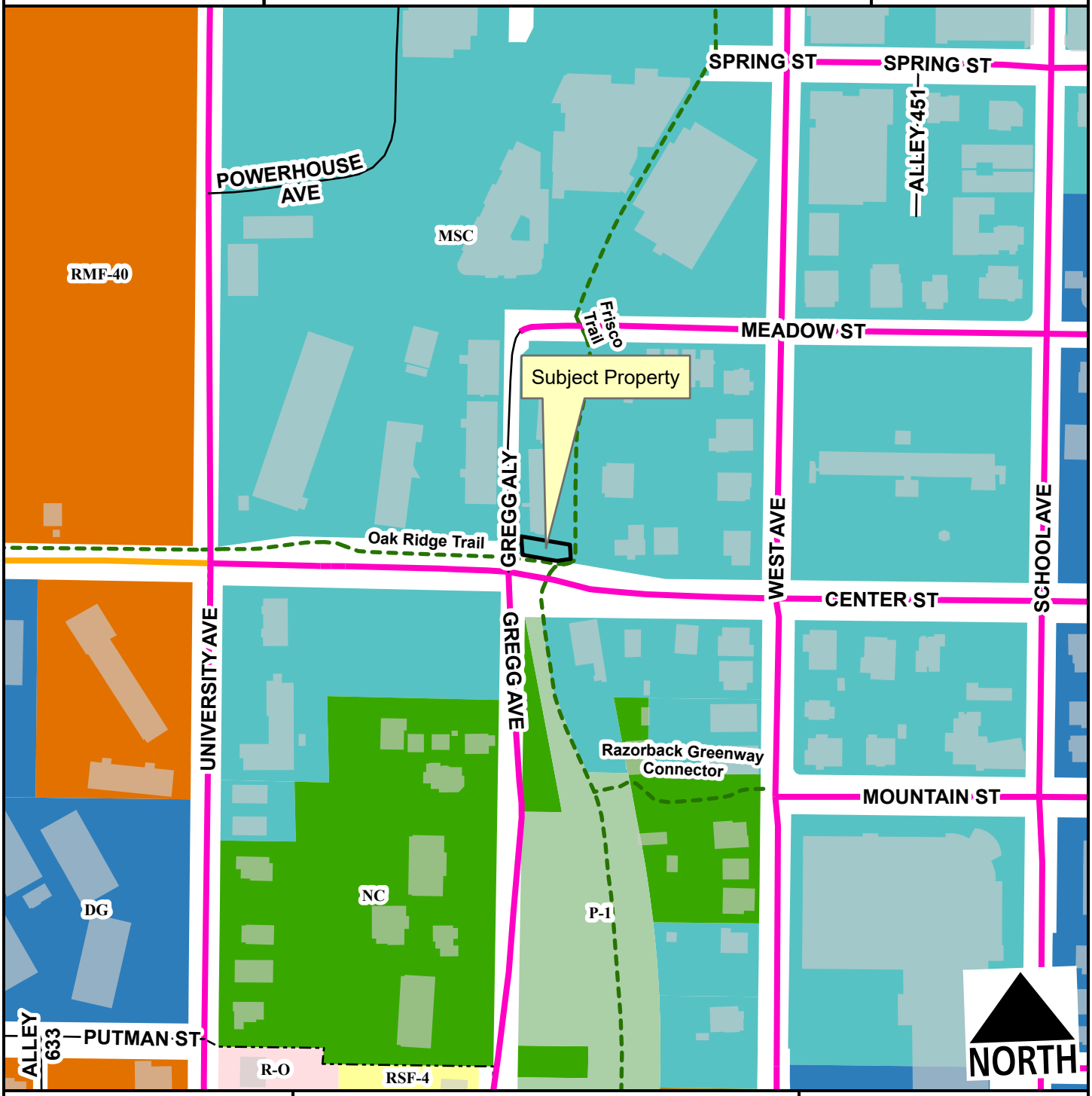
Comments:

VAC-2023-0012

Close Up View

546 W. CENTER ST

VAC-2023-0012
EXHIBIT 'A'



- Neighborhood Link
- Urban Center
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

- RSF-4
- RI-U
- RMF-40
- Residential-Office
- Main Street Center
- Downtown General
- Neighborhood Conservation
- P-1

VAC-2023-0012
EXHIBIT 'B'

EASEMENT

A PART OF THE WEST HALF (W1/2) OF BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL PLAT OF THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21); THENCE S89°49’06”W ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) 221.96 FEET TO AN EXISTING IRON, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET THE CHORD FOR WHICH BEING S03°21’52”W 310.45 FEET TO AN EXISTING IRON ON THE NORTH RIGHT-OF-WAY OF CENTER STREET; THENCE NORTHERLY ALONG SAID CURVE 98.26 FEET THE CHORD FOR WHICH BEING N05°14’37”W 98.18 FEET; THENCE WEST 15.00 FEET TO A POINT ON A 729.49 FOOT RADIUS CURVE CONCENTRIC TO THE AFOREMENTIONED CURVE; THENCE SOUTHERLY ALONG SAID CURVE 69.80 FEET THE CHORD FOR WHICH BEING S04°01’09”E 69.80 FEET TO A POINT 25.00 FEET NORTH OF AND PERPENDICULAR TO THE NORTH RIGHT-OF-WAY OF CENTER STREET ; THENCE N78°36’20”W 12.67 FEET FOR THE TRUE POINT OF BEGINNING; THENCE N78°36’20”W 68.55 FEET; THENCE S02°06’06”E 25.71; THENCE S78°36’20”E 48.68 FEET; THENCE NS83°48’52”E 18.94 FEET ; THENCE N00°52’44”W 19.73 FEET TO THE POINT OF BEGINNING.

CLARK LAW FIRM
PLLC

121 West South Street
PO Box 4248
Fayetteville, Arkansas 72702-4248

Tel: (479) 856-6380
Fax: (479) 856-6381

Suzanne G. Clark
sclark@clark-firm.com

SEPTEMBER 13, 2023

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Attn: Planning Commission and City Council

Re: Utility Easement Vacation Application– 546 W. Center Streeet

Clark Law Firm represents Trinitas Ventures ("Trinitas") regarding their application to vacate the general utility easement, shown in the included Survey Exhibit, located at 546 Center Street, Fayetteville, AR 72701. This vacation request is a part of Trinitas' plan to develop the subject property.

There are currently no utilities contained in the described easement and there are no plans for utilities to be constructed within the easement. Therefore, the public interest and welfare would not be adversely affected by the abandonment of the easement.

I request the Petition to Vacate the general utility easement be scheduled for review with the City Council. We are happy to provide any additional information that is needed or that may be helpful upon your review of the petition. Thank you for your consideration and please let me know you have any questions.

Sincerely,

/s/ Suzanne G. Clark

Suzanne G. Clark

PETITION

PETITION TO VACATE A GENERAL UTILITY EASEMENT LOCATED AT 546 W. CENTER STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

I, the undersigned, as authorized representative of Trinitas Ventures, and with the consent of owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in 546 W, Center Street, Parcel No.765-01886-000, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

A PART OF THE WEST HALF (W1/2) OF BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL PLAT OF THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21); THENCE S89°49'06"W ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) 221.96 FEET TO AN EXISTING IRON, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET THE CHORD FOR WHICH BEING S03°21'52"W 310.45 FEET TO AN EXISTING IRON ON THE NORTH RIGHT-OF-WAY OF CENTER STREET; THENCE NORTHERLY ALONG SAID CURVE 98.26 FEET THE CHORD FOR WHICH BEING N05°14'37"W 98.18 FEET; THENCE WEST 15.00 FEET TO A POINT ON A 729.49 FOOT RADIUS CURVE CONCENTRIC TO THE AFOREMENTIONED CURVE; THENCE SOUTHERLY ALONG SAID CURVE 69.80 FEET THE CHORD FOR WHICH BEING S04°01'09"E 69.80 FEET TO A POINT 25.00 FEET NORTH OF AND PERPENDICULAR TO THE NORTH RIGHT-OF-WAY OF CENTER STREET ; THENCE N78°36'20"W 12.67 FEET FOR THE TRUE POINT OF BEGINNING; THENCE N78°36'20"W 68.55 FEET; THENCE S02°06'06"E 25.71; THENCE S78°36'20"E 48.68 FEET; THENCE NS83°48'52"E 18.94 FEET ; THENCE N00°52'44"W 19.73 FEET TO THE POINT OF BEGINNING.

That the abutting real estate affected by said abandonment of the easement at 546 W. Center Street, Parcel No.765-01886-000, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

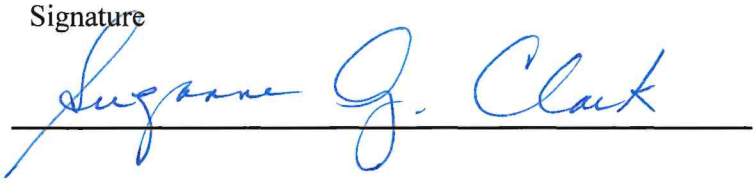
The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 13th day of September, 2023.

Printed Name: Suzanne G. Clark, Representative/Attorney for Trinitas Ventures

Signature



ALTA/NSPS LAND TITLE SURVEY

546 & 612 WEST CENTER STREET

LOCATED IN: SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST

WASHINGTON COUNTY, FAYETTEVILLE, ARKANSAS 72701

SITE INFORMATION

N/F OWNERS: G. DENELE CAMPBELL, TRUSTEE & JOHN MILLER ET AL
ADDRESSES: 546 & 612 WEST CENTER STREET, FAYETTEVILLE, AR 72701
APN'S: 765-12994-000 & 765-01886-000
73,538 ± SQUARE FEET, OR 1.688 ± ACRES (EXCLUDING RAZORBACK GREENWAY)
80,594 ± SQUARE FEET, OR 1.850 ± ACRES (INCLUDING RAZORBACK GREENWAY)

SCHEDULE A DESCRIPTION (546 WEST CENTER STREET)

The Land referred to herein below is situated in the County of Washington, State of Arkansas, and is described as follows:

A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN NAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE NORTH 87°21'50" WEST 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT OF WAY FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING SOUTH 06° 10' 55" WEST 310.45 FEET TO THE NORTH RIGHT OF WAY LINE OF CENTER STREET; THENCE NORTH 78° 38' 34" WEST 56.24 FEET TO THE NORTH RIGHT OF WAY LINE OF CENTER STREET TO A SET 1/2 INCH IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT OF WAY; THENCE LEAVING THE NORTH RIGHT OF WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT OF WAY LINE, NORTH 02° 45' WEST 38.49 FEET TO A SET 1/2 INCH IRON REBAR AT THE BEGINNING OF A 814.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID CURVE AND RIGHT OF WAY LINE 357.77 FEET, THE CHORD FOR WHICH BEING NORTH 05° 38' 25" EAST RIGHT OF WAY LINE OF GREGG AVENUE 10.23 FEET TO A SET CO TTON SPINDLE AT THE NORTHWEST CORNER OF SAID BLOCK TWENTY-ONE (21); THENCE SOUTH 87°21'50" EAST 105.17 FEET TO THE POINT OF BEGINNING, CONTAINING 0.67 ACRES, MORE OR LESS. THE ABOVE DESCRIBED 0.67 ACRE TRACT BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS OF WAY OR NOT OF RECORD.

THE PROPERTY HEREON DESCRIBED IS THE SAME AS THE PERTINENT PROPERTY AS DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY, TITLE COMMITMENT #NCS-1164536-CO, WITH A COMMITMENT DATE OF JANUARY 31, 2023 AT 8:00 A.M.

SCHEDULE A DESCRIPTION (612 WEST CENTER STREET)

The Land referred to herein below is situated in the County of Washington, State of Arkansas, and is described as follows:

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION SIXTEEN (16) IN TOWNSHIP SIXTEEN (16) NORTH OF RANGE THIRTY (30) WEST, BEING IN THE CITY OF FAYETTEVILLE, AND BEING KNOWN AS LOTS FOURTEEN A AND FOURTEEN B, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF GREGG A VENUE, AT THE INTERSECTION OF WEST MEADOW AND GREGG AVENUE, WHICH BEGINNING POINT IS TWO (2) FEET SOUTH OF AN EXISTING REINFORCED CONCRETE RETAINING WALL; THENCE WEST TWO (2) FEET AND, PARALLEL WITH THE SOUTH FACE OF SAID RETAINING WALL ONE HUNDRED TWENTY SEVEN (127) FEET, MORE OR LESS, TO THE EAST LINE OF THE RIGHT OF WAY OF THE ST. LOUIS-SAN FRANCISCO RAILROAD; THENCE SOUTHWESTERLY, ALONG THE SAID EAST LINE OF SAID RAILROAD RIGHT OF WAY TO THE INTERSECTION OF SAME WITH THE NORTH LINE OF CENTER STREET; THENCE EAST WITH THE NORTH LINE OF CENTER STREET TO THE INTERSECTION OF SAME WITH THE WEST LINE OF GREGG STREET; THENCE NORTH ALONG THE WEST LINE OF GREGG STREET TO THE PLACE OF BEGINNING.

PROPERTY ADDRESS: 600 W CENTER ST., 612 W CENTER ST., 606 W CENTER ST.

THE PROPERTY HEREON DESCRIBED IS THE SAME AS THE PERTINENT PROPERTY AS DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY, TITLE COMMITMENT #NCS-1164534-CO, WITH A COMMITMENT DATE OF JANUARY 31, 2023 AT 8:00 A.M.

NOTES CORRESPONDING TO SCHEDULE B (546 WEST CENTER STREET)

10 — *BUILDING SETBACK LINES AND EASEMENTS AS SHOWN ON RECORDED PLAT DOCUMENT NUMBER 2022-00035475, RECORDS OF WASHINGTON COUNTY, ARKANSAS. (AFFECTS, PLOTTED AS SHOWN)*

11 — *SUBJECT TO EASEMENT FILED FOR RECORD ON MAY 26, 2006, AS DOCUMENT NUMBER 2006-00021329, IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS. (AFFECTS, PLOTTED AS SHOWN)*

THE SCHEDULE B ITEMS HEREON DESCRIBED IS THE SAME AS DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY, TITLE COMMITMENT #NCS-1164536-CO, WITH A COMMITMENT DATE OF JANUARY 31, 2023 AT 8:00 A.M.

NOTES CORRESPONDING TO SCHEDULE B (612 WEST CENTER STREET)

THE SCHEDULE B ITEMS LISTED WITHIN FIRST AMERICAN TITLE INSURANCE COMPANY, TITLE COMMITMENT #NCS- 1164536-CO, WITH A COMMITMENT DATE OF JANUARY 31, 2023 AT 8:00 A.M. ARE STANDARD TITLE EXCEPTIONS AND/OR ARE MATTERS THAT DO NOT PERTAIN TO THIS SURVEY.

PARKING INFORMATION

REGULAR= 8
HANDICAP= 0
TOTAL= 8

FLOOD ZONE INFORMATION

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05143C0210F, WHICH BEARS AN EFFECTIVE DATE OF 05/16/2012 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA

ZONE "X" - AREA OF MINIMAL FLOOD HAZARD, USUALLY DEPICTED ON FIRMS AS ABOVE THE 500-YEAR FLOOD LEVEL. ZONE "X" IS THE AREA DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD AND PROTECTED BY LEVEE FROM 100-YEAR FLOOD.

BASIS OF BEARING

THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH BASED ON THE EAST LINE OF THE WESTERN PARCEL OF THE SUBJECT PROPERTY, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF SOUTH GREGG STREET. THE BEARING IS DENOTED AS N 02°43'12" E, PER GPS COORDINATE OBSERVATIONS ARKANSAS STATE PLANE, NORTH ZONE NAD83.
LATITUDE = 36°03'45.6845"
LONGITUDE = -94°10'01.5343"
CONVERGENCE ANGLE = -01°15'39.70"

SIGNIFICANT OBSERVATIONS

1 — *THE PAVED ASPHALT PARKING AREA EXTENDS ONTO THE ADJOINING PROPERTY BY AS MUCH AS 2.0'±.*

2 — *THE PAVED ASPHALT DRIVE EXTENDS ONTO THE ADJOINING PROPERTY BY AS MUCH AS 0.7'±.*

3 — *THE CHAIN/LINK FENCE EXTENDS ONTO THE ADJOINING PROPERTY BY AS MUCH AS 1.3'±.*

4 — *THE BUILDING OVERHANG EXTENDS ONTO THE ADJOINING PROPERTY BY AS MUCH AS 0.7'±.*

5 — *THE PAVED ASPHALT DRIVE OF THE PUBLIC RIGHT-OF-WAY EXTENDS ONTO THE SUBJECT PROPERTY BY AS MUCH AS 4.6'±.*

6 — *THE FENCE EXTENDS ONTO THE ADJOINING PROPERTY BY AS MUCH AS 3.9'±.*

7 — *THE PAVED ASPHALT DRIVE OF THE PUBLIC RIGHT-OF-WAY EXTENDS ONTO THE SUBJECT PROPERTY BY AS MUCH AS 4.2'±.*

8 — *THE CONCRETE SIDEWALK EXTENDS ONTO THE SUBJECT PROPERTY BY AS MUCH AS 0.6'±.*

9 — *THE CONCRETE PAD EXTENDS ONTO THE PUBLIC RIGHT-OF-WAY BY AS MUCH AS 0.6'±.*

10 — *THE ASPHALT PAVEMENT EXTENDS ONTO THE PUBLIC RIGHT-OF-WAY BY AS MUCH AS 1.7'±.*

11 — *THE CONCRETE WALL EXTENDS ONTO THE PUBLIC RIGHT-OF-WAY BY AS MUCH AS 1.7'±.*

UTILITY INFORMATION

THE UTILITIES SHOWN ON THIS DRAWING HEREON HAVE BEEN LOCATED BY FIELD MEASUREMENTS, UTILITY MAP DRAWINGS, AND ARKANSAS 811 ONE CALL UTILITY LOCATE REQUEST, BLEW AND ASSOCIATES MAKES NO WARRANTY TO THE EXACT LOCATION OF ANY UNDERGROUND UTILITIES SHOWN OR NOT SHOWN ON THIS DRAWING. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ANY AND ALL UTILITIES PRIOR TO CONSTRUCTION. TICKET NUMBERS: 233509-1338 & 233509-1348

CODE:	COMPANY:
ATT01	AT&T ARKANSAS
AWG13	BLACK HILLS CORPORATION
COXBV1	COX COMMUNICATIONS
FVLTRANS	CITY OF FAYETTEVILLE
WINAR	WINDSTREAM TELECOMMUNICATIONS
FAYETTVL	CCITY OF FAYETTEVILLE
SWPC01	SWEPCO
UAFYVL	U OF A - FAYETTEVILLE
AEPRUB	AMERICAN ELECTRIC POWER

ZONING INFORMATION (546 WEST CENTER STREET)

PROPERTY IS CURRENTLY ZONED: AWAITING ZONING REPORT

ITEM	REQUIRED	OBSERVED	NOTES:
PERMITTED USE		COMMERCIAL	*Because there may be a need for interpretation of the applicable zoning codes, we refer you to Washington County for zoning laws and applicable codes.*
MIN. LOT AREA		28,843 SQ. FT.	
MIN. LOT WIDTH		48.68'	
MAX. BLDG COVERAGE		14.9%	*ZONING PROVIDED BY:*
MIN. SETBACKS FRONT		13.0'	
MIN. SETBACKS SIDE		33.5'	
MIN. SETBACKS REAR		30.3'	
MAX. BUILDING HEIGHT		22.5'	
PARKING REGULAR		3	
PARKING HANDICAP		0	
PARKING TOTAL		3	
PARKING INFORMATION:			

ZONING INFORMATION (612 WEST CENTER STREET)

PROPERTY IS CURRENTLY ZONED: AWAITING ZONING REPORT

ITEM	REQUIRED	OBSERVED	NOTES:
PERMITTED USE		COMMERCIAL	*Because there may be a need for interpretation of the applicable zoning codes, we refer you to Washington County for zoning laws and applicable codes.*
MIN. LOT AREA		51,651 SQ. FT.	
MIN. LOT WIDTH		125.01'	
MAX. BLDG COVERAGE		31.1%	*ZONING PROVIDED BY:*
MIN. SETBACKS FRONT		10.3'	
MIN. SETBACKS SIDE		8.0'	
MIN. SETBACKS REAR		0'	
MAX. BUILDING HEIGHT		15.1'	
PARKING REGULAR		5	
PARKING HANDICAP		0	
PARKING TOTAL		5	
PARKING INFORMATION:			

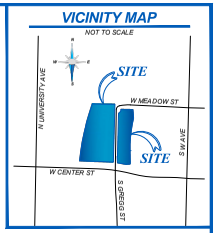
SEE SHEET 2 OF 2 FOR SURVEY DRAWING

GENERAL NOTES

1. *SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.*
2. *DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.*
3. *IN REGARD TO ALTA/NSPS TABLE A ITEM 16, THERE WAS NO OBSERVABLE EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR ADDITIONS EXCEPT AS SHOWN HEREON.*
4. *IN REGARD TO ALTA/NSPS TABLE A ITEM 17, THERE WERE NO KNOWN PROPOSED CHANGES IN RIGHT OF WAY LINES, RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS EXCEPT AS SHOWN HEREON.*
5. *AT THE TIME OF THE ALTA/NSPS SURVEY, THERE WAS NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP, OR SANITARY LANDFILL.*
6. *AT THE TIME OF THE ALTA/NSPS SURVEY, THERE WAS NO OBSERVABLE EVIDENCE OF SITE USE AS A CEMETERY, ISOLATED GRAVE SITE OR BURIAL GROUNDS.*
7. *COMPLETED FIELD WORK WAS MAY 20, 2023*
8. *THE DISTANCES SHOWN HEREON ARE UNITS OF GROUND MEASUREMENT.*
9. *THE NEAREST INTERSECTING STREET IS THE INTERSECTION OF NORTH GREGG AVENUE AND WEST CENTER STREET, WHICH IS LOCATED AT THE SOUTHEAST CORNER OF THE WESTERN PARCEL OF THE SUBJECT PROPERTY.*
10. *THE SUBJECT PROPERTY HAS (DIRECT PHYSICAL / INDIRECT) ACCESS TO WEST CENTER STREET, S. GREGG STREET, AND WEST MEADOW STREET, ALL BEING PUBLICLY DEDICATED RIGHTS-OF-WAY.*
11. *EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT PROPERTY: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.*
12. *NO SURVEYOR OR ANY OTHER PERSON OTHER THAN A LICENSED ARKANSAS ATTORNEY MAY PROVIDE LEGAL ADVICE CONCERNING THE STATUS OF TITLE TO THE PROPERTY DESCRIBED IN THIS SURVEY ("THE SUBJECT PROPERTY"). THE PURPOSE OF THIS SURVEY, AND THE COMMENTS RELATED TO THE SCHEDULE B-II EXCEPTIONS, IS ONLY TO SHOW THE LOCATION OF BOUNDARIES AND PHYSICAL OBJECTIONS IN RELATION THERETO. TO THE EXTENT THAT THE SURVEY INDICATES THAT THE LEGAL INSTRUMENT "AFFECTS" THE SUBJECT PROPERTY, SUCH STATEMENT IS ONLY INTENDED TO INDICATE THAT PROPERTY BOUNDARIES INCLUDED IN SUCH INSTRUMENT INCLUDE SOME OR ALL OF THE SUBJECT PROPERTY. THE SURVEYOR DOES NOT PURPORT TO DESCRIBE HOW SUCH INSTRUMENT AFFECTS THE SUBJECT PROPERTY OR THE ENFORCEABILITY OR LEGAL CONSEQUENCES OF SUCH INSTRUMENT.*
13. *NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS WERE TAKEN FROM WASHINGTON COUNTY GIS.*
14. *THE SUBJECT PROPERTY SHOWN HEREON FORMS A MATHEMATICALLY CLOSED FIGURE AND IS CONTIGUOUS WITH THE ADJOINING PUBLIC RIGHT-OF-WAY AND/OR ADJOINING PARCELS WITH NO GAPS OR OVERLAPS.*
15. *IN REGARD TO ALTA/NSPS TABLE A ITEM 10, NO VISIBLE DIVISION OR PARTY WALLS WITH RESPECT TO ADJOINING PROPERTIES WERE OBSERVED AT THE TIME THE FIELD SURVEY WAS PERFORMED, NOR WERE ANY DESIGNATED BY THE CLIENT.*
16. *ELEVATIONS ESTABLISHED WITH GPS STATIC OBSERVATIONS UTILIZING ONLINE POSITIONING USER SERVICE (OPUS) FOR POST PROCESSING. VERTICAL DATUM BASED UPON NORTH AMERICAN VERTICAL DATUM (NAVD88) IN US SURVEY FEET. CONTOURS SHOWN ARE 1' INTERVALS. RESEARCH WAS DONE TO FIND LOCAL AND/OR NGS DATA BUT NONE WERE AVAILABLE IN THE AREA AS OF DATE OF SURVEY.*

VICINITY MAP

NOT TO SCALE



SURVEYOR'S CERTIFICATE

TO: FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 5, 6A, 6B, 7B1, 7C, 8, 9, 10, 11A, 13, 14, 16, 17, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON 05/20/2023.

DATE OF PLAT OR MAP: 05/30/2023

PRELIMINARY

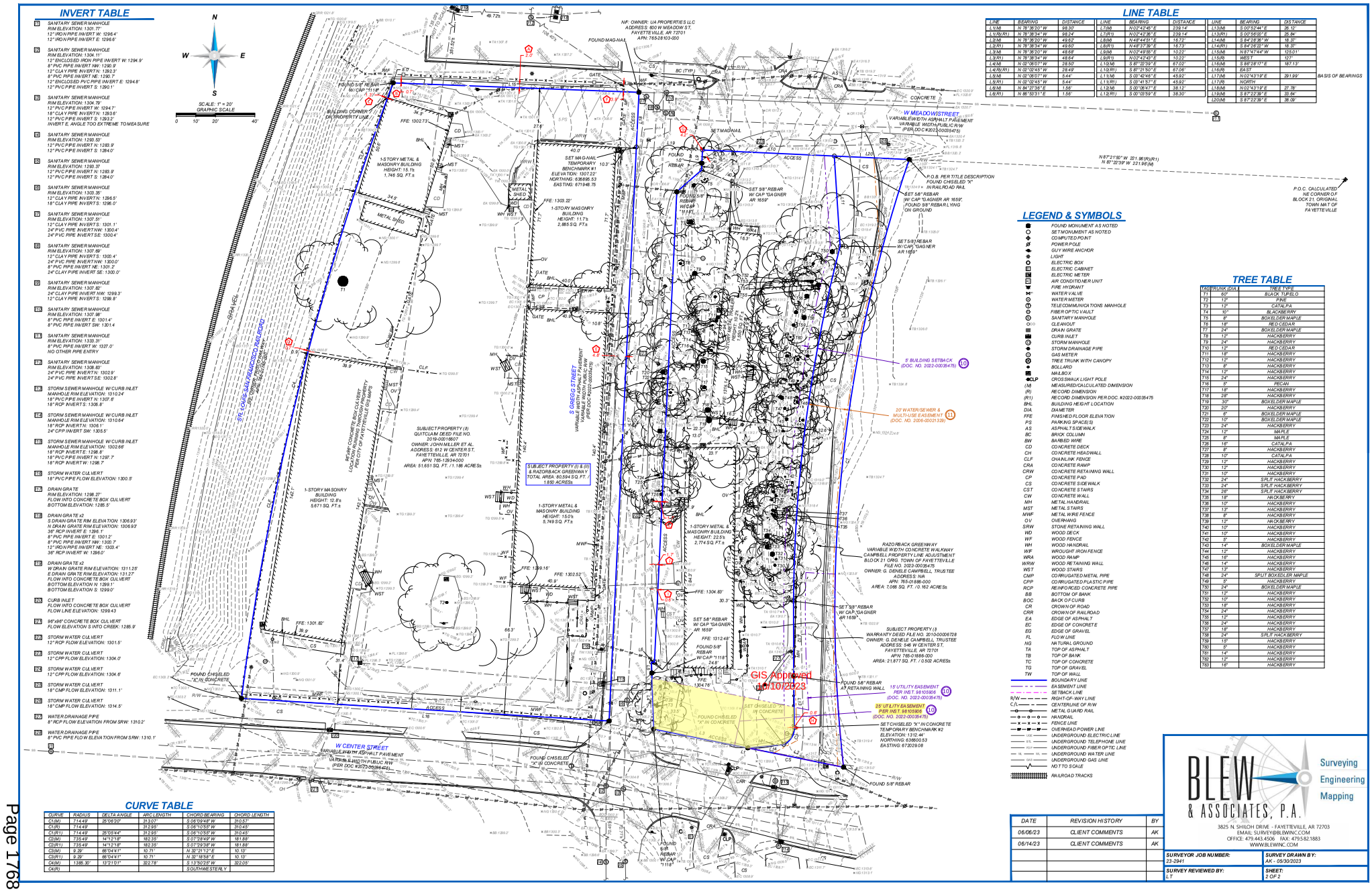
BLEW & ASSOCIATES, P.A.
No. 1534

WILLIAM G. GAGNER
LICENSED PROFESSIONAL SURVEYOR NO. 1659
STATE OF ARKANSAS
ARKANSAS C.O.A. 1534

DATE	REVISION HISTORY	BY
06/06/23	CLIENT COMMENTS	AK
06/14/23	CLIENT COMMENTS	AK

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping
3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL: SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 FAX: 479.521.8883
WWW.BLEWINC.COM

SURVEYOR JOB NUMBER: 23-3941	**SURVEY DRAWN BY:** AK - 05/30/2023
SURVEY REVIEWED BY: LT	**SHEET:** 1 OF 2


N
W
E
S
SCALE: 1" = 20'
GRAPHIC SCALE
0 10' 20' 40'
W MEADOWISTREET
VARIABLE WIDTH ASPHALT PAVEMENT
VARIABLE WIDTH PUBLIC R/W
(PER DOC # 2022-00035475)
W CENTER STREET
VARIABLE WIDTH ASPHALT PAVEMENT
VARIABLE WIDTH PUBLIC R/W
(PER DOC #2022-00046401)
S GREGG STREET
VARIABLE WIDTH ASPHALT PAVEMENT
VARIABLE WIDTH PUBLIC R/W
(PER DOC #2022-00035475)
SUBJECT PROPERTY (I)
QUITCLAIM DEED FILE NO. 2018-00018607
OWNER: JOHN MILLER ET AL.
ADDRESS: 612 W CENTER ST.
FAYETTEVILLE, AR 72701
APN: 765-12934-000
AREA: 51,651 SQ. FT. / 1.186 ACRES±
SUBJECT PROPERTY (I) & (II) & RAZORBACK GREENWAY TOTAL AREA: 80,934 SQ. FT. / 1.850 ACRES±
SUBJECT PROPERTY (I)
WARRANTY DEED FILE NO. 2010-00006728
OWNER: G. DENELE CAMPBELL, TRUSTEE
ADDRESS: 546 W CENTER ST.
FAYETTEVILLE, AR 72701
APN: 765-31888-000
AREA: 21,877 SQ. FT. / 0.502 ACRES±
RAZORBACK GREENWAY
VARIABLE WIDTH CONCRETE WALKWAY
CAMPBELL PROPERTY LINE ADJUSTMENT
BLOCK 21 ORIG. TOWN OF FAYETTEVILLE
FILE NO. 2022-00035475
OWNER: G. DENISE CAMPBELL, TRUSTEE
ADDRESS: N/A
APN: 765-01886-000
AREA: 7,066 SQ. FT. / 0.162 ACRES±
NF: OWNER: UA PROPERTIES LLC
ADDRESS: 600 W MEADOW ST.
FAYETTEVILLE, AR 72701
APN: 765-20103-000
1-STORY METAL & MASONRY BUILDING
HEIGHT: 15.1'±
1,746 SQ. FT.±
1-STORY MASONRY BUILDING
HEIGHT: 11.7'±
2,883.5 Q. FT.±
1-STORY MASONRY BUILDING
HEIGHT: 12.8'±
5,671 SQ. FT.±
1-STORY MASONRY BUILDING
HEIGHT: 15.0'±
5,749 SQ. FT.±
1-STORY METAL & MASONRY BUILDING
HEIGHT: 22.5'±
2,774 SQ. FT.±
METAL SHED
METAL SHED
SET MAG-NAIL TEMPORARY BENCHMARK #1
ELEVATION: 1307.22'
NORTHING: 636895.53
EASTING: 671946.75
SET MAG-NAIL
FOUND 1/2" REBAR W/CAP "1118"
SET 5/8" REBAR W/ CAP "GAGNER AR 1659"
SET 5/8" REBAR W/ CAP "GAGNER AR 1659", FOUND 3/8" REBAR LYING ON GROUND
SET 5/8" REBAR W/CAP "GAGNER AR 1659"
FOUND 5/8" REBAR W/ CAP "1118"
FOUND 5/8" REBAR
FOUND CHISELED "X" IN CONCRETE
SET CHISELED "X" IN CONCRETE
TEMPORARY BENCHMARK #2
ELEVATION: 1312.46'
NORTHING: 636600.53
EASTING: 672029.08
P.O.B. PER TITLE DESCRIPTION
FOUND CHISELED "X" IN RAILROAD RAIL
P.O.C. CALCULATED
NE CORNER O.F. BLOCK 21, ORIGINAL TOWN MAP OF FAYETTEVILLE
N 87°21'00"W 221.06'(R1)
N 87°22'39"W 221.96'(M)
BUILDING CORNER ON PROPERTY LINE
FOUND 5/8" REBAR W/ CAP "1118"
FOUND CHISELED "X" IN CONCRETE
CONCRETE
GATE
ACCESS
ACCESS
ACCESS

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1209

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

DATE: October 18, 2023

SUBJECT: **VAC-2023-0005: Vacation (612 W. CENTER ST/TRINITAS VENTURES, 483): Submitted by CLARK LAW FIRM for property located at 612 W. CENTER ST in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.70 acres. The request is to vacate a 0.15-acre portion of alley right-of-way.**

RECOMMENDATION:
Staff and Planning Commission recommend approval of VAC-2023-0005 as shown in the attached Exhibits 'A' and 'B' and with the following conditions of approval:

1. Relocation of impacted water and sewer lines will be required. Detailed engineering plans must be reviewed and approved by the City of Fayetteville prior to construction;

2. Right-of-way vacation is subject to approval and issuance of a grading permit in association with a multi-family development that occupies both 765-12934-000 and 765-01886-000;

3. Any damage or relocation of existing facilities will be at the property owner/developer's expense;

4. All SWEPCO, AT&T, Black Hills Energy, and water and sewer facilities located within said right-of-way must be relocated as required by those entities.

5. Alley right-of-way (20 feet in width) shall be dedicated along the northern and western property lines.

BACKGROUND:
The overall subject property is in downtown Fayetteville and contains two separate parcels that straddle W. Gregg Alley (765-12934-000 and 765-01886-000). The site is developed with commercial structures that were developed from the early 1920s through the mid-1960s. In total, the property encompasses approximately 1.70 acres, and is zoned MSC, Main Street Center. The Downtown Design Overlay District also governs this site. Rather than being classified as an Urban/Downtown Street in the Master Street Plan, the alley received its designation in 2004 (Ordinance 4629).

Request: The applicant proposes to vacate 0.15 acres of right-of-way that currently makes up S. Gregg Alley which connects W. Center Street to the south to W. Meadow Street to the north. The alley is currently paved with asphalt.

DISCUSSION:
City of Fayetteville staff recommends in favor of the requested right-of-way vacation. From a land-use planning perspective, Planning staff finds that maintaining the right-of-way serves the public interest as far as maintaining a compact, complete, and connected downtown (Goal #3). On the other hand, the intended use of the property, should the alley be vacated, is for a multi-family housing development in an area highly appropriate for infill (with an infill rating of 13). The associated development proposal would positively contribute to two other stated goals of City Plan 2040, which are to make appropriate infill the highest priority (Goal #1), as well as creating opportunities for housing (Goal #6). The vacation is unlikely to negatively affect pedestrian and bicycle transportation and connectivity, as the site is adjacent to the Razorback Greenway. On the balance of considerations, Planning staff supports the request.

At the October 9, 2023 Planning Commission meeting, this item was forwarded to City Council with a recommendation of approval by a vote of 7-2-0, with Commissioners Garlock and Payne voting in opposition. An original motion, made by Commissioner Payne to forward the item with a recommendation of approval, was seconded by Commissioner McGetrick. Commissioner Brink then made a motion to modify, to add a condition that would require the dedication of 20 feet of alley right-of-way along the northern and western property lines; Commissioner Sparkman seconded this motion and a vote of 6-3-0 successfully added the condition. Commissioners' discussion points centered around supporting connectivity in the downtown area, questions about how the infill matrix score is calculated for a site, and how access to the proposed development is being maintained. Three members of the public spoke on the item. One member of the public suggested a re-route of the existing right-of-way along the northern and western property lines; another member of the public was in support of the development of student housing to help ease the burden on housing in other parts of town; and a third offered support of student housing to meet the needs of a changing Fayetteville. The item had previously been tabled twice at Planning Commission meetings while the applicant worked to provide the required documentation, primarily approval from the Water and Sewer Division regarding the capacity for necessary utility relocation.

BUDGET/STAFF IMPACT:
N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

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

File #: 2023-1209

VAC-2023-0005: Vacation (612 W. CENTER ST/TRINITAS VENTURES, 483): Submitted by CLARK LAW FIRM for property located at 612 W. CENTER ST in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.70 acres. The request is to vacate a 0.15-acre portion of alley right-of-way.

AN ORDINANCE TO APPROVE VAC 23-05 FOR PROPERTY LOCATED AT 612 WEST CENTER STREET IN WARD 2 TO VACATE A 0.15 ACRE PORTION OF ALLEY RIGHT-OF-WAY

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of alley right-of-way is not required for corporate purposes.

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 vacates the portion of alley right-of-way as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3: This vacation approval is subject to the following conditions:

1. All impacted water and sewer lines or facilities shall be relocated and detailed engineering plans must be reviewed and approved by the City of Fayetteville prior to construction.
2. Right-of-way vacation is subject to approval and issuance of a grading permit in association with a multi-family development that occupies both Parcels 765-12934-000 and 765-01886-000.
3. Any damage to or relocation of existing facilities will be at the property owner/developer's expense.
4. All SWEPCO, AT&T, and Black Hills Energy facilities located within said right-of-way must be relocated as required by those entities.
5. Alley right-of-way 20 feet in width shall be dedicated along the northern and western property lines.

City of Fayetteville Staff Review Form

2023-1209

Item ID

11/9/2023

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

Jonathan Curth	10/20/2023	DEVELOPMENT SERVICES (620)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

VAC-2023-0005: Vacation (612 W. CENTER ST/TRINITAS VENTURES, 483): Submitted by CLARK LAW FIRM for property located at 612 W. CENTER ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.70 acres. The request is to vacate a 0.15-acre portion of alley right-of-way.

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

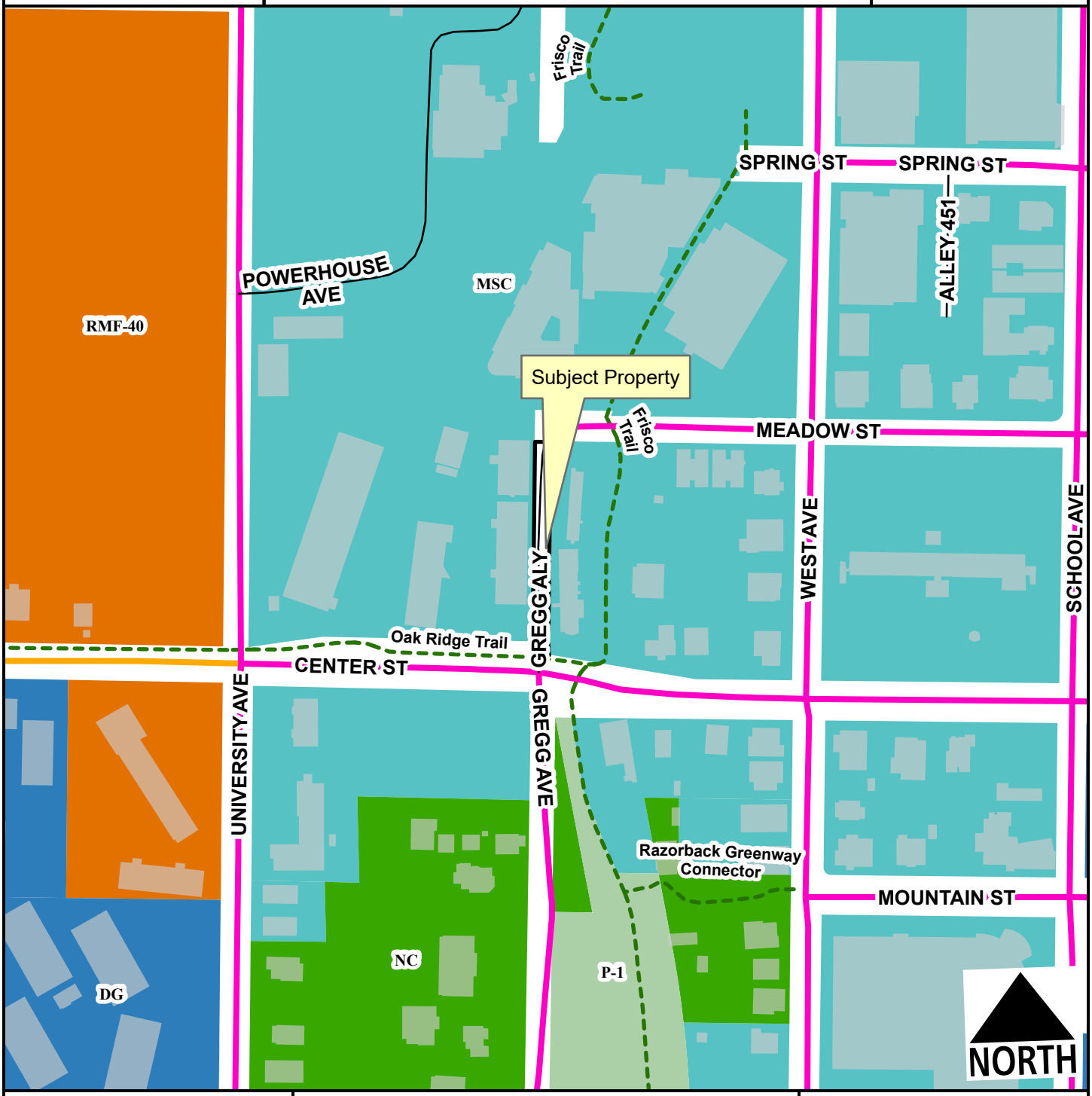
Comments:

VAC-2023-0005

Close Up View

612 W. CENTER ST

VAC-2023-0005
EXHIBIT 'A'



- Neighborhood Link
- Urban Center
- Unclassified
- Alley
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

- RMF-40
- Main Street Center
- Downtown General
- Neighborhood Conservation
- P-1

DESCRIPTION FOR ALLEY VACATION

BEING A VARIABLE WIDTH EASEMENT FOR THE VACATION OF A PORTION OF GREGG AVENUE (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) AND LOCATED WITHIN A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN MAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 21, THENCE ALONG THE NORTH LINE THEREOF THE FOLLOWING THREE (3) CALLS:

1. N87°22'39"W A DISTANCE OF 221.96 FEET TO A FOUND CHISELED "X" IN A RAILROAD RAIL,

2. N87°22'39"W A DISTANCE OF 38.09 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659",

3. N87°22'39"W A DISTANCE OF 67.02 FEET TO A SET MAG-NAIL, BEING LOCATED ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID GREGG AVENUE AND BEING THE POINT OF BEGINNING;

THENCE ALONG THE EASTERLY LINE THEREOF S02°49'55"W A DISTANCE OF 10.22 FEET TO A TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S48°44'51"W A DISTANCE OF 16.72 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118";

THENCE S02°42'45"W A DISTANCE OF 239.14 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S84°27'36"W A DISTANCE OF 1.56 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S02°06'07"E A DISTANCE OF 5.44 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118";

THENCE S02°06'07"E A DISTANCE OF 28.50 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118" LOCATED AT THE INTERSECTION OF SAID EASTERLY LINE AND THE NORTHERLY LINE OF WEST CENTER STREET (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE THEREOF N79°55'08"W A DISTANCE OF 23.13 FEET TO A FOUND CHISELED "X" IN CONCRETE LOCATED AT THE INTERSECTION OF SAID NORTHERLY LINE WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID GREGG AVENUE;

THENCE ALONG THE WESTERLY LINE THEREOF N02°43'19"E A DISTANCE OF 291.99 FEET TO A SET MAG-NAIL;

THENCE DEPARTING SAID WESTERLY LINE S87°22'39"E A DISTANCE OF 33.64 FEET TO A THE POINT OF BEGINNING, CONTAINING 6,528 SQUARE FEET OR 0.150 ACRES, MORE OR LESS.

DESCRIPTION FOR UTILITY EASEMENT

BEING A VARIABLE WIDTH UTILITY EASEMENT TO BE ABANDONED, LOCATED WITHIN A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN MAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 21, THENCE ALONG THE NORTH LINE THEREOF N87°22'39"W A DISTANCE OF 221.96 FEET TO A FOUND CHISELED "X" IN A RAILROAD RAIL;

THENCE DEPARTING SAID NORTH LINE ON A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 313.07 FEET, WITH A RADIUS OF 714.49 FEET, WITH A CHORD BEARING OF S06°09'48"W, WITH A CHORD LENGTH OF 310.57 FEET TO A FOUND 5/8" REBAR LOCATED ON THE NORTHERLY LINE OF WEST CENTER STREET (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE THEREOF N78°36'20"W A DISTANCE OF 49.62 FEET TO A FOUND CHISELED "X" IN CONCRETE AND BEING THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHERLY LINE N78°36'20"W A DISTANCE OF 48.68 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118" LOCATED AT THE INTERSECTION OF SAID NORTHERLY LINE WITH THE THE EASTERLY LINE OF GREGG AVENUE (A PUBLIC VARIABLE WIDTH RIGHT-OF-WAY);

THENCE ALONG THE EASTERLY LINE THEREOF N02°06'07"W A DISTANCE OF 25.71 FEET;

THENCE DEPARTING SAID EASTERLY LINE S78°36'20"E A DISTANCE OF 73.66 FEET;

THENCE S00°52'44"E A DISTANCE OF 10.37 FEET TO A SET CHISELED "X" IN CONCRETE;

THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 10.78 FEET, WITH A RADIUS OF 9.29 FEET, WITH A CHORD BEARING OF S32°09'37"W, WITH A CHORD LENGTH OF 10.18 FEET TO A FOUND CHISELED "X" IN CONCRETE;

THENCE S84°28'36"W A DISTANCE OF 18.37 FEET TO THE POINT OF BEGINNING, CONTAINING 1,738 SQUARE FEET OR 0.040 ACRES, MORE OR LESS.

EST. 1983

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: October 9, 2023 Updated with results from October 9, 2023 PC Meeting

SUBJECT: **VAC-2023-0005: Vacation (612 W. CENTER ST/TRINITAS VENTURES, 483):** Submitted by CLARK LAW FIRM for property located at 612 W. CENTER ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.70 acres. The request is to vacate a 0.15-acre portion of alley right-of-way.

RECOMMENDATION:
Staff recommends forwarding **VAC-2023-0005** to the City Council with a recommendation of approval, with conditions.

RECOMMENDED MOTION:
*"I move to forward **VAC-2023-0005** to the City Council with a recommendation of approval, with conditions as outlined by staff."*

SEPTEMBER 11, 2023 AND SEPTEMBER 25, 2023 PLANNING COMMISSION MEETINGS:
Commissioners voted to table the item at both meetings until all requisite documents were received, specifically from the Water and Sewer division regarding the potential relocation of a significant amount of sewer infrastructure in the existing right-of-way. In the interim, the Water and Sewer Division received an initial memo regarding the sewer relocation study, and deemed that a relocation was feasible. The Water and Sewer Division also provided the necessary sign-off with added conditions of approval. Further, the applicant provided an additional traffic analysis reflecting the potential impacts of closure, as well as additional comments regarding emergency service provision and life safety implications; those memos are attached to this report for the Planning Commission's consideration.

BACKGROUND:
The overall subject property is in downtown Fayetteville and contains two separate parcels that straddle W. Gregg Alley (765-12934-000 and 765-01886-000). The site is developed with commercial structures that were developed from the early 1920s through the mid-1960s. In total, the property encompasses approximately 1.70 acres, and is zoned MSC, Main Street Center. The Downtown Design Overlay District also governs this site. Rather than being classified as an Urban/Downtown Street in the Master Street Plan, the alley received its designation in 2004 (Ordinance 4629). Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	MSC, Main Street Center
South	Multi-Family Residential	MSC, Main Street Center

East	Frisco Trail/Mixed-Density Residential	MSC, Main Street Center
West	Arkansas Missouri Railroad/University of Arkansas	MSC, Main Street Center

Proposal: The applicant proposes to vacate 0.15 acres of right-of-way that currently makes up S. Gregg Alley which connects W. Center Street to the south to W. Meadow Street to the north. The alley is currently paved with asphalt.

