

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8323



City Council Final Agenda

Tuesday, December 19, 2023

5:30 PM

City Hall Room 219

City Council Members

Council Member Robert B. Stafford 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: 876 3681 3619**
PUBLIC REGISTRATION LINK:
[HTTPS://US06WEB.ZOOM.US/WEBINAR/REGISTER/
 WN BELGTOIKR1IDL 88PHNTGW](https://us06web.zoom.us/join/91012345678?pwd=ZUJlTG9kdjR1dDlBODZlcUkxZWVzMTZkdz09)

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

MAYOR' S ANNOUNCEMENTS, PROCLAMATIONS AND RECOGNITIONS

CITY COUNCIL MEETING PRESENTATIONS, REPORTS AND DISCUSSION ITEMS

- ## 1. NOMINATING COMMITTEE REPORT - COMMITTEE CHAIR

PROPOSED AGENDA ADDITIONS

A. CONSENT

- A.1. APPROVAL OF THE DECEMBER 5, 2023 CITY COUNCIL MEETING MINUTES**

- A.2. AREA AGENCY ON AGING OF NORTHWEST ARKANSAS (AMENDMENT):**

A RESOLUTION TO APPROVE AMENDMENT NO. 1 TO THE CONTRACT WITH THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS IN THE AMOUNT OF \$153,104.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR SENIOR RESIDENTS OF FAYETTEVILLE (2023-