DISCUSSION:
City of Fayetteville staff recommends in favor of the requested right-of-way vacation, since all final documents have been received by City staff. From a land-use planning perspective, Planning staff finds that maintaining the right-of-way serves the public interest as far as maintaining a compact, complete, and connected downtown (Goal #3). On the other hand, the intended use of the property should the alley be vacated is for a multi-family housing development in an area with an infill score of 13. The associated development proposal would positively contribute to two other stated goals of City Plan 2040, which are to make appropriate infill the highest priority (Goal #1), as well as creating opportunities for additional housing, which supports and contributes (Goal #6). The vacation will also unlikely negatively affect pedestrian and bicycle transportation and connectivity, as the site is adjacent to the Razorback Greenway. On the balance of considerations, Planning staff supports the request. The applicant has supplied additional information for the Commission's consideration, including a traffic study memo which shows a minimal vehicle rate on the existing right-of-way, and also has supplied some emergency service provision information with the proposed development.

Vacation Approval: The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses.

Utility	Response
Cox Communications	No objections, provided any damage or relocation of existing facilities will be at the property owner/developer's expense.
AEP/SWEPCO	No objections, provided all SWEPCO utilities affected by the ROW vacation are relocated as required by SWEPCO.
Black Hills Energy AR	No objections, provided all Black Hills Energy facilities located within said vacation are relocated by Black Hills Energy at owner/developer's expense.
AT&T	No objections, provided all AT&T utilities affected by the ROW vacation are relocated as required by AT&T.
Ozarks Electric	No objections and no comment.
City of Fayetteville	**Response**
Water/Sewer	No objections, provided relocation of impacted water and sewer lines will be required. Detailed engineering plans must be reviewed and approved by the City of Fayetteville prior to construction.
Solid Waste & Recycling	No objections and no comment.
Transportation	No objections and no comment.

Public Comment: Staff received verbal opposition to the request from a nearby property owner who would like to see connectivity through the alleyway maintained. Staff has also received written comment potentially in support of the request, though the individual indicated that they would like to see the overall site plan.

RECOMMENDATION: Staff recommends forwarding **VAC-2023-0005** to City Council with a recommendation of approval, with the following conditions:

Conditions of Approval:

1. Relocation of impacted water and sewer lines will be required. Detailed engineering plans must be reviewed and approved by the City of Fayetteville prior to construction;

2. Right-of-way vacation is subject to approval and issuance of a grading permit in association with a multi-family development that occupies both 765-12934-000 and 765-01886-000;

3. Any damage or relocation of existing facilities will be at the property owner/developer's expense;

4. All SWEPCO, AT&T, Black Hills Energy, and water and sewer facilities located within said right-of-way must be relocated as required by those entities.

5. Alley right-of-way (20 feet in width) shall be dedicated along the northern and western property lines

PLANNING COMMISSION ACTION:	**Required** **YES**		
Date: October 9, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:	**Motion #1:** McGetrick	**Motion #2:** Payne	**Motion #3:** Brink
Second:	**2nd:** Winston	**2nd:** McGetrick	**2nd**: Sparkman
Vote:	To allow applicant to add 10 minutes to presentation time. **Vote:** 5-4-0 (Failed, 2/3 majority required; Sparkman, Brink, Garlock, Gulley opposed)	Forward, with a recommendation of approval with all conditions as rec. by staff, plus added condition as recommended with motion #3. **Vote:** 7-2-0 (Garlock, Payne Oppposed)	To add a condition that 20 feet of alley right-of-way be dedicated along the northern and western property lines. **Vote**: 6-3-0 (Garlock, Payne, Holcomb opposed)

BUDGET/STAFF IMPACT:
None

Attachments:

- Ordinance 4629
- Applicant Request Letter
- Applicant Petition to Vacate
- Survey – Right-of-way to be vacated
- Supplemental Applicant Information
    - Alley Vacation Memo – Life Safety
    - Traffic Memo
- Public Comment
- One Mile Map

Additional public comment (received after October 9 PC hearing)

- Close-up Map
- Current Land Use Map

ORDINANCE NO. 4629

AN ORDINANCE APPROVING VAC 04-1178 TO VACATE A PORTION OF THE RIGHT OF WAY FOR GREGG STREET LOCATED BETWEEN CENTER STREET AND MEADOW STREET AND RECLASSIFYING THIS SUBJECT RIGHT OF WAY AS AN ALLEY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons the following described right of way, retaining the use as a public alley:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and **APPROVED** this 19th day of October, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

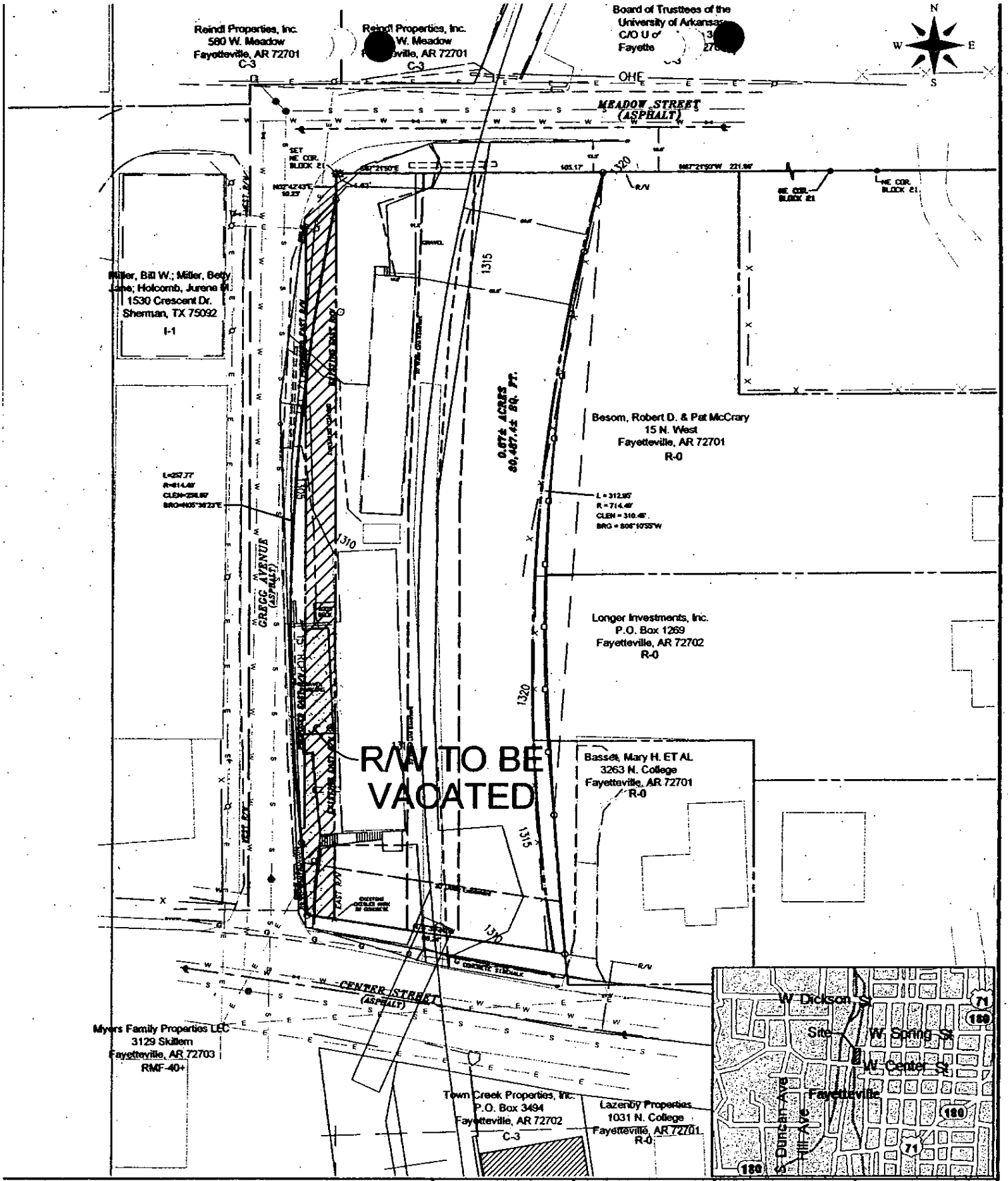
By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

Doc ID: 007827850003 Type: REL
Recorded: 11/02/2004 at 08:53:31 AM
Fee Amt: $11.00 Page 1 of 3
Washington County, AR
Bette Stamps Circuit Clerk
File 2004-00045127

EXHIBIT "A"
VAC 04-1178

A PART OF THE WEST HALF (W1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE N87°21'50"W 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING S06°10'55"W 310.45 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET; THENCE N78°38'34"W 87.38 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET TO AN EXISTING CHISELED "X" IN CONCRETE FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET, N78°38'34"W 10.86 FEET TO A SET ½" IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY; THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 28.49 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 5.44 FEET ALONG PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE; THENCE CONTINUING ALONG THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, N86°53'31"E 1.56 FEET; THENCE N02°42'36"E 239.14 FEET; THENCE N48°37'39"E 16.73 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE AND RUNNING ALONG THE OLD EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, S02°42'48"W 286.38 FEET TO POINT OF BEGINNING, CONTAINING 3363 SQUARE FEET, MORE OR LESS.



Clark Consulting

CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: 1" = 40'	DATE REVISED:	CHECKED BY:	DRAWN BY:
DATE: 7/30/04		JSC	BWS

Rivendell

Right- of- Way Vacation

1 / 1

Exhibit "B"

Washington County, AR
I certify this instrument was filed on
11/02/2004 08:53:31 AM
and recorded in Real Estate
File Number 2004-00045127
Bette Stamps - Circuit Clerk

by

NAME OF FILE: **Ordinance No. 4629 w/Ex. A & B**

CROSS REFERENCE:

Item #	Date	Document	
1	09/28/04	memo to mayor & City Council	
2		draft ordinance	
3		memo to Planning Commission	
4		copy of map	
5		copy of map	
6		copy of Close Up View	
7		copy of One Mile View	
8		Staff Review Form	
9		memo to Dawn Warrick	
10		Affidavit of Publication	
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NOTES:

1/2/04		filed at Wash. Co. Circuit Clerk office	

ORD 10/19/04 4629
VAC 04-1178/ Center & Meadow Streets

City Council Meeting of October 19, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: September 28, 2004

Subject: Easement Vacation for Gregg Avenue/Rivendell (VAC 04-1178)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of Gregg Avenue right-of-way, as described and depicted herein.

BACKGROUND

The applicant currently has an associated Planned Zoning District request in process, unanimously recommended by the Planning Commission for approval to the City Council for the construction of a mixed-use development in the downtown area. The project plan has been developed around and is contingent upon the vacation of a particular portion of street right-of-way along Gregg Avenue between Meadow Street and Center Street.

Gregg Avenue is a Local Street on the Master Street Plan, requiring a right-of-way dedication of 25 feet from centerline (50 feet total). Currently a total of 34 feet of right-of-way exists in this location, with the existing structures located near or at the right-of-way line. Along with the vacation request, and as part of the Planned Zoning District proposal, the applicant is also requesting the Master Street Plan be amended for this portion of Gregg Avenue, down-grading its classification from a Local Street to an alley. The developer's proposal is to overlay the existing street and have the parking directly off of the new surface underneath the proposed buildings, a situation that is not allowed with Gregg Street's current classification and right-of-way requirements.

Request: The applicant requests to vacate approximately 12 feet of the eastern portion of the existing Gregg Street right-of-way along the subject property's frontage, and to dedicate the remaining area as a public alley as described and depicted in the attached documents.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were submitted.

Planning Commission
VAC-2004-0005 (TRINITAS VENTURES)
Page 10 of 45

The Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the vacation request at the regular meeting of September 27, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-1178 TO VACATE A PORTION OF THE RIGHT OF WAY FOR GREGG STREET LOCATED BETWEEN CENTER STREET AND MEADOW STREET AND RECLASSIFYING THIS SUBJECT RIGHT OF WAY AS AN ALLEY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described right of way, retaining the use as a public alley:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By_____
Dan Coody, Mayor

ATTEST:

By_____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-1178

A PART OF THE WEST HALF (W1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE N87°21'50"W 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING S06°10'55"W 310.45 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET; THENCE N78°38'34"W 87.38 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET TO AN EXISTING CHISELED "X" IN CONCRETE FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET, N78°38'34"W 10.86 FEET TO A SET ½" IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY; THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 28.49 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 5.44 FEET ALONG PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE; THENCE CONTINUING ALONG THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, N86°53'31"E 1.56 FEET; THENCE N02°42'36"E 239.14 FEET; THENCE N48°37'39"E 16.73 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE AND RUNNING ALONG THE OLD EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, S02°42'48"W 286.38 FEET TO POINT OF BEGINNING, CONTAINING 3363 SQUARE FEET, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of September 27, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	**Fayetteville Planning Commission Members**
FROM:	**Jeremy Pate, Senior Planner**
	Matt Casey P.E. Staff Engineer
THRU:	**Dawn Warrick, AICP, Zoning & Development Administrator**
DATE:	**September 16, 2004**

VAC 04-1178: Vacation (RIVENDELL, 483): Submitted by STEVE CLARK for property located at THE FORMER 100 FT. RAILROAD R/W ON THE WEST SIDE OF BLOCK 21 ORIGINAL TOWN PLAT. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 0.67 acres. The request is to vacate a portion of the Right-of-Way on Gregg Street.
Property Owner: DENELE CAMPBELL Planner: JEREMY PATE

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation.

Background: The applicant currently has a PZD under review in the Planning Commission process for the construction of a commercial and multi-family development. The project plan has been developed around and is contingent upon the vacation of this portion of street right-of-way along Gregg Avenue, based on conversations with city staff and utility representatives.

Gregg Avenue is a Local Street on the Master Street Plan, requiring a right-of-way dedication of 25 feet from centerline. Along with the vacation request, and as part of the Planned Zoning District proposal, the applicant is also requesting the Master Street Plan be amended for this portion of Gregg Avenue, down-grading its classification from a Local Street to an alley. The developer's proposal is to overlay the existing street and have the parking directly off of the new surface underneath the proposed buildings, a situation that is not allowed with Gregg Street's current classification and right-of-way requirements.

Request: The applicant requests to vacate a portion of the existing Gregg Street right-of-way and to dedicate this area as a public alley as described and depicted in the attached documents.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES	RESPONSE
Ozarks Electric	No Objections
Cox Communications	No Objections

AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections
SW Bell	No Objections
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Recommendation: Staff recommends approval of the proposed R-O-W vacation **04-1178** with the following conditions:

Conditions of Approval:

1. A 20' wide water and sewer easement shall be dedicated that runs north and south on the east side of the proposed buildings running generally with the proposed trail. It will need to connect from Meadow Street right-of-way to the Center Street right-of-way.

PLANNING COMMISSION ACTION: __yes__ **Required**
__✓__ **Approved** _____ **Denied**

Date: **September 27, 2004**

Comments: _____

The "CONDITIONS OF APPROVAL", beginning on page two of this report, are accepted in total without exception by the entity requesting approval of this development item.

_____
By

_____
Title

_____
Date

CITY COUNCIL ACTION: __yes__ **Required** **Date:** **October 19, 2004**

Description

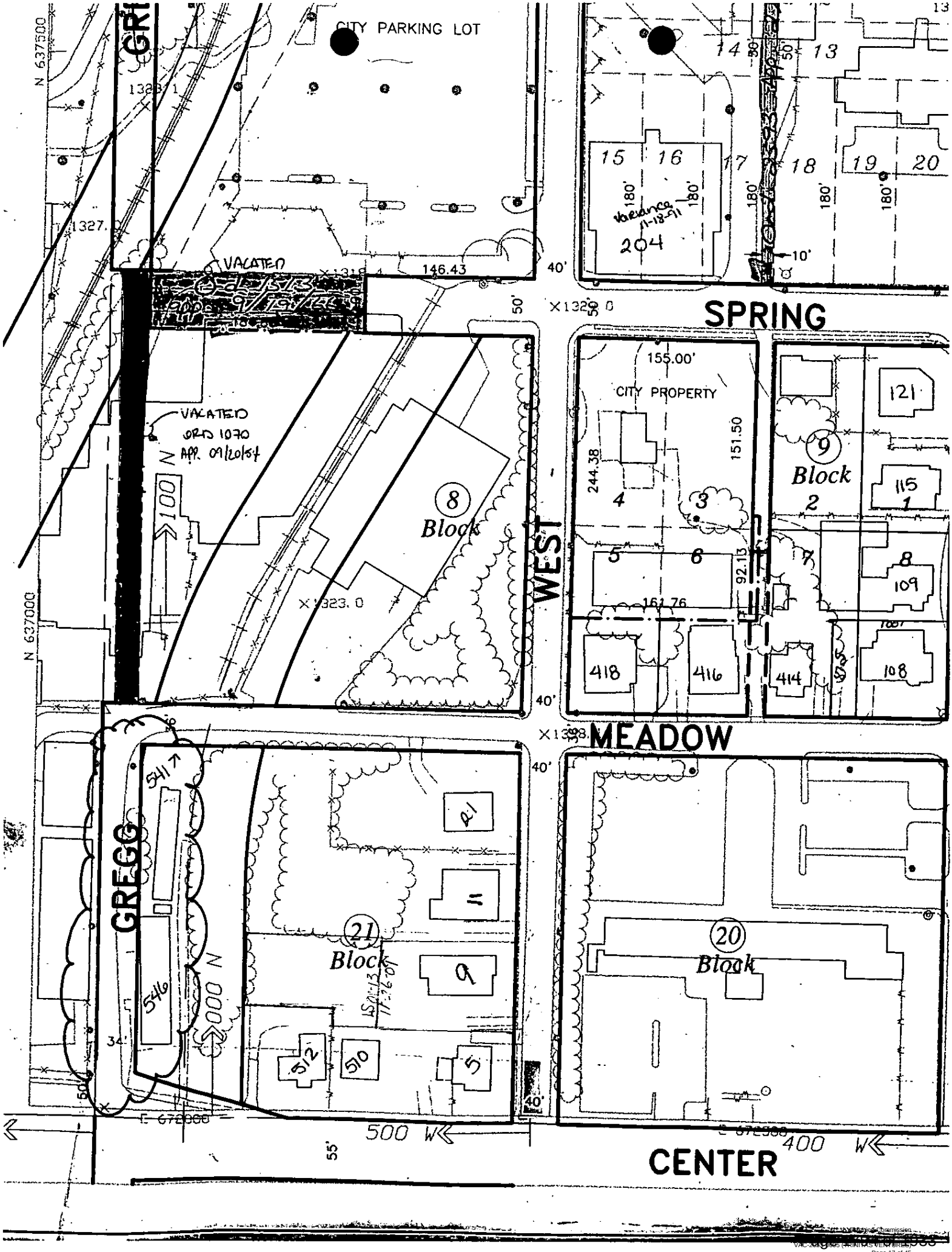
We are requesting that a portion of Gregg Street between Center Street and Meadow Street be vacated and that the remainder of the street be changed to an alley. Gregg Street has always functioned more as an alley than as a street. There is very little traffic that uses the street on a regular basis.

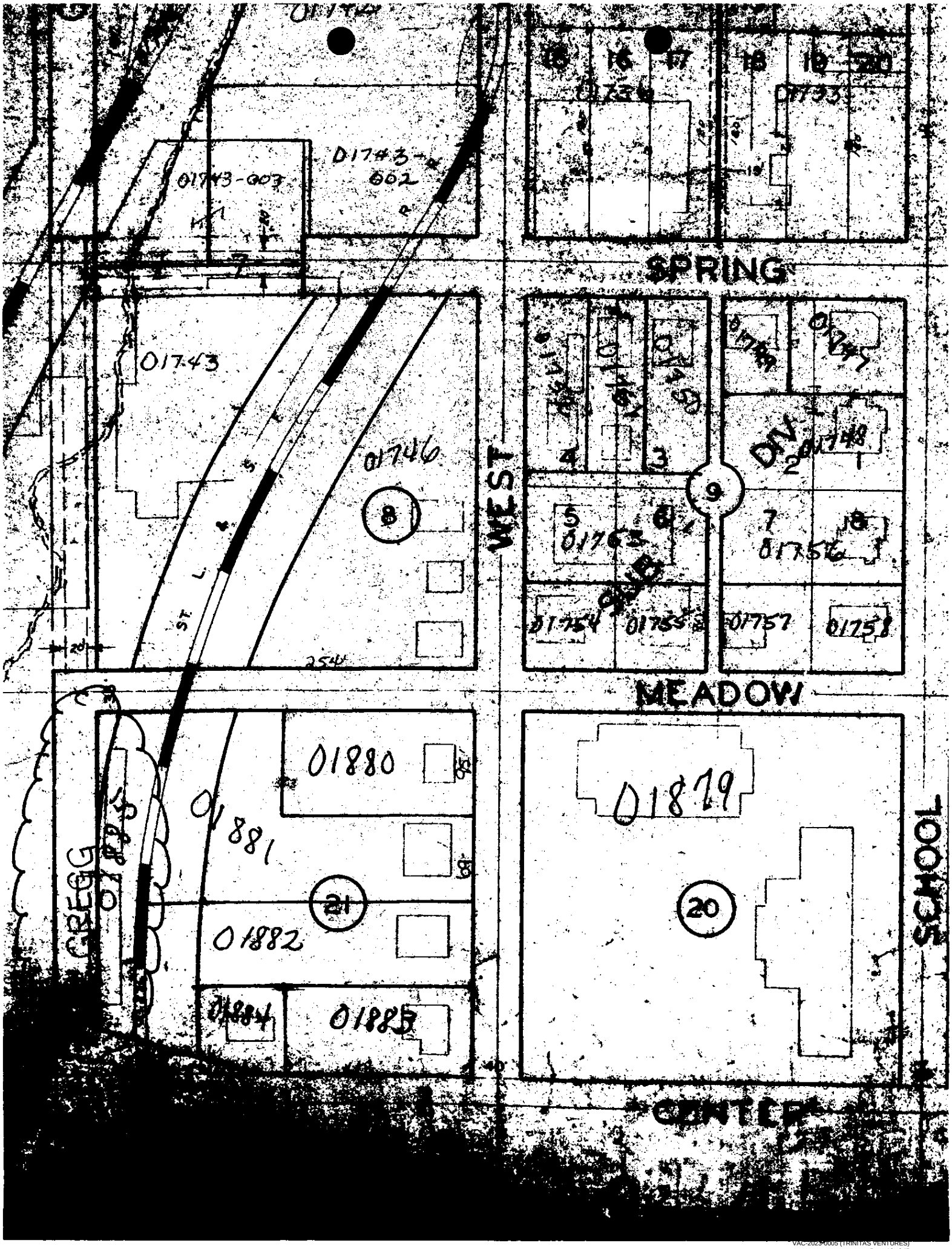
The property that was acquired by Ms. Denele Campbell from the railroad was previously a railroad spur that had not been actively used in many years. The legal description of the railroad property overlapped the Gregg Street Right-of-Way along the east side of the ROW. In fact Ms. Campbell's West property line is as much as 18 feet into the Gregg Street ROW.

The development that is being proposed will require that most of the parking be located under the proposed buildings. In order for this to function it will be necessary to back out of the garage structure on to Gregg Street. In order for this to be legal the Street Row will need to be converted to an alley.

Riverdell PZD.

Page 1793 of 1933


CITY PARKING LOT
SPRING
WEST
MEADOW
CENTER
GREGG
GRI
VACATED
VACATED ORD 1070 APP. 09/20/54
CITY PROPERTY
155.00'
151.50
244.38
92.13
161.76
146.43
Variance 11-18-91
204
418
416
414
108
109
115
121
8 Block
9 Block
21 Block
20 Block
541
546
512
510
500 W
400 W
55'
40'
50'
34'
N 637500
N 637000
E 672000


SPRING
WEST
MEADOW
SCHOOL
CENTER
CREEK
01743-003
01743-002
01743
01746
01880
01881
01882
01884
01885
01879
01763
01754
01755
01756
01757
01758
01748
8
9
20
21

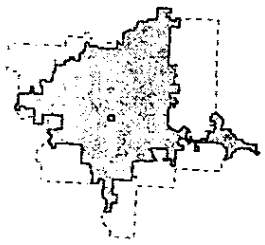
VAC04-1178

Close Up View

RIVENDELL



Overview



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- VAC04-1178
- Fayetteville
- Outside City

0 75 150 300 450 600 Feet

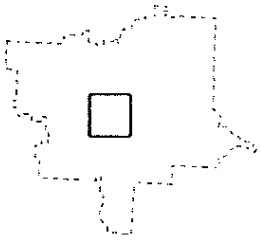
VAC04-1178

One Mile View

RIVENDELL



Overview



Legend

Subject Property

VAC04-1178

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 19, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1178 was submitted by Steve Clark on behalf of Denele Campbell for property located north of Center Street and south of Meadow Street. The request is to vacate a portion of the Gregg Street right of way, rededicating this area as a public alley.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick — Division Head — 10/1/04 Date

City Attorney — 10/1/04 Date

Department Director — 10-5-04 Date

Finance & Internal Services Dir. — 10-5-04 Date

Chief Administrative Officer — 10-5-04 Date

Mayor — 10/5/04 Date

Received in Mayor's Office — 10/4/04 Date PH

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED CKD 10/4/04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
City Clerk Division

113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

DEPARTMENTAL CORRESPONDENCE

To: Dawn Warrick
Planning Division

From: Clarice Buffalohead-Pearman
City Clerk Division

Date: October 25, 2004

Re: Ordinance No. 4629

The City Council passed the above ordinance, October 19, 2004, vacating a portion of right of way reclassifying an area as an alley on Gregg Avenue. I have attached a copy of the ordinance.

This ordinance will be recorded in the city clerk's office and microfilmed. If anything else is needed please let the clerk's office know.

Attachment(s)

cc: LaDawnya Cossey, Planning
John Goddard, IT
Scott Caldwell, IT
Clyde Randall, IT
Ed Connell, Engineering

NORTHWEST ARKANSAS EDITION

Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane Nelson, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Ordinance 4629 was inserted in the regular editions on 04.25.2004.

PO# 04-000389-001

** Publication Charge: $ 164.57

Subscribed and sworn to before me this

25th day of October, 2004.

Catherine Sell
Notary Public

Catherine Sell
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

My Commission Expires:

** Please do not pay from Affidavit.
An invoice will be sent.

RECEIVED
OCT 27 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

ORDINANCE NO. 4629

AN ORDINANCE APPROVING VAC 04-1178 TO VACATE A PORTION OF THE RIGHT OF WAY FOR GREGG STREET LOCATED BETWEEN CENTER STREET AND MEADOW STREET AND RECLASSIFYING THIS SUBJECT RIGHT OF WAY AS AN ALLEY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

Fayetteville
ARKANSAS

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons the following described right of way, retaining the use as a public alley:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and APPROVED this 19th day of October, 2004.
APPROVED:
By: _____
DAN COODY, Mayor
ATTEST:
By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
VAC 04-1178

A PART OF THE WEST HALF (W1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE N87°21'50"W 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING S06°10'55"W 310.45 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET; THENCE N78°38'34"W 87.38 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET TO AN EXISTING CHISELED "X" IN CONCRETE FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET, N78°38'34"W 10.86 FEET TO A SET 1/2" IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY; THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 28.49 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 5.44 FEET ALONG PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE; THENCE CONTINUING ALONG THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, N86°53'31"E 1.56 FEET; THENCE N02°42'36"E 239.14 FEET; THENCE N48°37'39"E 16.73 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE AND RUNNING ALONG THE OLD EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, S02°42'48"W 286.38 FEET TO POINT OF BEGINNING, CONTAINING 3363 SQUARE FEET, MORE OR LESS.

RECEIVED
OCT 27 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

CLARK LAW FIRM
PLLC

121 West South Street
PO Box 4248
Fayetteville, Arkansas 72702-4248

Tel: (479) 856-6380
Fax: (479) 856-6381

Suzanne G. Clark
sclark@clark-firm.com

AUGUST 2, 2023

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Attn: Planning Commission and City Council

Re: Right-of-Way Vacation Application– N. Gregg Avenue Alley

Clark Law Firm represents Trinitas Ventures ("Trinitas") regarding their application to vacate the N. Gregg Avenue Alley, shown in the included Survey Exhibit, located between 546 Center Street and 600-612 Center Street, Fayetteville, AR 72701. This vacation request is a part of Trinitas' plan to develop the two properties including and adjacent to the N. Gregg Avenue Alley.

The N. Gregg Avenue Alley is not an arterial or collector street. The Master Street Plan adopted by the Planning Commission and City Council does not identify N. Gregg Avenue Alley for future use as an arterial or collector street. The N. Gregg Avenue Alley is not a neighborhood, regional, or residential link.

Currently, the N. Gregg Avenue Alley is used as an alternative option to provide rear access to the Metro District. Vacating the N. Gregg Avenue Alley will not result in a lack of access to the rear of the Metro District as it will still be accessible from W. Meadow Street and from N. West Avenue, both of which are designated as Urban Center streets on the Master Street Plan. Vacating the N. Gregg Avenue Alley will not result in a disruption to pedestrian or bicycle traffic because the Alley is parallel and proximate to the Razorback Greenway. All utility companies have provided their approval of the vacation. Therefore, the public interest and welfare would not be adversely affected by the abandonment of the Alley.

I request the Petition to Vacate the N. Gregg Avenue Alley be passed with a recommendation for approval by the City Council. We are happy to provide any additional information that is needed or that may be helpful upon your review of the petition. Additionally, Trinitas understands that, because the right-of-way vacation is necessary to move forward with their development plans for the property, the approval, of the vacation may be contingent on commencement of the development, with reversion back to the City if, for any reason, the

development of the property does not proceed. Thank you for your consideration and please let me know you have any questions.

Sincerely,

/s/ Suzanne G. Clark

Suzanne G. Clark

DocuSign Envelope ID: 73276991-7807-401D-8D5B-1E9B26A147D5

PETITION

PETITION TO VACATE THE N.GREGG AVE ALLEY LOCATED BETWEEN 546 CENTER STREET AND 600-612 CENTER STREET IN 16-16-30, CITY OF-FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, having an interest in the property herein described, and with the consent of the owners of the real estate described and abutting the N.Gregg Ave Alley hereinafter sought to be abandoned and vacated, lying between 546 Center Street and 600-612 Center Street in 16-16-30, City of Fayetteville, Arkansas, a municipal corporation, petition the City of Fayetteville to vacate the N.Greeg Ave Alley, which is described as follows:

(Legal Description of area to be vacated is attached)

That the abutting real estate affected by said abandonment of the alley are 546 Center Street and 600-612 Center Street, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the described Alley.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the attached described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the attached described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the attached described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this _day of August 1, 2023.

Trinitas Ventures

Brad Bennett Authorized Representative

Printed Name and Title

DocuSigned by:
Brad Bennett
1A2BFFD881BE41A...

Signature

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701
WASHINGTON COUNTY

GIS Approved
08/08/2023

DESCRIPTION OF ALLEY VACATION

BEING A VARIABLE WIDTH EASEMENT FOR THE VACATION OF A PORTION OF GREGG AVENUE (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) AND LOCATED WITHIN A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN MAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 21, THENCE ALONG THE NORTH LINE THEREOF THE FOLLOWING THREE (3) CALLS:

1. N87°22'39"W A DISTANCE OF 221.96 FEET TO A FOUND CHISELED "X" IN A RAILROAD RAIL,
2. N87°22'39"W A DISTANCE OF 38.09 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659",
3. N87°22'39"W A DISTANCE OF 67.02 FEET TO A SET MAG-NAIL, BEING LOCATED ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID GREGG AVENUE AND BEING THE POINT OF BEGINNING;

THENCE ALONG THE EASTERLY LINE THEREOF S02°49'55"W A DISTANCE OF 10.22 FEET TO A TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S48°44'51"W A DISTANCE OF 16.72 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118";

THENCE S02°42'45"W A DISTANCE OF 239.14 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S84°27'36"W A DISTANCE OF 1.56 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S02°06'07"E A DISTANCE OF 5.44 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118";

THENCE S02°06'07"E A DISTANCE OF 28.50 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118" LOCATED AT THE INTERSECTION OF SAID EASTERLY LINE AND THE NORTHERLY LINE OF WEST CENTER STREET (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE THEREOF N79°55'08"W A DISTANCE OF 23.13 FEET TO A FOUND CHISELED "X" IN CONCRETE LOCATED AT THE INTERSECTION OF SAID NORTHERLY LINE WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID GREGG AVENUE;

THENCE ALONG THE WESTERLY LINE THEREOF N02°43'19"E A DISTANCE OF 291.99 FEET TO A SET MAG-NAIL;

THENCE DEPARTING SAID WESTERLY LINE S87°22'39"E A DISTANCE OF 33.64 FEET TO A THE POINT OF BEGINNING,
CONTAINING 6,528 SQUARE FEET OR 0.150 ACRES, MORE OR LESS.

DESCRIPTION OF UTILITY EASEMENT

BEING A VARIABLE WIDTH UTILITY EASEMENT TO BE ABANDONED, LOCATED WITHIN A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN MAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 21, THENCE ALONG THE NORTH LINE THEREOF N87°22'39"W A DISTANCE OF 221.96 FEET TO A FOUND CHISELED "X" IN A RAILROAD RAIL;

THENCE DEPARTING SAID NORTH LINE ON A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 313.07 FEET, WITH A RADIUS OF 714.49 FEET, WITH A CHORD BEARING OF S06°09'48"W, WITH A CHORD LENGTH OF 310.57 FEET TO A FOUND 5/8" REBAR LOCATED ON THE NORTHERLY LINE OF WEST CENTER STREET (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE THEREOF N78°36'20"W A DISTANCE OF 49.62 FEET TO A FOUND CHISELED "X" IN CONCRETE AND BEING THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHERLY LINE N78°36'20"W A DISTANCE OF 48.68 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118" LOCATED AT THE INTERSECTION OF SAID NORTHERLY LINE WITH THE THE EASTERLY LINE OF GREGG AVENUE (A PUBLIC VARIABLE WIDTH RIGHT-OF-WAY);

THENCE ALONG THE EASTERLY LINE THEREOF N02°06'07"W A DISTANCE OF 25.71 FEET;

THENCE DEPARTING SAID EASTERLY LINE S78°36'20"E A DISTANCE OF 73.66 FEET;

THENCE S00°52'44"E A DISTANCE OF 10.37 FEET TO A SET CHISELED "X" IN CONCRETE;

THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 10.78 FEET, WITH A RADIUS OF 9.29 FEET, WITH A CHORD BEARING OF S32°09'37"W, WITH A CHORD LENGTH OF 10.18 FEET TO A FOUND CHISELED "X" IN CONCRETE;

THENCE S84°28'36"W A DISTANCE OF 18.37 FEET TO THE POINT OF BEGINNING, CONTAINING 1,738 SQUARE FEET OR 0.040 ACRES, MORE OR LESS.

GENERAL NOTES

1. SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.

2. DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

SURVEY JOB NO. 23-2941.01
DATE:07/31/2023
PAGE 1 0F 3

BASIS OF BEARING

THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH BASED ON THE EAST LINE OF THE WESTERN PARCEL OF THE SUBJECT PROPERTY, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF SOUTH GREGG STREET. THE BEARING IS DENOTED AS N02°43'19"E PER GPS COORDINATE OBSERVATIONS ARKANSAS STATE PLANE, NORTH ZONE NAD83.

SURVEYOR INFORMATION:

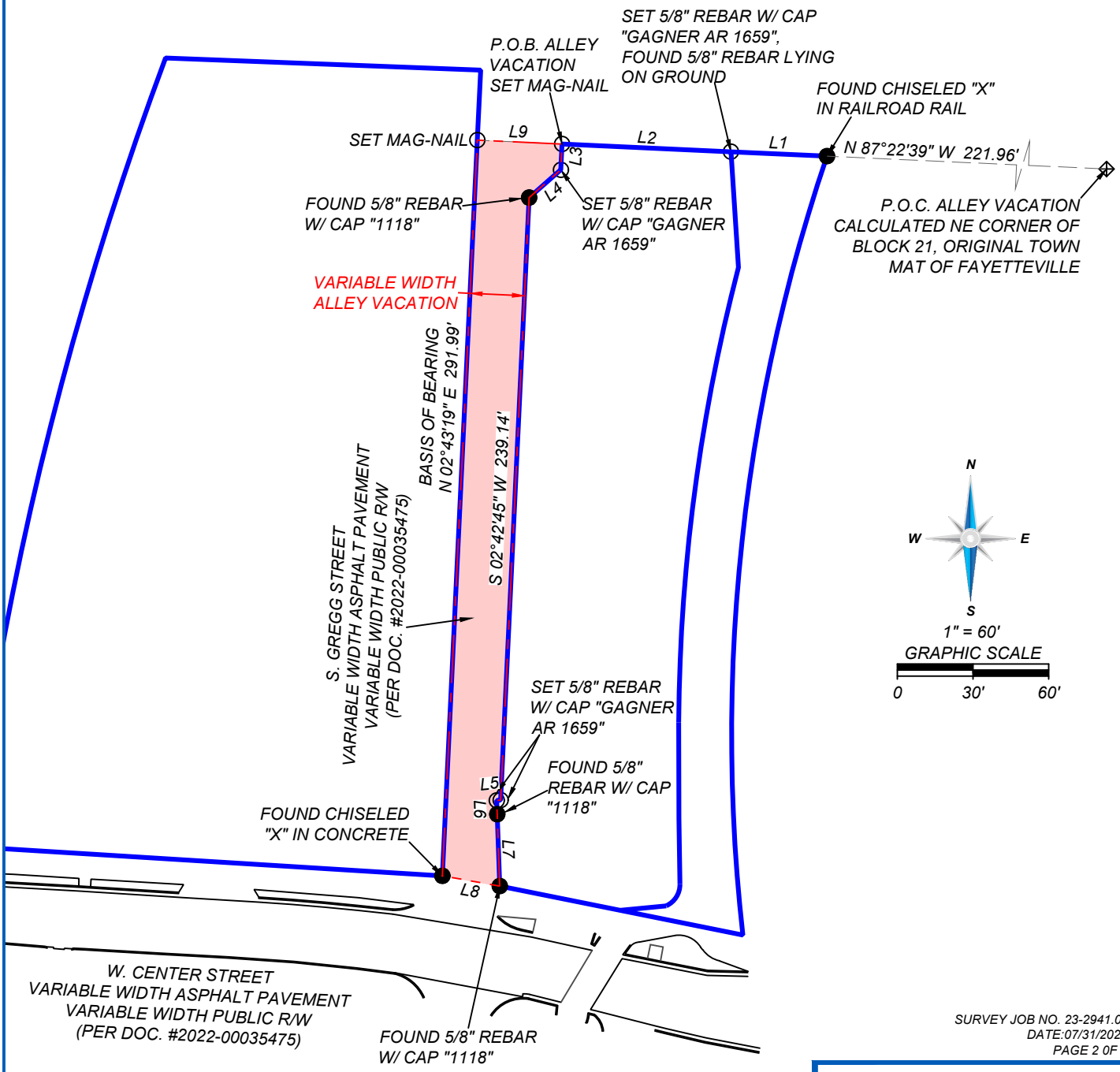
BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1030 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701

WASHINGTON COUNTY



LINE	BEARING	DISTANCE
L1	N 87°22'39" W	38.09'
L2	N 87°22'39" W	67.02'
L3	S 02°49'55" W	10.22'
L4	S 48°44'51" W	16.72'
L5	S 84°27'36" W	1.56'
L6	S 02°06'07" E	5.44'
L7	S 02°06'07" E	28.50'
L8	N 79°55'08" W	23.13'
L9	S 87°22'39" E	33.64'

LEGEND & SYMBOLS

- FOUND MONUMENT AS NOTED
- SET MONUMENT AS NOTED
- COMPUTED POINT
- P.O.B. — POINT OF BEGINNING
- P.O.C. — POINT OF COMMENCEMENT
- BOUNDARY LINE
- EASEMENT LINE

SURVEY JOB NO. 23-2941.01
DATE:07/31/2023
PAGE 2 0F 3

SURVEYOR INFORMATION:

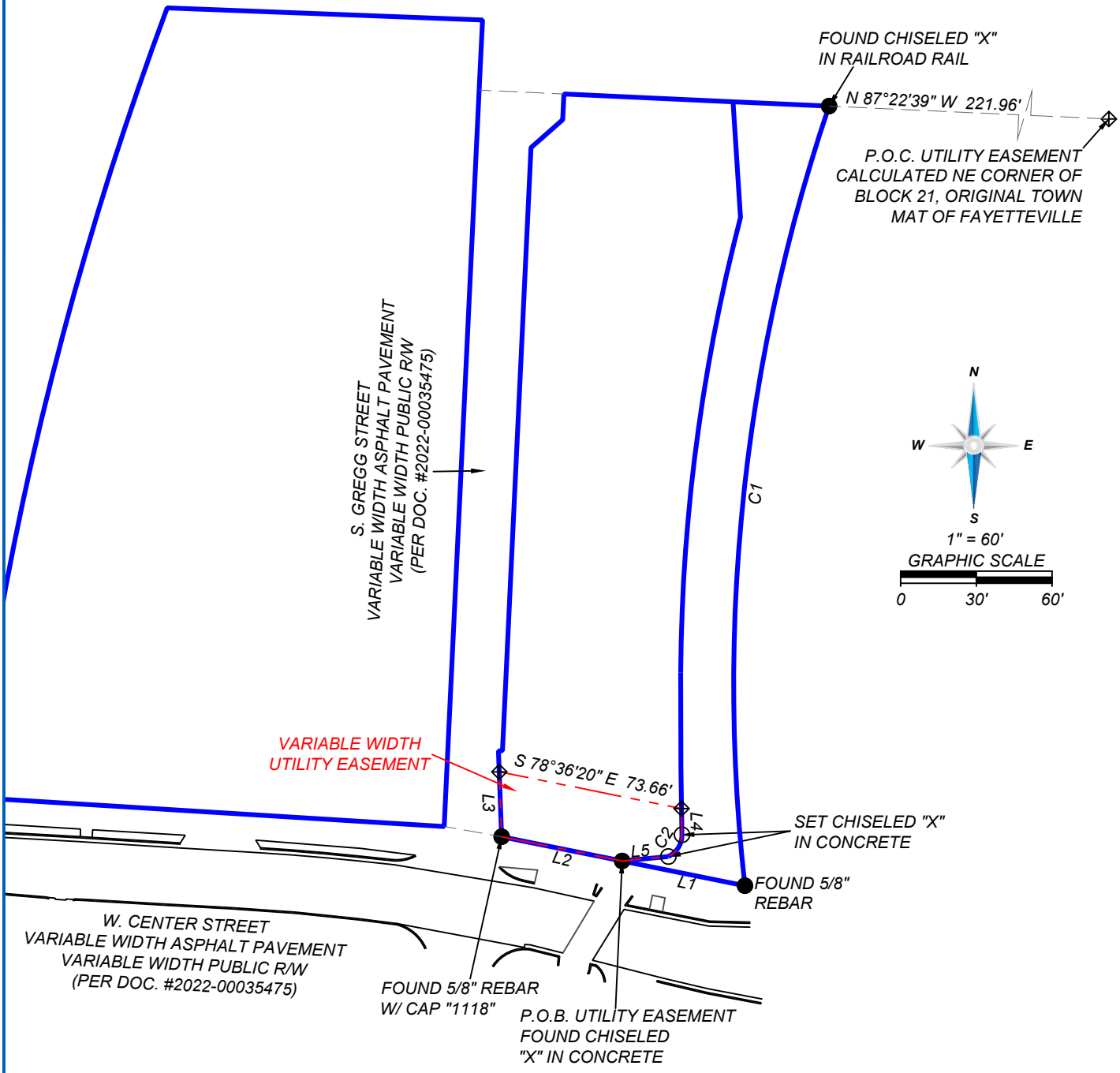
BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1030 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701

WASHINGTON COUNTY



SURVEY JOB NO. 23-2941.01
DATE:07/31/2023
PAGE 3 0F 3

LEGEND & SYMBOLS

●	FOUND MONUMENT AS NOTED
○	SET MONUMENT AS NOTED
◈	COMPUTED POINT
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
———	BOUNDARY LINE
— — —	EASEMENT LINE

LINE	BEARING	DISTANCE
L1	S 78°36'20" E	49.62'
L2	S 78°36'20" E	48.68'
L3	S 02°06'07" E	25.71'
L4	S 00°52'44" E	10.37'
L5	N 84°28'36" E	18.37'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	714.49'	313.07'	310.57'	N 06°09'48" E	25°06'20"
C2	9.29'	10.78'	10.18'	N 32°09'37" E	66°27'51"

SURVEYOR INFORMATION:

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1050 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

Alley Vacation Memo

Fayetteville Center St
600 W Center St. Fayetteville, AR

10.03.2023

Herein is provided supplemental information for the Gregg Alley Vacation request to respond to commissioner and public comment. Additional information will be provided in person at the Planning Commission Meeting on 10.9.2023. We are pleased that the sewer relocation modeling study being completed by the City of Fayetteville Engineering staff with RFN is complete and that they are consenting to the vacation. **This memo is specifically speaking to concerns of life-safety and the use of Gregg Alley within the city's street master plan.**

Included information:

1) **Center Street Section**
    a. The section shows the street is widened to 26' in coordination with the fire department truck access
    b. The section was also coordinated with the trails staff to accommodate the 10' Oak Ridge Trail
2) **600 W Center St Fire Department Access**
    a. The plan was coordinated with the fire department to meet all requirements for the life and safety of the building
3) **Traffic Study Memo**
    a. a traffic study is being completed for the project by Kimley Horn to assess vehicular, pedestrian, and trail access around the site. They have provided a memo for the staff and Planning Commission's review.

TRINITAS

COMING FALL 2026

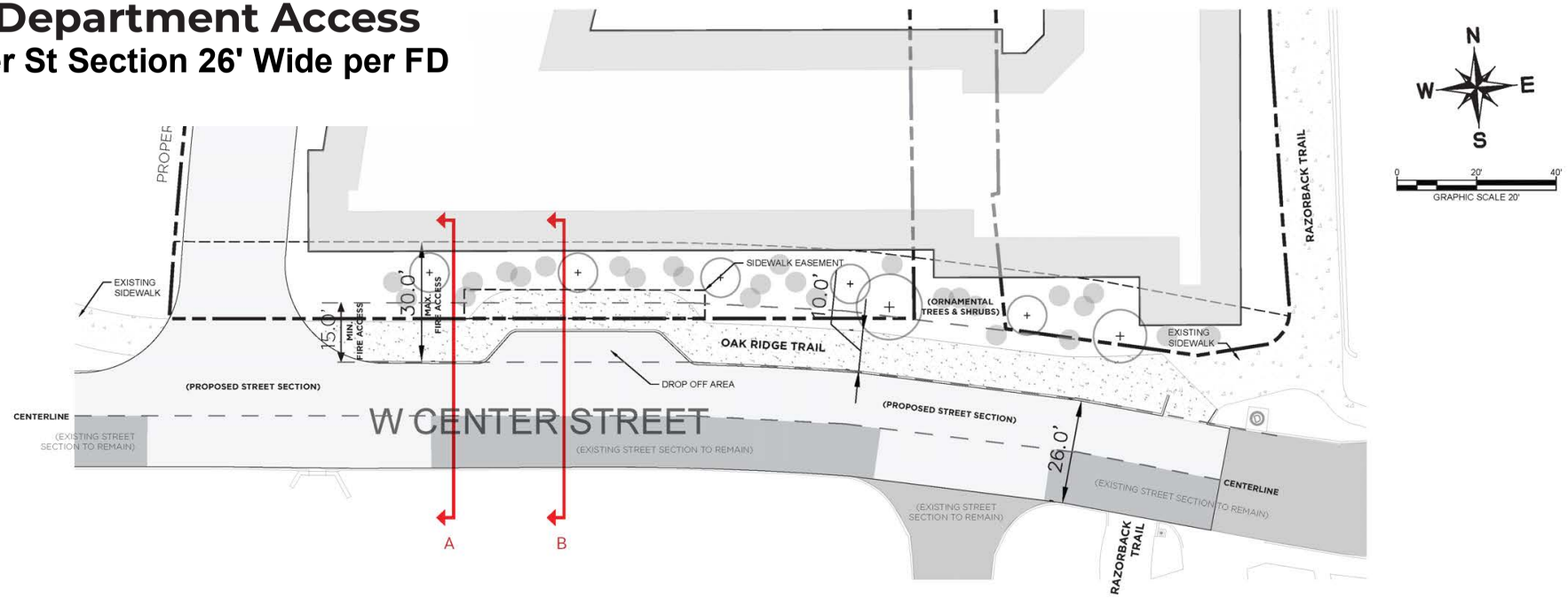
612 CENTER STREET

Student Housing | Fayetteville, Arkansas

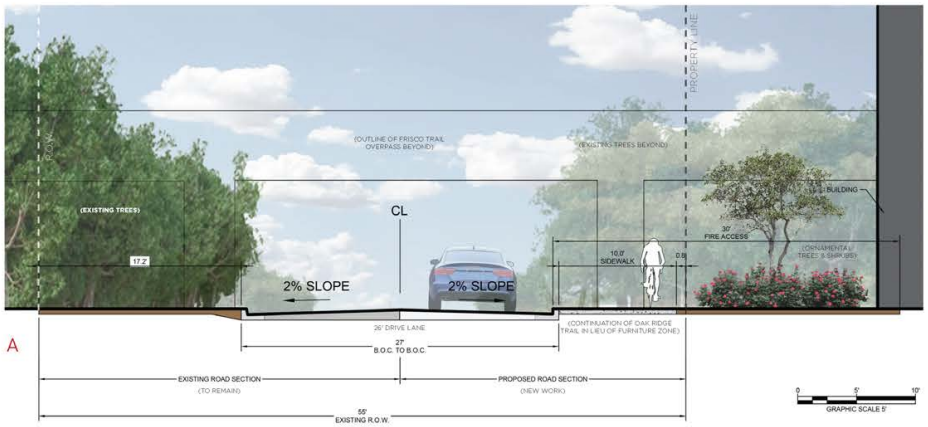
Planning Commission
October 9, 2023
VAC-2023-0005 (TRINITAS VENTURES)
Page 32 of 45
Page 1809 of 1933

Fire Department Access

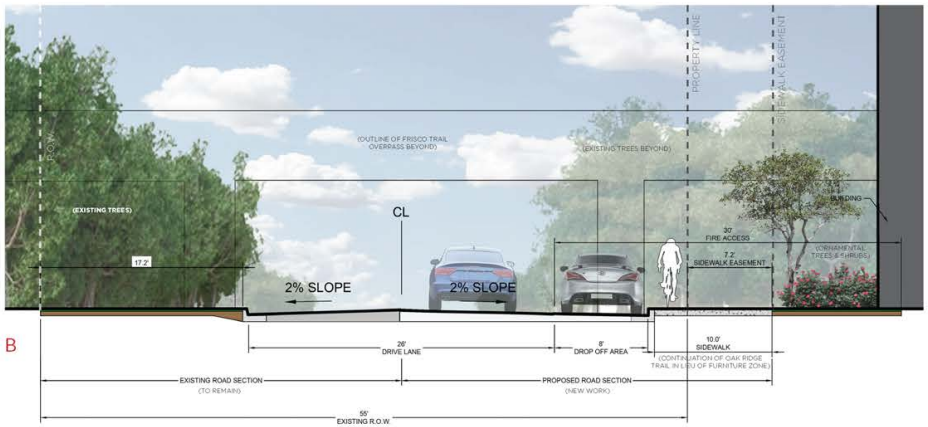
- Center St Section 26' Wide per FD



W. CENTER STREET - TYPICAL CROSS SECTION

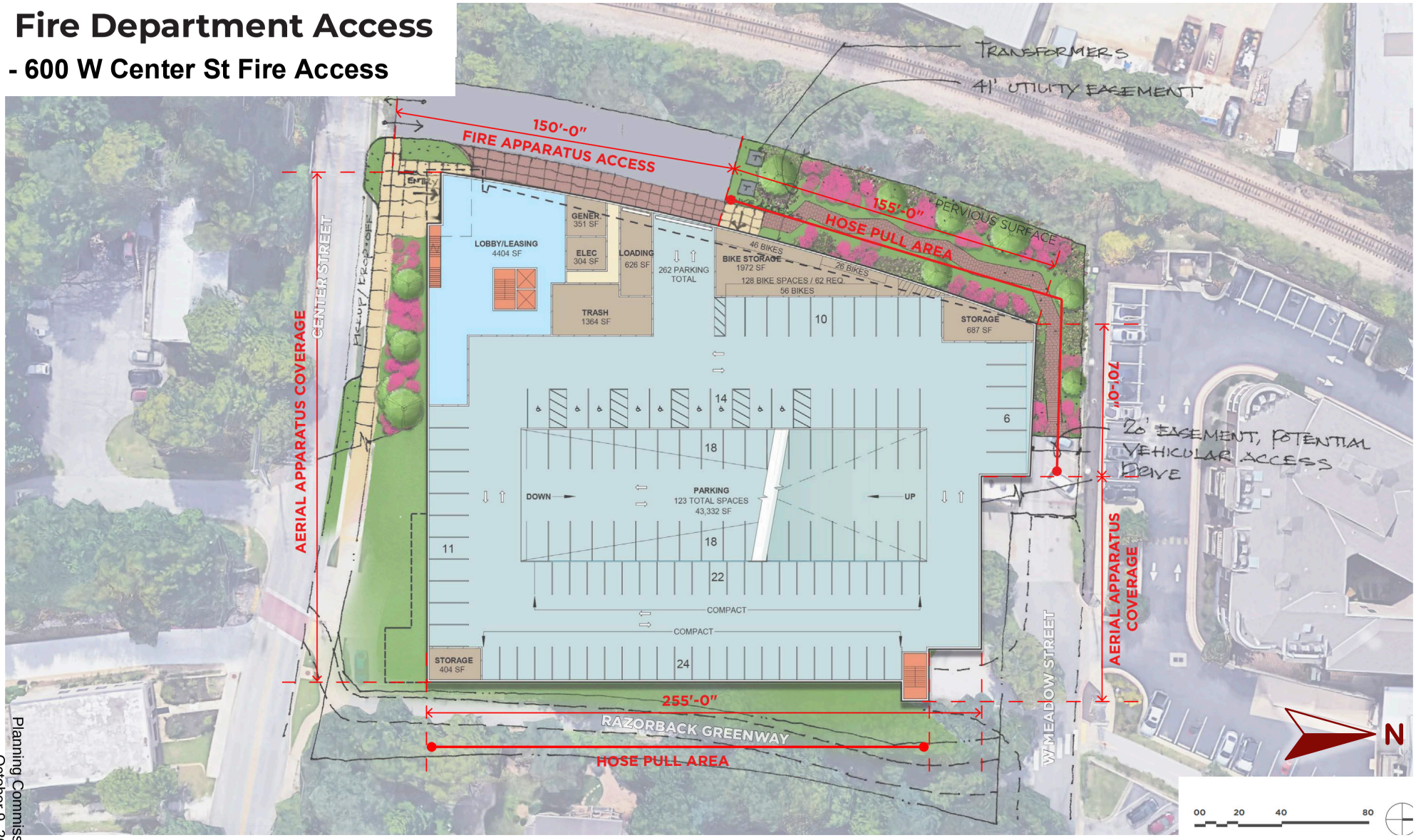


W. CENTER STREET - TYPICAL CROSS SECTION WITH DROP-OFF AREA



Fire Department Access

- 600 W Center St Fire Access



Kimley»Horn

MEMORANDUM

To: Josh Boccaccio, PE
Engineering Development Review Manager, City of Fayetteville

From: Ryan Gill P.E.
Christian DeLuca, P.E. (Texas), PTOE

Date: October 4, 2023

Subject: Gregg Avenue Closure

The purpose of this memorandum is to support the closure of Gregg Avenue, the small local street connecting Center Street to West Avenue via Meadow Street. The closure of Gregg Avenue is a sensible decision for several reasons outlined below:

1. Response Times and Safety:
    - The fire department that is closest to this service area is located east of the site along Center Street. The alleyway only helps response times if vehicles would be traveling from west to northeast but due to the location of the fire station, it is unlikely that the fire department would ever need to use Gregg Avenue between Center Street and Meadow Street.
    - The City Fire Marshall met with the development and concurred that this roadway segment is not critical for their response times.
    - The narrow nature of Gregg Avenue means emergency vehicles would likely use West Avenue already, making the closure impact minimal.
2. Improvements in Safety:
    - The development and abandonment of Gregg Avenue reduces three curb cuts along Oak Ridge Trail to one, enhancing safety and experience for pedestrians and cyclists.
    - The project eliminates a driveway close to the trail crossing location on Center Street and removes a blind corner for cyclists, significantly improving safety in the area.
3. Traffic Flow and Vehicle Volume:
    - The closure improves vehicular flow on Center Street by consolidating access locations.
    - Gregg Avenue services only 23 vehicles in a peak hour, whereas West Avenue handles 246, demonstrating how Gregg Avenue is not frequently used.
4. Development-Driven Improvements:

- The development is enhancing Center Street by widening sidewalks and the roadway to 26 feet, further improving traffic flow and pedestrian safety.
- A turnaround large enough for truck use will be constructed, addressing concerns about a dead end on Meadow Street.

5. Traffic Volume Analysis:
    - West Avenue currently only uses 51% of its total capacity during its PM Peak Hour and 22% of its capacity in the AM Peak Hour.
    - An analysis shown in **Table 1** demonstrates that transferring volumes from Gregg Avenue to West Avenue maintains stable volume-to-capacity ratios.
    - West Avenue can easily accommodate the additional traffic, making the closure seamless.

Table 1 - Roadway Capacity Analysis

Street	Segment	Peak Hour	Capacity - LOS E	Existing Volume	Volume to Capacity	Total Volumes after Redistributon	Volume to Capacity
West Avenue	Center Street to Meadow Avenue	AM	480	105	22%	112	23%
		PM	480	246	51%	265	55%

Service Volumes used from FHWA Simplified Highway Capacity Calculation Method for the Highway Performance Monitoring System

6. Grid System and Alternative Routes:
    - Fayetteville's closely spaced grid system provides numerous alternative routes between Center Street and Dickson Street, making Gregg Avenue redundant as a reliever route.
    - With Center Street already connecting to West Avenue just 370 feet east of Gregg Avenue, the closure does not disrupt the City's overall traffic flow significantly.

In conclusion, the closure of Gregg Avenue aligns with the city's goals of improving safety, enhancing traffic flow, and maximizing resources effectively. The decision will not impact emergency response times nor existing traffic patterns while significantly improving safety conditions. We ask that the City of Fayetteville consider these points in support of the proposed closure of Gregg Avenue.

Thank you for your attention to this matter.

END

Attachments: Volume Exhibits

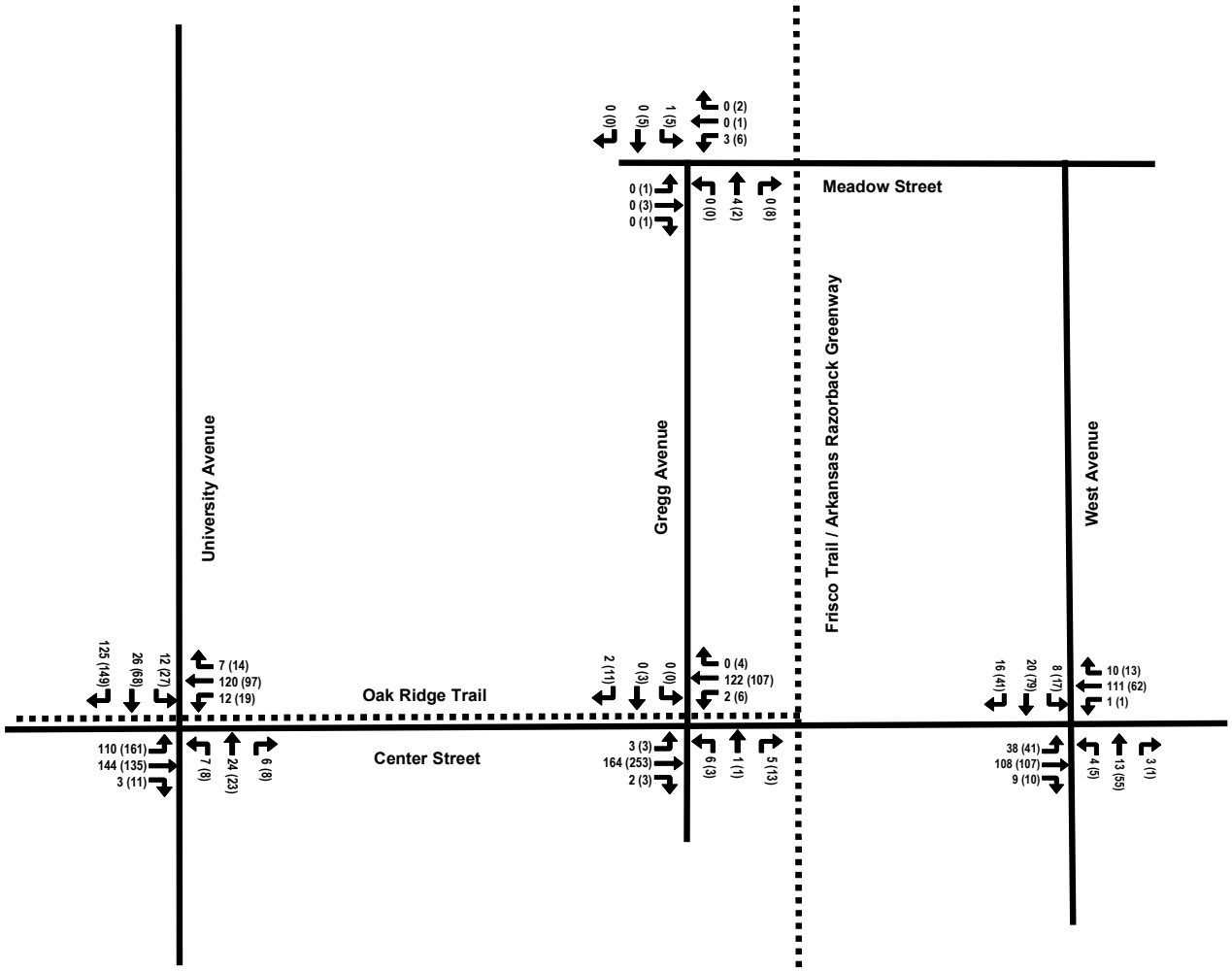


EXHIBIT 1

2023 Existing Traffic

612 Center Street - Fayetteville, Arkansas

Kimley»Horn

LEGEND:

X (Y)

X = Weekday AM Peak Hour Turning Movements

Y = Weekday PM Peak Hour Turning Movements

Volumes may not sum from point to point due to rounding and presence of smaller driveways not included in analysis.

North

Not To Scale

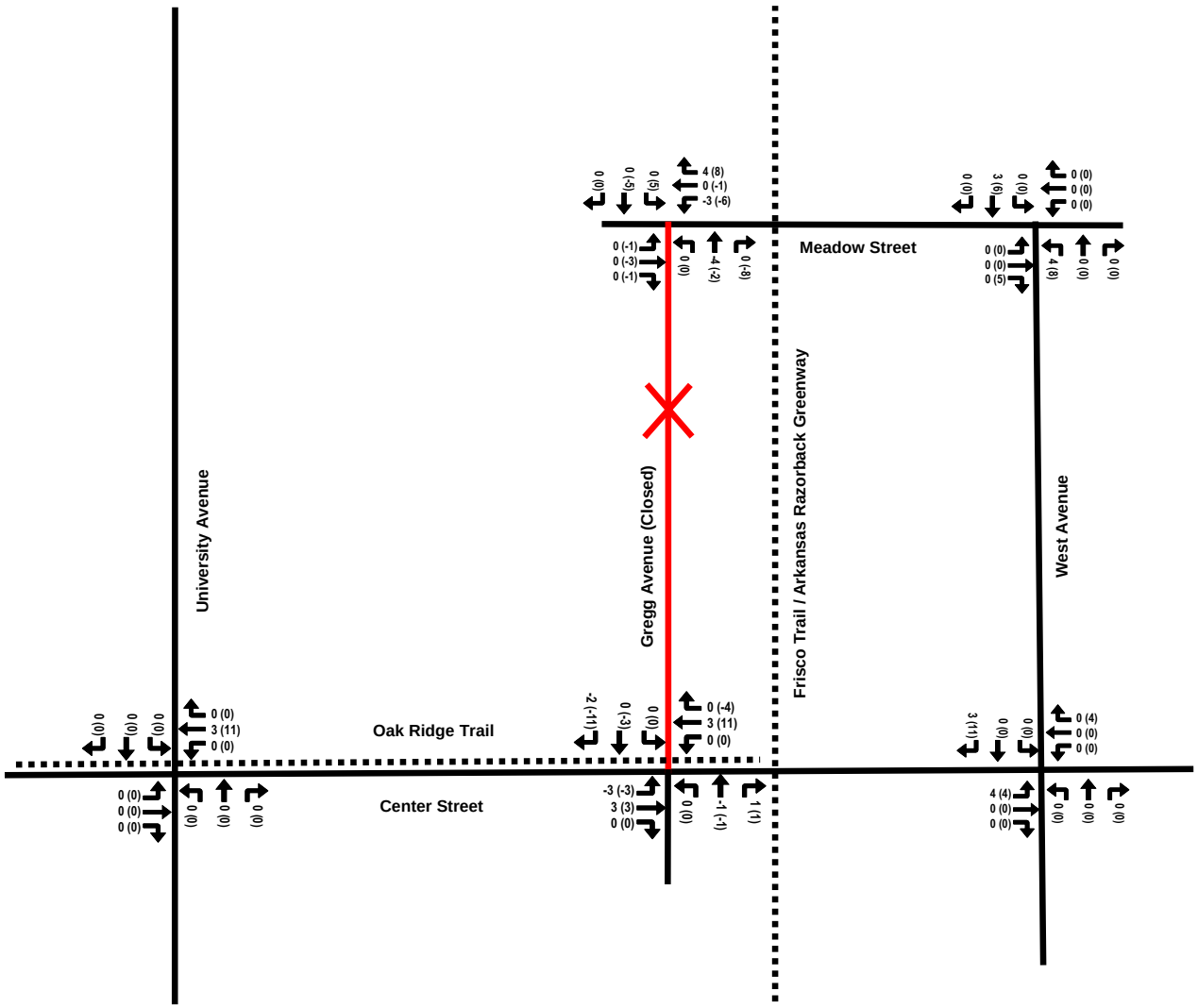


EXHIBIT 2

Redistributed Traffic from Gregg Avenue Closure

612 Center Street - Fayetteville, Arkansas

Kimley»Horn

LEGEND:
X (Y)
X = Weekday AM Peak Hour Turning Movements
Y = Weekday PM Peak Hour Turning Movements
Volumes may not sum from point to point due to rounding and presence of smaller driveways not included in analysis.

North

Not To Scale

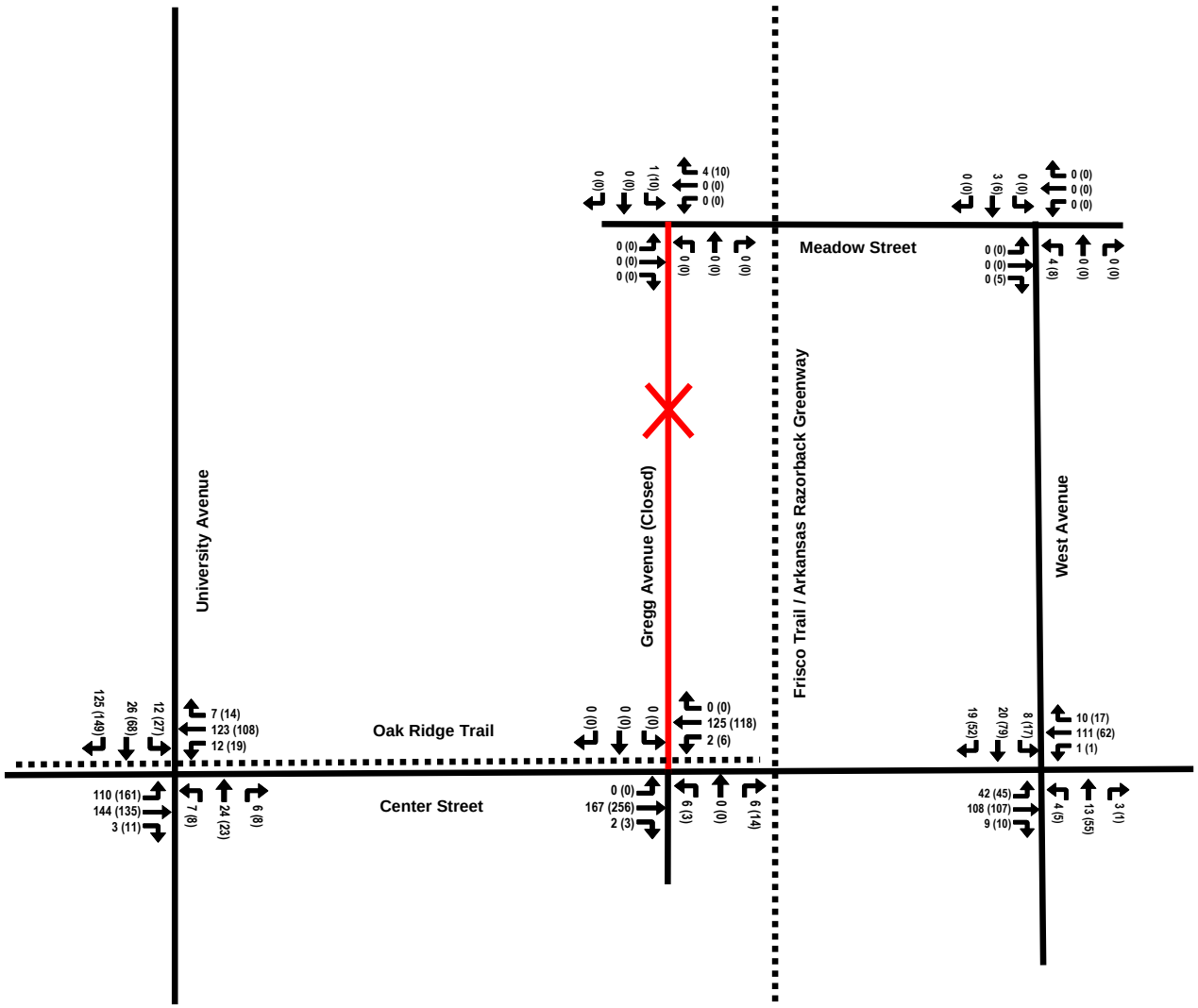


EXHIBIT 3

Existing Traffic + Redistributed Traffic From Gregg Avenue Closure

612 Center Street - Fayetteville, Arkansas

Kimley»Horn

LEGEND:
X (Y)
X = Weekday AM Peak Hour Turning Movements
Y = Weekday PM Peak Hour Turning Movements
Volumes may not sum from point to point due to rounding and presence of smaller driveways not included in analysis.

North

Not To Scale

Public Comment
VAC-2023-0005

From: Mitch Weigel <mitch@dpreg.com>
Sent: Thursday, September 7, 2023 1:59 PM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Cc: Grace Ames <games@trinitas.ventures>; Suzanne Clark <sclark@clark-firm.com>; Payton C. Bentley <pbentley@clark-firm.com>
Subject: Re: Fayetteville Center St Project - Alley Vacation

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I would actually like to see the site plan for the development before completely committing to support of the vacation request.

Mitch Weigel, GRI, CRS
Principal Broker/Owner

Downtown Properties
Real Estate Group, Inc.

The Pryor Center
1 E Center St, Ste 320B | Fayetteville, AR 72701
Office: 479.443.1313
Cell: 479.466.2369

On Sep 7, 2023, at 1:01 PM, Masters, Jessica <jmasters@fayetteville-ar.gov> wrote:

Comment received, thank you.

Jessie Masters, AICP
Development Review Manager
City of Fayetteville, Arkansas
(479) 575-8239
www.fayetteville-ar.gov
Website | Facebook | Twitter | Instagram | YouTube
<image001.png>

From: Grace Ames <games@trinitas.ventures>
Sent: Friday, September 1, 2023 9:51 AM
To: Mitch Weigel <mitch@dpreg.com>; Suzanne Clark <sclark@clark-firm.com>
Cc: Payton C. Bentley <pbentley@clark-firm.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>
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Mitch, that is great! You are welcome to reach out to Jessie Masters, she is our planning department contact. You are also just welcome to respond to this email. Our land-use Attorney, Suzanne Clark, is on the email and is collecting and submitting feedback to the planning committee. If you prefer to go through Jessie, feel free. Her email is below. We will be at the 9.11 planning commission meeting.

jmasters@fayetteville-ar.gov

GRACE AMES
Manager, Development Operations

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www.trinitas.ventures | P. 765.787.1946
201 Main Street, Suite 1000, Lafayette, IN 47901

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I am in support. Who is the planner and I will reach out. When is the hearing?

Mitch Weigel, GRI, CRS
Principal Broker/Owner
Downtown Properties Real Estate Group, Inc.
www.DPREG.com
479-466-2369

Sent from my iPhone

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Public Comment
VAC-2023-0005

From: Grace Ames
Sent: Wednesday, August 23, 2023 10:01 AM
To: mitch@dpreg.com
Cc: Suzanne Clark <sclark@clark-firm.com>; Payton C. Bentley <pbentley@clark-firm.com>; Anna Langner <alangner@clark-firm.com>; Todd Wendell <twendell@trinitas.ventures>; apaddock@amplifydevco.com
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If you'd like, I'm available to run through the project progress with you. I can show what we've developed and issued to the city for a conceptual plat submission. Please let me know if you'd like a meeting to discuss the alley vacation and the project progress.

GRACE AMES
Manager, Development Operations

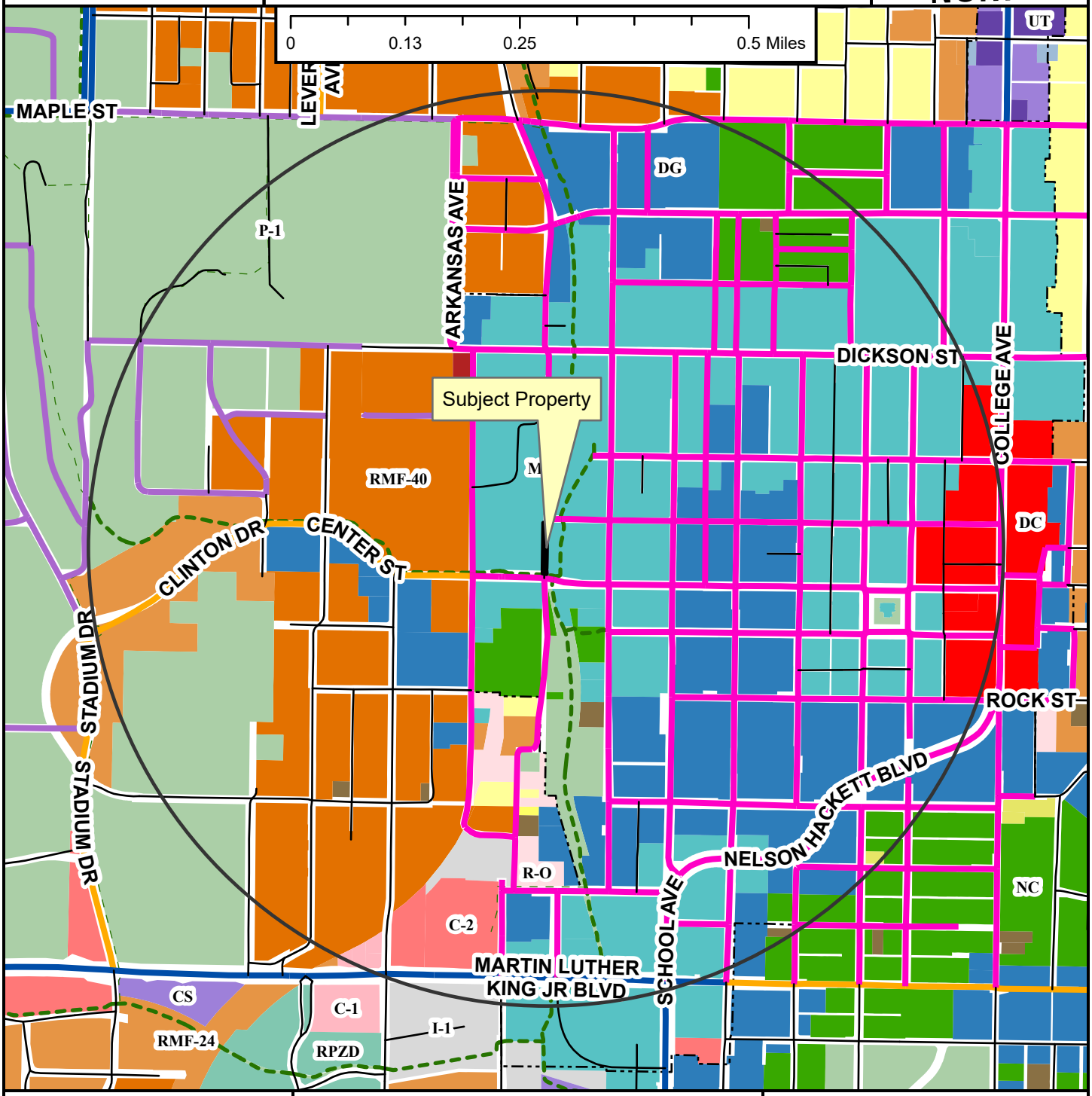
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VAC-2023-0005

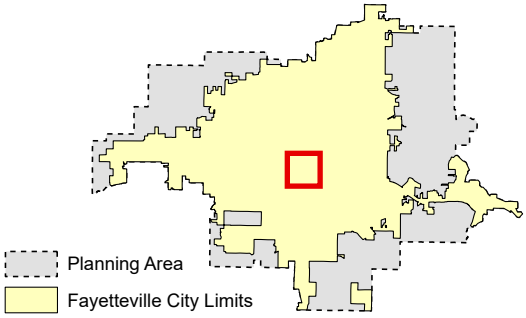
One Mile View

612 W. CENTER ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

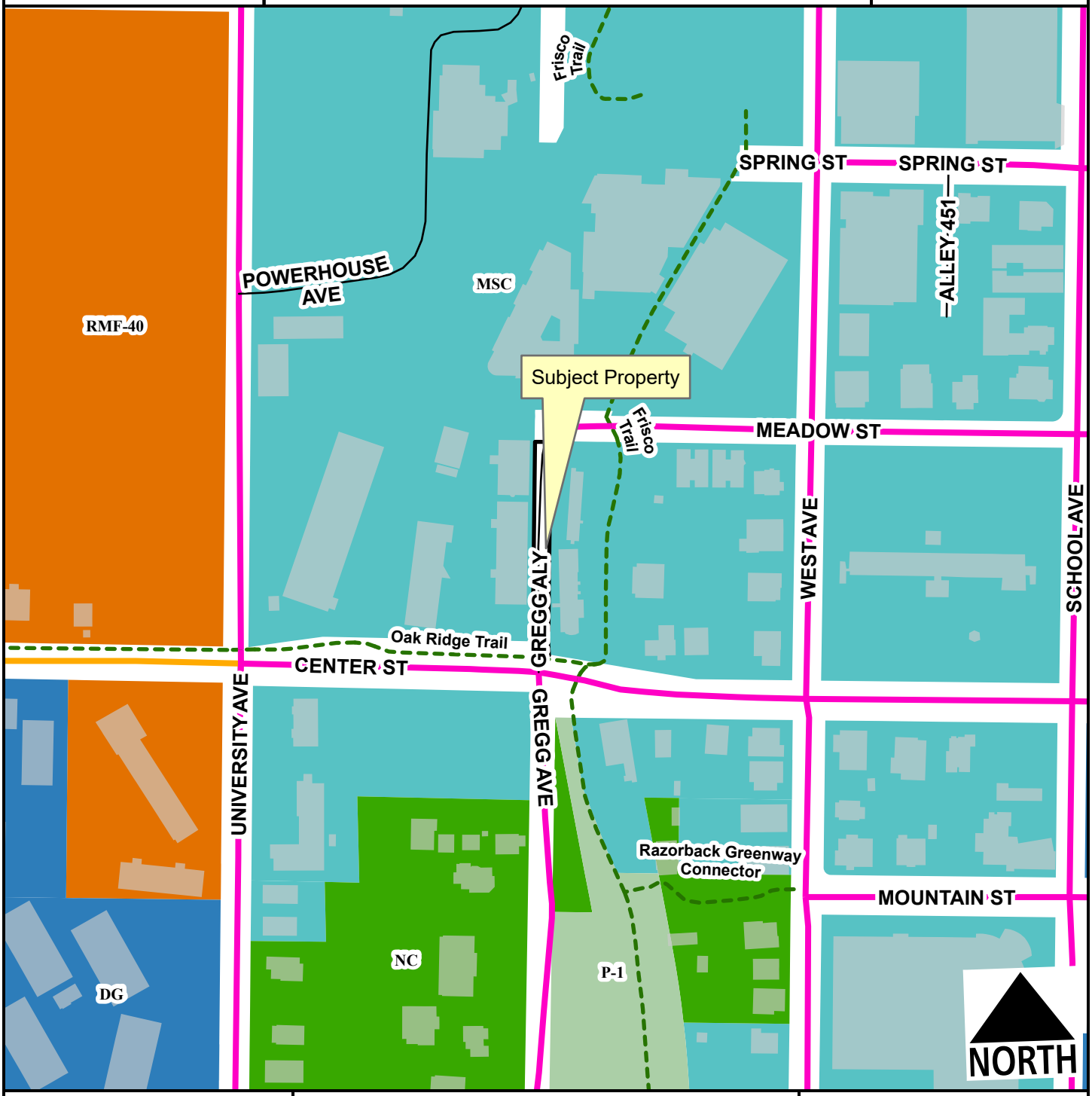
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAC-2023-0005

Close Up View

612 W. CENTER ST



Neighborhood Link
Urban Center
Unclassified
Alley
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Design Overlay District

Feet
0 75 150 300 450 600
1:2,400

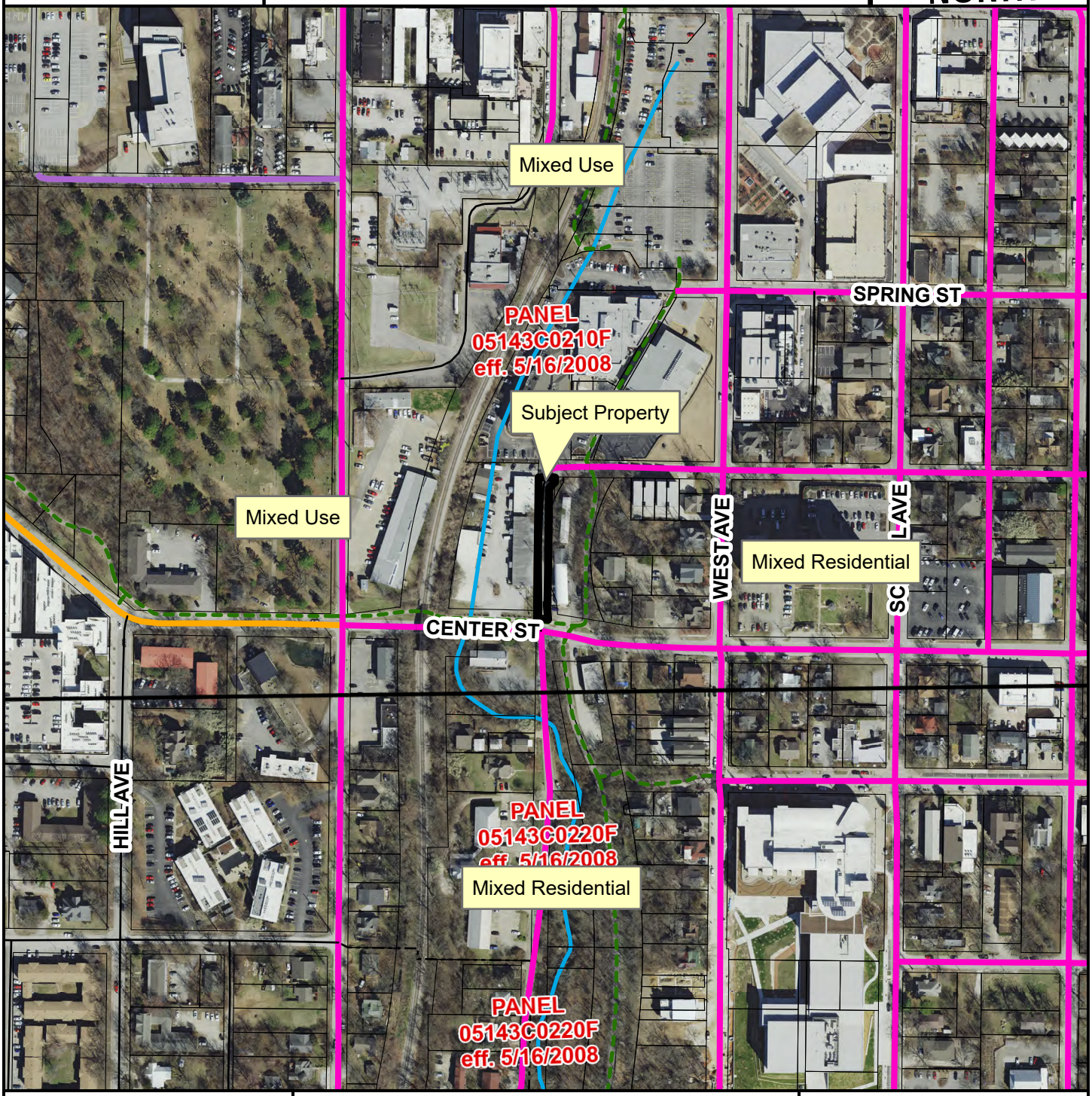
RMF-40
Main Street Center
Downtown General
Neighborhood Conservation
P-1

VAC-2023-0005

Current Land Use

612 W. CENTER ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Public Comment
VAC-2023-0005

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Subject: Re: Fayetteville Center St Project - Alley Vacation

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Manager, Development Operations

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201 Main Street, Suite 1000, Lafayette, IN 47901

From: Ronald Patrick Cameron <rpcameron64@gmail.com>
Sent: Monday, October 9, 2023 8:53 PM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: Fwd: Metro Lofts Urgent Information

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am in support of the Vacation!

R. Patrick Cameron
CEO RPC Ventures
C. +01 479-263-1459

Begin forwarded message:

From: Mitch Weigel <mitch@dpreg.com>
Date: October 9, 2023 at 5:09:54 PM CDT
To: Ronald Patrick Cameron <rpcameron64@gmail.com>
Subject: Re: Metro Lofts Urgent Information

jmasters@fayetteville-ar.gov

Public Comment
VAC-2023-0005

From: Andy Davis <davisdev870@gmail.com>
Sent: Monday, October 9, 2023 3:16 PM
To: Mitch Weigel <mitch@dpreg.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: Easement Vacation

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Link: 38d77eb0-48f1-4911-8987-5c1a7f67a9d638d77eb0-48f1-4911-8987-5c1a7f67a9d6

The property to the south of our building is under contract for sale to a developer who wants to build student housing and, as part of their development plans, has requested the City of Fayetteville to vacate the alley that lies to the south of our property. This will allow them to build on their entire site and across the current alley, which runs between Meadow and Center St.
This vacation would reduce traffic in our parking lot and reduce the desire to walk and drive through our premises, making our property safer. It has come to my attention that another potential developer, Brian Reindl, is proposing a hotel on the south end of the Walton Arts Center's existing parking lot and is opposed to this vacation. His reason for opposition is diametrically opposed to ours; in his current plan, his hotel, which has no parking in its design, would utilize our parking lot and the existing alleyway to our south as a means of ingress and egress for his hotel's valet parking. This would vastly increase the traffic and safety concerns in our parking lot, and we are opposed to that result.

Metro District Lofts POA President

Have a Blessed Day

Andy Davis
870-723-2400

Public Comment
VAC-2023-0005

From: Samantha Schreyer <srschreyr@gmail.com>
Sent: Thursday, October 12, 2023 2:22 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: How Dare You

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:
First of all, I would like to communicate my displeasure of the decision to bulldoze the iconic Alley near downtown Fayetteville. This city is known for its vibrancy, and here are the officials tearing that down to accomidate more out of town kids who will only be here for a couple years before leaving our city, stripping it of its culture further.
Just say you care more about money than what actually makes this city special. People would (maybe, we'd still be unbelievably dissapointed and upset) appreciate the honesty.
If this behavior is kept up, nobody will want to live here. These latest moves seriously have me, and others, considering relocating to a place with actual culture.
If you care about housing, invest in the affordable kind for permanent residents.
Not cheers,
A local resident

From: Christopher Miller <chris.m.miller01@gmail.com>
Sent: Thursday, October 12, 2023 1:59 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Complaint Over Destruction of Local Business

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I know none of you care,

Realistically you'll either throw away this email or give a cheap excuse. There is a vibrant community in Fayetteville that revolves around a wonderful diverse range of local businesses. Businesses that make our town stand out amongst every nearby NWA city. Businesses that have served as a meeting ground and home for many of our citizens. Businesses that buy from and sell to local community members. These businesses are a reflection of the actual people that live and stay here.

The announcement of the pending destruction of the Alley near West and Spring is a disheartening blow. Downtown Fayetteville was supposed to be a hub for the community to come together. The decision to destroy the Alley has shown how little the Fayetteville Planning Commission cares about its local businesses. There now exists a massive parking structure that overshadows many of those local businesses. The hotel that is soon to replace the WAC parking lot and completely overshadow the Meteo District. And now the promise to kick out multiple local businesses to replace with more overpriced apartment structures. Downtown Fayetteville is supposed to be a home, not just another holding pen for students.

Public Comment
VAC-2023-0005

Who will be next? What businesses will you destroy next? Whose livelihoods will you throw away next? What happens when there is nothing left but apartments and out-of-state chain businesses (i.e. Tin Roof). The Commission has proven it does not speak for the people but rather the rich property investors.

I hope there is a future where Fayetteville may invest in the people that are already here instead of those that will inevitably come and leave.

Much disgust, sadness, and fear,

Chris Miller: Community Member and Local Businesses Manager

-----Original Message-----
From: Cali Clifton <calimclifton@gmail.com>
Sent: Thursday, October 12, 2023 2:52 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Please, just leave the Alley alone.

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I am writing this email today to express my disagreement as well as concern for the plan to bulldoze the Alley near downtown Fayetteville.
The Alley is not just a unique staple of what keeps Fayetteville “funky” - it is also the location of a few local businesses, with patrons ranging from students the city is constantly changing for as well as non-student residents.
The vibrancy of Fayetteville is what keeps people wanting to live here, whether they went to the university or not. Constantly accomodating for students who will only live here a few years will not only make the city lose its vibrancy, but also drive out long-term residents. If you really care about housing, make it more affordable for long term and permanent residents. If not, at least be honest and say you care more about money from rich folks and corporations (but especially Texans).

Do better,
A former Fayetteville citizen

Public Comment
VAC-2023-0005

From: Morgan Gentry <amgentry21@unm.edu>
Sent: Saturday, October 14, 2023 1:22 AM
Subject: Comment on zoning and planning

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Amanda Gentry
P.O. Box 902
Arroyo Seco, NM 87514
amgentry21@unm.edu
10/13/2023

I am writing to bring to your attention an important issue that I believe warrants the careful consideration of the Planning Commission: the need to make clear distinctions when zoning and planning for non-student and student housing. As a concerned patron, community member, and future resident of Fayetteville, I am deeply invested in the future of the city and believe that addressing this matter can have a positive impact on the quality of life for all residents.

I am heartbroken and angry to hear that the huts alongside the trail near Center street are going to be torn down to make way for student housing. The city will lose a handful of unique, local businesses in a walkable area. The businesses will most definitely struggle to relocate and could therefore be lost forever. These buildings are home to local artists, musicians, and creatives who have formed a community hub by working together. Not only that, but a few of these people have built their business around living cultural traditions that were birthed right here in the Ozarks. There are less and less people practicing the old Ozark ways and by bulldozing this building for short term housing, we are bulldozing our long term cultural heritage.

Fayetteville is home to a diverse population, including long-term residents, families, and students attending local educational institutions. While the student community is an integral part of our city, it is essential to recognize that student housing needs and expectations often differ from those of other residents. If Fayetteville is to grow in a way that is sustainable, plans need to be put forth to prioritize local business owners, long term residents, and non-students who are trying to invest and grow within this community.

I'd like to outline several compelling reasons for creating a clear distinction between these two types of housing:

-

- **Community Harmony**: Making distinctions between student and non-student housing can promote community harmony
- by addressing the unique needs and expectations of each group. This, in turn, can lead to better relationships between students and long-term residents.
-
-
- **Property Maintenance**: Student housing units are often subjected to higher turnover rates and may require
- more stringent property maintenance. Distinguishing between the two types of housing can enable targeted policies that ensure that both types of residences are well-maintained.
-
-
- **Parking and Transportation**: Students, particularly those living near educational institutions, may have different
- parking and transportation needs compared to non-student residents. Appropriate zoning can address these differences and help alleviate potential traffic and parking issues.
-
-
- **Noise and Safety Concerns**: Student housing areas may experience higher levels of noise and other safety concerns
- due to a younger demographic. Tailored regulations can help mitigate these concerns while respecting the rights and needs of all residents.
-
-
- **Affordable Housing Initiatives**: Distinguishing between student and non-student housing can facilitate efforts
- to provide affordable housing for both groups, ensuring that the housing market
- is accessible and equitable for all.
-
-
- **Community Integration**: Promoting a sense of community and integration can be better achieved by recognizing
- the specific housing needs of students and non-students, allowing for the development of housing solutions that align with the values of each group.
-

I believe that it is *essential* for the Planning Commission to work toward creating a clear framework that distinguishes between non-student and student housing, rather than taking a one-size-fits-all approach. By doing so, we can address the unique

challenges and opportunities presented by each type of housing and ensure that Fayetteville remains an inclusive and thriving community.

I kindly request that the Planning Commission consider this matter seriously, engaging with stakeholders and experts in housing and urban planning to develop clear and thoughtful policies that respect the needs and rights of all residents. I am confident that such an approach will lead to a more prosperous Fayetteville.

Thank you for your attention to this important issue. I look forward to following the progress of this matter and remain available for further discussion or to provide any additional information as needed.

Sincerely,

Amanda Morgan Gentry

From: Robert Bishop <robotbishop87@gmail.com>
Sent: Thursday, October 12, 2023 2:11 PM
To: Mayor <Mayor@fayetteville-ar.gov>
Subject: New Zoning Distinctions Needed

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Jordan,

I am writing to bring to your attention an important issue that I believe warrants the careful consideration of the Planning Commission: the need to make clear distinctions when zoning and planning for non-student and student housing. As a concerned resident of Fayetteville, I am deeply invested in the future of our city and believe that addressing this matter can have a positive impact on the quality of life for all residents.

I am saddened to hear that the huts alongside the trail near Center street are going to be torn down to make way for student housing. I am frustrated to learn this is due to the fact that the city does not currently make distinctions between student and non-student housing in its zoning and planning laws. The city will lose a handful of unique, community minded businesses in a walkable area. These businesses will most definitely struggle to relocate and could therefore be lost forever. These buildings are home to local artists, musicians, and creatives who have formed a community hub by working together. Not only that, but a few of these people have built their business around living cultural traditions that were birthed right here in the Ozarks. There are less

and less people practicing the old Ozark ways and by bulldozing this building to make room for short term residents, we are bulldozing our long term cultural heritage.

Fayetteville is home to a diverse population, including long-term residents, families, and students attending local educational institutions. While the student community is an integral part of our city, it is essential to recognize that student housing needs and expectations often differ from those of other residents. If Fayetteville is to grow in a way that is sustainable, plans need to be put forth to prioritize local business owners, long term residents, and non-students who are trying to invest and grow within this community.

I'd like to outline several compelling reasons for creating a clear distinction between these two types of housing:

-
-
- **Community Harmony**:
- Making distinctions between student and non-student housing can promote community harmony by addressing the unique needs and expectations of each group. This, in turn, can lead to better relationships between students and long-term residents.
-
-
-
- **Property Maintenance**:
- Student housing units are often subjected to higher turnover rates and may require more stringent property maintenance. Distinguishing between the two types of housing can enable targeted policies that ensure that both types of residences are well-maintained.
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- **Parking and Transportation**:
- Students, particularly those living near educational institutions, may have different parking and transportation needs compared to non-student residents. Appropriate zoning can address these differences and help alleviate potential traffic and parking issues.
-
-
-
- **Noise and Safety Concerns**:

- Student housing areas may experience higher levels of noise and other safety concerns due to a younger demographic. Tailored regulations can help mitigate these concerns while respecting the rights and needs of all residents.
-
-
-
- **Affordable Housing Initiatives**:
- Distinguishing between student and non-student housing can facilitate efforts to provide affordable housing for both groups, ensuring that the housing market is accessible and equitable for all.
-
-
-

- **Community Integration**:

- Promoting a sense of community and integration can be better achieved by recognizing the specific housing needs of students and non-students, allowing for the development of housing solutions that align with the values of each group.

-

I believe that it is essential for the Planning Commission to work toward creating a clear framework that distinguishes between non-student and student housing, rather than taking a one-size-fits-all approach. By doing so, we can address the unique challenges and opportunities presented by each type of housing and ensure that Fayetteville remains an inclusive and thriving community.

I kindly request that the Planning Commission consider this matter seriously, engaging with stakeholders and experts in housing and urban planning to develop clear and thoughtful policies that respect the needs and rights of all residents. I am confident that such an approach will lead to a more prosperous Fayetteville.

Thank you for your attention to this important issue. I look forward to following the progress of this matter and remain available for further discussion or to provide any additional information as needed.

Sincerely,

Robert Bishop | KUAF Music Manager

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1182

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

DATE: October 10, 2023

SUBJECT: **RZN-2023-0026: Rezoning (5839 W. DOT TIPTON RD./MARTINEZ, 475): Submitted by JAIRO MARTINEZ for property located at 5839 W. DOT TIPTON RD. in WARD 4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 5.27 acres. The request is to rezone the property to RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE.**

RECOMMENDATION:
City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:
The subject property is located in west Fayetteville on the south side of Dot Tipton Road about a quarter of a mile west of the street's intersection with 54th Avenue. The property includes three parcels totaling 5.27 acres. Each parcel is developed with a single-family dwelling and associated outbuildings, and currently zoned R-A, Residential-Agricultural.

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-2, Residential Single-Family, Two Units per Acre.

Public Comment: Staff has not received public comment regarding this request.

Land Use Compatibility: Staff finds the proposed rezoning from R-A to RSF-2 to be generally compatible with the surrounding area. The intent of the RSF-2 zoning district is to provide a transition zone between small and large residential properties, particularly those containing less than 8,000 square feet or more than an acre. The three parcels in question currently have less lot width and area than what is required by the R-A zoning district, and they're located between large, agricultural properties to the south and west, and smaller residential properties to the east and north. Staff finds the requested rezoning to be compatible since the size and location of the parcels in question appear to be better aligned with the purpose, spirit, and intent of the RSF-2 zoning district, and since the rezoning would allow three nonconforming lots that do not fully meet the requirements of the R-A zoning district to be brought into conformity. Further, staff finds that the requested rezoning is not likely to result in development that is incompatible with the surrounding area since the subject property is relatively small and has limited access to public infrastructure, and since the land uses and lot sizes permitted in the

RSF-2 zoning district are largely similar to those nearby. By-right development in the RSF-2 zoning district is primarily restricted to single-family residences and all lots are required to maintain a minimum width of 100 feet and a minimum area of 17,860 square feet.

Land Use Plan Analysis: Staff finds the proposed rezoning to be somewhat consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RSF-2 could allow for the creation, or maintenance, of residential properties with slightly reduced lot sizes and building setbacks. While a similar rezoning on a larger property may potentially encourage suburban sprawl and thus run afoul with Goal 2 of City Plan 2040, staff finds that the requested rezoning would allow for the continued use of the existing lots or creation of new lots and single-family dwellings that would be similar in both size and character to other residential properties along Dot Tipton Road. Though the property has a very low infill score ranging between 0 and 1, staff finds the requested rezoning to be relatively appropriate since it would bring the three parcels within the subject property into conformity while not allowing for development that is out of scale with the surrounding neighborhood.

City Plan 2040 Infill Matrix: City Plan 2040's Infill Matrix indicates a rating between 0 and 1 for this site. The following element of the matrix contributes to the score:

- Near Water Main (two-inch main, Willow Avenue)

DISCUSSION:
At the October 9, 2023 Planning Commission meeting, a vote of 9-0-0 forwarded the request to City Council with a recommendation of approval. Commissioner Garlock made the motion and Commissioner McGetrick seconded it. Commissioners offered little comment, finding the applicant's request to be compatible with surrounding land uses and consistent with the City's land use plans and policies. Commissioner McGetrick asked whether City Engineering would review new septic systems on the property, and staff confirmed that septic would be reviewed by the Arkansas Department of Health, with City Engineering making a determination on the feasibility of connecting to sanitary sewer. No public comment was offered at the meeting.

BUDGET/STAFF IMPACT:
N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

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

File #: 2023-1182

RZN-2023-0026: Rezoning (5839 W. DOT TIPTON RD./MARTINEZ, 475): Submitted by JAIRO MARTINEZ for property located at 5839 W. DOT TIPTON RD. in WARD 4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 5.27 acres. The request is to rezone the property to RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-026 FOR APPROXIMATELY 5.27 ACRES LOCATED AT 5839 WEST DOT TIPTON ROAD IN WARD 4 FROM R-A, RESIDENTIAL-AGRICULTURAL, TO RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential-Agricultural, to RSF-2, Residential Single-Family, Two Units per Acre.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2023-1182

Item ID

11/9/2023

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

Jonathan Curth	10/20/2023	DEVELOPMENT REVIEW (630)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

RZN-2023-0026: Rezoning (5839 W. DOT TIPTON RD./MARTINEZ, 475): Submitted by JAIRO MARTINEZ for property located at 5839 W. DOT TIPTON RD. in WARD 4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 5.27 acres. The request is to rezone the property to RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE.

Budget Impact:

Account Number	Fund
Project Number	Project Title

Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number: _____ **Previous Ordinance or Resolution #** _____

Change Order Number: _____ **Approval Date:** _____

Original Contract Number: _____

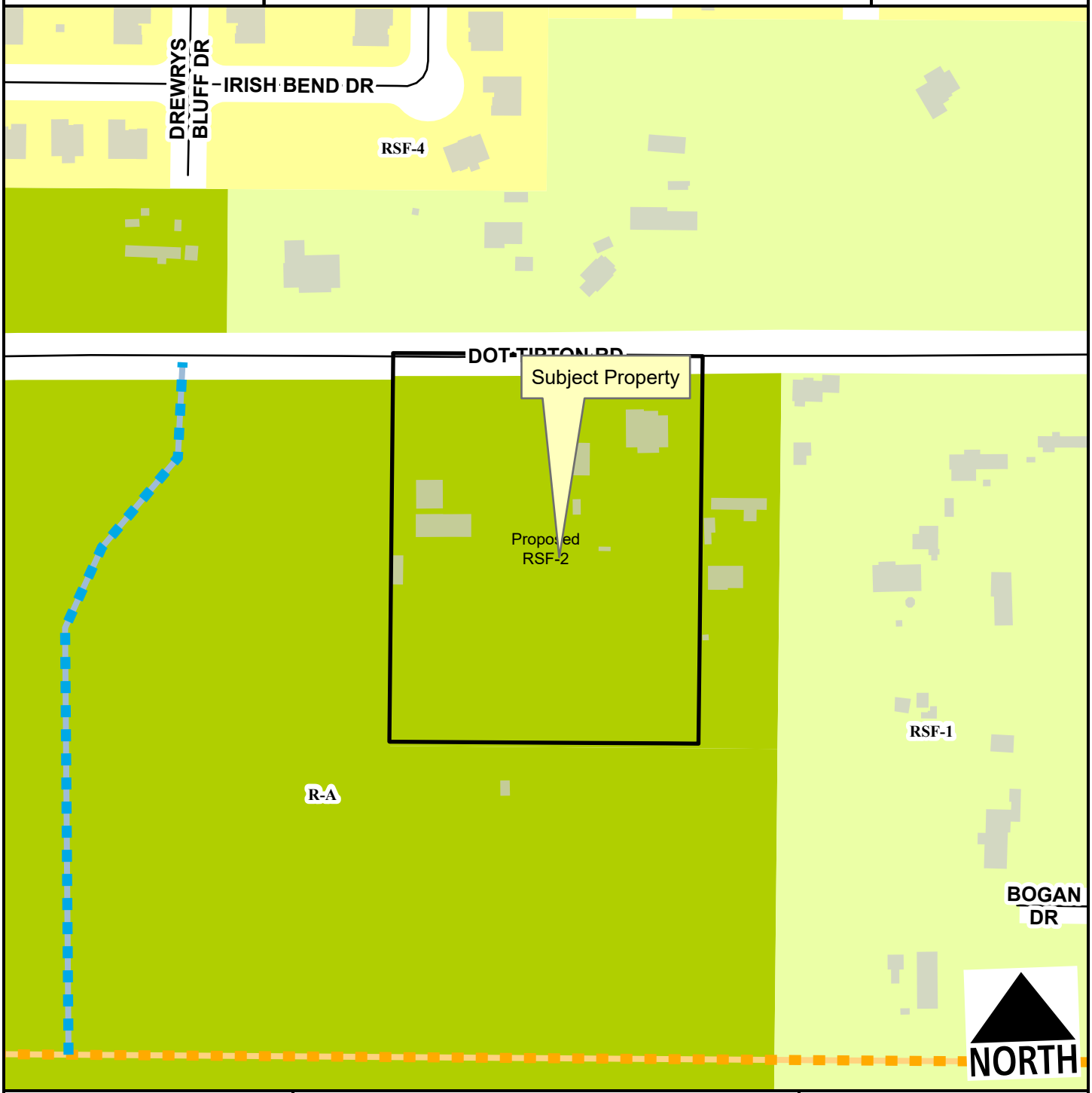
Comments:

RZN-2023-0026

Close Up View

5839 W. DOT TIPTON RD

RZN-2023-0026
EXHIBIT 'A'



Residential Link
Planned Neighborhood Link
Planned Residential Link
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

Zone	Current	Proposed
R-A	5.0	0.0
RSF-2	0.0	5.3
Total	**5.3 ac**	

BATES
Engineers · Surveyors
7230 S Pleasant Ridge Dr / Fayetteville, AR 72704
PH: (479) 442-9350 / batesnwa.com

August 11, 2023

RE: Legal description for proposed rezone from R-A to R-2

A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP X16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR WHICH IS N02°34'34"E 590.80' AND N87°39'02"W 109.27' FROM AN EXISTING REBAR MARKING THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N87°39'02"W 427.60' TO AN EXISTING REBAR, THENCE N02°33'55"E 537.21', THENCE S87°50'31"E 208.01', THENCE S02°39'34"W 2.24', THENCE S87°38'39"E 220.10', THENCE S02°37'11"W 535.64' TO THE POINT OF BEGINNING, CONTAINING 5.27 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN DOT TIPTON ROAD MASTER STREET PLAN RIGHT-OF-WAY ON THE NORTH SIDE OF HEREIN DESCRIBED TRACT AND ALSO SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: October 9, 2023 (updated with results)

SUBJECT: **RZN-2023-0026: Rezoning (5839 W. DOT TIPTON RD./MARTINEZ, 475):** Submitted by JAIRO MARTINEZ for property located at 5839 W. DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 5.27 acres. The request is to rezone the property to RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE.

RECOMMENDATION:
Staff recommends forwarding **RZN-2023-0026** to City Council with a recommendation of approval.

RECOMMENDED MOTION:
*"I move to forward **RZN-2023-0026** to City Council with a recommendation of approval."*

BACKGROUND:
The subject property is located in west Fayetteville on the south side of Dot Tipton Road about a quarter of a mile west of the street's intersection with 54th Avenue. The property includes three parcels totaling 5.27 acres. Each parcel is currently developed with a single-family dwelling and associated outbuildings and is zoned R-A, Residential-Agricultural. The property received its current zoning designation as a result of its annexation into the City of Fayetteville in 2006. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-1, Residential Single-Family, One Unit per Acre
South	Agricultural	R-A, Residential-Agricultural
East	Single-Family Residential	RSF-1, Residential Single-Family, One Unit per Acre
West	Agricultural	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-2, Residential Single-Family, Two Units per Acre.

Public Comment: Staff has not received any public comment regarding this request.

INFRASTRUCTURE:

Streets: The subject property has frontage along Dot Tipton Road, a partially improved Residential Link street with asphalt paving and open ditches. Any street

improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing two-inch water main is present on the north side of Dot Tipton Road. City Engineering has indicated that no new irrigation meters would be allowed on this property, though meters for new residences may be permitted if septic approval from the Arkansas Department of Health is first provided.

Sewer: Sanitary sewer is not available to the subject property.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at the time of development submittal.

Fire: Station 7, located at 835 N. Rupple Rd., protects this site. The property is located approximately 2.2 miles from the fire station with an anticipated drive time of approximately five minutes using existing streets. The anticipated response time would be approximately 7.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

Police: The Police Department did not comment on this request.

Tree Preservation:

The proposed zoning district of RSF-2, Residential Single-Family, Two Units per Acre requires **20% minimum canopy preservation.** The current zoning district of R-A, Residential-Agricultural requires **25% minimum canopy preservation.**

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Residential Neighborhood**.

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods. This designation recognizes the existing conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range between **0 and 1** for this site with a weighted score of **1** at the highest level. The following elements of the matrix contribute to the score:

- Near Water Main (two-inch main, Willow Avenue)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:*** **Staff finds the proposed rezoning from R-A to RSF-2 to be somewhat compatible with the surrounding area. The intent of the RSF-2 zoning district is to provide a transition zone between small and large residential properties, particularly those containing less than 8,000 square feet or more than an acre. The three parcels in question currently have less lot width and area than what is required by the R-A zoning district, and they're located between large, agricultural properties to the south and west, and smaller residential properties to the east and north. Staff finds the requested rezoning to be compatible since the size and location of the parcels in question appear to be better aligned with the spirit and intent of the RSF-2 zoning district, and since the rezoning would allow three nonconforming lots that do not fully meet the requirements of the R-A zoning district to be brought into conformity. Further, staff finds that the requested rezoning is not likely to result in development that is incompatible with the surrounding area since the subject property is relatively small and has limited access to public infrastructure, and since the land uses and lot sizes permitted in the RSF-2 zoning district are largely similar to those nearby. By-right development in the RSF-2 zoning district is primarily restricted to single-family residences and all lots are required to maintain a minimum width of 100 feet and a minimum area of 17,860 square feet.**

Land Use Plan Analysis: **Staff finds the proposed rezoning to be somewhat consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RSF-2 could allow for the creation, or maintenance, of residential properties with slightly reduced lot sizes and building setbacks. While a similar rezoning on a larger property may potentially encourage suburban sprawl and thus run afoul with Goal 2 of City Plan 2040, staff finds that the requested rezoning would allow for the creation of new lots and single-family residences that would be similar in both size and character to other residential properties along Dot Tipton Road. Though the property has a very low infill score ranging between 0 and 1, staff finds the requested rezoning to be relatively appropriate since it would bring the three parcels within the subject property into conformity while not allowing for development that is out of scale with the surrounding neighborhood.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **Staff finds that rezoning the subject property to RSF-2 is somewhat justified since it contains three parcels that do not currently comply with the bulk and area regulations of the underlying R-A zoning district.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **A rezoning from R-A to RSF-2 has the potential to increase traffic at this location when considering that RSF-2 would allow for residential development at a greater density than the existing R-A zoning. However, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given the relatively small size of the lot and its limited access onto Dot Tipton Road.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, staff finds that the proposed rezoning would not undesirably increase the load on public services. City Engineering has indicated that water meters for additional residences may be permitted if septic approval from the Arkansas Department of Health is first provided. The property does not currently have access to public sewer and any necessary improvements to Dot Tipton Road would be determined at the time of development review. Fayetteville Public Schools did not comment on this request.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0026 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: **Required** **YES**

Date: **October 9, 2023** ❒ **Tabled** ☒ **Forwarded** with a recommendation of approval ❒ **Denied**

Motion: Garlock

Second: McGetrick

Vote: 9-0-0

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §161.03 District R-A, Residential-Agricultural
  - §161.06 District RSF-2, Residential Single-Family – Two (2) Units Per Acre
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses*.

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half (½)

(D) *Bulk and Area Regulations.*

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

(F) *Height Requirements.* There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1) story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-09; Ord. No. 5479, 2-7-12; Ord. No. 5945 , §3, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

161.06 District RSF-2, Residential Single-Family — Two (2) Units Per Acre

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (1 acre and over) and areas that have developed with smaller lot sizes (8,000 square feet), and to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(D) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(E) *Density*

Units per acre	2

(F) *Bulk and Area Regulations.*

Lot width minimum	100 feet
Lot area minimum	17,860 square feet
Land area per dwelling unit	17,860 square feet

(G) *Setback Requirements.*

Front	Side	Rear
30 feet	15 feet	30 feet

(H) *Building Height Regulations.*

Building Height Maximum	3 stories

(I) *Building Area.* None.

(Code 1991, §160.045; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Hello to whom it may concern,

We are requesting to rezone our current zone from R-A to RSF-2. We are wanting to rezone in order to do a Lot split which will create two new Lots with at least one acre. There are multiple houses on our road with a house on at least one acre so it will still be compatible with the existing neighboring residents. Property has perked so it will be on a septic system like most of our neighbors. I have also spoken to the water and sewer department about an eligible water Tap, which I have been told there is multiple Taps available.

Overall it will not be much different than the current residents that are currently on our Road.

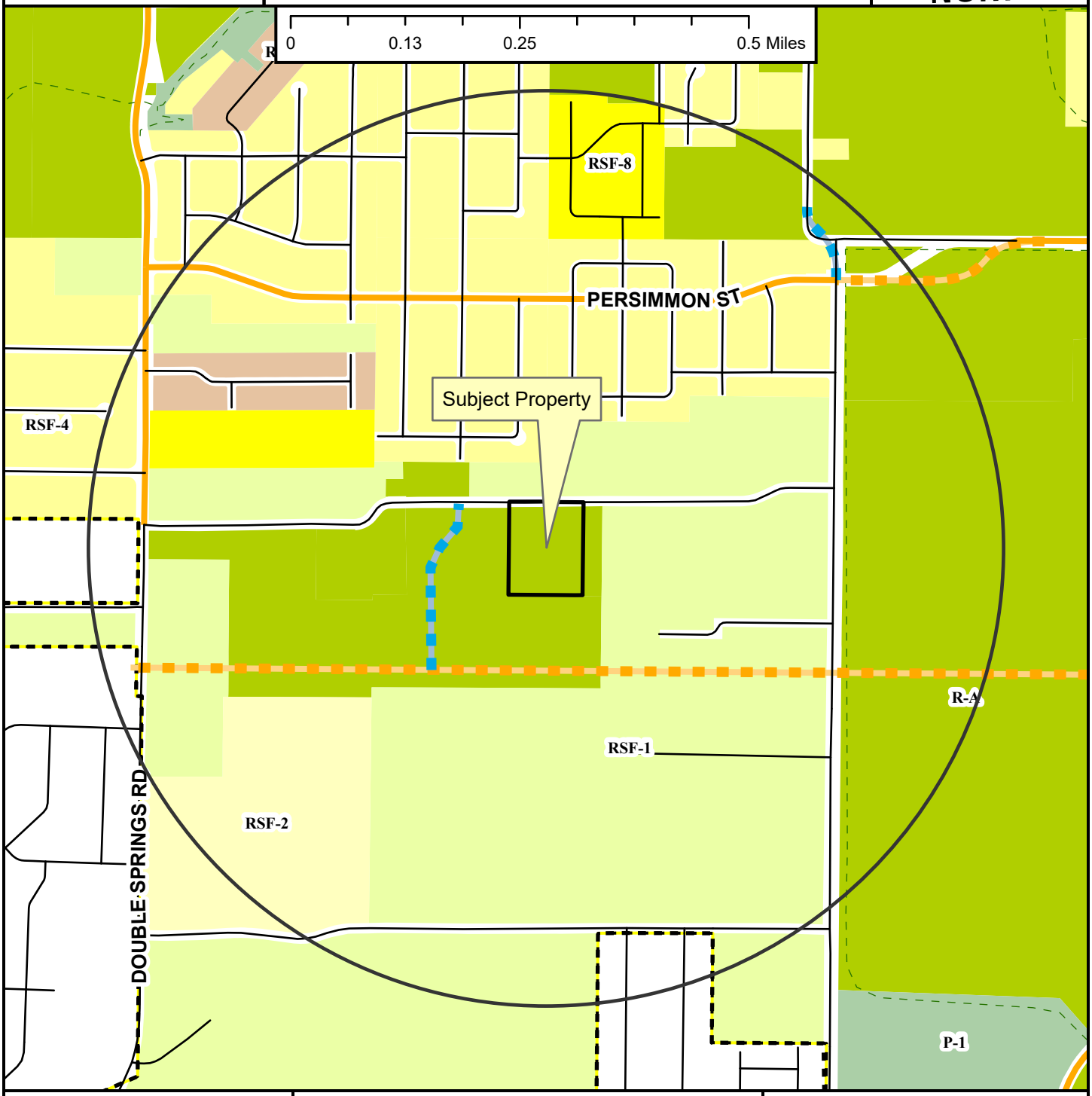
Thank You
Jairo Martinez

RZN-2023-0026

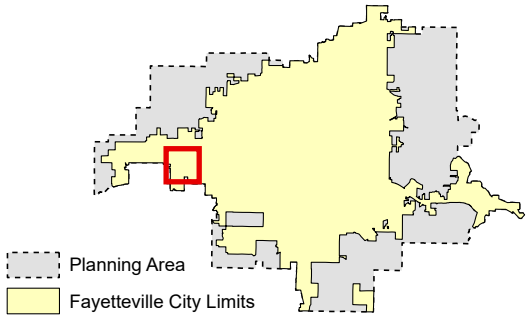
One Mile View

5839 W. DOT TIPTON RD

NORTH



- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

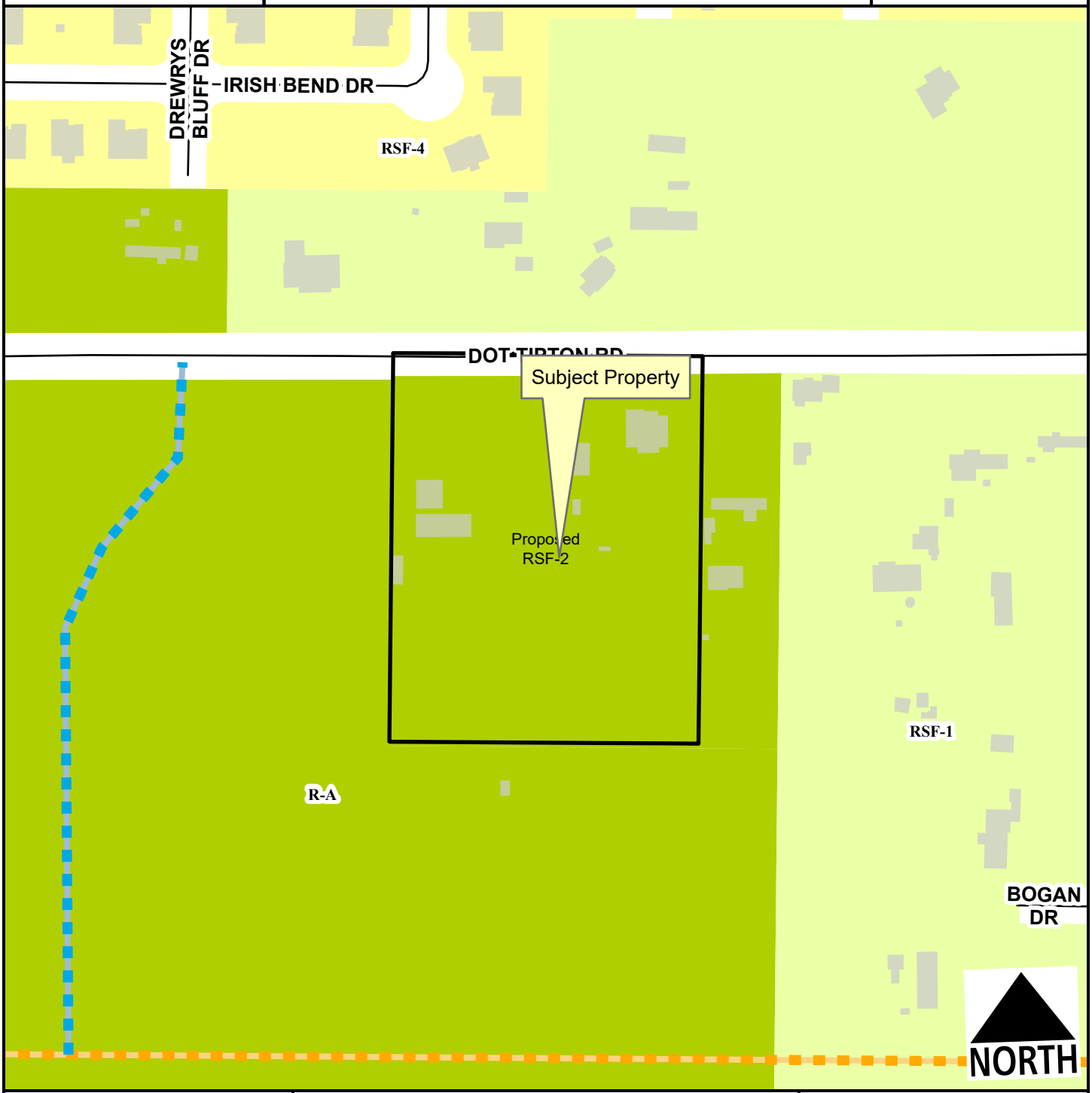
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

RZN-2023-0026

Close Up View

5839 W. DOT TIPTON RD



Residential Link
Planned Neighborhood Link
Planned Residential Link
Planning Area
Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
R-A	5.0	0.0
RSF-2	0.0	5.3

Total 5.3 ac

RZN-2023-0026

Current Land Use

5839 W. DOT TIPTON RD

NORTH



Residential Link
Planned Neighborhood Link
Planned Residential Link
Planning Area
Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

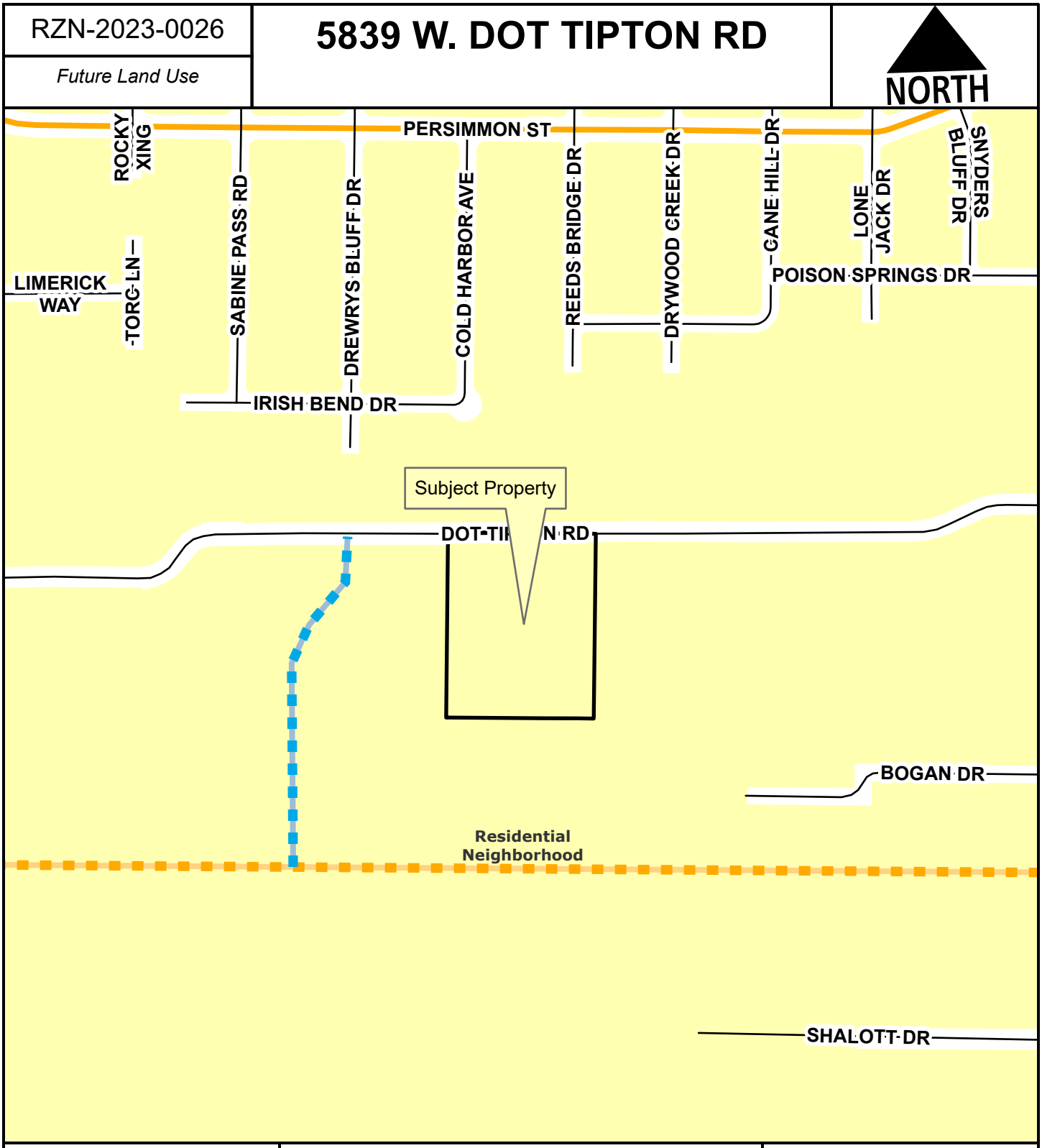
FEMA Flood Hazard Data

100-Year Floodplain
Floodway

RZN-2023-0026

Future Land Use

5839 W. DOT TIPTON RD



Neighborhood Link
Unclassified
Residential Link
Planned Neighborhood Link
Planned Residential Link
Planning Area
Fayetteville City Limits

Feet
0 145 290 580 870 1,160
1:4,800

City Neighborhood
Civic Institutional
Civic and Private Open Space
Industrial
Natural
Non-Municipal Government
Residential Neighborhood
Rural Residential
Urban Center

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1208

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

DATE: October 17, 2023

SUBJECT: **RZN-2023-0028: Rezoning (150 N. SKYLINE DR, UNIT 22/MOUNT SEQUOYAH CENTER INC, 486): Submitted by EMILY GENTRY for property located at 150 N. SKYLINE DR, UNIT 22 in WARD 1. The property is zoned P-1, INSTITUTIONAL and contains approximately 0.14 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES-GENERAL.**

RECOMMENDATION:
City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:
The subject property is in east Fayetteville on Mount Sequoyah and is the site of the Mount Sequoyah Center. The overall property, including the requested rezoning for the 0.14-acre portion, is approximately 26 acres and zoned P-1, Institutional. Established as a Methodist Episcopal Church training and events center in 1922, Mount Sequoyah Center transitioned to a secular cultural and events space in 2016. Earlier in 2023, a Planned Zoning District was proposed for the 26-acre site in its entirety, but the applicant withdrew that request after receiving feedback from the surrounding community. The previously-requested PZD was never heard by the Planning Commission or City Council.

Proposal: The request is to rezone 0.14 acres of the property from P-1, Institutional to NS-G, Neighborhood Services – General.

Public Comment: Staff received public comment in support of the request to rezone a small portion of the site to allow for a coffee shop. Staff received public comment in opposition to the request as a Planned Zoning District; that public comment is not included due to the nature of the new application.

Land Use Compatibility: Staff finds the request to be compatible with the surrounding context. The organization, as it currently operates, is classified as Use Unit 4, a Cultural and Recreational Facility. This designation allows the property to host the existing cultural and recreational events that it does, such as weddings, camps, and art shows. Those uses generally draw members (and traffic) from the general public. However, due to the property's institutional zoning district, Mount Sequoyah has not been opened up for commercial uses or other businesses, aside from a fitness center (also classified as Use Unit 4 in zoning code). From a use perspective, the uses allowable in the proposed zoning district are largely compatible with

the existing uses on the property. Limited in scale to a building 8000 sq. ft. or less, Use Unit 12b, which allows for commercial businesses, ensures that larger commercial structures are precluded from being constructed on the site with this request. From a setback perspective, the two zoning districts are a bit different; P-1 has a 30-foot front setback, where NS-G follows a build-to-zone. In this case however, less restrictive setbacks are likely compatible with the current surroundings. No subdivision of land is currently proposed for this location, so street frontage and side setbacks are not likely to become an issue. There is no building height maximum in P-1; there is a three-story building height maximum in NS-G. Mount Sequoyah Center has a variety of building types, sizes, scales and uses on the property, and staff finds that the request is compatible with surroundings.

Land Use Plan Analysis: Staff finds the proposal is somewhat consistent with the future land use designation for this location, albeit acknowledging the property's change in ownership. The Future Land Use Map identifies this area as a Civic Institutional Area, which is meant for buildings operated as a non-profit organization or other governmental or institutional use. While this request would open the existing structure for commercial uses, staff finds that the scale of the proposal would not undermine the overall intent of the Future Land Use map classification. The property also has a low infill score, but the request at 0.14 acres means that only 2 dwelling units could be added to the site, and under Use Unit 12b, only a structure with a maximum size of 8000 square feet could be added to the site. The size and location of the request are not likely to alter the primary use of the overall property in a way that would be incompatible. As the request relates to City Plan 2040 goals, staff finds it to be generally complimentary, particularly regarding the potential for retail and services accessible to nearby residents.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 4 for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center Street)
- Near Sewer Main (8" S. Skyline Drive, 6" West of Assembly Drive)
- Near Water Main (6" Assembly Drive, 8" South of N. Skyline Drive, 8" E. Skyline Drive)
- Near City Park (Mt. Sequoyah Woods)

DISCUSSION:
At the October 9, 2023 Planning Commission meeting, a vote of 9-0-0 forwarded the request to City Council with a recommendation of approval. Commissioner Madden, who was in favor of the request, offered concerns about how the use units outlined in the Unified Development Code were interpreted for a coffee shop, and wanted to ensure that Mount Sequoyah had the ability to offer food service by a separate business, since it seemed like it would primarily serve those already on site. No members of the public spoke at this meeting.

BUDGET/STAFF IMPACT:
N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

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

File #: 2023-1208

RZN-2023-0028: Rezoning (150 N. SKYLINE DR, UNIT 22/MOUNT SEQUOYAH CENTER INC, 486): Submitted by EMILY GENTRY for property located at 150 N. SKYLINE DR, UNIT 22 in WARD 1. The property is zoned P-1, INSTITUTIONAL and contains approximately 0.14 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES-GENERAL.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-028 FOR APPROXIMATELY 0.14 ACRES LOCATED AT 150 NORTH SKYLINE DRIVE IN WARD 1 FROM P-1, INSTITUTIONAL TO NS-G, NEIGHBORHOOD SERVICES-GENERAL

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from P-1, Institutional, to NS-G, Neighborhood Services-General.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2023-1208

Item ID

11/9/2023

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

Jonathan Curth	10/20/2023	DEVELOPMENT REVIEW (630)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

RZN-2023-0028: Rezoning (150 N. SKYLINE DR, UNIT 22/MOUNT SEQUOYAH CENTER INC, 486): Submitted by EMILY GENTRY for property located at 150 N. SKYLINE DR, UNIT 22 in WARD 1. The property is zoned P-1, INSTITUTIONAL and contains approximately 0.14 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES-GENERAL.

Budget Impact:

Account Number			Fund	
Project Number			Project Title	
Budgeted Item?	No	Total Amended Budget	$	-
		Expenses (Actual+Encum)	$	-
		Available Budget	$	-
Does item have a direct cost?	No	Item Cost	$	-
Is a Budget Adjustment attached?	No	Budget Adjustment	$	-
		Remaining Budget	$	-

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

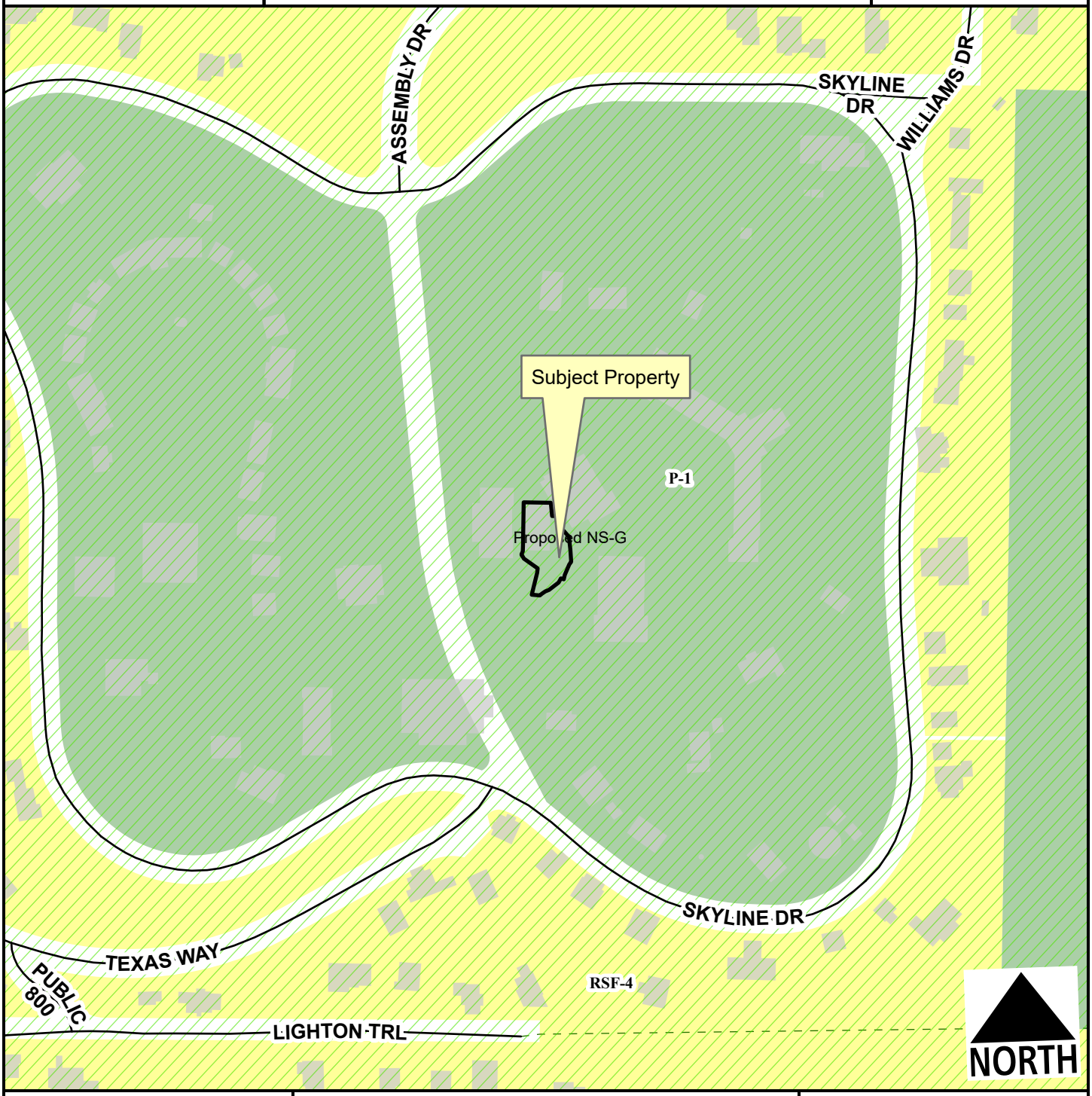
Change Order Number:

Approval Date:

Original Contract Number:

Comments:

RZN-2023-0028	150 N. SKYLINE DR, UNIT 22	EXHIBIT 'A'
Close Up View		



Residential Link
Hillside-Hilltop Overlay District
Trail (Proposed)
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

Zone	Current	Proposed
NS-G	0.0	0.1
P-1	0.1	0.0

Total 0.1 ac

EXHIBIT 'B'

◆FAYETTEVILLE, AR◆

A PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT A FOUND 3" ALUMINUM MONUMENT MARKING THE NORTHEAST CORNER OF SAID SECTION 15, THENCE S40°08'31"W 2474.73 FEET TO THE TRUE POINT OF BEGINNING AND RUNNING, THENCE S02°40'10"E 16.73 FEET, THENCE S38°57'01"W 4.80 FEET, THENCE S24°54'50"W 15.66 FEET, THENCE S15°56'37"W 6.21 FEET, THENCE N71°28'53"W 3.90 FEET, THENCE S33°18'29"W 6.42 FEET, THENCE S53°45'29"W 16.71 FEET, THENCE S70°16'37"W 5.65 FEET, THENCE S57°57'51"W 5.39 FEET, THENCE S52°09'07"W 3.97 FEET, THENCE N82°35'28"W 11.19 FEET, THENCE N15°42'42"E 31.44 FEET, THENCE N08°13'22"E 5.92 FEET, THENCE N52°55'21"W 23.37 FEET, THENCE N25°22'26"W 3.74 FEET, THENCE N41°57'36"W 1.63 FEET, THENCE N16°24'39"W 1.60 FEET, THENCE N28°13'16"E 4.42 FEET, THENCE N04°29'25"E 7.80 FEET, THENCE N02°53'23"E 60.08 FEET, THENCE S87°07'14"E 37.36 FEET, THENCE S04°11'13"E 18.38 FEET, THENCE S85°34'26"E 5.50 FEET, THENCE S24°13'42"E 21.43 FEET, THENCE S39°53'54"E 12.35 FEET, THENCE S03°48'40"E 18.03 FEET, TO THE POINT OF BEGINNING. CONTAINING 0.140 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: October 9, 2023 Updated with results from October 9, 2023 PC Meeting

SUBJECT: **RZN-2023-0028: Rezoning (150 N. SKYLINE DR, UNIT 22/MOUNT SEQUOYAH CENTER INC, 486):** Submitted by EMILY GENTRY for property located at 150 N. SKYLINE DR, UNIT 22. The property is zoned P-1, INSTITUTIONAL and contains approximately 0.14 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES-GENERAL.

RECOMMENDATION:
Staff recommends forwarding **RZN-2023-0028** to City Council with a recommendation of approval.

RECOMMENDED MOTION:
"I move to forward **RZN-2023-0028** to City Council with a recommendation of approval."

BACKGROUND:
The subject property is in east Fayetteville on Mount Sequoyah and is a portion of the Mount Sequoyah Center site. The overall property, including the requested rezoning for the 0.14-acre portion, is approximately 26 acres and zoned P-1, Institutional. Established as a Methodist Episcopal Church training and events center in 1922, Mount Sequoyah Center transitioned to a more secular cultural and events space in 2016. Earlier in 2023, a Planned Zoning District was proposed for the site in its entirety, but the applicant withdrew that request after receiving feedback from the surrounding community. The previously-requested PZD was never heard by the Planning Commission, or City Council. Surrounding land uses and zoning is depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Cultural and Recreational Facility	P-1, Institutional
South	Cultural and Recreational Facility	P-1, Institutional
East	Cultural and Recreational Facility	P-1, Institutional
West	Cultural and Recreational Facility	P-1, Institutional

Request: The request is to rezone 0.14 acres of the property from P-1, Institutional to NS-G, Neighborhood Services – General.

Public Comment: Staff received some public comment in support of the request to rezone a small portion of the site to allow for a coffee shop. Staff received public comment in opposition to the request as a Planned Zoning District; that public comment is not included due to the nature of the new application.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The overall subject area has frontage along Skyline Drive, which runs a loop around the Mount Sequoyah property. Skyline Drive is a partially improved Residential Link street with asphalt paving and open ditches. Any street improvements required in these areas would be determined at the time of a development proposal. Any additional improvements or requirements for drainage will be determined at time of development.

Water: Public water is available to the subject area. An existing 8-inch water main is present running through the north side of the property in an existing easement. An existing 8-inch water main is present on the northwest side of Fayetteville right-of-way along Assembly Drive. An existing 6-inch water main is present on the southwest side of the Fayetteville right-of-way along the main drive. An existing 8-inch water main is present on the west side of E. Skyline Drive.

Sewer: Sanitary sewer is available to the subject area. A 6-inch sanitary sewer main is present along the west side of the right-of-way along the main drive (Assembly Drive). An existing 8-inch sanitary sewer main is present on the south side of S. Skyline Drive.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 1, located at 303 W. Center St., protects this site. The property is located approximately 1.4 miles from the fire station with an anticipated drive time of approximately 5 minutes using existing streets. The anticipated response time would be approximately 7.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

Drainage: No portion of the property lies within a FEMA floodplain, nor are there hydric soils present on the site. There are no protected streams present in the subject area.

The property is located within the Hillside-Hilltop Overlay District. Additional restrictions will apply at the time of development. Engineered footing designs will be required at the time of building permit submittal, as well as grading, erosion control and abbreviated tree preservation plans.

Tree Preservation:

The proposed zoning district of NS-G, Neighborhood Services - General requires **20% minimum canopy preservation.** The current zoning district of P-1, Institutional requires **25% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as a **Civic Institutional.**

Civic Institutional Areas are dedicated for buildings generally operated by not-for-profit organizations dedicated to culture, government, education or transit and municipal parking.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **4** for this site, with a weighted score of **3.5**. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center Street)
- Near Sewer Main (8" S. Skyline Drive, 6" West of Assembly Drive)
- Near Water Main (6" Assembly Drive, 8" South of N. Skyline Drive, 8" E. Skyline Drive)
- Near City Park (Mt. Sequoyah Woods)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:*** **Staff finds the request to be compatible with the surrounding context. The organization, as it currently operates, is classified as Use Unit 4, a Cultural and Recreational Facility. This designation allows the property to host the existing cultural and recreational events that it does, such as weddings, camps, and art shows. Those uses generally draw members (and traffic) from the general public. However, due to the property's institutional zoning district, Mount Sequoyah has not been opened up for commercial uses or other businesses, aside from a fitness center (also classified as Use Unit 4 in zoning code). From a use perspective, the uses allowable in the proposed zoning district are largely compatible with the existing uses on the property. Limited in scale to a building 8000 sq. ft. or less, Use Unit 12b which allows for commercial businesses, ensures that larger commercial structures and businesses are precluded from being constructed on the site with this request. From a setback perspective, the two zoning districts are a bit different; P-1 has a 30-foot front setback, where NS-G follows a build-to-zone. In this case, however, less restrictive setbacks are likely compatible with the current surroundings. No subdivision of land is currently proposed for this location, so street frontage and side setbacks are not likely to become an issue. There is no building height maximum in P-1; there is a three-story building height maximum in NS-G. Mount Sequoyah Center has a variety of building types, sizes, scales and uses on the property, and staff finds that the request is compatible with surroundings.**

Land Use Plan Analysis: **Staff finds the proposal is somewhat inconsistent with the goals in City Plan 2040 and the future land use designation for this location. The Future Land Use Map identifies this area as a Civic Institutional Area, which is meant for buildings operated as a non-profit organization or other governmental or institutional use. While this request would open up the existing structure for commercial uses, staff finds that the scale of the proposal would not undermine the overall intent of the Future Land Use map classification. The property also has a low infill score, but the request at 0.14 acres means that only 2 dwelling units could be added to the site, and under Use Unit 12b, only a structure with a maximum size of 8000 square feet could be added to the site. The size and location of the request are not likely to alter the primary use of the overall property in a way that would be incompatible.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **Staff finds that a rezoning to NS-G is justified. While the zoning district begins to insert commercial uses into a Civic Institutional Area, staff finds that the rezoning is incremental in scale.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **Rezoning to NS-G at this location has the possibility to increase traffic to the site, but staff finds that given the size of the request, the intended commercial uses are likely to serve the individuals who are already on Mount Sequoyah for the existing programming, and is unlikely to appreciably increase congestion.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **Rezoning the property to NS-G may increase the load on public services, but the impact is not expected to be detrimental. The size of the property and access to existing water and sewer infrastructure means future development will likely avoid the need for costly extensions to services. Fayetteville Public Schools did not comment on this request.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

RECOMMENDATION: Planning staff recommends approval of RZN-2023-0028.

PLANNING COMMISSION ACTION: **Required** **YES**

Date: **October 9, 2023** ❒ **Tabled** ☒ **Forwarded** ❒ **Denied**

with a recommendation of approval.

Motion: Brink

Second: Garlock

Vote: 9-0-0

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
  - §161.32 District P-1, Institutional
  - §161.19 NS-G, Neighborhood Services - General
- Applicant Request Letter
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.32 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	30 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	20 feet
Side, when contiguous to a residential district	25 feet
Rear	25 feet
Rear, from center line of public alley	10 feet

(F) *Height Regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5945 , §§5, 7, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6521 , §8, 1-18-22)

161.19 NS-G, Neighborhood Services - General

(A) *Purpose.* The Neighborhood Services, General district is designed to serve as a mixed use area of medium intensity. Neighborhood Services, General promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control the Neighborhood Services district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12b	General business
Unit 24	Home occupations
Unit 40	Sidewalk cafes
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development
Unit 46	Short-term rentals

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities
Unit 45	Small scale production

(C) *Density.* Eighteen (18) or less per acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwellings	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet per dwelling unit
All other uses	None

(E) *Setback regulations.*

Front	Side	Side-Zero Lot Line*	Rear	Rear when contiguous to a single-family residential district

A build-to zone that is located between the front property line and a line 25 feet from the front property line.	5 feet	A setback of less than 5 feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed**. The remaining side setback(s) shall be 10 feet.	None	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories

(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Ord. No. 5945 , §7(Exh. A), 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625 , §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

Rezoning Application

August 30, 2023

by:

Emily Gentry
President & CEO
Mount Sequoyah Center, Inc.
479-443-4531
emily.gentry@mountsequoyah.org

Payment

Mount Sequoyah will submit proper payment for associated fees upon invoicing.

$325 for the rezoning application fee

$5 x 2 signs = $10 for proper signage

Legal Description

GIS Approved
09/05/2023

A PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:
COMMENCING AT A FOUND 3" ALUMINUM MONUMENT MARKING THE NORTHEAST CORNER OF SAID SECTION 15, THENCE S40°08'31"W 2474.73 FEET TO THE TRUE POINT OF BEGINNING AND RUNNING, THENCE S02°40'10"E 16.73 FEET, THENCE S38°57'01"W 4.80 FEET, THENCE S24°54'50"W 15.66 FEET, THENCE S15°56'37"W 6.21 FEET, THENCE N71°28'53"W 3.90 FEET, THENCE S33°18'29"W 6.42 FEET, THENCE S53°45'29"W 16.71 FEET, THENCE S70°16'37"W 5.65 FEET, THENCE S57°57'51"W 5.39 FEET, THENCE S52°09'07"W 3.97 FEET, THENCE N82°35'28"W 11.19 FEET, THENCE N15°42'42"E 31.44 FEET, THENCE N08°13'22"E 5.92 FEET, THENCE N52°55'21"W 23.37 FEET, THENCE N25°22'26"W 3.74 FEET, THENCE N41°57'36"W 1.63 FEET, THENCE N16°24'39"W 1.60 FEET, THENCE N28°13'16"E 4.42 FEET, THENCE N04°29'25"E 7.80 FEET, THENCE N02°53'23"E 60.08 FEET, THENCE S87°07'14"E 37.36 FEET, THENCE S04°11'13"E 18.38 FEET, THENCE S85°34'26"E 5.50 FEET, THENCE S24°13'42"E 21.43 FEET, THENCE S39°53'54"E 12.35 FEET, THENCE S03°48'40"E 18.03 FEET, TO THE POINT OF BEGINNING. CONTAINING 0.140 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

Statement

This rezoning is compatible with neighboring property and will not unreasonably adversely affect or conflict with surrounding land uses.

The neighborhood has had numerous meetings and discussions about the project and is overwhelmingly in support of rezoning one building on the Mount Sequoyah campus to become a coffee shop.

The Neighborhood Services, General district is designed to serve as a mixed use area of medium intensity. Neighborhood Services, General promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses.

A coffee shop in the Ozark Building is in direct support of the about statement.

Notification of Intent

Mount Sequoyah Center Inc.
Rezoning
150 N Skyline Drive
Fayetteville, AR 72701

This is a written notification to inform the residents of the Mount Sequoyah district and surrounding areas of the application and intent submitted to the City of Fayetteville by Mount Sequoyah Center, Inc. to change the current zoning district of the Ozark Building and patio area from P1 to Neighborhood Services - General

Project Description:
Mount Sequoyah Center, Inc. proposes a coffee shop at the Ozark Building located at 150 N Skyline Drive, Fayetteville, AR 72701.
Building and Land Use:
The building and surrounding patio area are to be used as a coffee shop.
Zoning:
Current zoning - P1, Institution
Proposed zoning - Neighborhood Services - General
Size of Property: 0.140 acres
Density/Intensity: Eighteen (18) or less per acre.
Public Hearings:
As of issuance of this letter, you can attend City meetings in person or online by going to to following City webpage and selecting the meetings listed below. Although the meetings and dates below are accurate, participation instructions are forthcoming or can be found the week of a meeting at
www.fayetteville-ar.gov/1503/meeting-agendas-and-video
Planning Commission: 5:30 PM; Insert Correct Date; 113 West Mountain Street (City Administration Building Room 219) Fayetteville, AR 72701
Developer: N/A
Review Location:
The project information is available for public review at the City of Fayetteville Planning Division, 125 West Mountain Street, Fayetteville, AR 72701
Monday - Friday, 8 AM - 5 PM; 479-575-8267

Thank you,

Emily Gentry
President & CEO
Mount Sequoyah Center, Inc.
479-443-4531
emily.gentry@mountsequoyah.org

September 26,2023

Planning Commission City of Fayetteville
Administration Building Room 219
Fayetteville, Ar. 72701

Planning Commission:

I received the notification of intent from Emily Gentry of the Mount Sequoyah Center regarding the re-zoning of o.14o acres for a coffee shop use.

I have no objection for the small coffee shop with a limit of time in operation.

However, if the coffee shop is not a success I do not agree to other uses for the property, but should return to the original zoning.

Mount Sequoyah is a tradition for Fayetteville of walking and enjoying green space near the city center. There is much activity at present now with tennis courts, pool, exercise program space, artists, etc.

Keeping Mount Sequoyah as a quiet space is very special for Fayetteville. I will appreciate your consideration.

Regards from a long time resident,

Suzanne Buerkle Doughty

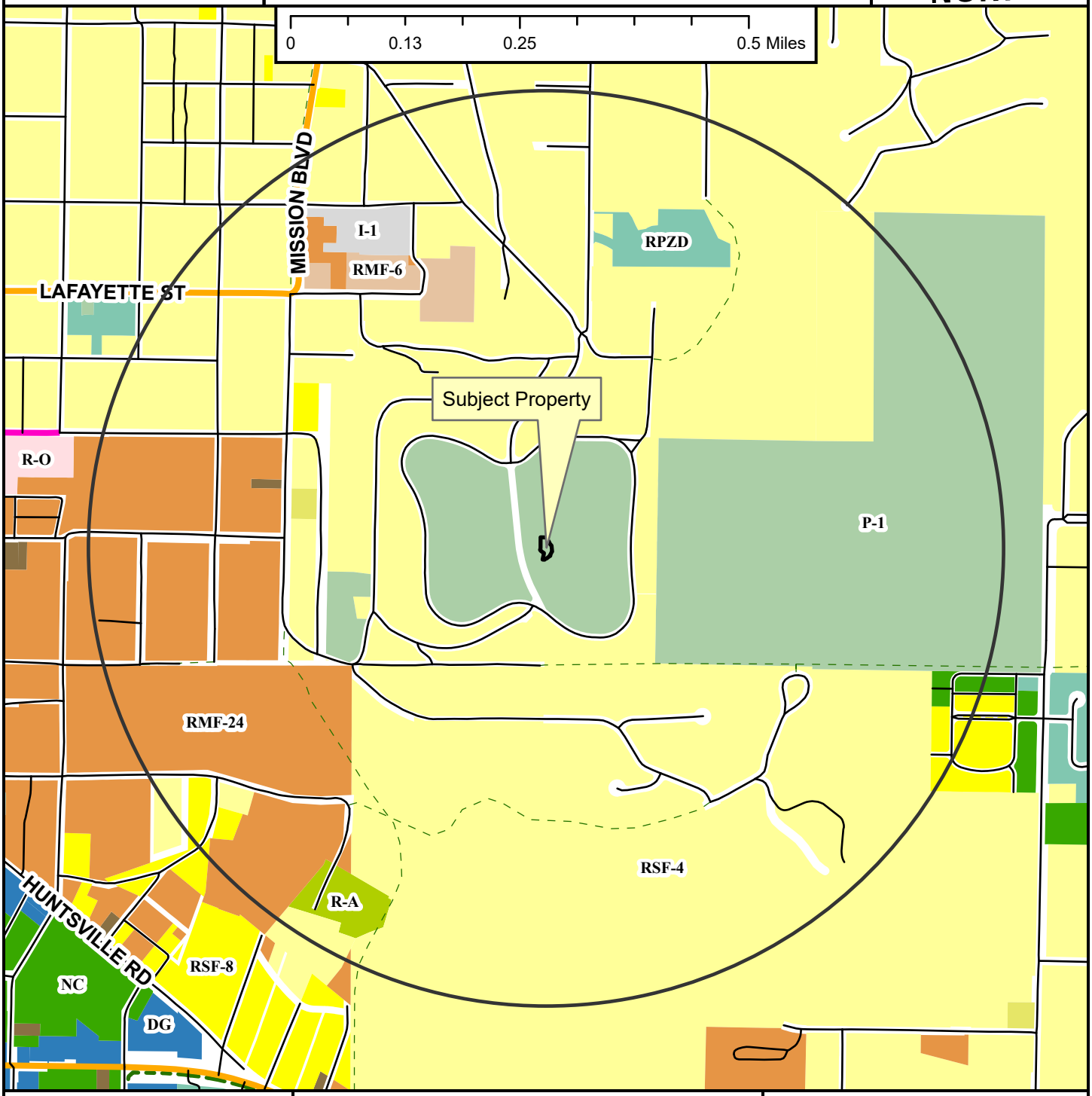
Suzanne Buerkle Doughty

RZN-2023-0028

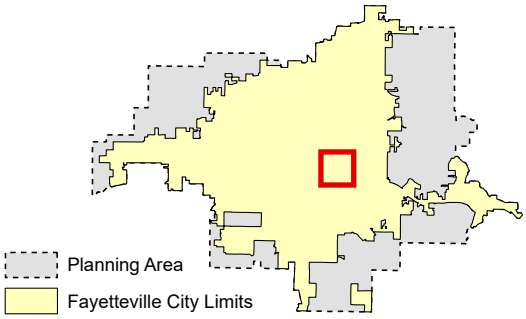
One Mile View

150 N. SKYLINE DR, UNIT 22

NORTH



- Neighborhood Link
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

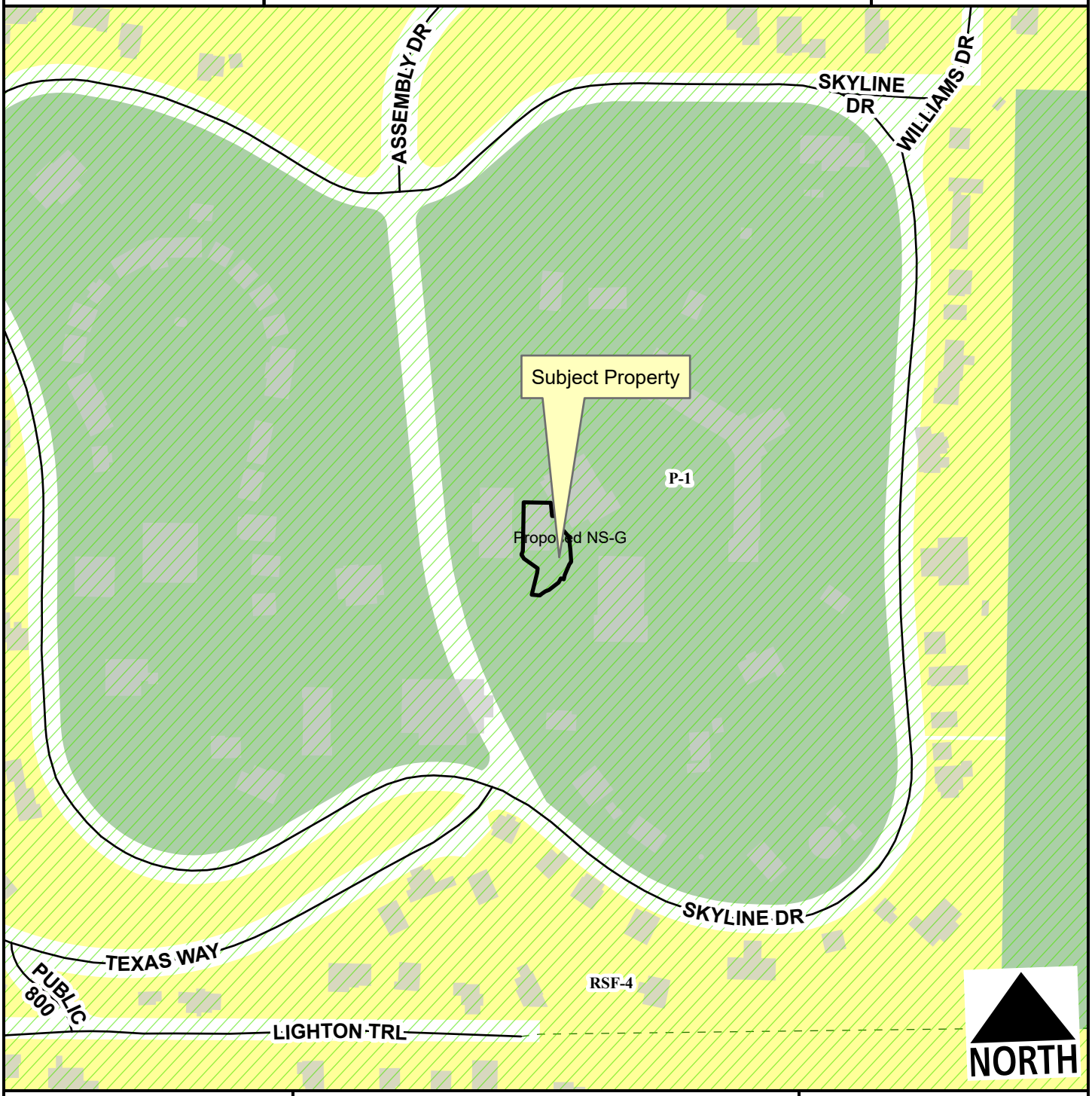
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

RZN-2023-0028

Close Up View

150 N. SKYLINE DR, UNIT 22



Residential Link
Hillside-Hilltop Overlay District
Trail (Proposed)
Planning Area
Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
NS-G	0.0	0.1
P-1	0.1	0.0

Total 0.1 ac

RZN-2023-0028

Current Land Use

150 N. SKYLINE DR, UNIT 22

NORTH



Alley
Residential Link
Trail (Proposed)
Planning Area
Fayetteville City Limits

Feet
0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

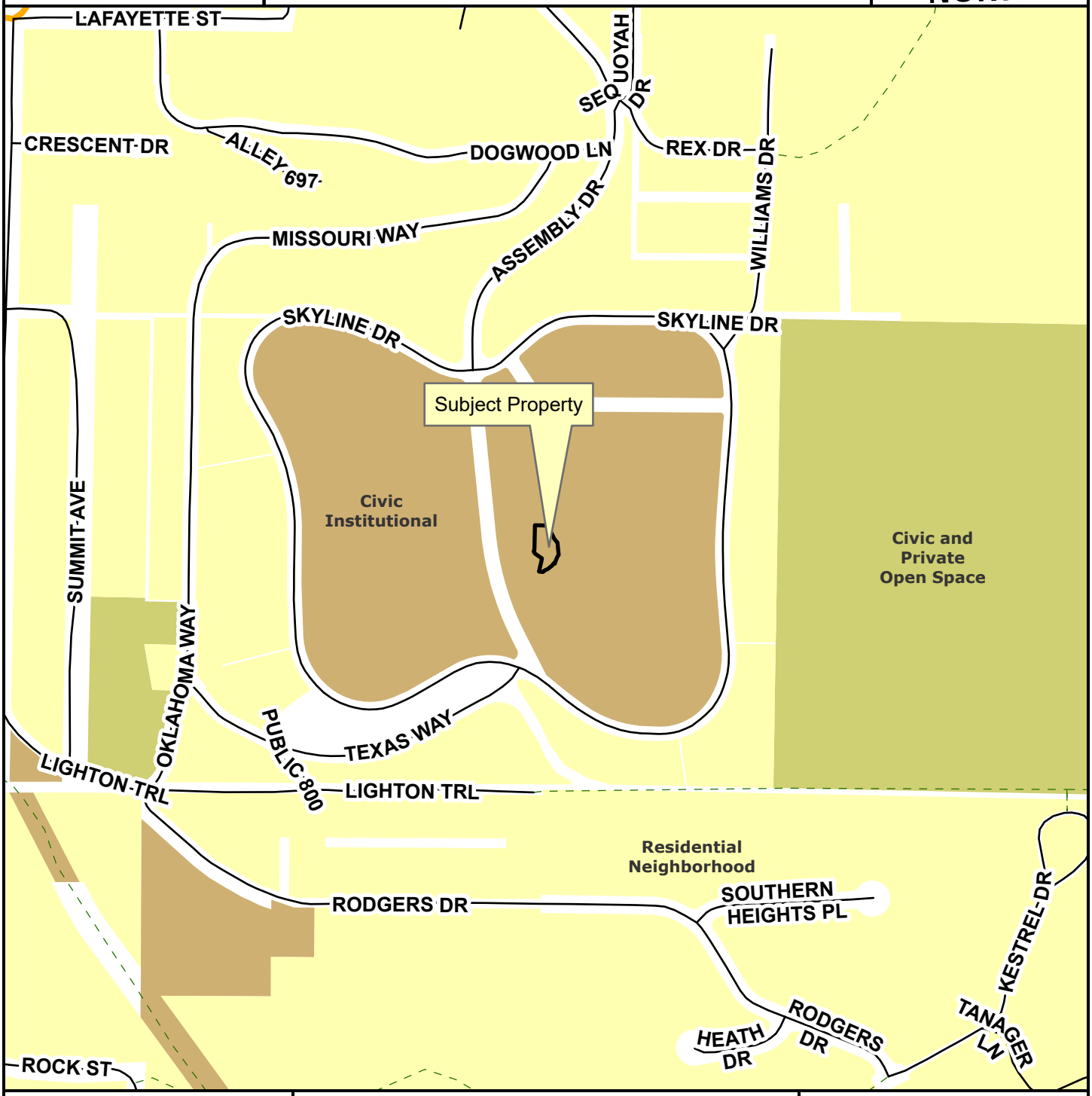
100-Year Floodplain
Floodway

RZN-2023-0028

Future Land Use

150 N. SKYLINE DR, UNIT 22

NORTH



- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)

Feet

0 145 290 580 870 1,160

1:4,800

- City Neighborhood
- Civic Institutional
- Civic and Private Open Space
- Industrial
- Natural
- Non-Municipal Government
- Residential Neighborhood
- Rural Residential
- Urban Center

CITY OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO
2023-1260

MEETING OF OCTOBER 31, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Blake Pennington, Assistant City Attorney

DATE: October 27, 2023

SUBJECT: **Amend Res. 230-23 and Authorize Condemnation of Land Owned by Parti Investments, LLC**

RECOMMENDATION:
The City Attorney's office recommends City Council approval of a Resolution amending Resolution 230-23 and authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by Parti Investments, LLC necessary for the Highway 71B Corridor Project.

BACKGROUND:
The School Avenue and College Avenue Corridors serve as the major north-south route through the central part of the City and are major commercial and retail destination. Maintaining and improving the corridors will allow them to continue to serve mobility needs, and to continue to develop/redevelop as commercial corridors.

Improvements to these corridors will include striping, widening and/or narrowing of the roadway, utility relocation (including burial of overhead utilities), sidewalk/trail installation, accommodations for transit systems, elimination or reconfiguration of driveways, additional traffic signals, medians, plazas, art installations, lighting, wayfinding, protected intersections, parking, and other corridor improvements identified in the design process.

In December of 2021, the City Council approved a design contract with Garver, LLC for the detailed design of this project. The design is complete and the project is planned to be bid after the land acquisition is complete.

DISCUSSION:
On October 17, 2023, the City Council approved Resolution 230-23 authorizing the City Attorney to file a condemnation suit to acquire this property and deposit the amount of $10,878.75 as just compensation for the taking. Since that time, we have received an appraisal indicating the value of the land is $14,953.00. Therefore, we are asking that Resolution 230-23 be amended to align the amount of just compensation with the appraisal.

On October 18, Mayor Jordan sent a letter to ARDOT asking for an exception to made to allow the College Avenue Corridor Project to be bid without having possession of this final portion of right of way. The City has been awarded $4.8 million in federal aid funds for the construction of this project and the funding was

supposed to be obligated by August of 2023. The City is in jeopardy of losing this funding if the project is not bid in a timely manner. Thus, we are requesting that the item be added to the agenda at the October 31 agenda session for the November 7 meeting.

BUDGET/STAFF IMPACT:
These improvements are funded by the 2019 Transportation Bond Program. The amount of just compensation due to the property owner is $14,953.00.

ATTACHMENTS: City Attorney Memo - Parti Investments Condemnation

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

File #: 2023-1260

Amend Res. 230-23 and Authorize Condemnation of Land Owned by Parti Investments, LLC

A RESOLUTION TO AMEND RESOLUTION 230-23 AND AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY PARTI INVESTMENTS, LLC NEEDED FOR THE HIGHWAY 71B CORRIDOR PROJECT

WHEREAS, the City of Fayetteville and Parti Investments, LLC have been unable to agree upon a fair price for approximately 0.05 acres of general utility easement and temporary construction easement and 200 square feet of right-of-way needed to complete the Highway 71B Corridor Project; and

WHEREAS, the City of Fayetteville needs to gain possession of this needed property promptly to begin work on this public improvement and to not delay construction of the project; and

WHEREAS, the City received an appraisal on October 26 valuing the property being taken as more than the $10,878.75 that had been estimated and approved by Resolution 230-23.

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 amends Resolution 230-23 and authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 71B Corridor Project and owned by Parti Investments, LLC, that is needed for temporary construction easement, utility easement, and right-of-way for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of $14,953.00.

OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Chris Brown**, Public Works Director

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

DATE: **October 27, 2023**

RE: **Parti Investments, LLC Condemnation**

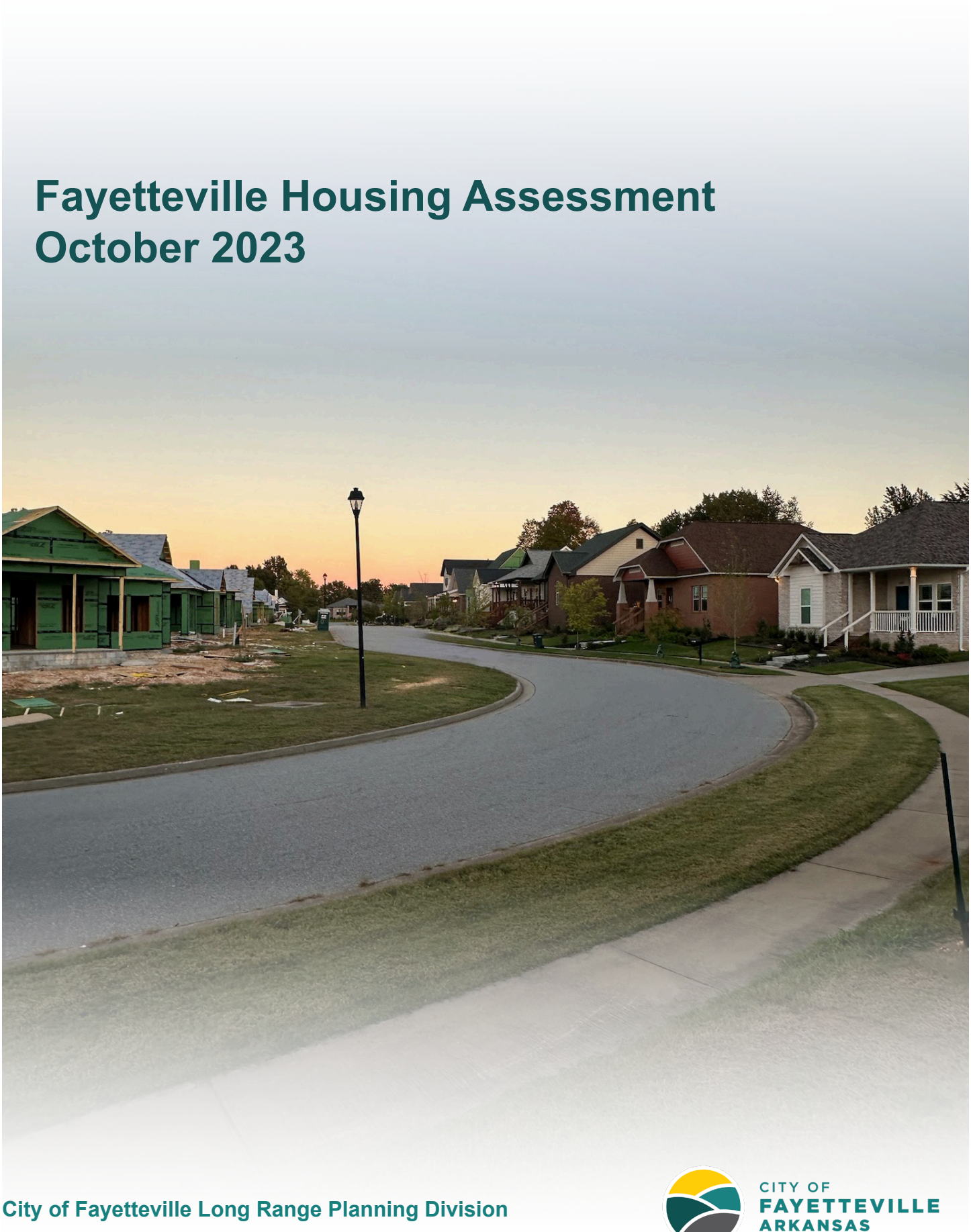
On October 17, 2023, the City Council passed Res. 230-23 and authorized our office to initiate condemnation proceedings against Parti Investments, LLC to acquire right of way and easements necessary for the College Avenue Corridor Project. The resolution authorized the deposit of just compensation that had been estimated in the amount of $10,878.75. The amount was an estimate based on appraisals of other property involved in this project.

We received an appraisal yesterday with a higher valuation than our original estimate; therefore, we are asking the City Council to amend Res. 230-23 and authorize us to deposit the amount of $14,953.00 in the court registry as just compensation for the property.

On October 18, Mayor Jordan sent a letter to ARDOT asking for an exception to made to allow the College Avenue Corridor Project to be bid without having possession of this final portion of right of way. The City has been awarded $4.8 million in federal aid funds for the construction of this project and the funding was supposed to be obligated by August of 2023. The City is in jeopardy of losing this funding if the project is not bid in a timely manner. Thus, we are requesting that the item be added to the agenda at the October 31 agenda session for the November 7 meeting.

Received By: Britin Bostick 10/26/2023 11:38 A.M.

Fayetteville Housing Assessment
October 2023



City of Fayetteville Long Range Planning Division

CITY OF FAYETTEVILLE ARKANSAS

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Acknowledgments

Our thanks to our colleagues in Development Services, Economic Vitality, Community Resources, Communications, and Sustainability for their assistance in producing this assessment. The Fayetteville Planning Commission provided questions, input, and feedback through their annual retreat and Long Range Planning Committee. Thank you also to the Urban Land Institute's Northwest Arkansas Chapter and the 2021–2022 Community of Practice for Housing for the background work that led to the development of this assessment. Staff at the Sam M. Walton College of Business Center for Business and Economic Research provided details on apartment rents and units, and the Office of the Vice Provost of Enrollment at the University of Arkansas provided enrollment projections and campus housing data. We would also like to thank the home builders, residential developers, financial industry professionals, and community members who provided information and input to this assessment.

Executive Summary

This housing assessment is in response to rapid population growth, increasing housing costs, and housing access challenges in Fayetteville, Arkansas, that have come to the forefront of community discussions and concerns since the start of 2020. A combination of factors in the last three years have left Fayetteville residents challenged to find housing that is within an affordable price range. These include, but are not limited to, a higher–than–projected population growth, record–breaking enrollment at the University of Arkansas, changes in financial markets leading to high interest rates, and delays in housing production caused by supply chain issues and construction labor shortages.

Summarized Findings

- Fayetteville needs about 1,000 new units of housing annually to keep pace with projected population growth. Beginning in 2019, however, Fayetteville's population growth began to increase at a rate beyond housing production, although both the number of units permitted and the number of units completed have been steadily increasing at similar rates. From 2019–2022 Fayetteville fell approximately 1,480 housing units short of demand, and from 2021–2022 the population growth was 78% above projected.
- An estimated 15,853 households or 38% of Fayetteville's total households were cost–burdened by housing costs as of 2022.
- More than half of Fayetteville households need housing at a cost below current average rents.
- Fayetteville would need an additional 8,426 housing units at costs calibrated to specific income levels to have affordable housing options for the projected population growth to 2045.
- Fayetteville's current zoning is similar to what it was in 1970, emphasizing low–density development despite more than tripling the total population since then.
- If all new housing units needed for projected population growth were built as single–family housing in the city's predominant low–density pattern, it would require nearly 7,000 acres of land or 11 square miles and more than 156 miles of streets, water, and sewer.
- If current population growth trends continue and the housing units needed for the current growth rate were built as low–density, single–family homes, it would require more than 12,000 acres of land — approximately one third of Fayetteville's current land area.

Summarized Recommendations

While there is an abundance of strategies available to address population growth, housing supply, and affordability concerns, the recommendations in this assessment focus on strategies directly available to the City of Fayetteville, including land use regulations and infrastructure investment and management strategies:

- Continue to implement the city's long–range plans through the plan action items focused on housing, including allowance for housing on properties with extensive existing infrastructure, location along a major transportation corridor that is already scheduled for additional investment to support development and alternative transportation, and limited proximity to existing residential neighborhoods. For example:

  – Select City Plan 2040 bench marks for action
  – Continue implementation of the 71B Corridor Master Plan
  – Develop and implement the Growth Concept Map in City Plan 2040

- Protect existing affordable housing, particularly in areas that are close to employment and education centers.

This document lays out the data and analysis used to produce the housing assessment and calculate housing needs specific to Fayetteville. While a regional approach is critical to understanding and meeting housing needs, Fayetteville–specific information is within the scope of the Mayor and City Council's authority and Fayetteville's unique characteristics compared to other municipalities in Northwest Arkansas.

Introduction

Fayetteville was the second–fastest growing city in Northwest Arkansas from 2020 to 2022 in proportion of population increase, taking on 17.8% of population growth in the Metropolitan Statistical Area (MSA) and 34.1% of population growth among the four largest cities in the region — Fayetteville, Springdale, Rogers, and Bentonville.[1] In population number, this represented an increase from 93,949 in 2020 to 99,288 in 2022 — above projected population growth.[2] Contributing to this, the largest campus in the State's public university system, the University of Arkansas, confirmed its highest ever enrollment in fall 2023 at 32,140 students. This was an increase of 4,578 students from the fall 2020 enrollment but without additional housing capacity added to the 6,200 beds available on campus. University growth is anticipated to continue through at least 2025 with a projected enrollment of 36,000 students and an expectation for additional student housing demand to be absorbed in Fayetteville's housing stock.

Given this level of both population and University growth, residential building permits have been strong for more than a decade, averaging just over 1,100 housing units permitted annually since 2014. Like many other cities across the country, Fayetteville has experienced increased housing demand since 2020, as well as delays in housing production due to supply chain issues, labor shortages in the building trades, and timelines for development entitlement and permitting. Both existing and newly constructed housing units are primarily single–family homes or large multi–family complexes in Fayetteville, with most new apartments in the last few years built with the express intent to house students. With the increase in both student enrollment and long–term resident population, multi–family vacancy rates have reached a low of just 1.0%, with little mobility available in the market as rents for newly constructed apartments surpass affordable rates for half of Fayetteville households.

Land use regulations like zoning play an important role in housing. Fayetteville first adopted zoning in 1951, when the City Council responded to post–WWII population growth with land use policies prioritizing low density development, preventing overcrowding, and limiting commercial encroachment into residential areas. The population more than doubled between 1940 and 1950, growing from 8,212 to 17,071 people with the fastest decade–to–decade growth rate in the city's history. Subsequent milestones in zoning policy adoption in 1970 and 2003 retained many of the principles espoused in the 1951 ordinance, and low–density residential zoning districts constitute just over half of Fayetteville's nearly 36,000 acres of land area today.

As Fayetteville continues to grow and pressures increase on both housing and land, there is another opportunity for policy choices that will set a course for the next several decades. If low density residential development remains the standard, land consumption by 2045 could surpass 12,000 acres — nearly one third of the city's current land area for the additional housing units needed to support the current population growth. The costs to construct road, water, and sewer infrastructure to serve low density housing on the edges of the city at that scale would burden taxpayers long into the future as maintenance and service needs compete with other public funding priorities. By contrast, allowing higher–density housing in core areas of the city which are already served by infrastructure, provide transportation alternatives, and are close to services could provide the needed additional housing with greater efficiency. Diversifying available housing in this way can reduce impacts to natural resources, lower overall costs, and provide urban lifestyle opportunities to those who seek them in a city anticipated to surpass the 100,000 population mark this year.

[1] 2020 U.S. Decennial Census, 2021 ACS 1–Year Estimates Data Profiles, 2022 ACS 1–Year Estimates Data Profiles.
[2] Northwest Arkansas Regional Planning Commission Transportation Plan, 2020.

Document Background

In January 2020 the Fayetteville City Council adopted City Plan 2040, Fayetteville's comprehensive plan. This plan document built upon prior comprehensive plan work and affirmed six goals for an integrated approach to land use in the city limits and planning area. Those six goals are:

1. **We Will Make Appropriate Infill and Revitalization Our Highest Priority.**
2. **We Will Discourage Suburban Sprawl.**
3. **We Will Make Compact, Complete, and Connected Development the Standard.**
4. **We Will Grow A Livable Transportation Network.**
5. **We Will Assemble an Enduring Green Network.**
6. **We Will Create Opportunities for Attainable Housing.**

All six goals are either directly or closely related to housing and encompass community values for quality of life and land use characteristics important to Fayetteville. The plan includes a number of benchmarks for plan implementation meant to be accomplished in the short term (by 2025) and the long term (more than 5 years). Among the six benchmarks that set the stage for this housing analysis are:

- Identify gaps in affordability throughout the city and set numerical targets for housing that is affordable to a variety of households, including workforce, supportive, low–income, families with children, and senior housing. (Goal 1, 3, 4 & 6)
- Promote long–term affordability by targeting the use of public funds for the lowest income households, including those who are homeless, at risk of homelessness, or who have other special needs. (Goal 6)
- Examine potential regulatory barriers and policies that impede the provision of household affordability, including: infrastructure costs, the costs and benefits of development ordinances on housing development, and how the City's fees and requirements impact the cost of living for households in Fayetteville. (Goal 1 & 6)
- Develop a community educational campaign to address housing affordability such as: loss of existing affordable housing, rising utility and transportation costs, and the need to maintain affordability as a part of Fayetteville's quality of life (Goal 6).
- Actively participate and engage in the regional dialogues and initiatives as outlined in the report completed by the Northwest Housing Regional Planning Commission entitled "Our Housing Future – A Call to Action for Northwest Arkansas." (Goal 6)
- Promote long–term affordability by developing new goals, targets, and strategies to promote the distribution of affordable housing in all parts of the city, including incentives for affordable housing in new developments and for the preservation of existing rental units. (Goal 6)

The story of Fayetteville's population is one of continual growth. Whether due to the city's historic prominence in the region, a steadily expanding enrollment at the University of Arkansas, proximity to major employers, or a high quality of life, the city has consistently attracted new residents, with particularly high rates of population growth recorded since 1940.

Fayetteville began to experience significant population growth coupled with an increased housing demand following the onset of the COVID–19 pandemic. Long–term regional investments in quality of life, student enrollment at the University of Arkansas, and abundant employment opportunities spurred a population increase above projected from 2020 to 2022, with housing unit production only keeping pace with prior and projected growth. Demand pressures on housing have pushed average rents on new apartments up to a level affordable only to households earning above median income, leaving thousands of Fayetteville households burdened by housing costs.

Acknowledging these trends, Development Services and Long Range Planning staff participated in the Urban Land Institute's Housing Community of Practice in 2021 and 2022 with regional colleagues and housing experts from around the country in monthly sessions that aimed to move the needle on housing in Northwest Arkansas. Subsequently, Fayetteville's Long Range Planning staff began work on this housing assessment in October 2022, presenting preliminary findings to the Fayetteville Planning Commission at

their annual retreat in April 2023.

At a strategic planning retreat in June 2023 the Fayetteville City Council reviewed the six City Plan 2040 goals and proposed a new objective: quality of life. To quote the report prepared by inVeritas following the retreat, “quality of life was identified as a principal reason that Fayetteville continued to be named among the top 10 places in the country to live. In fact, the Council concluded that quality of life should be the city’s number one goal. The council’s discussion of quality–of–life included a variety of facets and fell broadly within two categories: 1) recruiting and retaining talent and 2) equity among the citizenry.”

Quality of life in Fayetteville is enhanced by the cultural amenities and research work of the state of Arkansas’ largest university, substantial community investment by regional Fortune 500 companies, and the natural beauty and outdoor recreation opportunities that come from being positioned at the edge of the Ozark Mountains. Additionally, Fayetteville’s network of parks and trails, creative economy, and burgeoning tech sector are a draw for both employers and talent. Housing plays a key role in quality of life by serving as a determinant of everything from commute times to disposable income, urban lifestyles or rural. Goal 3 of City Plan 2040, “We Will Make Compact, Complete, and Connected Development the Standard,” aims to improve quality of life by focusing housing construction on areas of the city that offer multiple housing types, have access to alternative transportation modes, and provide vibrant and connected streets with a strong sense of community. This approach reduces suburban sprawl, achieving Goal 2, and provides additional benefits of reducing infrastructure and its long–term costs.

It is in this context that Fayetteville Long Range Planning staff have collected and evaluated data, reviewed current land use and land use policies, collaborated with colleagues at the City of Fayetteville and University of Arkansas, sought input from local builders and developers, and compared future housing scenarios that have the potential to greatly affect whether Fayetteville achieves its comprehensive planning goals. This assessment was presented to the City Council as a series of three presentations delivered on August 29, September 26, and October 31 with the goal of providing a housing analysis that assists the Council in assessing information needs, housing goals, and comprehensive plan benchmarks to better guide next steps and policy choices as Fayetteville seeks to find a right fit solution for the current and anticipated future challenges of population growth and housing needs. This assessment document captures and expands upon the information shared in the presentation series.

Key Terms

Affordable Housing: Housing for which the occupant is paying no more than 30% of gross income for housing costs, including utilities.

Cost Burdened: Households that pay more than 30% of their household income on housing costs including utilities, or that pay more than 45% of their household income on housing costs including utilities and transportation to work and necessities.

Severe Cost Burden: Gross housing costs, including utility costs, exceed 50% of gross income.

Median Income: The median is a way of looking at incomes in which all of the incomes are lined up smallest to largest, and the median is the income in the center of all incomes. It divides the income distribution into two equal parts: one–half of the cases falling below the median income and one–half above the median. Household median income is a measure of the midpoint of incomes for households. This can be looked at on a national, state, or local basis.

Area Median Income (AMI): The U.S. Department of Housing and Urban Development (HUD) develops income limits based on Median Family Income estimates and Fair Market Rent area definitions for each metropolitan area, parts of some metropolitan areas, and each non–metropolitan county. For more information visit huduser.gov/Portal/datasets/il.html.

Fayetteville Median Income (FMI): The midpoint of incomes in Fayetteville according to the U.S. Census/ ACS estimates.

U.S. Census: The Census Bureau is the federal government's largest statistical agency. They are dedicated to providing current facts and figures about America's people, places, and economy. Thomas Jefferson directed the first census in 1790. As required by the U.S. Constitution, a census has been taken every 10 years thereafter. For more information visit census.gov/about/what/census–at–a–glance.html.

American Community Survey (ACS): The ACS is a nationwide survey performed by the Census Bureau that collects and produces information on social, economic, housing, and demographic characteristics about our nation's population every year. This information provides an important tool for communities to use to document change between the decennial census counts. It is a nationwide, continuous survey designed to provide communities with reliable and timely social, economic, housing, and demographic data every year. Since its start, the ACS has been providing a continuous stream of updated information for states and local areas, and has revolutionized the way we use statistics to understand our communities. For more information visit census.gov/content/dam/Census/programs–surveys/acs/about/ACS_Information_Guide.pdf.

Zoning: The zoning code is a set of rules that defines what each land parcel could or should be used for (such as housing, manufacturing, or open space) and specific requirements for the land parcels or uses. In Fayetteville the zoning code is part of the city's Unified Development Code, which is available online here: library.municode.com/ar/fayetteville/codes/code_of_ordinances?nodeId=CD_ORD_TITXVUNDECO.

Northwest Arkansas (NWA): Northwest Arkansas is a metropolitan area and region on the edge of the Ozark Mountains, and is located in the northwest corner of the state, generally considered to be Benton, Washington, and Madison counties and the cities, towns, and places within them. The Fayetteville–Springdale–Rogers Metropolitan Statistical Area (MSA) has some overlap with NWA but has its own federally–defined boundaries that include parts of southwestern Missouri.

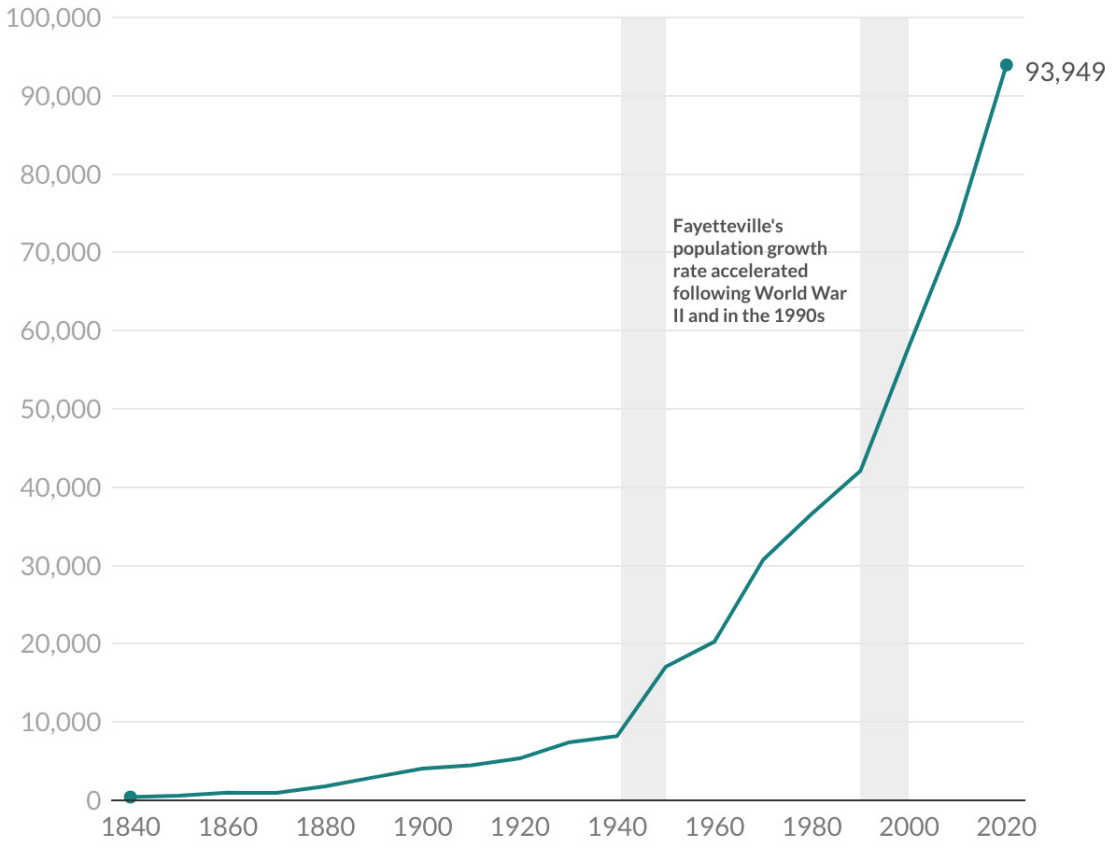
Fayetteville Selected Population and Household Characteristics

To fully evaluate Fayetteville's housing needs it is necessary to understand past trends, future projections, and demographics. In the interest of both accuracy and relevance, this assessment includes both decennial census data and annual American Community Survey (ACS) estimates. While the main function of the U.S. decennial census is to provide counts of people for the purpose of congressional apportionment, the primary purpose of the ACS is to measure the changing social and economic characteristics of the U.S. population — our education, housing, jobs, and more. For more information on the differences between the ACS and the decennial census visit census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020_ch09.pdf. Similarly, data from multiple sources is included for larger, national trends and local, region–specific conditions. Sources for this analysis include, but are not limited, to federal and state agencies, the University of Arkansas, and the City of Fayetteville.

Population Growth Over Time

Fayetteville's history is characterized by a steadily increasing population, growing from just 425 people in 1840 to 93,949 in 2020, with an accelerated rate of growth following World War II and 1990.

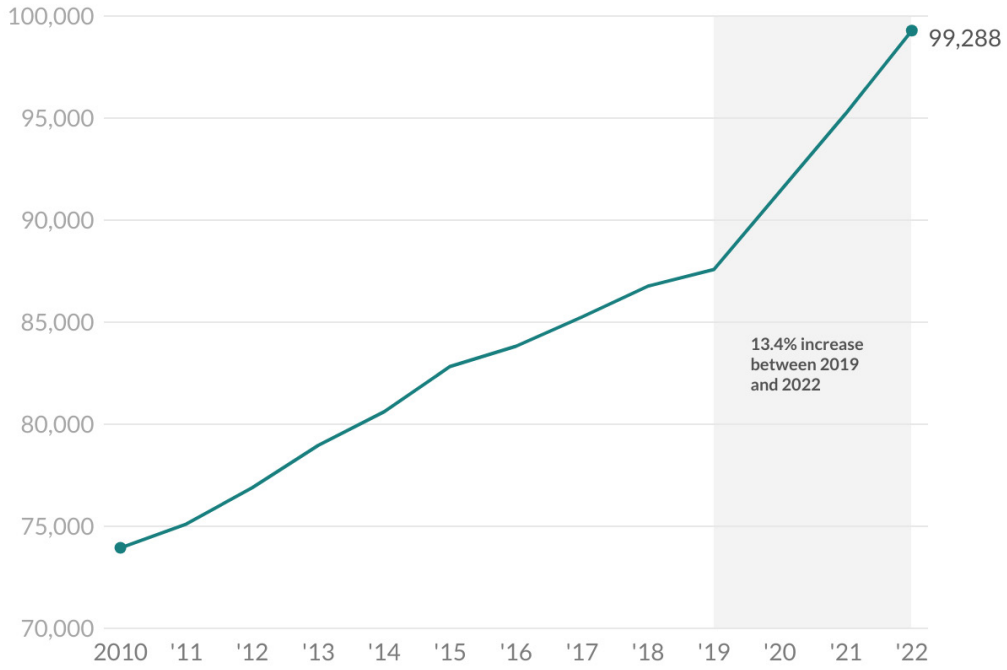
Figure 1. Fayetteville Population (1840–2020)



Source: U.S. Decennial Census

A closer look at the last decade of population growth in Fayetteville reveals that from 2011–2019 Fayetteville's growth rate was around 2% annually. That shifted to an average of more than 4% annually from 2020 to 2022.

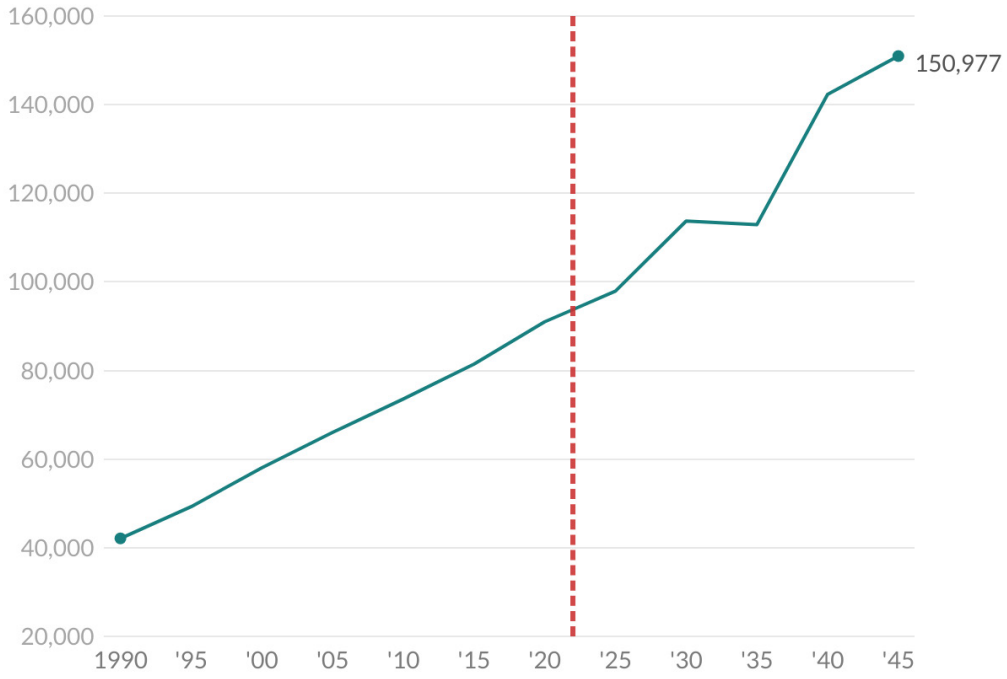
Figure 2. Fayetteville Population (2010–2022)



Source: U.S. Decennial Census; ACS 1–Year Estimates

Population Projections

Figure 3. Population (1990–2020) and Population Projections to 2045



Source: U.S. Decennial Census; Northwest Arkansas Regional Planning Commission Transportation Plans

Fayetteville's population is projected to reach nearly 151,000 people by 2045. Based on the 2022 population estimate of 99,288, projections anticipate an average 2,247 additional people per year over the next 23 years. This would equate to 1,026 additional households each year per Table 1 on the next page.

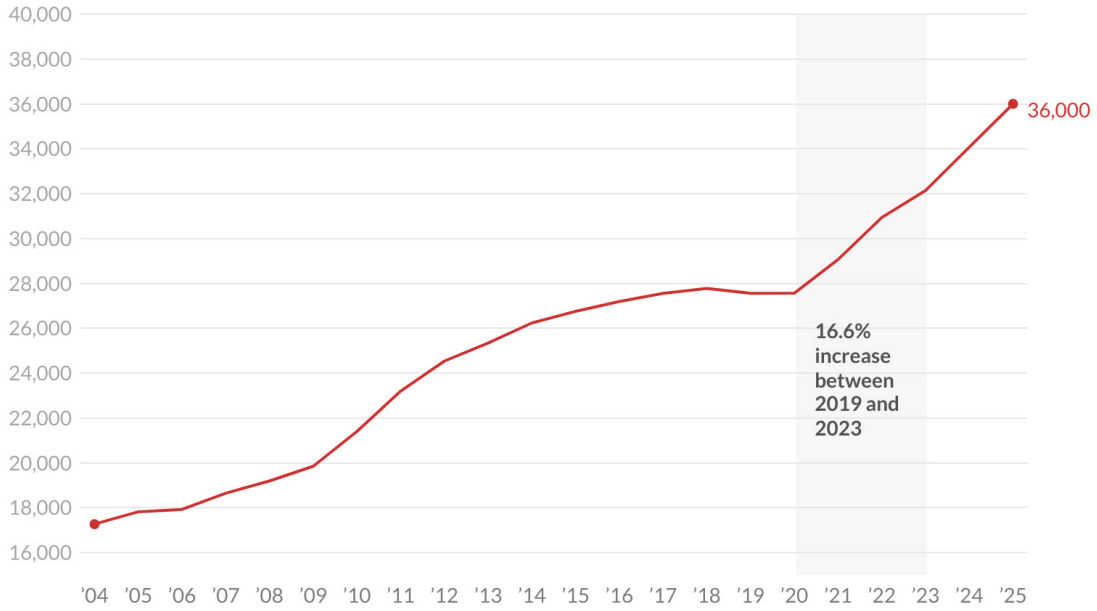
Table 1. Average Household Size (2022)

	Total	Percentage	Average Household Size
Occupied Housing Units	**41,718**	**-**	**2.19**
Owner-Occupied	16,941	40.6%	2.30
Renter-Occupied	24,777	59.4%	2.11

Source: 2022 ACS 1–Year Estimates Data Profiles DP04

University of Arkansas Enrollment and Projections

Figure 4. U of A Fall Enrollment (2004–2023) and Projected Enrollment to 2025



Source: University of Arkansas

Population change in Fayetteville cannot be evaluated without including consideration for the state's flagship institution for higher learning. The University of Arkansas plays a major role in Fayetteville's economy, employment, population, and quality of life. The benefits of a local university include access to courses, cultural events, and libraries as well as research programs, community–focused service learning, and visiting speakers and dignitaries. As a proportion of the city's population, the University of Arkansas's Fayetteville campus enrollment has been around 30% since 2010. Following several years of level enrollment, campus enrollment grew 16.6% from 2019–2023, with the University announcing the largest student enrollment in school history in fall of 2023 totaling 32,140 students. The University's current enrollment projections are 36,000 students by 2025, nearly 4,000 more students than were enrolled at the time of this assessment. With 6,200 dorm beds, 370 beds in Greek housing,[3] and no current campus housing construction, 80% of students find housing off campus. University students are part of the current increase in housing demand in Fayetteville, and while many students are counted as part of the city's population estimates, some students — particularly those whose primary residence remains in their home city or state — are not included. For a look at how many college–age residents are counted in Fayetteville's population, see Figure 5b on page 11.

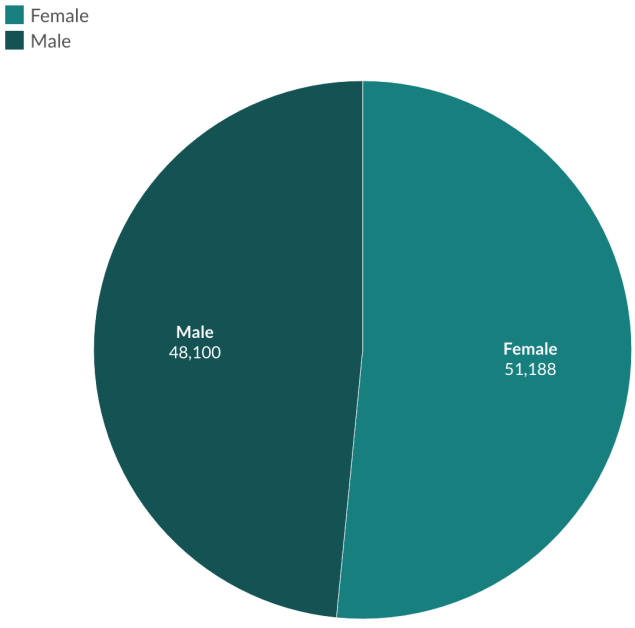
[3] Source: University of Arkansas Enrollment Services, September 8, 2023.

An important aspect to note for housing purpose–built for student renters is that it is typically leased on a by–the–bedroom basis. Units (a "unit" is one or more sleeping areas with bathroom and kitchen facilities) may have separately leased bedrooms, which has an advantage to both the property owner and tenants. Leasing by the bedroom provides a shared unit at a lower individual cost to the renter than a more traditional unit, and the owner has the benefit of receiving multiple rents instead of one. This model for individual leases allows property owners to charge a higher overall rent per unit than leasing a unit to a conventional household. Rents for an entire house, duplex, or apartment unit built for this purpose can then be increased above the typical market rate for leasing by the unit. As more students arrive in Fayetteville and campus housing options remain limited, student housing options near campus will remain full and students will be required to seek housing options further from campus in areas not historically occupied by students. As student housing expands further out from campus into the city it will require an increase in vehicle or bus transportation and parking lots, parking decks, or on–street parking on and around campus to accommodate the increase in campus commuters who live beyond a walkable distance.

Population Characteristics: Demographics and Households

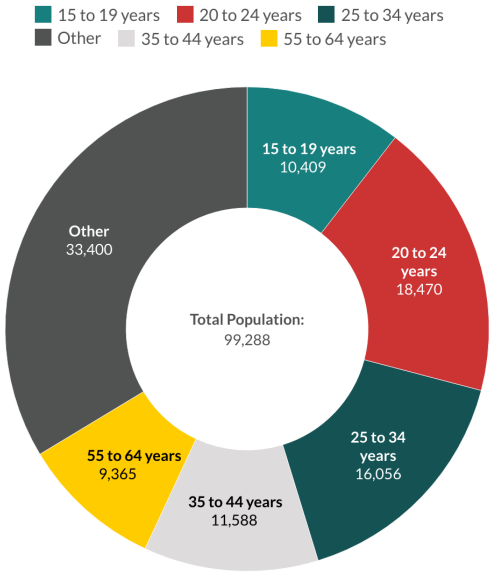
Fayetteville has slightly more females than males, and 46.5% of the population is between the ages of 20 and 44. 25% of the population is 19 years and younger and 12.6% is age 65 and older. The city's median age is 29 years, up from 28.4 years in 2021.[4]

Figure 5a. Population by Gender (2022)



Source: 2022 ACS 1–Year Estimates Data Profiles DP05

Figure 5b. Population by Age (2022)

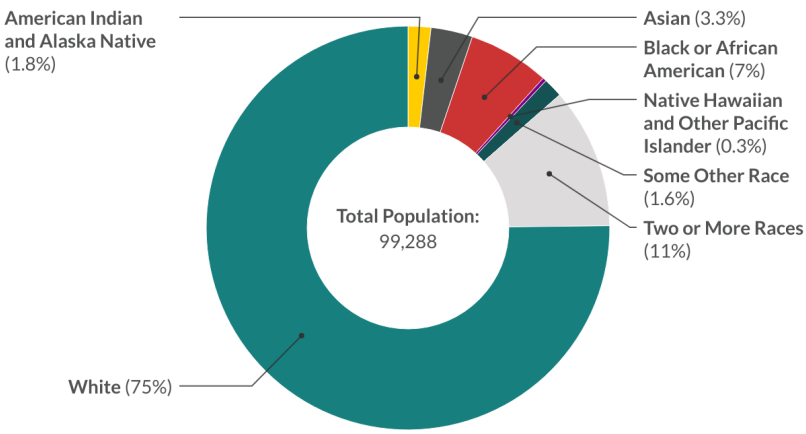


Source: 2022 ACS 1–Year Estimates Data Profiles DP05

[4] Source: 2021 ACS 1–Year Estimates Subject Tables DP05.

75% of Fayetteville residents identify as white. Although the 2022 Northwest Arkansas Diversity Report issued by Engage NWA and the Northwest Arkansas Council noted 17.3% of the regional population as Hispanic/Latino in 2021,[5] Fayetteville has a lower proportion of Hispanic or Latino residents at 8.0% of the total population, up from 5.1% in 2021.

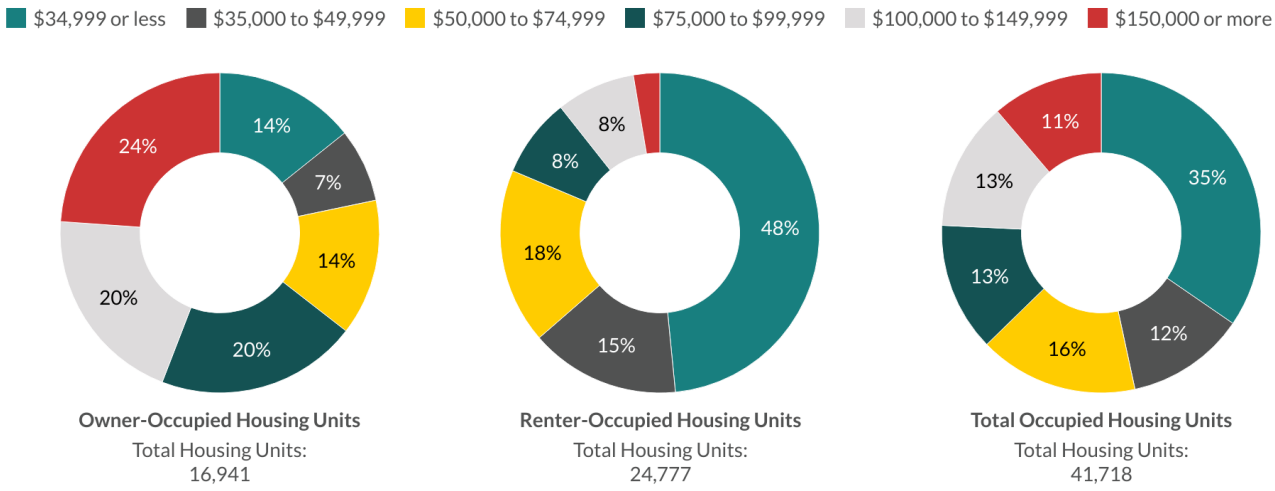
Figure 5c. Population by Race (2022)



Source: 2022 ACS 1–Year Estimates Data Profiles DP05

In 2022, 40.6% of households in Fayetteville owned their homes. Among residents that rent their housing, which constitutes the majority of Fayetteville's population, average incomes trend toward less than that of homeowners. There are nearly five times more renter households than owner households with an annual income below $35,000. Per the figures below, only 19% of renter–occupied households had an income of $75,000 or more in 2022 compared to 64% of owner–occupied households.

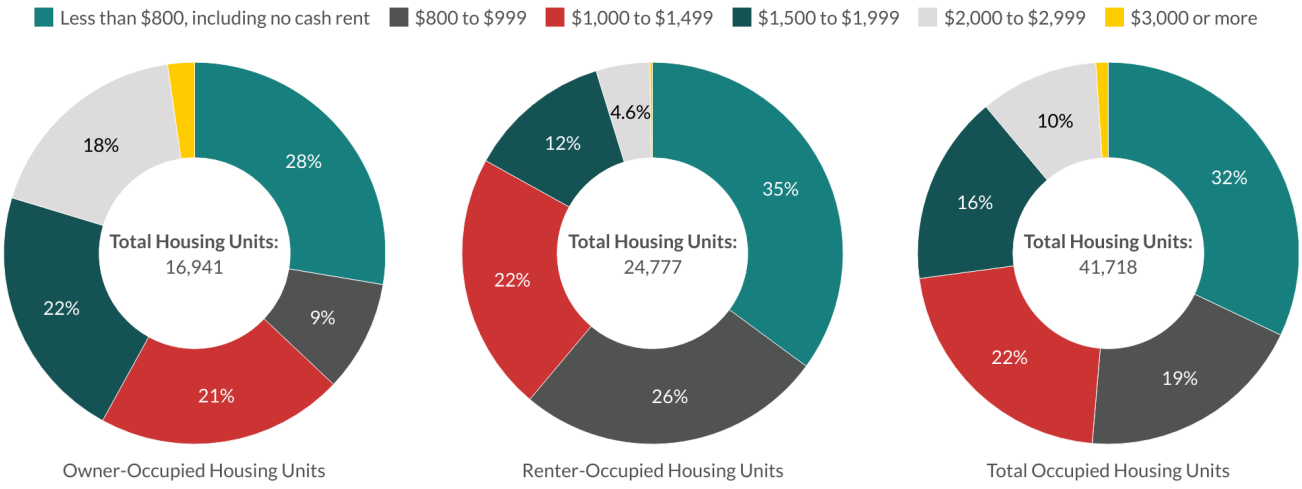
Figure 6. Annual Household Income for Owner–Occupied vs. Renter–Occupied Households (in 2022 Inflation–Adjusted Dollars)



Source: 2022 ACS 1–Year Estimates Subject Tables S2503

[5] nwacouncil.org/wp–content/uploads/2022/07/DiversityReport2022.pdf

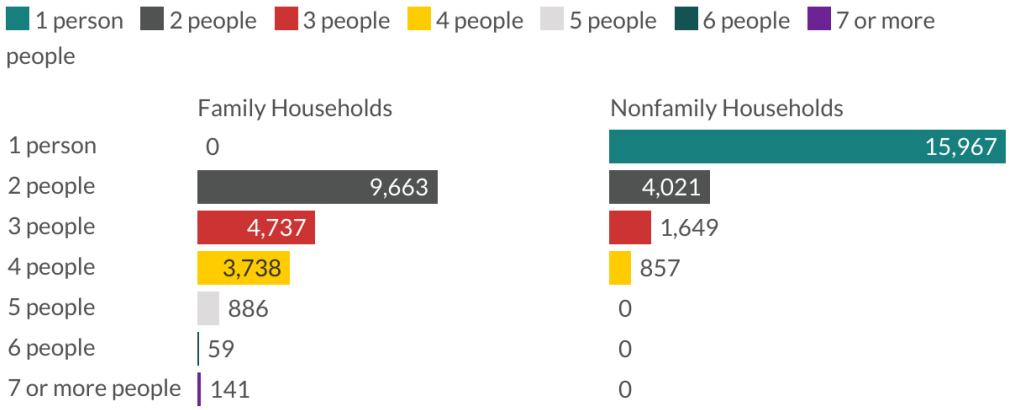
Figure 7. Monthly Housing Costs for Owner–Occupied vs. Renter–Occupied Housing Units (2022)



Source: 2022 ACS 1–Year Estimates Subject Tables S2503

Generally, and without considering housing costs as a proportion of income, renters spend less than owners on housing. 13,372 households or 32% of households in Fayetteville had monthly housing costs below $800, including those with no cash rent (the tenant does not make formal payments to the owner). 74.7% of renter households had housing costs between $500 and $1,499 per month compared to 42.1% of owner households. 53.5% of owner households had housing costs between $1,000 and $2,499. Median housing costs were $1,225 for owner households and $927 for renter households. When compared with incomes, these costs indicate a disproportionate amount of renter income dedicated to housing compared with owners.

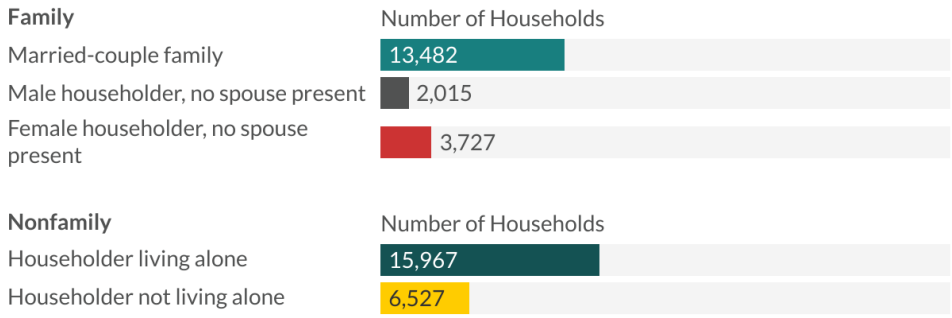
Figure 8. Household Size of Family and Nonfamily Households (2022)



Source: 2022 ACS 1–Year Estimates Detailed Tables B11016

A large proportion of Fayetteville's residents live alone or with one person. Of the 41,718 households in Fayetteville, 38.3% are one–person households and 32.8% are two–person households. More than half of Fayetteville households are comprised of nonfamily members, or those who are not related by blood, marriage, adoption, guardianship, or other duly-authorized custodial relationship.

Figure 9. Household Type (2022)



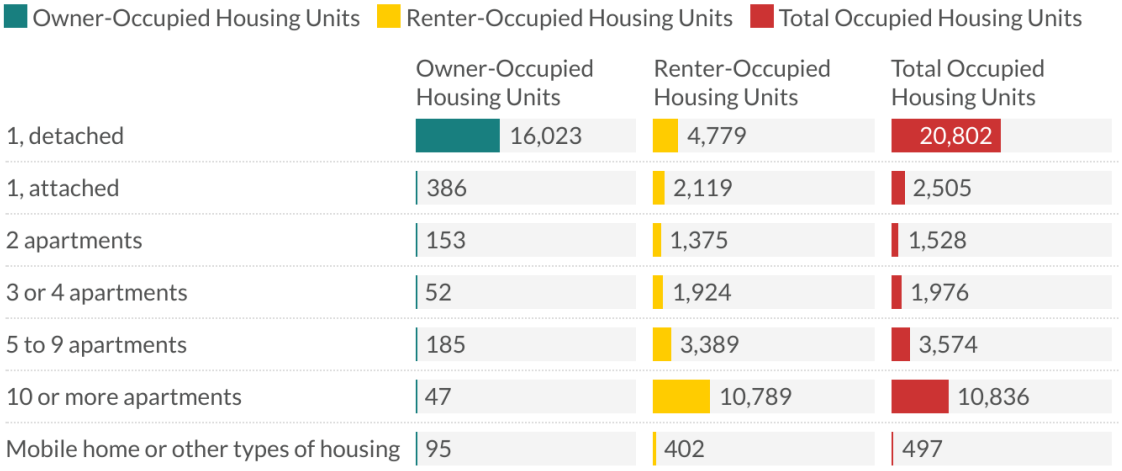
Source:2022 ACS 1–Year Estimates Detailed Tables B11001

Housing Characteristics

The 2022 ACS reports half of occupied housing units in Fayetteville are single–family detached. These are structures that include one housing unit that is not connected to another dwelling. The remaining half of Fayetteville's housing stock is almost evenly divided between apartment structures with more than ten units and structures with fewer than ten. The apartments with fewer than ten units are part of a housing category commonly called "missing middle housing."[6] This housing, including small apartments and attached housing units were more common in cities decades ago and are much less frequently constructed under modern zoning and building codes in the United States. 76.9% of Fayetteville's occupied housing structures were built between 1980 and 2022.

Nearly all owner–occupied housing units in Fayetteville are single–family detached homes while the percent of renters who occupy the same housing type is 19.3%. Of the remaining renter–occupied housing, 43.5% is in apartment complexes with ten units or more, and 13.3% is in duplex, triplex, or fourplex types of housing. A firm majority of both owner–occupied and renter–occupied housing units in Fayetteville have two or three bedrooms. 27.8% of owner–occupied and only 9.3% of renter–occupied housing units have four or more bedrooms. One–bedroom units make up 27.1% of all occupied housing units in the city. Statistics on the type of housing, type of occupancy, and age of housing help to assess whether existing housing units are meeting the needs of residents, what types of additional housing may be needed, and how much of the housing stock may have filtered down in the market to lower cost levels.

Figure 10a. Physical Housing Characteristics of Occupied Housing Units by Number of Units (2022)

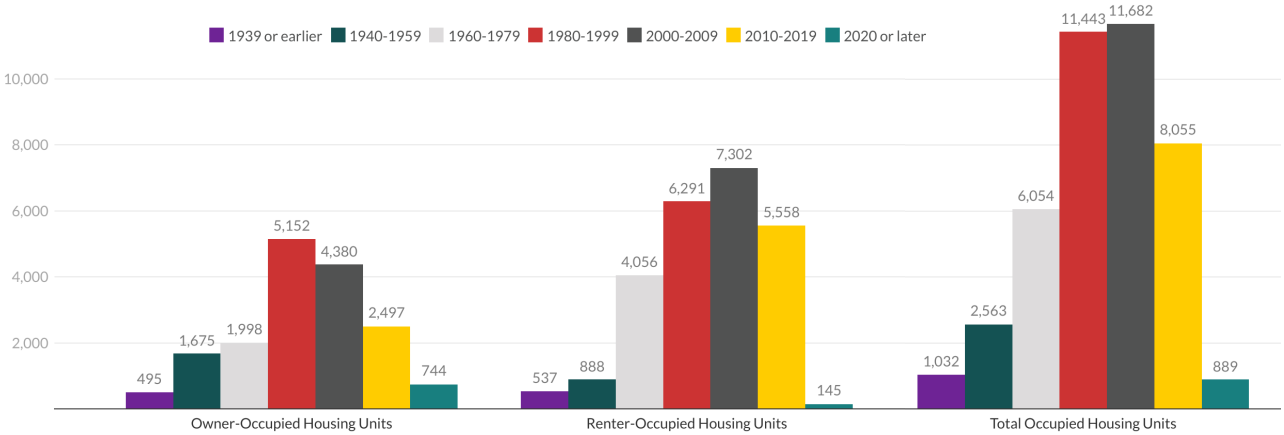


Source: 2022 ACS 1–Year Estimates Subject Tables S2504

[6] The term "missing middle housing" was coined by author, urban designer, and architect Daniel Parolek, founding principal of Opticos Design, who has a book with the same title.

While the American Community Survey provides annual estimates on the number of housing units in Fayetteville, other data sources can provide a more accurate count of housing units by type. The use of local data sources to determine housing units in the city does not provide detail on population and household characteristics, but it does help assess the housing supply in the city. According to residential utility accounts in Fayetteville as of October 2023 and the Skyline Report published by the Walton College of Business assessing housing trends in Northwest Arkansas for the first half of 2023, there are approximately 49,974 housing units in Fayetteville. That represents a larger number of units than is estimated by the American Community Survey.

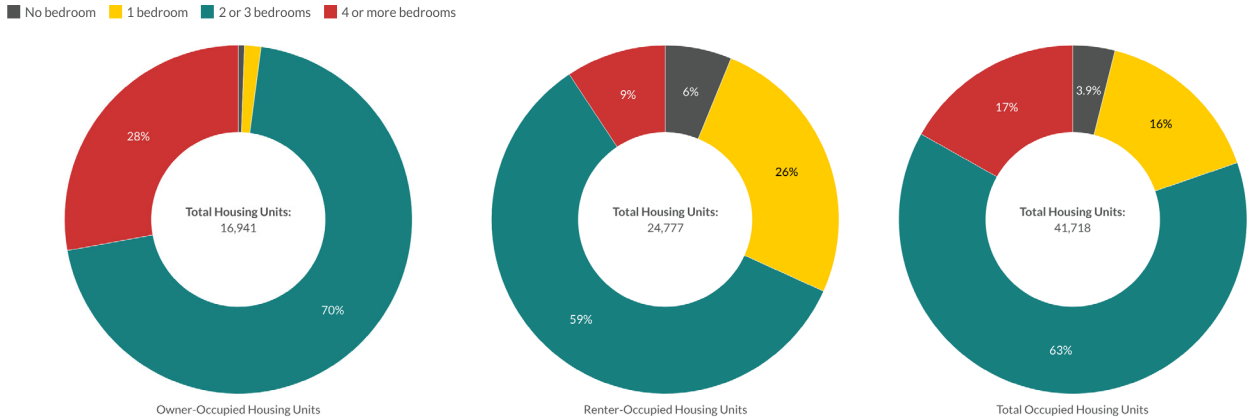
Figure 10b. Physical Housing Characteristics of Occupied Housing Units by Year Built (2022)



Source: 2022 ACS 1–Year Estimates Subject Tables S2504

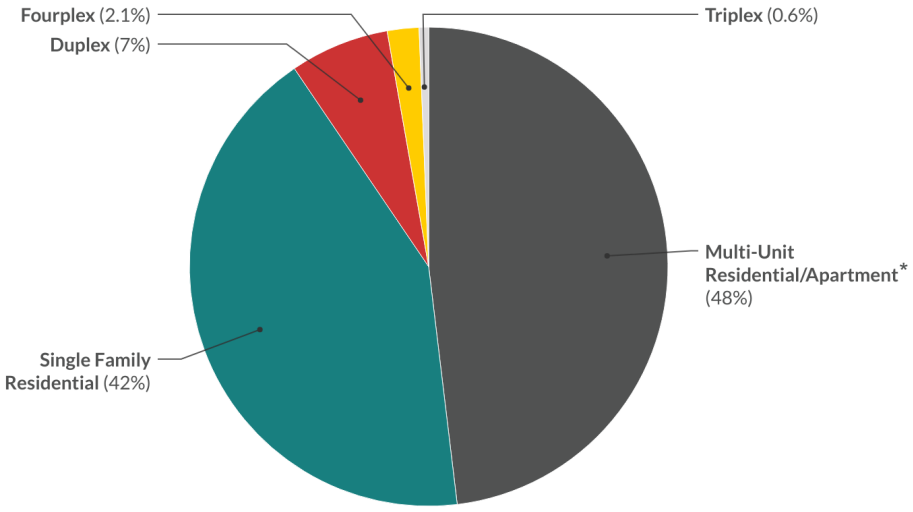
It is important to note that the multi–unit residential/apartment count may include separate bedrooms as units when within an apartment that leases by–the–bedroom – typical of student–oriented apartment complexes. Fayetteville is unique in the region in both the amount of housing developed specifically for university students and the number of properties that are leased by the bedroom rather than by the housing unit. This contributes to the differences between local housing unit counts and federal counts, which primarily affects calculations using household size and projected future housing unit needs. Data sources are listed with the information tables in the assessment to clarify which housing count is used.

Figure 10c. Physical Housing Characteristics of Occupied Housing Units by Number of Bedrooms (2022)



Source: 2022 ACS 1–Year Estimates Subject Tables S2504

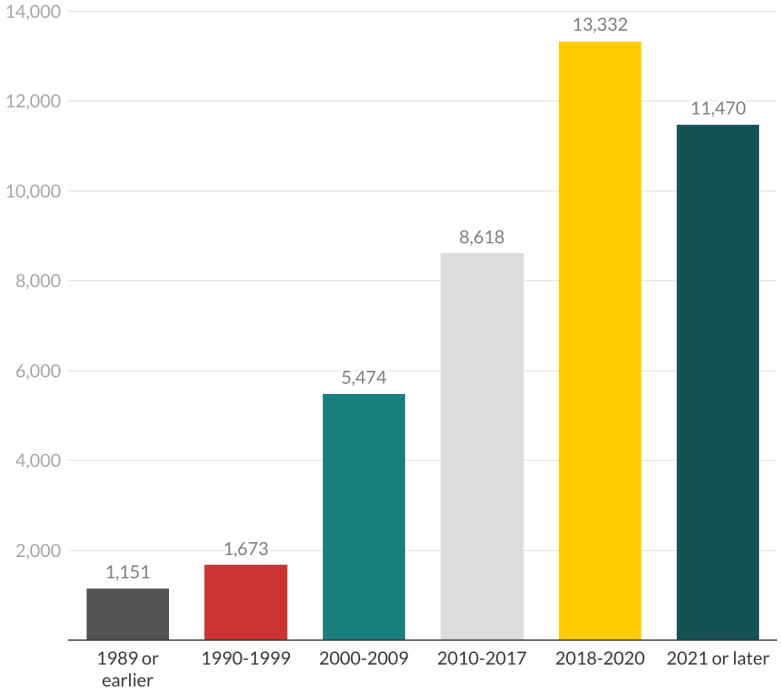
Figure 11. Housing Mix in Fayetteville Utilizing Local Data Sources (2023)



Sources: City of Fayetteville October 2023; Skyline Report 1H2023
**This number may count separate bedrooms as units when leased by the bedroom.*
There were 9,349 multi–unit/apartment utility accounts in October 2023.

With a university enrollment exceeding 32,000 students in fall 2023, and the majority of students in off–campus housing, one could anticipate a high rate of turnover in housing units as students adjust their living situations on a semester or annual basis, move from undergraduate to graduate programs, or stay in or leave Fayetteville following graduation. Indeed, more than half of Fayetteville householders have moved into their current home in the last five years, and more than one quarter of householders moved between 2021 and 2022.

Figure 12. Household Occupancy Duration (2022)

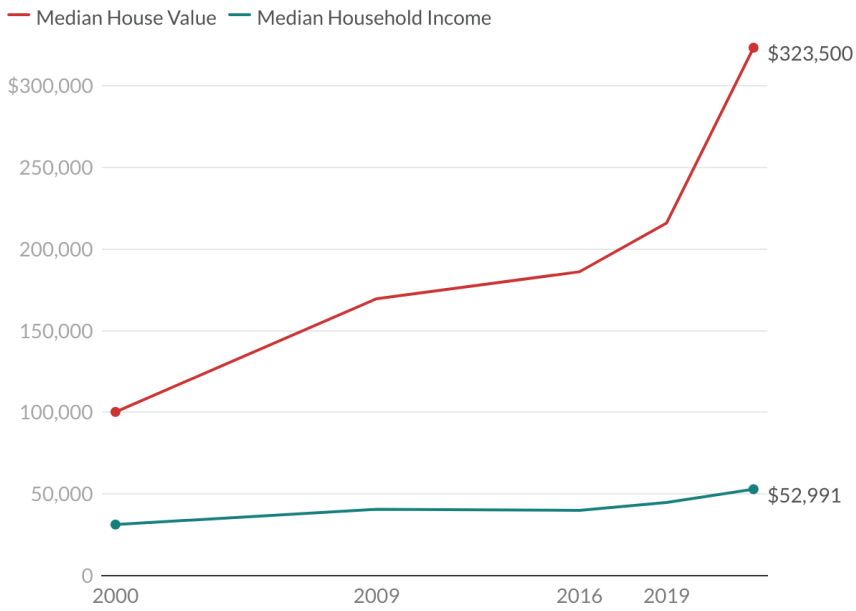


Source: 2022 ACS 1–Year Estimates Data Profiles DP04

Housing Costs Over Time

Over the last two decades, growth in Fayetteville's median house value has outpaced the increase in median household income. Median house value grew by 223% while median household income increased by only 69%. Additionally, average inflation was the highest in more than two decades.

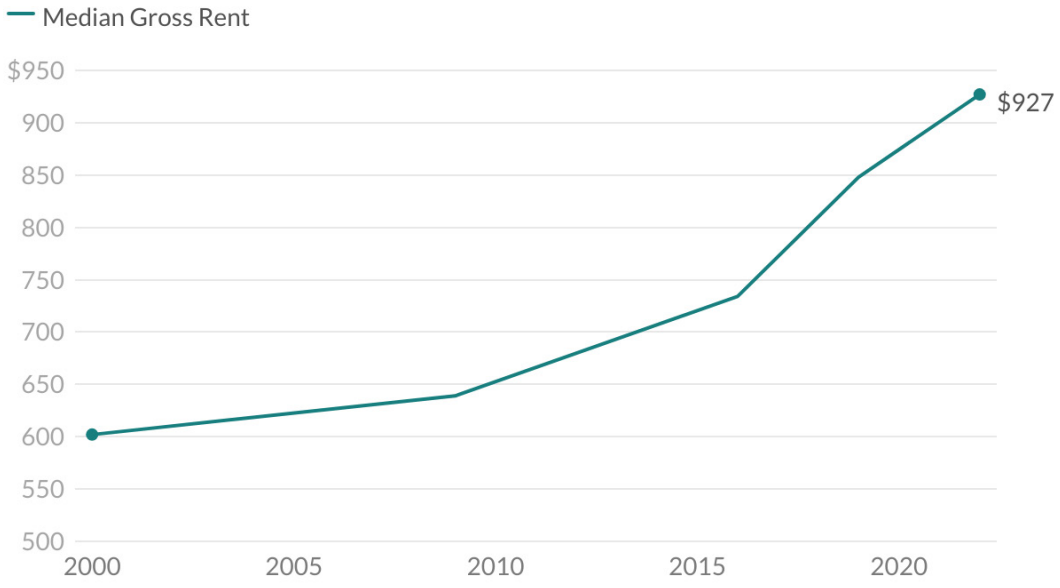
Figure 13. Median House Value and Median Household Income (2000–2022)



Sources: U.S. Decennial Census; ACS 1–Year Estimates

Median gross rent increased 54% over the same time period, increasing at a slightly lower rate than median household income. Median gross rent in 2022 was lower than the average rent for new apartment units constructed since 2019, however, as shown in Table 3 on page 20 when by–the–bedroom rents are excluded.

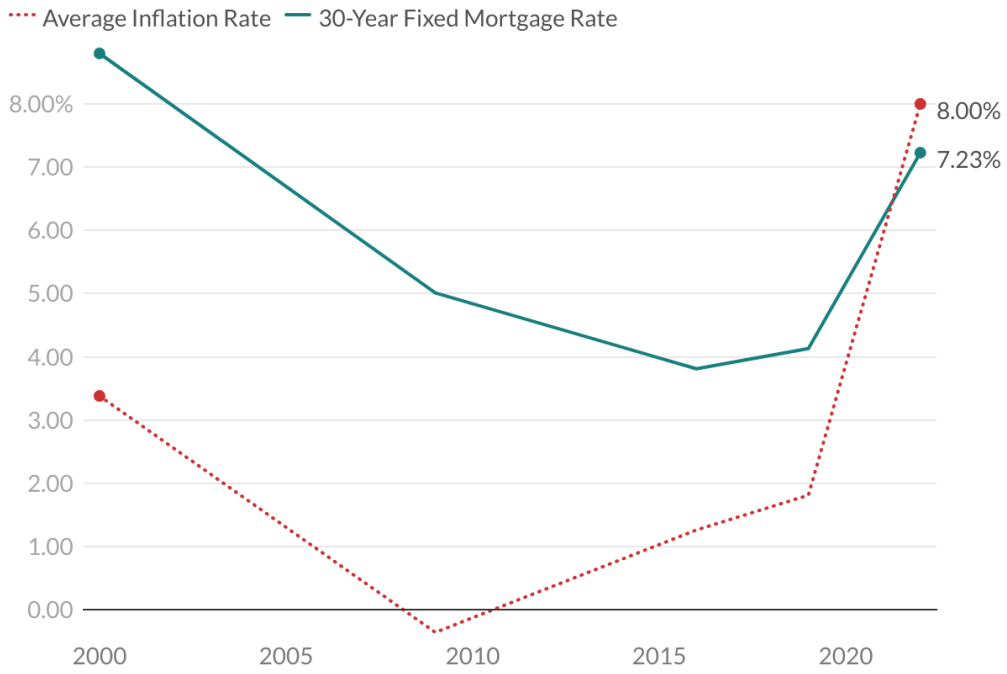
Figure 14. Median Gross Rent (2000–2022)



Sources: U.S. Decennial Census; ACS 1–Year Estimates

The changes in inflation and 30–year fixed mortgage rates over the same time period add additional insight to housing costs for Fayetteville households. While mortgage rates are similar to what they were in 2000, inflation is the highest in more than two decades, increasing the costs of goods and services and adding additional strain to households already cost–burdened by housing costs.

Figure 15. Average Inflation and 30–Year Fixed Mortgage Rates (2000–2022)



Source: FRED, Federal Reserve Bank of St. Louis

Table 2 below shows the same data illustrated by Figures 14–16 on the previous two pages in a condensed format. The increases in house values and inflation compared to household income are contributing to housing affordability challenges for households in Fayetteville. Although median gross rent has increased at a slower rate, current rents for newly constructed apartments in Fayetteville are considerably higher than what is shown here, as is detailed on the next page.

Table 2. Housing Cost Change and Median Household Income (2000–2022)

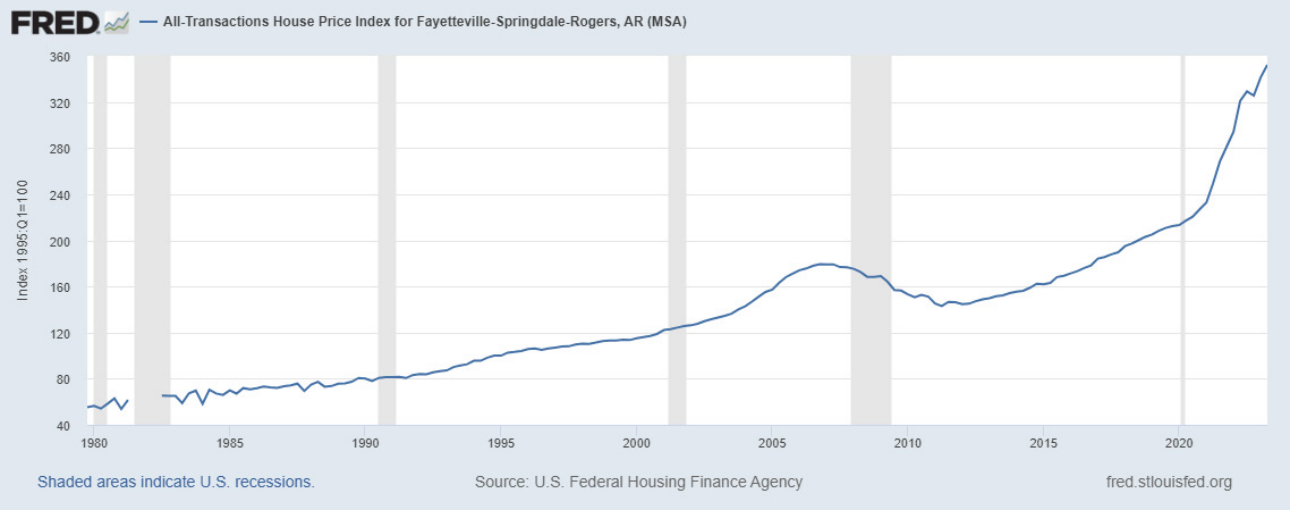
	2000	2009	2016	2021	2022
Median House Value	$100,300	$169,700	$186,200	$216,000	$323,500
Median Household Income	$31,345	$40,655	$40,013	$44,859	$52,991
Median Gross Rent	$602	$639	$734	$848	$927
Average Inflation	3.4%	–0.4%	1.3%	1.8%	8%
30-Year Fixed Mortgage Rate	8.8%	5%	3.8%	4.1%	7.2%

Sources: U.S. Decennial Census; ACS 1–Year Estimates; FRED, Federal Reserve Bank of St. Louis

To take another look at the increase in housing costs over time, the House Price Index (HPI) is a broad measure of the movement of single–family house prices in the United States. It is published by the Federal Housing Finance Agency (FHFA), using monthly and quarterly data supplied by Fannie Mae and Freddie Mac. HPI is reported monthly and measures the change from the previous month and year–over–year. It is an important economic indicator, shedding light on the state of the economy and housing affordability.

This is the HPI growth for Northwest Arkansas, not Fayetteville specifically, but the trend line is the key insight, especially since 2020. Visible in the trend line is the rapid increase in house price values shortly before the 2008 recession, followed by a decrease during and after that economic recession period. Since 2020 house price values have increased at a faster rate than previously recorded, matching the experience of Northwest Arkansas residents who have witnessed the prices for single–family homes continually reach new highs over the last three years.

Figure 16. House Price Index Growth for NWA Metropolitan Statistical Area (MSA)



Source: U.S. Federal Housing Finance Agency, All–Transactions House Price Index for Fayetteville–Springdale–Rogers, AR (MSA) [ATNHPIUS22220Q], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/ATNHPIUS22220Q, August 7, 2023. Data as of January 1, 2023. Q1 2023 Index observation was 341.98.

Housing Need Assessment

Affordable housing considers household incomes as well as housing costs. One of the primary goals of this assessment was to collect and analyze data for both incomes and housing costs to try to provide definition and clarity to the concerns expressed by the community regarding housing being increasingly unaffordable to Fayetteville residents.

Housing Costs Vs. Household Incomes

According to the Center for Business and Economic Research at the University of Arkansas Sam M. Walton College of Business, and as of the first half of 2023, the average rent for a one–bedroom apartment constructed after 2019 was $1,084.40. The average rent for a two–bedroom apartment constructed after 2019 was $1,440.03. The overall rent average excluding lease by the bedroom units was $1,386.18.

Table 3. Fayetteville Average New Construction Apartment Rents (2023)

Apartment Type	Units Surveyed	Monthly Rent	Sq. Ft.	Price per Square Foot
Studio	16	$1,152.25	450	$2.56
By-the-Bed	2,638	$759.3	423	$1.80
1 bed	334	$1,084.4	698	$1.55
2 bed	368	$1,440.0	992	$1.45
3 bed	161	$1,516.52	1,351	$1.12
4 bed	49	$2,686.86	1,888	$1.42
Overall	3,566	$922.44	570	$1.62
Overall without B-t-B	928	$1,386.18	987	$1.40

Source: Sam M. Walton College of Business Center for Business and Economic Research, 2023

Table 4. Fayetteville Housing Cost Burden by Income Level (2022)

Fayetteville Median Income (FMI)	Percent of AMI	Classification	30% Housing Max	45% Housing and Transportation Max	Hourly Rate
$95,384	150%	3x Very Low Income	$2,835	$3,577	$45.86
$63,589	120%	Moderate Income	$1,590	$2,385	$30.57
$52,991	100%	Moderate Income	$1,325	$1,987	$25.48
$42,393	80%	Low Income	$1,060	$1,590	$20.38
$31,795	60%	Low Income	$795	$1,192	$15.29
$26,496	50%	Very Low Income	$662	$994	$12.74
$15,897	30%	Extremely Low Income	$397	$596	$7.64

Sources: 2022 ACS 1–Year Estimates Subject Tables S1901; City of Fayetteville

The federal government collects and reports income information for individuals, families, and households, and some income data is reported in inflation–adjusted dollars to account for changes in the cost of living.[7] The 2022 ACS estimate of median household income at $52,991 shown on the previous page does not represent actual household earnings, but rather real household earnings taking into account an average inflation rate 8.0% in 2022.

Comparing household incomes in Table 4 to housing costs in Table 3 shows a growing divide between housing costs and what residents can afford. Households need to earn at least 120% of median household income or about $30/hour to be able to afford the average rent on a new two–bedroom apartment. Half of Fayetteville's households earned $25.48 an hour or less in 2022, and would be cost–burdened by housing costs that exceed $1,325 per month — less than the average rent for a new apartment in 2023.

Table 5. Household Income by Age of Householder (2022)

Age	Number of Householders	Percent Distribution	Median Income
15 to 24 years	7,755	18.6%	$36,458
25 to 44 years	16,014	38.4%	$58,042
45 to 64 years	9,534	22.9%	$78,331
65 years and older	8,415	20.2%	$50,872

Source: 2022 ACS 1–Year Estimates Subject Tables S1903

Closer detail on household incomes by the age of householder are in line with the assumption that young householders early in their careers or still in school would have lower incomes on average, while mid– to late–career householders would be expected to reach higher average earnings. Householders aged 65 years and older and entering retirement age often have lower incomes on average as wages transition to retirement and social security as primary sources of income.

In the table on the next page each income group includes a highlighted row showing both the number and percent of households that have housing costs of 30% or more of household income. Among the income groups outlined, those households making less than $20,000 annually are the most impacted, with 89.4% being cost–burdened by housing costs. Similarly, 79.9% of households with incomes between $20,000 and $34,999 are cost–burdened by housing, and 41.5% of households making $35,000 to $49,999 being cost–burdened.

As a group, households with incomes below $35,000 per year have the fewest options for housing that does not cost more than 30% of the household income. With less than $35,000 per year in income, housing costs would need to be $875 per month or less to be at or below the 30% of income threshold. However, even accessing housing at this cost would leave less money overall in the budget for other needs like food, transportation, and medical care compared to higher incomes.

According to the table on the next page, which shows monthly housing costs as a percentage of household income in the past 12 months, 15,853 households in Fayetteville or 38% of all households were cost–burdened by housing costs in 2022. By comparison, 11,922 households or 29.7% of households were cost–burdened by housing costs in 2021. This sharp increase may be at least partially attributable to a 2022 correction in the ACS estimate for Fayetteville's median household income that resulted in a lower median

[7] census.gov/newsroom/blogs/random–samplings/2022/09/inflation–income–and–earnings–estimates.html

household income estimate than for 2021. The median household income trend line in Figure 13 on page 17 provides additional detail. The number of cost burdened households would be expected to increase with rising housing costs and a slower increase in household incomes. As noted previously, households are cost–burdened when they are spending more than 30% of their income on housing costs.

Table 6. Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months

	Occupied Housing Units	Percent Occupied Housing Units	Owner–Occupied Housing Units	Percent Owner–Occupied Housing Units	Renter–Occupied Housing Units	Percent Renter–Occupied Housing Units
Less than $20,000	6,139	14.7%	881	5.2%	5,258	21.2%
Less than 20 percent	35	0.1%	35	0.2%	0	0.0%
20 to 29 percent	613	1.5%	200	1.2%	413	1.7%
30 percent or more	**5,491**	**13.2%**	**646**	**3.8%**	**4,845**	**19.6%**
$20,000 to $34,999	7,456	17.9%	1,455	8.6%	6,001	24.2%
Less than 20 percent	332	0.8%	332	2.0%	0	0.0%
20 to 29 percent	1,167	2.8%	446	2.6%	721	2.9%
30 percent or more	**5,957**	**14.3%**	**677**	**4.0%**	**5,280**	**21.3%**
$35,000 to $49,999	4,940	11.8%	1,261	7.4%	3,679	14.8%
Less than 20 percent	455	1.1%	294	1.7%	161	0.6%
20 to 29 percent	2,436	5.8%	340	2.0%	2,096	8.5%
30 percent or more	**2,049**	**4.9%**	**627**	**3.7%**	**1,422**	**5.7%**
$50,000 to $74,999	6,602	15.8%	2,332	13.8%	4,270	17.2%
Less than 20 percent	3,319	8.0%	961	5.7%	2,358	9.5%
20 to 29 percent	1,893	4.5%	538	3.2%	1,355	5.5%
30 percent or more	**1,390**	**3.3%**	**833**	**4.9%**	**557**	**2.2%**
$75,000 or more	15,271	36.6%	10,928	64.5%	4,343	17.5%
Less than 20 percent	11,662	28.0%	8,876	52.4%	2,786	11.2%
20 to 29 percent	2,643	6.3%	1,238	7.3%	1,405	5.7%
30 percent or more	**966**	**2.3%**	**814**	**4.8%**	**152**	**0.6%**
Zero or negative income	396	0.9%	84	0.5%	312	1.3%
No cash rent	914	2.2%	(X)	(X)	914	3.7%

Source: 2022 ACS 1–Year Estimates Subject Tables S2503

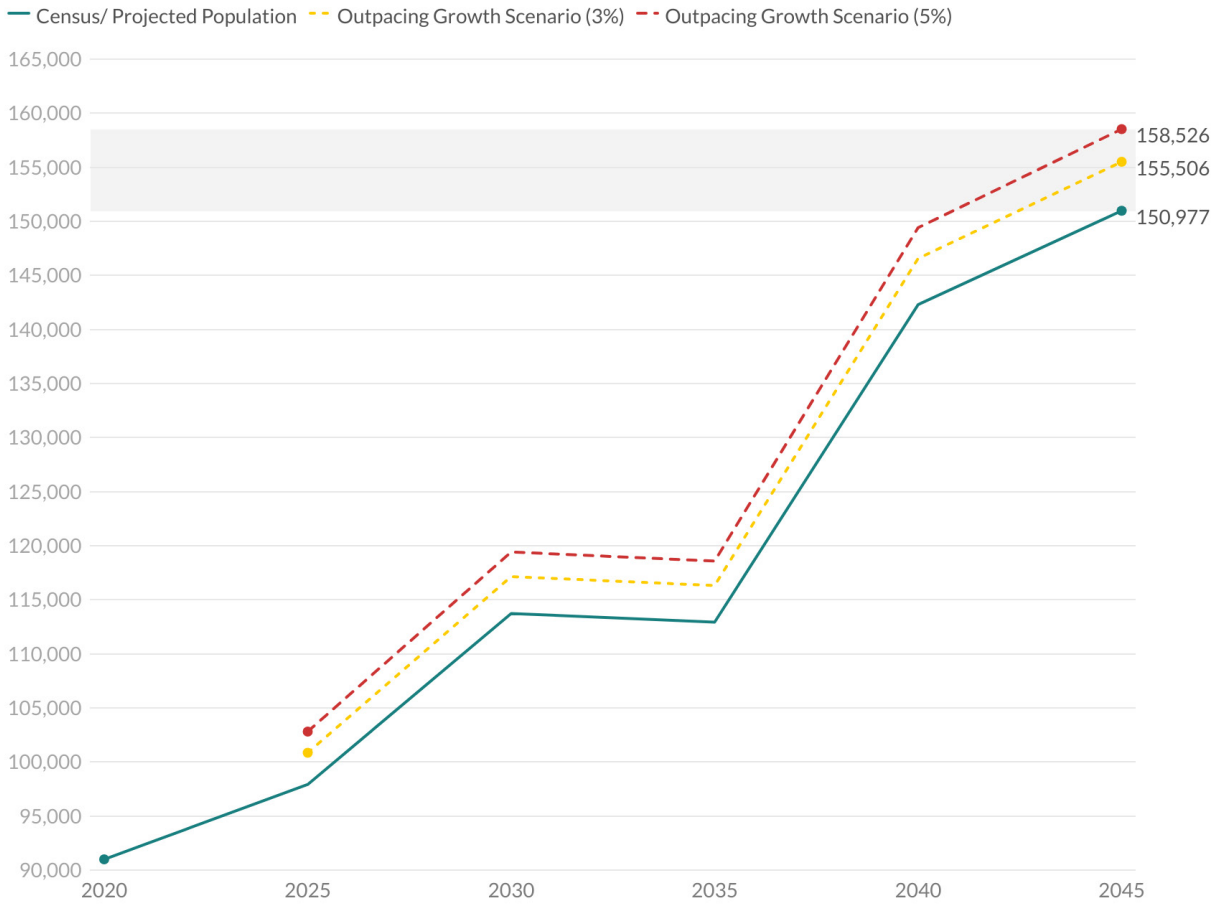
Current Affordable Housing Need

Of the 18,535 Fayetteville households earning less than $50,000 annually, more than 13,000 or 72.8% are cost burdened by housing costs. Within this group, more than 4 times the number of cost–burdened households live in rental housing than in owner–occupied housing. The 2022 ACS estimates indicate that Fayetteville needs an additional 6,000 housing units available below $875 per month and nearly 5,500 housing units available below $500 per month to relieve current low income cost–burdened households. This compares with a citywide median gross rent of $927. Viewed another way, if Fayetteville needs about 1,000 housing units constructed annually to keep pace with the projected population growth, and more than half of Fayetteville's current households cannot afford to live in the new housing units, our community will be inaccessible to both current and potential future residents. If the house value versus wage growth trends on page 17 continue, fewer than half of Fayetteville's current residents will have an opportunity to afford new housing.

Projected Housing Units Needed

The City's total population of 95,231 in 2021 and 99,288 in 2022 exceeded the projected population totals by 3.1% and 5.9%, respectively. Regardless of how fast Fayetteville grows, the city will require additional housing units to meet the demand created by population growth. The red and yellow lines below demonstrate two potential population growth scenarios that carry forward the 2021 and 2022 patterns, which would also increase the new housing stock required to keep pace with population growth in Fayetteville.

Figure 17. Population Projection to 2045 vs. Potential Growth Scenarios



Sources: U.S. Decennial Census; Northwest Arkansas Regional Planning Commission Transportation Plans; City of Fayetteville

The ACS estimate for average household size in Fayetteville in 2022 was 2.19 people. At 2.19 people per household on average, an additional 1,026 housing units are needed per year to meet the projected population growth. Owner–occupied housing units tends to have more people per household than renter–occupied housing. The average size of owner–occupied units was 2.30 persons, down from 2.45 persons in 2021. The average household size of renter–occupied units was 2.11 persons, up from 1.98 persons in 2021.[8] Average household size overall has increased slightly for Fayetteville since the 2010 Decennial Census when the average household size was 2.17 persons.

As rents and house prices increase faster than incomes, housing options are becoming limited for an increasing number of residents. A widening gap between household incomes and housing costs can cause a number of negative effects for the community, including increased commuting times as household earners seek more affordable options further from work and school, increased congestion as travel distances extend beyond alternative transportation options and more cars are on the road, and reductions to the workforce that is able to both live and work in Fayetteville. Additionally, households who have to locate further from

[8] 2022 ACS 1–Year Estimates Data Profiles Table DP04.

work, school, and services have increased transportation costs, reducing or potentially eliminating net savings from lowering housing costs.

Not only does Fayetteville have a current need for housing units available at costs that are affordable to thousands of cost–burdened households, the city will have a future need for affordable housing. Based on the projected population of 150,977 by 2045, and maintaining the current household size of 2.19, which has been relatively constant for the last two decades, Fayetteville will need an additional 23,602 housing units over the next 23 years. Over the past 22 years, median house value in Fayetteville has increased 223% while median gross rent has increased 54%. The proportion of additional housing units that would need to be calibrated to household incomes so that Fayetteville residents at all income levels can have housing may increase or decrease from the numbers today, but the current ratios can be used as a baseline estimate.

It's worth repeating here that 38% of Fayetteville households were cost burdened by housing costs as of 2022, and for households with incomes under $50,000 the proportion increases to 73%. 13.2% of households need housing at a cost below $500 per month, 14.3% of households need housing at a cost below $875 per month, and 4.9% of households need housing at a cost below $1,250 per month. An additional 3.3% of households in Fayetteville need housing below $1,875 per month. It is notable that there are households just below and above Fayetteville median income that report being cost burdened by housing. With average rents for new apartments being $1,440 per month in 2023, even households earning above median income can be impacted by rising housing costs.

Projected Affordable Housing Need

As stated on page 22, the 2022 ACS estimates indicate that Fayetteville needs an additional 6,000 housing units available below $875 per month and nearly 5,500 housing units available below $500 per month to relieve current low income cost–burdened households. If the house value versus wage growth trends on page 17 continue, fewer than half of Fayetteville's current residents will have an opportunity to afford new housing. Based on the current population projections and need for affordable housing, assuming current household size remains the same, and assuming housing cost increases do not continue to outpace household incomes at the current rate, Fayetteville would need 8,426 housing units to be affordable to specific income levels. This constitutes 36% of the additional 23,602 projected housing units needed to accommodate population growth and can be further detailed as:

Figure 18. Projected Affordable Housing Need (2023–2045)



Source: City of Fayetteville

The numbers above representing future affordable housing need are a calculation based on Table 4 on page 20 that shows cost burdened households by income range. The income ranges for the cost burdened household data are not the same as the median income calculations in Table 4 on page 20, and the projections for affordable housing needs are an attempt to bridge those two separate information tables rather than an exact count using complex calculations. The purpose is to use the current ratio of cost–burdened households to non–burdened households to provide an estimate of how much additional housing supply could need to be calibrated to affordable housing costs for the different income ranges and to highlight current trends in housing costs and household incomes. The gap between housing costs and household incomes is widening in Fayetteville, and the market rate housing currently in construction will not be able to fulfill affordable housing needs, particularly for medium to low income households.

Regional Comparisons

There are multiple reasons to explore peer community demographics, ranging from measuring economic competitiveness and policy choice outcomes, to comparing demographic data points and trying to learn from others. For the purposes of this assessment, evaluating trends that impact housing is an important component in both understanding Fayetteville's relative circumstances and identifying possible solutions for our challenges. Regionally, three Arkansas communities are often considered as Fayetteville's peers: Bentonville, Rogers, and Springdale. When comparing Fayetteville on a national basis the selected comparison depends on the topic or issue.

Table 7. Selected Characteristics of Regional Peer Cities (2020–2022)

City, Arkansas	Fayetteville	Springdale	Rogers	Bentonville
2020 Population	93,949	84,161	69,908	54,164
2022 Population	99,285	87,672	72,999	57,868
2020–2022 Population Growth Rate	5.68%	4.17%	4.42%	6.84%
2021 Median Age	28.4	34.0	33.5	32.2
2022 Median Age	29.0	32.5	36.2	N/A
2021 Average Household Size	2.2	3.0	2.7	2.6
2022 Average Household Size	2.19	2.77	2.74	N/A
2021 Percent Renter Households	53.2%	44.1%	41.9%	49.1%
2022 Percent Renter Households	59.4%	48.7%	35.6%	N/A
2021 High School Graduate or Higher	96.3%	75.9%	86.5%	95.3%
2022 High School Graduate or Higher	96.7%	78.0%	86.0%	N/A
2021 Bachelor's Degree or Higher	48.0%	22.1%	34.9%	51.0%
2022 Bachelor's Degree or Higher	47.3%	26.5%	33.8%	N/A
Median Per Capita Income (2021)	$33,179	$27,476	$36,446	$46,520
Median Per Capita Income (2022)	$33,439	$28,685	$41,593	N/A
Mean Household Income (2021)	$77,939	$83,741	$98,486	$124,164
Mean Household Income (2022)	$76,460	$79,233	$110,849	N/A
Median Household Income (2021)	$61,428	$63,396	$67,408	$89,653
Median Household Income (2022)	$52,991	$59,027	$81,770	N/A
Median Gross Rent (2021)	$869	$859	$989	$1,055
Median Gross Rent (2022)	$927	$891	$1,209	N/A
2021 Poverty Rate	21.2%	15.1%	9.6%	7.1%
2022 Poverty Rate	22.2%	14.9%	12.3%	N/A
2021 Percent of Population 18–24 Years	23.0%	10.7%	8.5%	7.9%
2022 Percent of Population 18–24 Years	26.8%	9.2%	9.0%	N/A
2021 Percent Households Cost–Burdened by Housing Costs	29.7%	30.9%	21.8%	30.3%
2022 Percent Households Cost–Burdened by Housing Costs	38.0%	28.9%	22.7%	N/A
2021 Median Value Owner–Occupied Units	$272,300	$215,900	$225,300	$281,800
2022 Median Value Owner–Occupied Units	$323,500	$256,600	$292,200	N/A

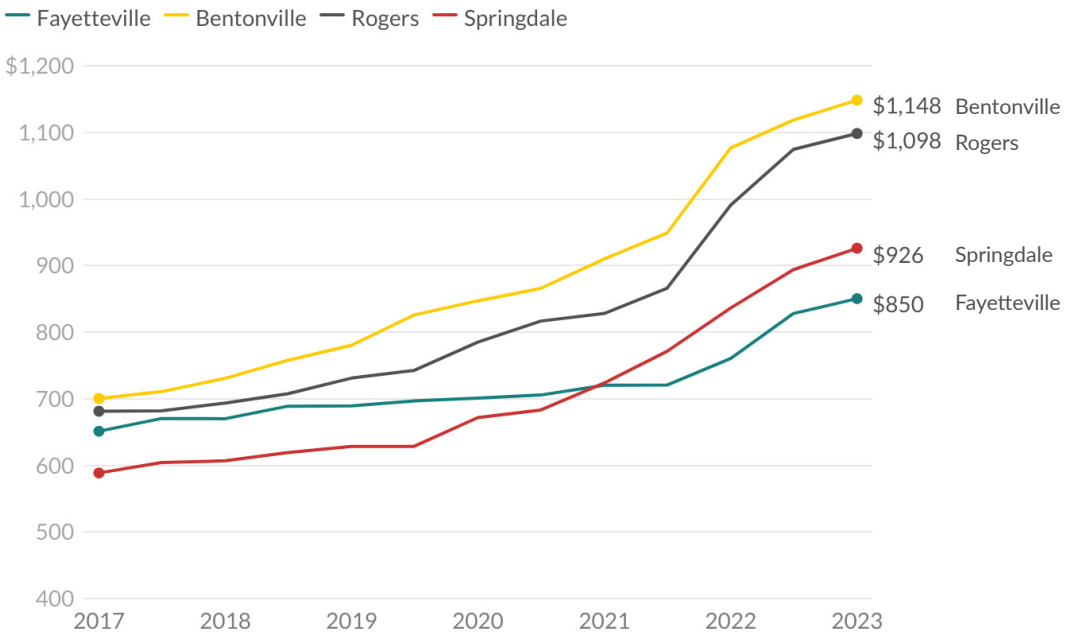
Sources: U.S. Decennial Census; 2021 and 2022 ACS 1–Year Estimates Subject Tables

Although Fayetteville was the second–fastest growing of the largest four cities in Northwest Arkansas in 2022, it has both the largest population and the largest population growth by number since 2020. With the flagship campus of the University of Arkansas just west of downtown, Fayetteville is not just younger in

median age, but also has a smaller average household size, a higher proportion of renters, a lower median household income, and a higher poverty rate than its regional peers. Fayetteville had a similar rate of households cost–burdened by housing costs as Springdale and Bentonville, around 30%, while Rogers has just 21.8% of households cost–burdened by housing costs in 2021. As of 2022 Fayetteville's proportion of cost–burdened households increased by 8% while Springdale saw a 2% decrease and Rogers saw a 1% increase. Bentonville did not have 2022 ACS data reported at the time of this assessment.

As another point of comparison to the region, average rents for multi–family units in Fayetteville have increased at a slower place than the other three large cities in the region since 2017. Fayetteville currently has the lowest average multi–family rents of the four cities, although, as mentioned previously, Fayetteville's multi–family housing includes lease by the bedroom units that are typically available at individually lower tenant rents than traditional units.

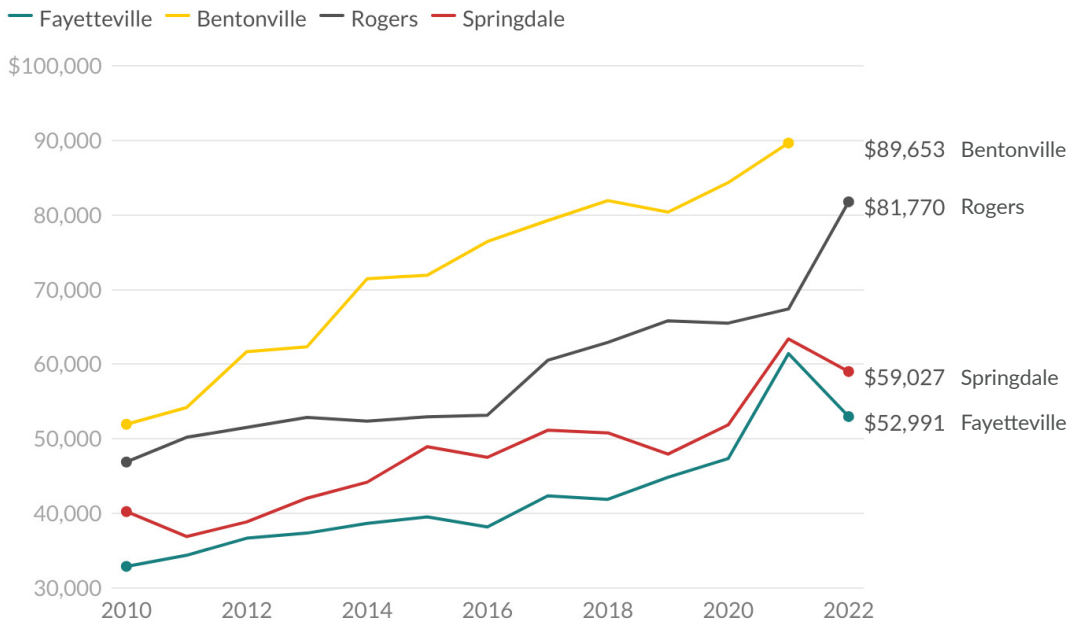
Figure 19. Average Apartment Rents (2017–First Half of 2023)



Source: Sam M. Walton College of Business Center for Business and Economic Research, 2023

Fayetteville's median household income, or midpoint of household incomes, decreased by 13.7% from 2021 to 2022. While this appears to be a significant decrease in household incomes, the median household income reported for Fayetteville in 2021 was far above the trend line for the last two decades, as shown in the graph below. This suggests a potential over–estimate for 2021 that was corrected for 2022. Both income figures are reported in inflation–adjusted dollars for their respective data year. Springdale's median household income decreased by 6.9% from 2021 to 2022 and Rogers' median household income increased by 21.3%. Although average inflation in 2022 was 8.0%,[9] inflation alone does not explain the change in median household income for the three cities with reported estimates for 2022, especially as the estimate for Rogers showed a substantial increase from 2021 to 2022. The median household income trends over time in Figure 20 provide a context for what appear to be corrections to 2021 estimates, with decreases for Fayetteville and Springdale in 2022. Possible reasons also include that a decrease in real household income (wages adjusted for inflation) due to high inflation and lower wage growth was experienced across the U.S. in 2022 and was reported at the national, state, and local level. Additional analysis from the U.S. Census suggests the end of COVID–19 pandemic federal tax relief is also impacting after–tax incomes for low–income households.[10]

Figure 20. Median Household Income by City (2010–2022)



Sources: ACS Subject Table S1901, 1–Year & 5–Year Estimates. 5–year estimates used when 1–year estimates were not available. Bentonville 2022 ACS estimates were not published at the time of this assessment.

[9] World Bank, Inflation, consumer prices for the United States [FPCPITOTLZGUSA], retrieved from FRED, Federal Reserve Bank of St. Louis; fred.stlouisfed.org/series/FPCPITOTLZGUSA, August 25, 2023.

[10] census.gov/library/stories/2023/09/median–household–income.html

Peer City Comparisons

The table below expands the regional comparisons to national comparisons, focusing on cities of a similar size, quality of life characteristics, flagship public university, or other similar factors. Of the cities selected, only one had a faster rate of population growth (Tuscaloosa, AL) and only one had a similar rate of increase for households that are cost–burdened by housing costs (Lawrence, KS).

Table 8. Selected Characteristics of National Peer Cities (2020–2022)

	United States	Arkansas	Fayetteville, AR	Lawrence, KS	Columbia, MO	Fort Collins, CO	Lincoln, NE	Asheville, NC	College Station, TX	Tuscaloosa, AL
2020 Population		3,011,524	93,949	94,934	126,254	169,810	291,082	94,589	120,511	99,600
2022 Population		3,045,637	99,285	95,794	128,555	169,249	292,627	93,776	124,319	110,602
2020–2022 Population Growth Rate	**0.55%**	**1.13%**	**5.68%**	**0.91%**	**1.82%**	**–0.33%**	**0.53%**	**–0.86%**	**3.16%**	**11.05%**
2021 Median Age	38.8	38.5	28.4	31.3	29.4	30.4	33.3	41.6	22.9	29.4
2022 Median Age	39.0	38.9	29.0	28.7	28.6	30.5	33.9	42.2	22.9	28.4
2021 Avg. HH Size	2.5	2.5	2.2	2.1	2.4	2.3	2.3	2.4	2.56	2.32
2022 Avg. HH Size	2.50	2.44	2.19	2.16	2.25	2.23	2.29	2.41	2.35	2.29
2021 % Renter HHs	34.6%	33.0%	53.2%	57.1%	31.2%	47.3%	41.9%	45.2%	59.4%	58.3%
2022 % Renter HHs	34.8%	33.5%	59.4%	54.8%	51.2%	48.9%	43.8%	49.7%	66.9%	55.2%
2021 Bachelor's Degree or Higher	35.0%	25.3%	48.0%	54.3%	56.1%	58.5%	43.0%	53.0%	58.0%	29.2%
2022 Bachelor's Degree or Higher	35.7%	25.4%	47.3%	50.9%	57.2%	59.9%	40.6%	54.3%	59.5%	33.9%
2021 Per Capita Income	$38,332	$29,252	$33,179	$31,804	$32,253	$41,119	$34,008	$38,068	$28,705	$31,236
2022 Per Capita Income	$41,804	$31,380	$33,439	$34,745	$35,091	$44,594	$37,508	$41,343	$30,542	$33,291
2021 Mean HH Income	$97,962	$73,126	$77,939	$70,690	$79,587	$99,538	$81,837	$84,277	$81,213	$79,657
2022 Mean HH Income	$105,555	$76,853	$76,460	$81,850	$84,021	103,694	$88,055	$92,811	$84,712	$84,453
2021 Med. HH Income	$69,717	$52,528	$61,428	$52,475	$60,662	$73,945	$62,294	$59,758	$49,215	$56,559
2022 Med. HH Income	$74,755	$55,432	$52,991	$59,963	$58,067	$80,227	$62,391	$64,548	$51,228	$61,097
2021 Med. Gross Rent	$1,163	$803	$869	$986	$935	$1,443	$920	$1,152	$1,033	$907
2022 Med. Gross Rent	$1,300	$846	$927	$959	$968	$1,571	$998	$1,290	$1,134	$955
Fall 2022 University Enrollment	n/a	n/a	30,936	23,872	31,318	32,908	23,805	3,233	68,461	38,645
Fall 2023 University Enrollment	n/a	n/a	32,140	25,469	31,041	33,455	23,600	2,907	–	39,623
2021 Poverty Rate	11.6%	16.3%	21.2%	19.1%	19.1%	15.7%	13.0%	12.4%	26.7%	22.6%
2022 Poverty Rate	12.6%	16.8%	22.2%	18.7%	22.5%	18.1%	14.0%	14.8%	29.2%	16.7%
2021 % Pop. 18–24	9.1%	9.4%	23.0%	23.7%	22.6%	21.1%	16.1%	8.3%	36.3%	24.9%
2022 % Pop. 18–24	9.4%	9.6%	26.8%	27.7%	24.8%	20.8%	16.3%	7.8%	38.7%	28.9%
2021 Median Value Owner–Occupied Units	281,400	$162,300	272,300	229,400	$245,800	$485,500	$228,000	$363,800	$291,300	$217,200
2022 Median Value Owner–Occupied Units	$320,900	$179,800	$323,500	291,100	$271,800	$542,000	$255,200	$410,200	$326,000	$297,600
2021 % Cost–Burdened Households	30.9%	24.8%	29.7%	30.9%	33.9%	36.8%	29.2%	33.3%	46.5%	30.9%
2022 % Cost–Burdened Households	31.5%	25.1%	38.0%	36.9%	30.9%	38.9%	30.8%	24.8%	45.5%	27.8%

Sources: U.S. Decennial Census; 2021 and 2022 ACS 1–Year Estimates Subject Tables
Note: "HH" and "HHs" are abbreviations for "Household" and "Households". "Med." is the abbreviation for "Median".

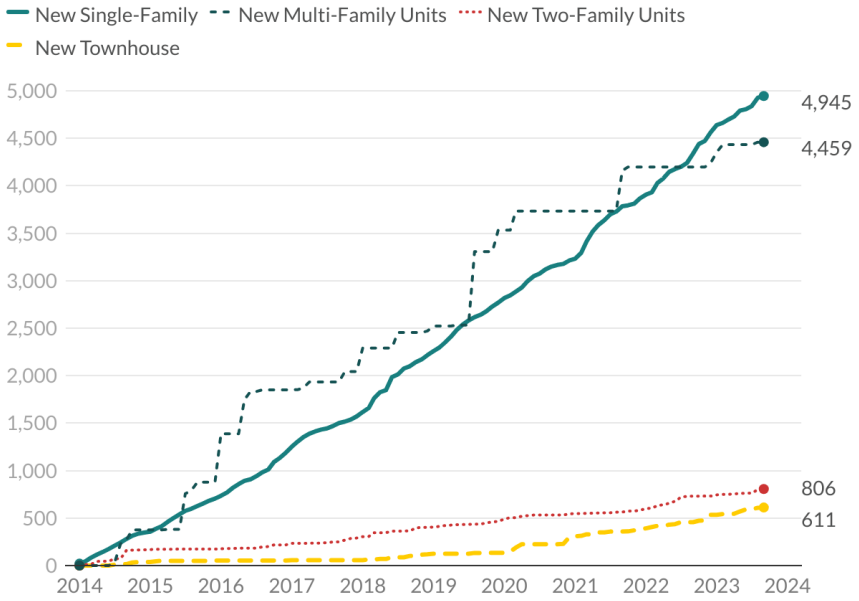
Residential Building Activity

Population growth rates and population characteristics are a measure of housing demand and can provide insight on the quantity and type of housing needed, as well as what housing costs a community can afford. Comparing demand to the supply of housing being constructed and put into the housing market can help with assessing whether current policies are producing an adequate housing supply, or whether policies may need to be adjusted to achieve desired housing outcomes.

Residential Building Permits 2014–2023

Since the start of 2014, the city's Building Safety Division has issued building permits for 10,857 housing units, most of which are divided between single–family and multi–family units.

Figure 21. Cumulative Residential Building Permits Issued by Housing Type (January 2014 – September 2023)



Source: City of Fayetteville Monthly Building Activity Reports January 2014 – September 2023

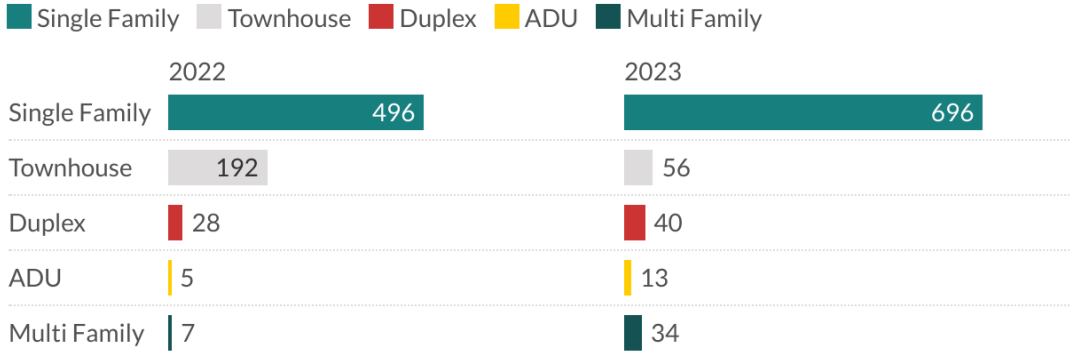
Table 9. Residential Building Permits Issued by Housing Type (January 2014 – September 2023)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total
Single Family Permits	347	358	485	381	645	553	443	655	696	382	4,945
Townhouse Permits	38	14	0	5	62	16	162	85	152	77	611
Two Family Permits	83	4	22	36	56	31	40	19	75	37	403
Two Family Units	166	8	44	72	112	62	80	38	150	74	806
ADU Permits	0	0	0	0	0	1	4	11	16	4	65
Multi Family Permits	11	6	47	7	14	19	6	19	7	18	154
Multi Family Units	375	503	973	192	428	1,061	201	465	43	218	4,459
Total New Housing Permits	479	382	554	429	777	620	655	789	946	518	6,149
Total New Housing Units	**926**	**883**	**1,502**	**650**	**1,247**	**1,693**	**890**	**1,254**	**1,057**	**755**	**10,857**

Source: City of Fayetteville Monthly Building Activity Reports January 2014 – September 2023

Over nearly ten years Fayetteville's Building Safety Division has issued permits for an average of 1,114 new residential units per year, or approximately three housing units per day. That's more than the 1,026 units necessary to accommodate demand from Fayetteville's projected population growth. However, with actual population growth from 2021 to 2022 being 4,054 people, or about 1,851 households, this suggests that housing production is not keeping pace with growth. Additionally, a closer look at residential building permit details reveals that not all issued permits are producing completed housing units. Permit completion rates are not 100% for various reasons. Houses could be taking longer than a year to build once the permit is issued and most permits issued in late 2022 and so far in 2023 may not be complete. Other reasons include delays where projects are constructed weeks or months after a permit is issued, and permits being voided or withdrawn for resubmittal at a later time.

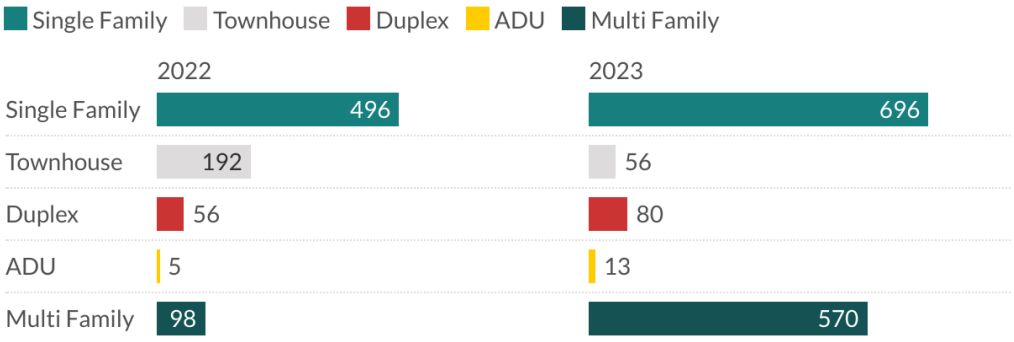
Figure 22. Residential Building Permits Completed (2022–2023)



Source: City of Fayetteville as of September 30, 2023

Looking at residential building permit data another way, the table above shows the number of residential building permits and housing units that passed final inspections in 2022 and 2023. The increase in permit completions could be due to factors such as resolving supply chain issues, completion of land entitlement processes that began in 2020 and 2021, and other project timeline impacts clearing the way to a 19.5% increase in completed housing units for 2023 over the prior year. This follows on 2021 and 2022 being two of the highest years for issuance of permits for residential housing units on record.

Figure 23. Residential Permitted Units Completed (2022–2023)



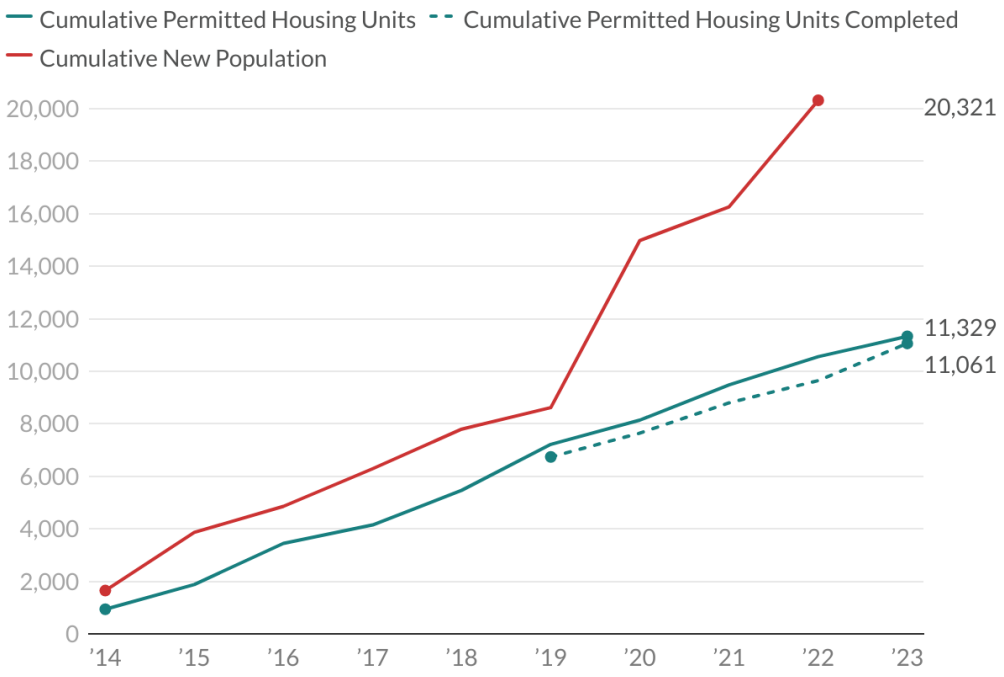
Source: City of Fayetteville as of September 30, 2023

Population Growth vs. New Housing: A Widening Gap

Figure 3 on page 9 of this assessment shows both the current population growth and projected growth. Fayetteville's population is projected to grow by 51,689 people by 2045, averaging 2,247 additional people annually starting in 2022. The graph below indicates that the past few years of population growth is increasing faster than the city is issuing residential building permits. Of significant note, population growth from 2021 to 2022 was 4,054 people annually — 78% above projected growth — creating an even greater disparity between housing supply and demand.

The graph and table below detail the widening gap between Fayetteville's rapidly growing population and housing supply that has not kept pace since 2019. The change in population from 2019–2020 is more likely due the 2020 Decennial Census correcting for low estimates of population growth a few years prior, although the estimates for 2021 and 2022 do not indicate a slowing trend. Population estimates utilize data on births, deaths, and migration to calculate population change.[11] The number of residential building permits issued and the number of housing units completed are data from the city of Fayetteville's Building Safety Division and are available online and on pages 29–30 of this assessment. Comparing population growth to housing supply over time can help to identify gaps between demand and supply, as shown in the figure below.

Figure 24. Cumulative Housing Units Permitted vs. Population Growth (2014–2023)



Source: ACS 1–Year estimates, City of Fayetteville as of September 30, 2023

Fayetteville's population growth and number of housing units by residential building permit from 2014–2019 were fairly close, showing similar trends as housing production kept pace with population growth. Beginning in 2019, however, population growth began to increase at a rate beyond housing production, with both the number of units permitted and the number of units completed steadily increasing at similar rates. Table 10 on the next page provides the specific numbers illustrated in the graph and shows that **from 2019–2022 Fayetteville fell approximately 1,480 housing units short of demand.**

[11] census.gov/programs–surveys/popest/about.html

Table 10. Population Growth vs. Housing Supply (2019–2023)

Year	Population	Pct. Chg.	Permitted Units	Completed Units	HH Size	Units Needed
2019	87,585	0.95%	1,693	1,269	2.19	374
2020	93,949	7.27%	890	909	2.24	2,847
2021	95,231	1.36%	1,254	1,153	2.20	583
2022	99,288	4.26%	1,057	847	2.19	1,855
Total 2019–2022	**11,703 (Increase)**	**13.4%**	**4,894**	**4,178**		**5,659**
2023*	–	–	755	1,415	–	–

Source: U.S. Decennial Census; ACS 1–Year estimates, City of Fayetteville as of September 30, 2023.
**2023 data represents data available as of October 1, 2023*

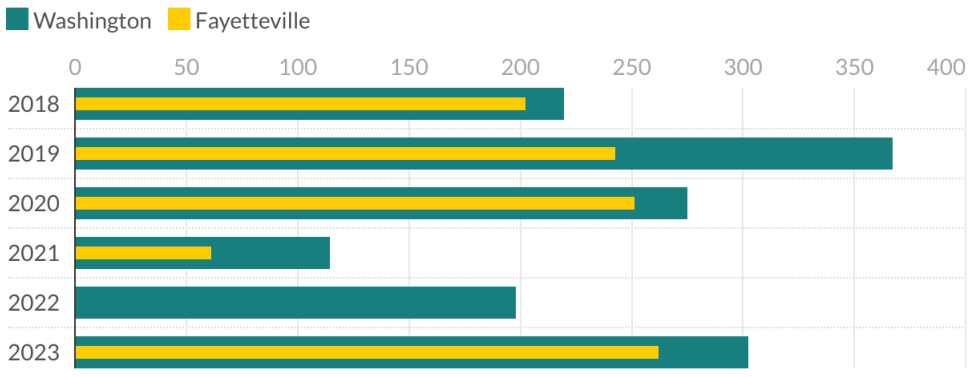
The number of housing units completed in 2023 is as of September 30, leaving an additional three months of housing supply to hit the market before the end of the year. Adding that count to the table above suggests that the high number of units added to Fayetteville's housing stock this year would resolve the deficit that has been building since 2019. However, the population growth in 2023 is presently unaccounted for, and both current vacancy rates and the steady increase in housing costs suggest that demand continues to exceed supply. The extent of the 2023 gap will not be known until next year.

Of note are the number of housing units permitted in 2023. As there are three months remaining in the year for residential units to be permitted, the number of permits is not falling behind the total for prior years, and is on track to finish close to the average number of housing units permitted annually over the last decade. Interest rates and lending trends may begin to play a more noticeable role in housing production over the next several months, although Fayetteville's strong housing demand may remain an incentive for developers and builders to continue to deliver additional housing units.

Fayetteville Residents Without Housing

We cannot talk about housing without acknowledging our residents who do not have access to housing. The Northwest Arkansas Continuum of Care conducts the Point in Time count of people experiencing homelessness every year in January, and the number of people counted has increased since the count began in 2018. An important note on this data is that the 2021 count was incomplete due to COVID–19, and the 2022 count is for Washington County as a whole, not Fayetteville specifically. This was a result of the reporting metric in published reports being adjusted to a county basis and Fayetteville data was not yet available for 2022 as of the publication of this report.

Figure 25. Residents Without Housing in the City of Fayetteville and Washington County (2018–2023)



Source: Northwest Arkansas Continuum of Care Point in Time Counts 2018–2023.
**Due to COVID–19 unsheltered count was not completed.*
***Washington County Count only.*

Inputs to Housing Costs: Lumber, Labor, and Land

Factors that affect housing costs can be broadly categorized as Lumber, Labor, and Land. Lumber and Labor represent what is typically considered the private market side part of the housing cost equation, which includes materials costs, design fees, interest rates, profit margins, and construction labor. For this assessment, which will discuss municipal land use policies and anticipated outcomes, the focus will be on the "Land" piece which includes zoning regulations, development regulations, and infrastructure. Land is the part of the complex housing production equation that municipal governments have the most ability to impact, and land costs can be a high percentage of the inputs to housing costs, especially in high growth cities and regions.

Table 11. Fayetteville Single Family House Cost Inputs

Land Cost	$34.09	$75,000	23%
Design/Engineering	$2.18	$4,800	1%
Hard Costs (Materials/Labor)	$86.36	$190,000	59%
Finance Costs	$10.00	$22,000	7%
Marketing/Closing Costs	$14.55	$32,000	10%
Total Costs	$147.18	$323,800	
Profit	$43.00	$53,000	
Sales Price	$190.18	$376,800	

Source: Cost estimates derived from local home builder interviews in 2023 and are based on a base model 2,200 sf spec single–family home in a newly constructed subdivision.

The table above shows current housing cost inputs for the Fayetteville market for a 2,200–square foot, base model, single–family builder home in a new residential subdivision. While the cost of a new single–family home is often much higher in the Fayetteville market at the time of this assessment, this table and the sales price represent new housing units at the low end of the market, with not much probability that this housing type will be sold for less given current materials costs, labor costs, and land costs, plus the highest interest rates in about two decades. Land costs are nearly one quarter for the total costs in this example, but they can be much higher depending on lot size, infrastructure required to support development, and location within the city.

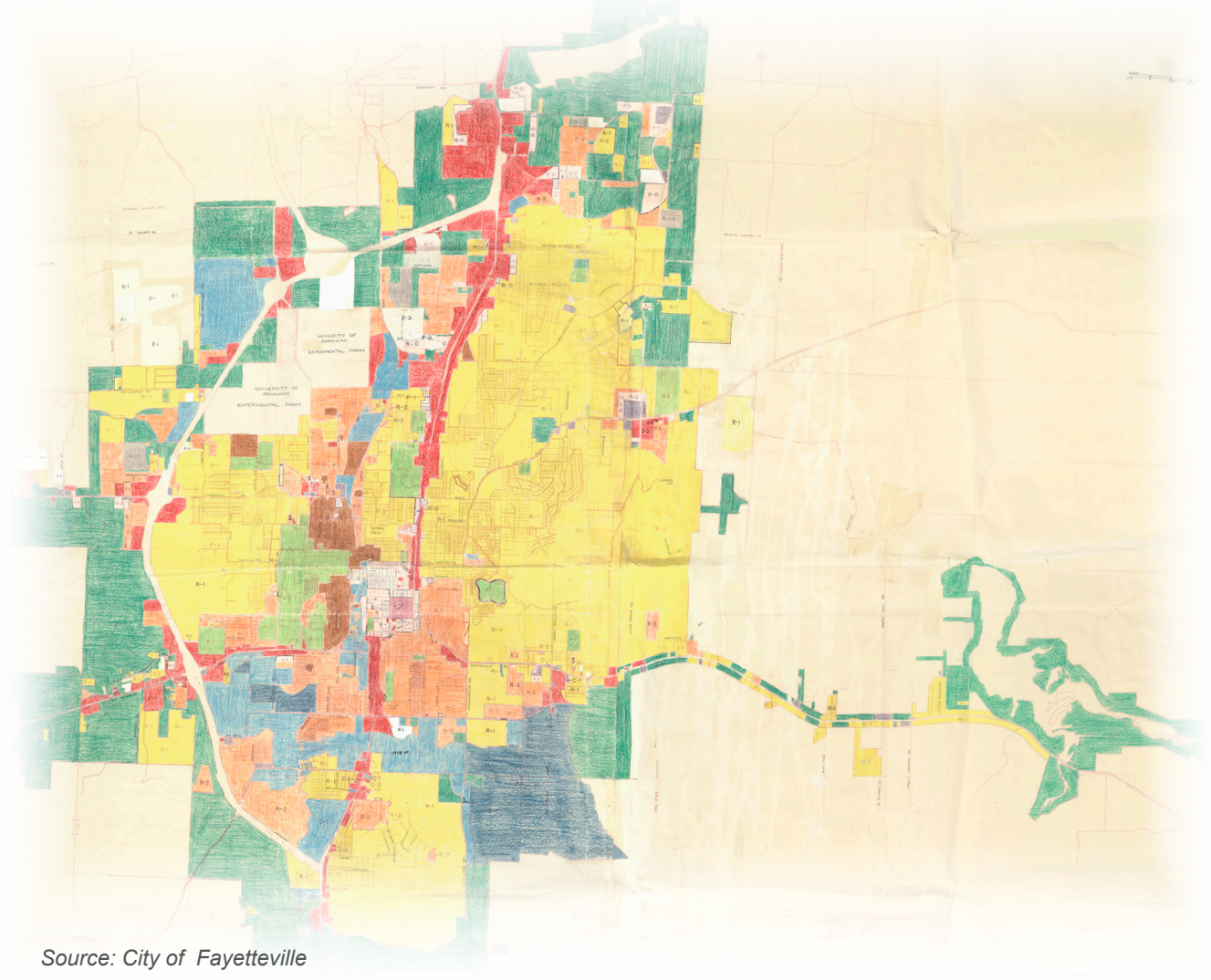
Fayetteville's Zoning History

A history of zoning, or the regulation of land use, in Fayetteville helps explain the context for high land prices today. Fayetteville is not unique in this regard, but a localized explanation is part of a thorough assessment to evaluate possible new land use policies and decisions. The Fayetteville City Council approved the first zoning code on September 10, 1951, with Ordinance 1002, which included seven zoning districts labeled "A" through "G." The first four were residential zoning districts, and the "A" residence district had regulations that would look familiar today, including a minimum lot size of 7,000 square feet. Smaller lots were allowed if they had been previously platted a smaller size, but they could not be occupied by more than one family – hence "single–family zoning." Notably, the preamble to the ordinance begins with, "WHEREAS, it is recognized that land overcrowded with buildings is the most prevalent and worst evil of cities…" and continues with an enumeration of the ills and evils of haphazard growth, congestion, and commercial encroachment. The desired outcome of these regulations was to promote happiness and contentment, stabilize the use and

value of property, and promote the peace tranquility, and good order of the City of Fayetteville.

For some context to this preamble, Fayetteville doubled in population from 1940 to 1950. The city's population has grown by much more decade to decade since then in number, but not by proportion (see Figure 1 on page 8 for population growth in that decade compared to others). The next milestone adoption of zoning code was in 1970, when Ordinance 1747 was adopted on June 29. This ordinance did not include statements of purpose like the 1951 ordinance, but it did include twelve zoning districts and the density minimums for residential development that are still part of the city's zoning code today – a two–acre minimum for dwelling units in the Agricultural zoning district and a density limit of four families per acre or less in the R–1 zoning district, although a density of seven families per acre was allowed for two family dwellings. The map below shows the location and extent of the twelve zoning districts in 1970. Often referred to as the "Crayon" zoning map from 1970, it details zoning in Fayetteville in color for the first time, making the zoning districts easier to visualize compared to the small and crowded zoning maps from the ordinances recorded at that time on letter sized paper.

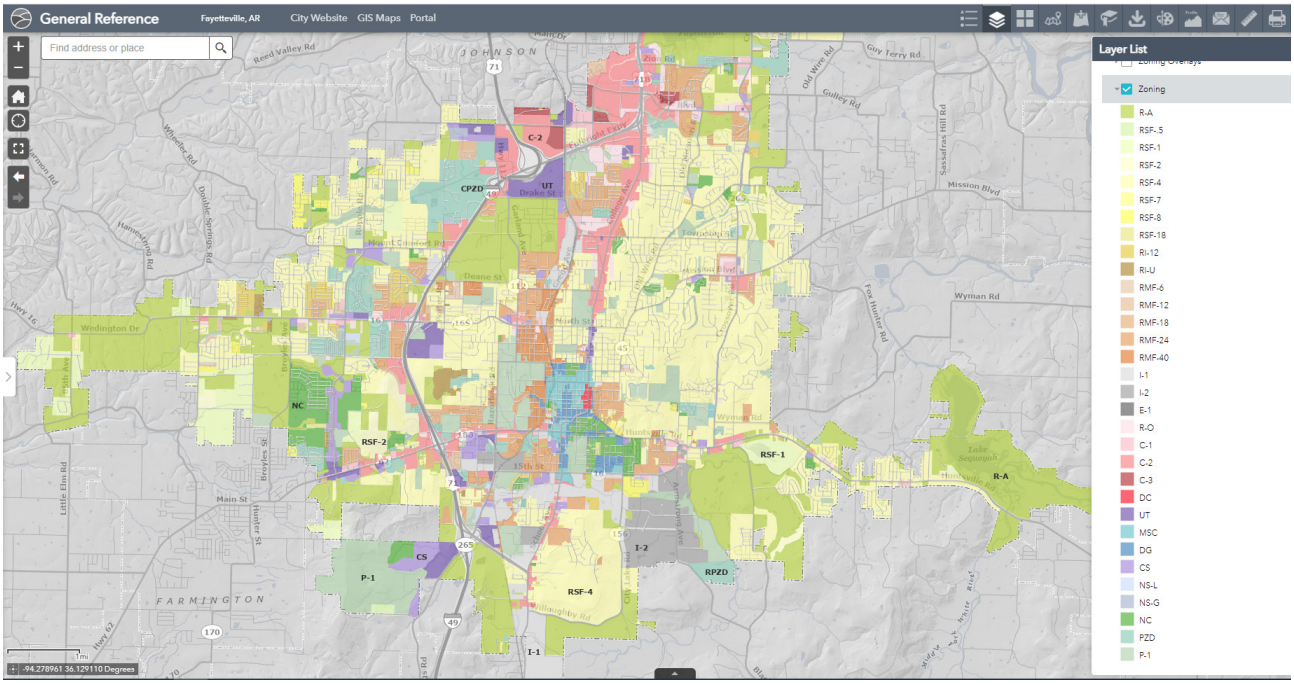
Map 1. 1970 Zoning Map of Fayetteville in Full Color



Source: City of Fayetteville

The colors you see most in the map are yellow, the low–density zoning district (R–1); green, the agricultural zoning district (A); and red, the thoroughfare commercial zoning district (C–2). Orange was medium density residential, which allowed four to twenty–four families (R–2). The remainder of this assessment will focus on the three primary residential zoning districts from 1970 which are still prevalent in Fayetteville today.

Map 2. 2023 Zoning Map of Fayetteville



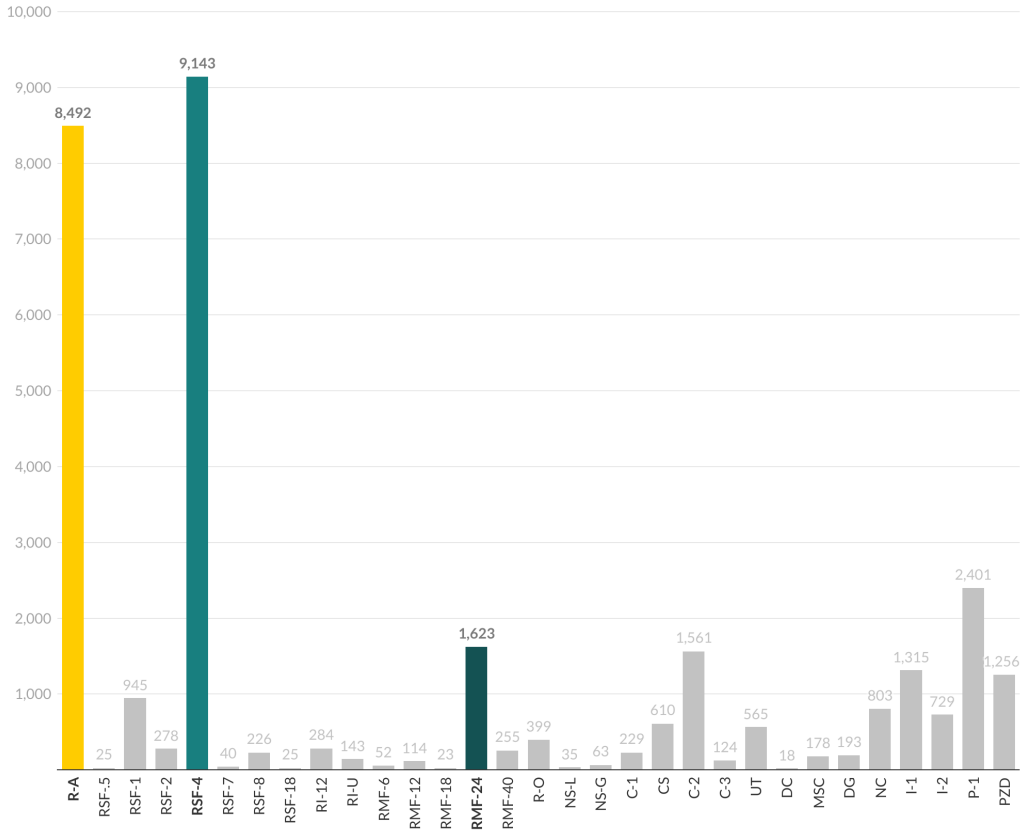
Source: City of Fayetteville October 17, 2023

The Fayetteville Unified Development Code, which includes zoning regulations, was adopted in 2003. The 1970 zoning districts were translated and renamed to their current designations, along with the addition of several new zoning districts. The City Council set policy direction 72 years ago, 53 years ago, and 20 years ago based on the information they had at the time, and that direction has had outcomes we can observe today. Fayetteville chose low density in 1951. Over several decades that choice has resulted in auto dependent development patterns, which the city is investing in sidewalks and trails to mitigate as one of the few feasible and safe transportation options available, and high housing costs because a large proportion of the city is still in low density zoning districts that constrain housing supply.

Current Zoning in Fayetteville

The Fayetteville city limits currently encompass 56 square miles, or 35,918 acres. Of that, 90% is zoned, with the rest being mostly public right–of–way. There are 31 zoning districts in use, with the greatest amount of city acreage in the R–A, Residential–Agricultural (which allows half a housing unit per acre) and RSF–4, Residential Single–Family – Four Units Per Acre districts. These two zoning districts are a combined 55% of the zoned area of the city. If built to their full density entitlement, or build out, a potential 40,816 housing units can be built on the combined acreage of land zoned R–A and RSF–4. By comparison, the 1,623 acres of RMF–24, Residential Single–Family — Twenty–four Units Per Acre zoning, which is just 5% of the city, may accommodate up to 38,942 housing units at full build out. That represents 95% of the housing units allowed by the combined R–A and RSF–4 zoning in under one tenth of the land area.

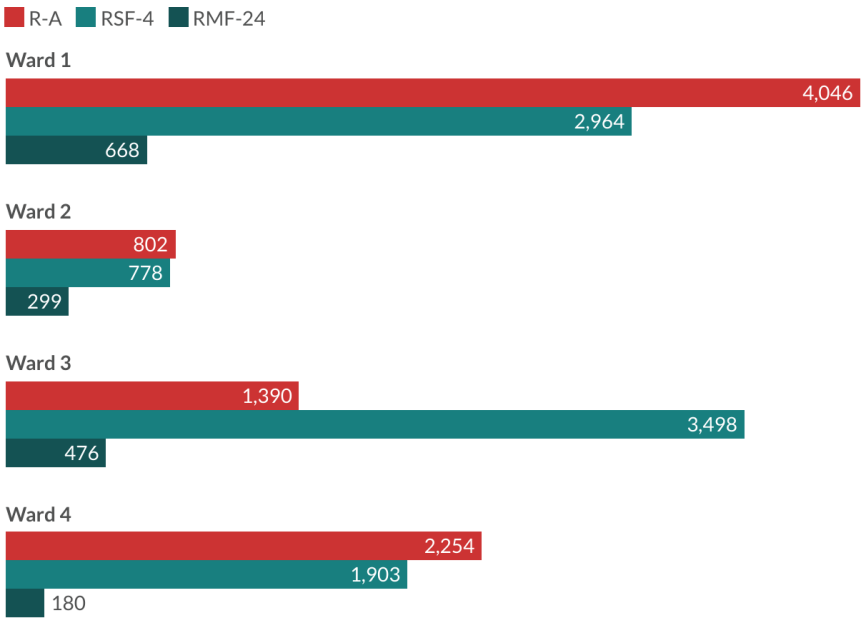
Figure 26. Acreage by Zoning District



Source: City of Fayetteville GIS July 21, 2023

Of the 31 zoning districts in use in Fayetteville, only seven contain more than 1,000 acres of land. 18 zoning districts contain less than 300 acres, including zoning districts that allow for higher densities of housing units.

Figure 27. R–A, RSF–4 and RMF–24 Zoned Acres by Ward



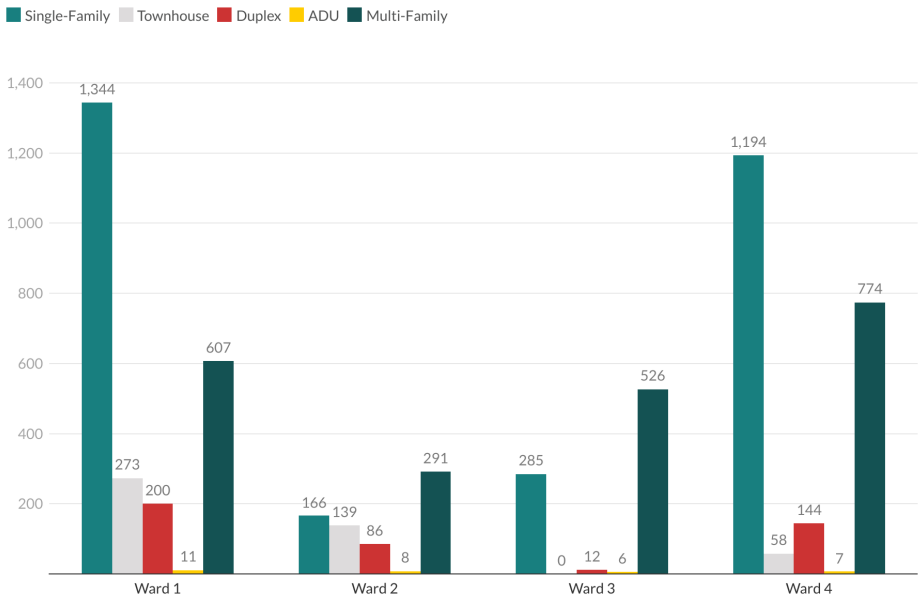
Source: City of Fayetteville GIS July 21, 2023

Ward areas are configured for an even population distribution and are updated following decennial census counts. Their boundaries change over time as the city's population changes, and the land area encompassed by each ward can vary greatly since the population density varies across Fayetteville. Since wards have defined land area, zoning and land uses can be evaluated within each ward. The table above shows that the three longstanding residential zoning districts – R–A, RSF–4 and RMF–24 – remain the majority of residential zoning in each of the four wards more than 50 years after those zoning categories were created. Wards 1 and 3 include large areas of R–A zoning, most prominently at Lake Fayetteville and Lake Sequoyah, and there is substantial portion of the west side of Ward 4 in R–A zoning where more than 1,400 acres were annexed in 2006.

New Housing Units by Ward

While all of Fayetteville's wards are characterized by low density zoning, Ward 3 has the highest acreage in RSF–4 zoning, representing 47% of its land area. Perhaps as a result, Ward 3 also has the least amount of residential building activity. Conversely, Ward 2 has the lowest amount of R–A and RSF–4 zoning, which can be expected given it includes the core of the city and parts of the city's main north–south corridor. Most of the residential building activity from 2018–2022 was in Wards 1 and 4. Ward 1 had 45% of the single–family residential units and 46% of all residential units, while Ward 4 had 40% of the single–family residential units and 36% of all residential units. Wards 2 and 3 combined had 15% of single–family units and 18% of all residential units, with Ward 3 getting 28% of multi–family units.

Figure 28. New Residential Housing Units by Ward 2018–2022



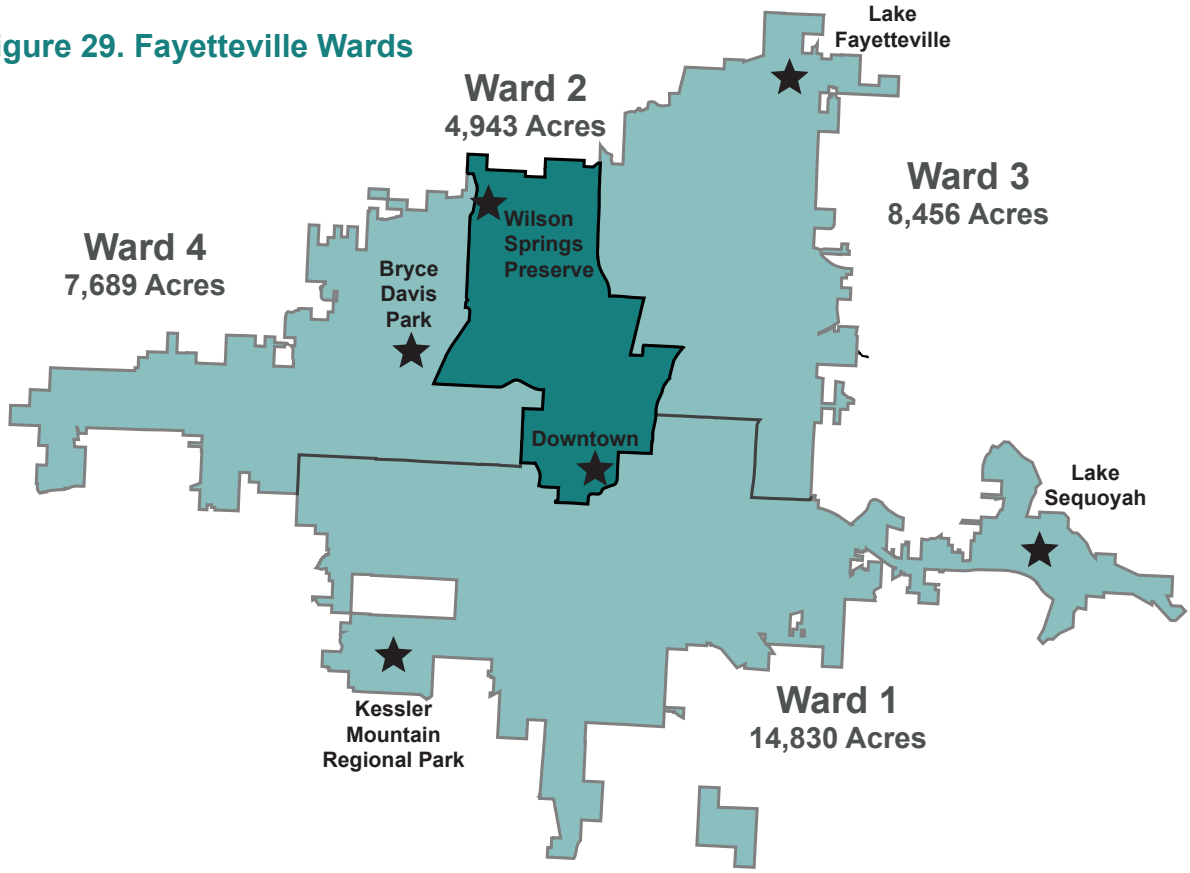
Source: City of Fayetteville Monthly Building Activity Reports 2018–2022

Growth Scenarios for Land Consumption

While the city's population growth may not continue to exceed growth projections every year, the projected and current growth rates present an opportunity to evaluate Fayetteville's current and future housing needs through a few potential scenarios. With a projected growth of at least 51,000 people by 2045, zoning decisions made today will impact future land consumption and housing affordability. Land consumed by housing varies widely with the type of housing built and at what density, as the following scenarios illustrate. The additional housing units that are needed to accommodate the current population projections to 2045 can be constructed in endless configurations, but the three scenarios illustrated in the next few pages show the relationship between zoning and land consumption.

The Fayetteville city limits currently encompass 56 square miles or 35,918 acres. The city is divided into four wards for representation by the City Council, and each ward has a different land area as the ward boundaries are drawn for an equitable representation by population. Because of the population basis for their boundaries, Fayetteville's four wards currently vary from 4,943 acres to 14,830 acres, with each ward having different demographic, development, natural resource, and topographic features. Ward 2 has the highest population density and smallest land area, which provides a helpful basis for considering scenarios to house Fayetteville's growing population.

Figure 29. Fayetteville Wards



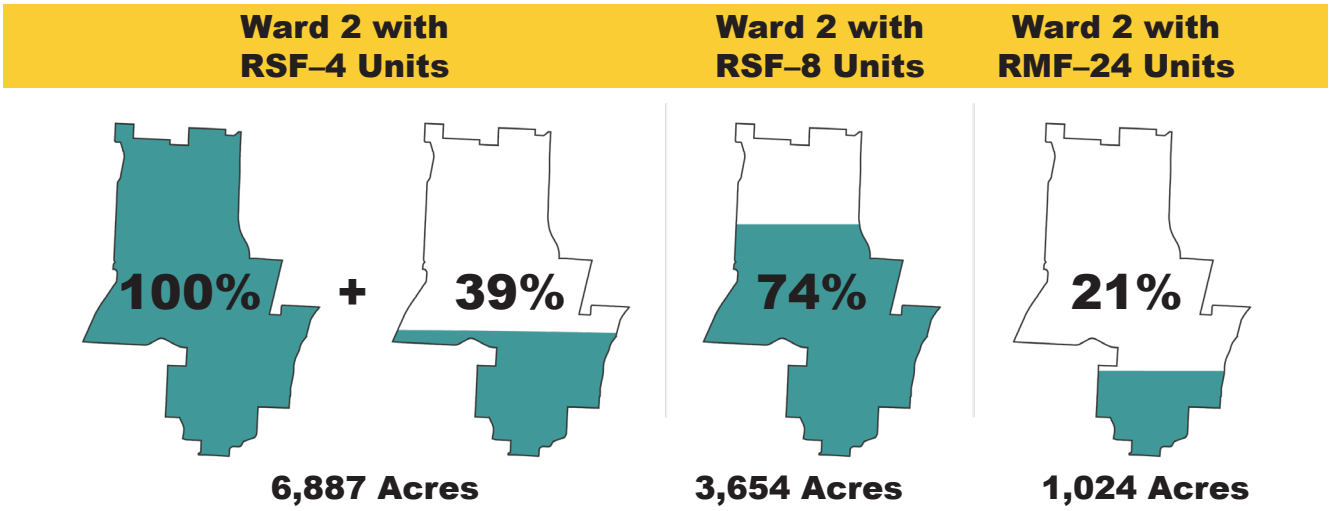
Projected Population Growth Scenarios

With Fayetteville projected to grow by an additional 51,689 people between 2022 and 2045, the city requires an estimated 23,602 additional housing units based on the current average of 2.19 people per household. New housing units built on greenfield sites (sites not previously developed) or sites completely redeveloped to current standards require land area for both construction of housing units and public infrastructure like streets. Streets must meet engineering and design standards with minimum widths for travel lanes, and zoning standards require lots to be a minimum width for reasons that can include access, utility service, uniform development patterns, and density goals. Density goals influence the amount of land consumed by housing, as exemplified by the three following scenarios:

Scenario 1: 2022 – 2045 Projected Growth Rate Housing in RSF–4 Zoning. Residential Single–Family Four Units per Acre is one of the two predominant zoning districts in Fayetteville, taking up approximately a quarter of the city acreage and allowing housing density at four units per acre. At that density the projected population growth would require 5,901 acres of lots and an additional 986 acres of right–of way for a total of 6,887 acres – equivalent to 139% of the current land area of Ward 2.

Scenario 2: 2022 – 2045 Projected Growth Rate Housing in RSF–8 Zoning. RSF–8 is the zoning designation closest to historic lot size and density in Fayetteville, allowing housing density at eight units per acre. At that density the projected population growth would require 2,950 acres of lots and an additional 704 acres of right–of way for a total of 3,654 acres – equivalent to 74% of the current land area of Ward 2.

Scenario 3: 2022 – 2045 Projected Growth Rate Housing in RMF–24 Zoning. RMF–24 allows both single–family and multi–family housing at a much greater density than single–family zoning districts, up to twenty–four units per acre. At that density the projected population growth would require 983 acres of lots and an additional 41 acres of right–of way for a total of 1,024 acres – equivalent to 21% of the current land area of Ward 2 and less than one sixth of the land consumed for the same number of housing units in the RSF–4 zoning scenario.



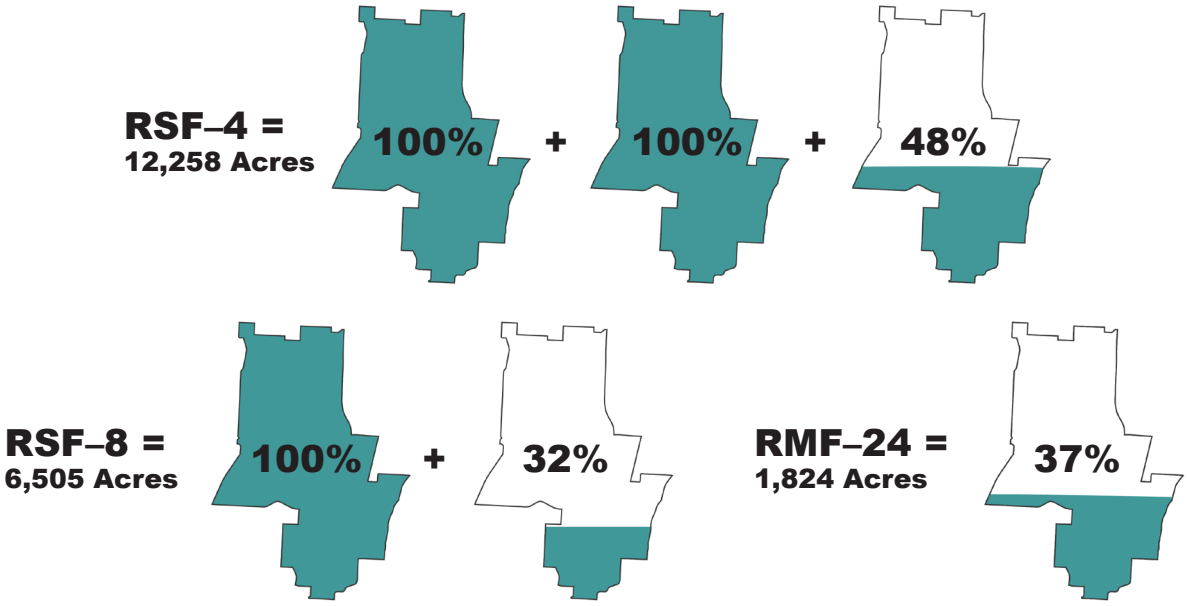
Current Population Growth Scenarios

From 2020–2022 Fayetteville's population grew by 17% more than the projected population growth, and from 2021–2022 the population increased by 78% above projected growth, quickly creating a need for additional housing above both anticipated population growth and actual housing production. The scenarios below show land consumption by projecting the 2021–2022 population growth, increasing 78% above the scenarios above. While it is an extreme example, it does illustrate the potential for high rates of future land consumption with low–density housing.

Scenario 1: 2021 – 2022 Growth Rate Housing in RSF–4 Zoning. With growth increasing by 78% above projected, the equivalent of more than two times the entire land area of Ward 2 would be required for housing if it were all in the RSF–4 zoning district, allowing four units per acre. At that density the increased population growth projected would require 10,502 acres of lots and an additional 1,755 acres of right–of way for a total of 12,258 acres – equivalent to 248% of the current land area of Ward 2.

Scenario 2: 2021 – 2022 Growth Rate Housing in RSF–8 Zoning. Using the RSF–8 zoning district for new housing would still require more than the entire land area of Ward 2. A housing density of eight units per acre would require 5,251 acres of lots and an additional 1,254 acres of right–of way for a total of 6,505 acres – equivalent to 132% of the current land area of Ward 2.

Scenario 3: 2021 – 2022 Growth Rate Housing in RMF–24 Zoning. At a 24 unit per acre density the projected increased population growth would require 1,751 acres of lots and an additional 73 acres of right–of way for a total of 1,824 acres – equivalent to 37% of the current land area of Ward 2 and again less than one sixth of the land consumed in the RSF–4 zoning scenario.



Page 33 of this assessment highlighted that high demand puts upward pressure on Lumber, Labor and Land – the primary components of the housing cost equation. To an extent, Lumber and Labor can be imported when local resources are depleted to add more capacity. In the above scenarios we see land area as an exhaustible resource where the option to import land – which is to add land by annexation – has a high cost, one which is compounded by a lifetime of operation, maintenance, and service needs.

While the scenarios above stop at estimating the land consumption needed for low to medium–density residential zoning, other densities and approaches are available that have the potential to further reduce land consumed by housing. Alternatives to annexation and low–density development can also assist with natural resource protection, make more efficient use of public infrastructure, and provide urban amenities and lifestyles for residents who are seeking those options. Fayetteville's current zoning code has districts intended to support dense, walkable urban development built between five and seven stories in height. Many of these urban–oriented zoning districts do not have housing unit density limits, and it would be challenging to calculate the number of acres required for housing to be built in these zoning districts with the same clarity as zoning districts that have density limits. However, the following mixed–use and residential developments show urban, multi–family housing densities that could be achieved under current zoning and development standards.

Table 12. Urban Development Density Examples in Fayetteville

Development	Zoning	Building Type	Stories	Units	Acres	Units/Acre
The Marshall	UT	Multi–Family	7	226	4.9	46
South Yard Lofts	MSC	Multi–Family	3 to 4	128	3.5	36
Uptown Fayetteville	C3	Mixed Use	3 to 5	268	14	19

The three developments above average to nearly 28 units per acre. If this development density were deployed at a larger scale in areas that could support development of this type, the projected 23,602 additional housing units could be constructed in just 843 acres of land – less than the 1,400 acre land area of Fayetteville's Lake Sequoyah Park on the far east side of the city.

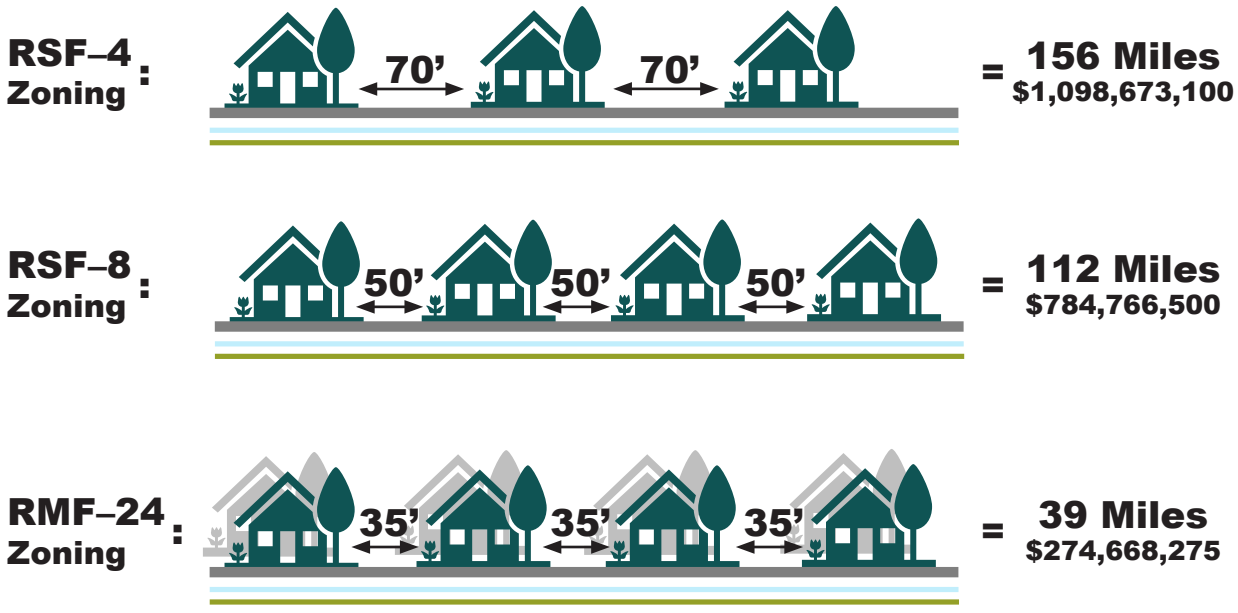
Additional Growth Impacts: Infrastructure

Housing is connected by streets and serviced by water and sewer in cities, with the city government taking on either a lifetime of operation and maintenance costs for these infrastructure elements if they are dedicated by a developer, or building and maintaining them from the start. Infrastructure represents a tremendous future liability, with road surfaces needing replacement every 15–20 years on average and full replacement of water and sewer systems typically occurring less frequently, but at costs typically above and beyond annual city budgets and requiring bond financing. If the city builds and/or maintain roads, water, and sewer, the city also has a choice about how many houses are served with the same amount of infrastructure. Viewed as a transaction in which infrastructure has the potential to increase revenues, there is greater tax benefit to having more dwellings on fewer linear feet of infrastructure. The infrastructure required to serve new housing units also could be constructed in different scenarios, but the following three are consistent with the land consumption scenarios above.

RSF–4 zoning requires a minimum of 70–foot for lot widths. Serving the 23,602 housing units needed to support projected population growth this way would require at least 156 miles of infrastructure, at a cost of more than one billion dollars at current prices.[12]

Despite the doubling of density allowance, **RSF–8 zoning** requires 50–foot lots widths, which will not reduce infrastructure costs by half, but it will reduce the linear distance of water, sewer, and streets to about 112 miles, costing more than three–quarters of one billion dollars.

RMF–24 zoning provides a couple of options by contrast. Single–family houses can be built with 35–foot minimum lot widths, or multiple units can be built on the same lot, potentially reducing infrastructure costs to about 39 miles or just over one–quarter of one billion dollars.



The projections above, like the land consumption projections, are based on residential zoning districts rather than the urban–oriented zoning districts that have no density limits and limited requirements for minimum lot width. Taking the example in the section above that proposed 23,602 housing units could be constructed on 843 acres of land in an urban, mixed use zoning district, and be served by 15.2 miles of public infrastructure.

[12] *Infrastructure costs are based on September 2023 cost per linear foot of $1,330 for the Residential Link Master Street Plan section (52' right–of–way width) with both water and sewer lines installed concurrently.*

Policy Options for the Future

This assessment does not propose that the solution to housing affordability is to rezone the entirety of Fayetteville to RMF–24 zoning. Similarly, zoning is not the only solution to high and growing housing costs. Policy choices can, however, focus on adding housing density in strategic places to take advantage of existing infrastructure in high intensity areas that don't currently allow for housing. When combined with existing services, infrastructure, and amenities, these housing units can provide a number of benefits, including reducing vehicle trips. Fayetteville's City Plan 2040, the comprehensive plan adopted in 2020, includes several options for additional housing density in core areas that are already high intensity and offer close access to services.

Staff in the City of Fayetteville's Long Range Planning and Sustainability divisions worked with University of Arkansas graduate students in the Master of Public Administration program in the spring semester of 2023 to analyze three scenarios for single–family housing. The students produced a report at the end of the semester that aimed to identify the most effective zoning policy to increase single family residential density in Fayetteville. The three scenarios explored were a baseline analysis of maintaining the zoning status quo; rezoning all residential single–family zones to the RSF–8 zoning district; and allowing duplex, triplex, and fourplex construction by right in all current single–family zoning districts. Based on their analysis, the students recommended the third option, writing, "Increased housing diversity has the greatest net social benefit for Fayetteville. In addition to having the greatest potential for increased housing supply, this policy is the most efficient and equitable. Overall, creating the option for multifamily unit construction by right provides the strongest policy for Fayetteville's future growth." Although the report focused on single–family zoning, the lessons learned and the main point — that creating the option for multi–unit housing by right is the strongest policy for Fayetteville's future growth — align with the planning work and master plan documents/corridor planning that Fayetteville has been engaged in for the last several years.

Prior to the onset of the COVID–19 pandemic the City of Fayetteville was engaged in writing and implementing two key plans that set a priority for both housing and a high–quality urban environment. City Plan 2040 was adopted only months prior to the pandemic–related closure of city offices and the quick adjustment to online meetings and engagement. Several plan implementation steps were paused for about two years while community health and safety were prioritized, and the city is now moving forward again to engage with the community to address the challenges that arose just prior to and during the pandemic that are the impetus to bring the implementation actions from these adopted plans back into the spotlight.

Long Range Plan Implementation

Fayetteville's City Plan 2040 was written to support the city's six goals:

1. **We Will Make Appropriate Infill and Revitalization Our Highest Priority.**
2. **We Will Discourage Suburban Sprawl.**
3. **We Will Make Compact, Complete, and Connected Development the Standard.**
4. **We Will Grow A Livable Transportation Network.**
5. **We Will Assemble An Enduring Green Network.**
6. **We Will Create Opportunities for Attainable Housing.**

All six goals have short–term, long–term, and ongoing "benchmarks," or action items to implement the adopted plan. Page 47 of the plan lists the short–term benchmarks, or action items meant to be accomplished between 2019 and 2025. Although plan implementation has been somewhat delayed by the COVID–19 pandemic, 8 of the 25 short–term benchmarks are not yet underway but are directly related to the city's role in responding to population growth and increasing housing supply, and that the Fayetteville City Council could consider prioritizing (City Plan 2040 associated goals and current status listed in parentheses):

- Develop internal processes to align funding, development and planning of city infrastructure with the goals of City Plan 2040. (Goal 1 & 2; ongoing with streamlined permitting and new software)

- Identify existing properties that are vacant or prime for redevelopment and initiate form–based rezoning discussions with property owners. (Goal 1, 2, & 3; ready to begin with 71B rezoning)
- Evaluate development thresholds based on quantitative metrics such as building form, not building type, and the encouragement of missing middle housing. (Goal 1, 2, 3, and 6; ongoing)
- Evaluate conditional use permit vs. use–by–right for appropriate infill. (Goal 1; ongoing)
- Identify gaps in affordability throughout the city and set numerical targets for housing that is affordable to a variety of households, including workforce, supportive, low income, families with children, and senior housing. (Goal 1, 3, 4, & 6; initiated with this analysis)
- Promote long–term affordability by targeting the use of public funds for the lowest income households, including those who are homeless, at risk of homelessness, or who have other special needs. (Goal 6; ongoing with federal HOME and American Rescue Plan Act funds)
- Examine potential regulatory barriers and policies that impede the provision of household affordability, including: infrastructure costs, the costs and benefits of development ordinances on housing development, and how the City's fees and requirements impact the cost of living for households in Fayetteville. (Goal 1 & 6; development fee study underway)
- Identify opportunities for the creation of affordable housing on publicly–owned land and develop partnerships with developers to provide flexible, affordable work space and housing. (Goal 6; initial discussions and review of potential projects underway)

Long–term benchmarks (more than five years from plan adoption) that are directly related to housing but not yet underway are:

- Evaluate the development and implementation of a tiered impact fee system. (Goals 1 & 2; not yet begun)
- Evaluate existing street design speed, operating speed and posted speed limits, to ensure that each is appropriate based on the roadway design and context of the surrounding environment. (Goal 4; ongoing with speed limit review and traffic calming procedures in residential neighborhoods)
- Create a complete neighborhood or street corridor plan every other year utilizing a charrette process and analyze water and sewer capacity to identify opportunities or limitations for development. (Goal 1, 4, & 6; not yet begun)

Ongoing benchmarks should also be highlighted here given the pause in plan implementation, as some may need to be prioritized for action:

- Support rezoning proposals that result in increased density around logical future transit stops, rail corridors and major transportation corridors. Recommendations should generally align with the Growth Concept Map. (Goal 4)
- Support development and redevelopment opportunities along the existing rail line. (Goal 4)
- Support and implement the goals, strategies and actions of the transformational 71B Corridor plan. (Goal 1, 2, & 4)
- Implement and utilize the Growth Concept Map to strategically incentivize the development of Tier–1, Tier–2, and Tier–3 commercial and mixed–use nodes along major corridors and as neighborhood centers. (Goal 1, 2, 3, 4, 5, & 6)
- Support the creation of a "real–time" database of available affordable housing units, services, resources, and incentives to strengthen the process of connecting qualified buyers and renters with affordable housing to comprehensively lower monthly household expenses. (Goal 6)
- Promote long–term affordability by developing new goals, targets, and strategies to promote the distribution of affordable housing in all parts of the city, including incentives for affordable housing in new developments and for the preservation of existing rental units. (Goal 6)

The remaining benchmarks do not have to be approached separately, but could instead be pulled together in a complete approach to developing housing solutions, particularly in areas of the city that have been identified as best able to support dense housing along major corridors and in places that support a mix of

housing and commercial development, such as Fayetteville's downtown area. As an example of the potential for a cohesive approach to plan implementation, three of the items listed in the ongoing benchmarks are closely tied together and could be approached as a single project. Supporting zoning proposals around major transportation corridors, supporting and implementing the goals, strategies and actions of the 71B Corridor Plan, and implementing and utilizing the Growth Concept Map on pages 13–16 of the plan document could all come together with a city–initiated project to rezone property along the 71B corridor (College Avenue, Nelson Hackett Boulevard, and South School Avenue) to allow for housing on properties that have extensive existing infrastructure, are located along a major transportation corridor that is already scheduled for additional investment to support development and alternative transportation, and that have limited proximity to existing residential neighborhoods. Additionally, there are multiple tier centers along this route that could be incorporated as part of the implementation of the growth concept map, furthering plan implementation in the same project.

Preserve Existing Affordable Housing

Table 3 on page 20 of this assessment showed current average monthly rents for new apartments, with average rent for a two bedroom apartment just over $1,400 per month. Table 4 on the same page showed that affordable housing costs for the median household income in Fayetteville should not exceed $1,325 per month, which includes utilities and insurance costs. Current rents for newly constructed housing units are above affordable costs for at least half of Fayetteville households, and building new housing units does not provide a successful solution if the new units are at the cost of losing existing affordable housing.

In 2019 the City of San Antonio, Texas, engaged the firm PlaceEconomics to assess the risks to older and existing affordable housing stock as the city experienced rapid population growth and redevelopment. The results of this assessment, published as the report *Opportunity at Risk*,[13] were a caution against the assumption that newly constructed housing is the best way to achieve affordable housing goals. Some of the context of the 2019 report presented in the Executive Summary would be familiar to Fayetteville today:

- One in three San Antonio households is spending more than 30 percent of their income on housing and nearly half of all renters meet this "cost burdened" threshold.
- Over the last decade, while median household income increased 1.9% per year, housing prices increased at 4.7% per year.
- While San Antonio is experiencing greater than national average growth in jobs and housing, most of the new homes are large and expensive, and much of the job growth is in lower wage jobs.
- The existing pre–1960 housing stock is providing largely unsubsidized and unprotected affordable housing.
- Single family, renter–occupied structures in fair and poor condition are the most at–risk of demolition.

The main takeaway of the report is clear and succinct: "A city cannot build itself out of a housing crisis — the retention of existing housing stock is critical." Additionally, the report claimed three demonstrable premises:

1. One cannot build new and rent or sell cheap without subsidy.
2. Almost by definition when a unit of older housing is razed, a unit of affordable housing is lost forever.
3. Existing affordable housing programs — as useful and successful as they may be — must be realigned to address older housing stock.

The conclusion provided a caution to other rapidly growing cities facing housing affordability challenges:

[13] Report available at sanantonio.gov/Portals/0/Files/HistoricPreservation/CurrentProjects/AffordableHousing/OpportunityAtRisk–Report.pdf

"Until the City of San Antonio can put new programs and policies into place, to reach the goal that the "average San Antonio family can afford to buy a home," the data illustrates that San Antonio is systematically razing housing that is affordable and building housing that is not." As Fayetteville looks to add housing units to supply, it is worth noting that new supply should be carefully balanced with preserving existing affordable housing — housing that can be in areas prime for redevelopment due to growing land values compared to declining value of aging structures.

Programs that provide assistance to low income households to help residents stay in their homes are a key part of preserving existing affordable housing. The City of Fayetteville's Community Resources Department completed home repair and rehabilitation projects for eighteen housing units and thirty–two residents in 2022 with funding from federal Community Development Block Grants (CDBG). The CDBG Program supports community development activities to build stronger and more resilient communities. To support community development, activities are identified through an ongoing process. Activities may address needs such as infrastructure, economic development projects, public facilities installation, community centers, housing rehabilitation, public services, clearance/acquisition, microenterprise assistance, code enforcement, homeowner assistance, etc.[14] The 2022 housing program projects in Fayetteville included roof repair, replacement and installation of heating and cooling equipment, repairs of holes in floors, new plumbing fixtures, new flooring, new windows, and plumbing repairs.

As of this assessment in 2023, the Community Resources Department has supported thirteen projects and eighteen residents with repair work that has included drywall repair, new roofs, new windows, new plumbing fixtures, basement remediation, and new plumbing fixtures. Total project costs for 2023 currently total $118,365 with an average project cost of $9,105. Participation in the CDBG program and accessing federal home repair funds will continue to be an important tool for preserving affordable housing for residents and keeping families in their homes.

[14] hudexchange.info/programs/cdbg/

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Glossary

Accessory Dwelling Unit (ADU): Also called mother–in–law suites, garage apartments, or granny flats, ADUs are located on the same lot as a primary dwelling unit, such as a single family house, duplex, townhouse or condo.

Affordable Housing: Housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities.

American Community Survey (ACS): A demographic survey conducted by the U.S. Census Bureau. It is sent out every month of every year to random sets (samples) of addresses in the 50 United States, District of Columbia, and Puerto Rico. It asks questions that are not on the decennial census, such as education, employment, internet access, and transportation, and provides updated population estimates on both one–year and five–year basis.

Attainable Housing: Housing that is affordable to people earning around the Area Median Income (AMI). Households living in attainable housing and earning between 80% and 120% of the AMI should not need to spend more than 30% of their income on housing costs.

Cost Burdened: Defined by the Code of Federal Regulations (CFR) as households that pay more than 30 percent of their household income on housing costs (including utilities) or households that pay more than 45 percent of their household income on housing costs (including utilities) and transportation to work and necessities.

Department of Housing and Urban Development (HUD): The Department of Housing and Urban Development is the Federal agency responsible for national policy and programs that address America's housing needs, that improve and develop the Nation's communities, and enforce fair housing laws. HUD's business is helping create a decent home and suitable living environment for all Americans, and it has given America's communities a strong national voice at the Cabinet level. HUD plays a major role in supporting homeownership by underwriting homeownership for lower– and moderate–income families through its mortgage insurance programs.

Extremely Low–Income Family (ELI): Families whose incomes do not exceed the higher of the Federal poverty level or 30% of area median income.

Family Income: Total family income is the sum of the total person's income for each family member; total household income is the sum of the total income for each person in the household. Source: www2.census.gov/programs–surveys/cps/techdocs/cpsmar22.pdf

Fannie Mae: Fannie Mae is a leading source of mortgage financing in the United States. The organization purchases mortgage loans made by lenders, who are then able to use those funds to offer mortgage loans to more people. They partner with mortgage lenders and servicers, housing counselors, real estate agents, nonprofit organizations, and other industry professionals to help people obtain a home and stay in that home when faced with hardship or disaster. For more information visit fanniemae.com/.

Freddie Mac: Freddie Mac is the officially recognized nickname for the Federal Home Loan Mortgage Corp. (FHLMC). The organization was chartered by Congress in 1970 to support the U.S. housing finance system and to help ensure a reliable and affordable supply of mortgage funds across the country. Rather than lending directly to borrowers, Freddie Mac operates in the U.S. secondary mortgage market, buying loans that meet our standards from approved lenders. Those lenders are then, in turn, able to provide more loans to qualified borrowers and keep capital flowing into the housing market. Freddie Mac then pools the mortgages it buys into securities, which they sell to investors around the world. For more information visit freddiemac.com/.

Glossary

Fayetteville Median Income (FMI): For purposes of this housing analysis, the FMI is the midpoint of incomes of those who live in Fayetteville according to the U.S. Census. Half of the incomes in Fayetteville are above the FMI and have of the incomes in Fayetteville are below the FMI.

High Cost Burden: Gross housing costs, including utility costs, are 41 to 50 percent of gross income.

Household Income: Includes pretax cash income of the householder and all other people 15 years old and older in the household, whether or not they are related to the householder.

HUD: United States Department of Housing and Urban Development. For more information visit hud.gov/.

Income in the Past 12 Months – Income of Households: This includes the income of the householder and all other individuals 15 years old and over in the household, whether they are related to the householder or not. Because many households consist of only one person, average household income is usually less than average family income. Although the household income statistics cover the past 12 months, the characteristics of individuals and the composition of households refer to the time of interview. Thus, the income of the household does not include amounts received by individuals who were members of the household during all or part of the past 12 months if these individuals no longer resided in the household at the time of interview. Similarly, income amounts reported by individuals who did not reside in the household during the past 12 months but who were members of the household at the time of interview are included. However, the composition of most households was the same during the past 12 months as at the time of interview. Source: census.gov/quickfacts/fact/note/US/INC110221

Northwest Arkansas Regional Planning Commission (NWARPC): In 1983 NWARPC was designated as the Metropolitan Planning Organization (MPO) under U.S. Department of Transportation regulations for transportation planning purposes. The MPO is designated by the Governors of Arkansas and Missouri to conduct the federally mandated 3C planning process – Comprehensive, Continuing and Cooperative – necessary for transportation projects to qualify for federal transportation funds.

Median: The median divides the income distribution into two equal parts: one–half of the cases falling below the median income and one–half above the median. For households and families, the median income is based on the distribution of the total number of households and families including those with no income. The median income for individuals is based on individuals 15 years old and over with income. Median income for households, families, and individuals is computed on the basis of a standard distribution. For the complete definition, go to ACS subject definitions “Income in the Past 12 Months.” Source: census.gov/quickfacts/fact/note/US/INC110221

Middle–Income Housing: Housing considered affordable to householders making a combined income between 80 percent and 120 percent area median income. Housing in this income range does not qualify for HUD dollars or for low income tax credits.

Missing Middle Housing: A range of house–scale buildings with two units to multiple units compatible in scale and form with detached single–family homes located in a walkable neighborhood. Source: missingmiddlehousing.com

Moderate Cost Burden: Gross housing costs, including utility costs, are 31 to 40 percent of gross income.

Moderate–Income family: Family whose income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD establish income ceilings higher and lower than 80 percent of the median for the area on the basis of HUD’s findings that such variations are necessary because of prevailing levels of construction costs or fair market rents or unusually high or low family incomes.

Glossary

Natural/Ideal/Optimal Vacancy Rate: The rental average vacancy rate over time in the U.S. is 7%, the owner average vacancy rate is 1.4%. Source: economistsview.typepad.com/economistsview/2005/11/the_natural_vac.html

An optimal or natural vacancy rate is between 5 and 8 percent for rental housing. Source: uslendingcompany.com/blog/what–is–a–vacancy–rate–how–does–this–help–predict–housing–markets/. The (national) rental vacancy rate for Q1 2022 was 5.8% – higher than the historical low of 5.0% recorded prior to 1985. Source: census.gov/library/stories/2022/05/housing–vacancy–rates–near–historic–lows.html

Northwest Arkansas (NWA): For purposes of this housing analysis, NWA is defined as the cities, towns and areas supported by the Northwest Arkansas Regional Planning Commission (the Metropolitan Planning Organization for NWA). This area begins at the northwest corner of Arkansas, bounded by Missouri on the north and Oklahoma on the west. The east side of the region ends with the eastern boundary of Benton and Washington Counties, and the southern border ends at the southern border of Washington County.

Northwest Arkansas Community of Practice for Attainable Housing (CoP): A collaborative group of northwest Arkansas planning professionals organized and hosted by the Northwest Arkansas chapter of the Urban Land Institute to work together on creating a toolkit for creating attainable housing in the region.

Northwest Arkansas Regional Planning Commission (NWARPC): In 1983 NWARPC was designated as the Metropolitan Planning Organization (MPO) under U.S. Department of Transportation regulations for transportation planning purposes. The MPO is designated by the Governors of Arkansas and Missouri to conduct the federally mandated 3C planning process – Comprehensive, Continuing and Cooperative – necessary for transportation projects to qualify for federal transportation funds.

Poverty Level family: Family with an income below the poverty line as defined by the Office of Management and Budget and revised annually.

Severe Cost Burden: Gross housing costs, including utility costs, exceed 50 percent of gross income.

Transitional Housing: A project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living within 24 months, or a longer period approved by HUD.

Federal Housing Programs and Subsidies

Federal public housing programs began with the passage of the Housing Act of 1937. In the nearly nine decades since, federal housing programs and policies have evolved to a complex combination of public housing developments; tax credits for privately–constructed, affordable housing development; vouchers for rental assistance; and support services and programs focused on low income households. Area Median Income (AMI) has become the centerpiece of calculations for eligibility for these programs as household incomes are used as a basis for eligibility and as housing developments must provide a set number of units based on income levels to qualify for federal subsidies. The Department of Housing and Urban Development (HUD) sets income limits that determine eligibility for assisted housing programs including the Public Housing, Section 8 project–based, Section 8 Housing Choice Voucher, Section 202 housing for the elderly, and Section 811 housing for persons with disabilities programs. HUD develops income limits based on Median Family Income estimates and Fair Market Rent area definitions for each metropolitan area, parts of some metropolitan areas, and each non–metropolitan county: huduser.gov/Portal/datasets/il.html. Fannie Mae provides an AMI lookup tool online here: ami–lookup–tool.fanniemae.com/amilookuptool/.

As housing costs increase across a region and fewer units are available at a price that is affordable to low income households, federal programs and subsidies may not sufficiently cover the need, as programs administered at the state level – like Low Income Housing Tax Credits (LIHTC) – and programs administered at the local level, like public housing and Section 8 vouchers, may not be sufficiently resourced to meet the growing need. Public housing eligibility is based on income limits at 80% AMI, with both household income and number of people factored in. 2023 income thresholds for the Fayetteville MSA are published at huduser.gov/portal/datasets/il/il2023/2023summary.odn?inputname=METRO22220M22220*Fayetteville–Springdale–Rogers%2C+AR+MSA&wherefrom=%24wherefrom%24&selection_type=hmfa&year=2023. More information on public housing and eligibility is available at hud.gov/topics/rental_assistance/phprog. Additional information on the long–term impact of cuts to public housing and HOME funds from the Center on Budget and Policy Priorities is available at cbpp.org/research/housing/cuts–in–federal–assistance–have–exacerbated–families–struggles–to–afford–housing.

Housing developed with the LIHTC must provide units on an affordability schedule, matching a minimum number of units with income levels defined by AMI. The LIHTC is the largest federal program encouraging the creation of affordable rental housing for low–income households. LIHTC addresses a major market failure—the lack of quality affordable housing in low–income communities. However, the credits have an annual cap and critics have noted that some state housing finance authorities tend to approve LIHTC projects in ways that concentrate low–income communities where they have historically been segregated and where economic opportunities may be limited. While the LIHTC may help construct new affordable housing, maintaining that affordability is challenging once the required compliance periods are over. More information is available at taxpolicycenter.org/briefing–book/what–low–income–housing–tax–credit–and–how–does–it–work.

The LIHTC program highlights a gap in the income ranges for which housing is typically built. Federal subsidies are available for households making up to 80% AMI and “market rate” housing, or housing built with traditional financing by the private sector, is typically constructed for households making above 120% AMI. Housing for this middle range of households, those making 80%–120% AMI, is often referred to collectively as “attainable housing” or “workforce housing,” and these income ranges are shown specifically for Fayetteville on the table on page 20. This group does not typically have new housing options and is more likely to be in older housing stock available at rents in the middle to low range of the market.

Case Study: Five Zoning Hacks

Some of the most popular approaches put forward to solve housing challenges are directly related to a city's zoning policies. Katie Woock's 2022 article "5 Practical Zoning Hacks for Missing Middle Housing" published by the American Planning Association and authors Alex Baca, Patrick McAnaney, and Jenny Shuetz 's 2019 article "'Gentle' Density Can Save Our Neighborhoods" published by Brookings offer specific steps to gently increase the amount of housing available in a city, creating more opportunities for housing to be affordable and consuming less land for housing:

1. Allow multi–family building on lots that are the same size as single–family lots. Both articles agree that duplexes through small multi–family buildings can easily fit in with the character, mass and scale of single–family neighborhoods. Baca, McAnaney, and Shuetz point out that the cost of land also impacts the cost of the housing unit, so allowing more housing on the same lot makes the individual units more cost–effective. They also assert that allowing multiple units per lot creates potential for more small units, providing opportunities for individuals to move into smaller units and freeing up the larger single–family homes for those who need them. This aligns with Wook's demographic trend highlight: "One–third of American households are made up of a single individual. Up to 85 percent of households will not include children by 2025. By 2030, one in five Americans will be over the age of 65. These statistics add up to a simple fact: Demand is high for smaller homes, lower living costs, walkable neighborhoods, and places for people to age in place." Baca, McAnaney, and Shuetz note that multi–unit housing is not allowed by right in much of their city, meaning that special permissions must be granted to create compact housing, which makes the housing more expensive. This is also true of Fayetteville, where only 13.3% of the city allows construction of more than 3 units per lot, even though accessory dwelling units for one and two family structures are allowed citywide.

2. Allow for smaller homes on smaller lots. The concepts are similar to those listed in the point above. Land costs can be a significant part of housing costs, and how much land is required for housing is regulated by zoning – within the city's control. Requiring less land per house means houses could be more affordable. Additionally, Baca, McAnaney, and Shuetz suggest that allowing smaller homes on smaller lots "…enables better matching between the size of one's house and the size of one's household."

3. "Level the Playing Field for Smaller Units." Woock cites Santa Barbara's Average Unit–Size Density (AUD) program which "…provides for increased density as the average unit size decreases." This means that buildings do not have to get bigger to accommodate more units.

4. "Reduce or Eliminate Parking Minimums." Here, Woock cites parking expert and author Donald Shoup, who claims that far more land is dedicated to parking than housing, and Daniel Paroleck, who coined the term "missing middle housing". Woock says, "If you require more than one off–street parking space per unit, it's not economically viable or physically possible to create missing middle housing on infill lots." She does acknowledge that in many cities driving is a fact of life, and asks cities to "try being creative about how you design parking so it can become an extra unit in the future, if factors like demand or public transit change." Fayetteville typically requires two parking spaces per dwelling unit for single–family through fourplex and one parking space per bedroom for multifamily.

5. "Allow Missing Middle Housing Everywhere (if possible)." Woock goes onto say that if more than 20 percent of your city is zoned for single–family only, then the boundaries limiting missing middle housing need to change "to deliver it effectively and equitably."

Case Study: Home Sharing

The American Planning Association's 2023 Trend Report tackled the obstacles of land consumption and housing costs from another perspective. Home sharing, co–living, co–housing has been around for a long time, both formally and informally. According to HUD's Office of Policy Development and Research (PD&R), the HIP Housing's home sharing program in San Mateo County California was created in 1979 to help seniors find housing options. Today it still serves this population, "who are often house rich but cash poor," seeking to rent out part of their homes to those who are looking for a room or portion of a house at a lower rent. This extra income for the homeowner is often needed for maintenance costs and rising property taxes.

PD&R refers to home sharing as, "an increasingly important component in the quest to use existing housing stock more efficiently." While one might think of home sharing as something that only occurs through renting, according to the 2023 trend report referenced above, more and more people (related or not) are choosing to form functional families to purchase housing in a market that would otherwise be unattainable to them. The reasons for home sharing are varied and many. These range from caring for the environment and not wanting to consume any more land or raw materials to build homes than necessary, to single parents helping each other raise their children, to home ownership, companionship, or having ready care and transportation available. Regardless of the personal reasons for home sharing, the practice of consolidated, efficient household units does present the advantage of consuming less infrastructure and land area per household than policies that require separate housing units, such as occupancy limits (limiting the number of unrelated person per housing unit). In a housing market with growing strain on the housing supply, allowing home sharing could (in most cases) make housing more affordable for those who choose to take part.

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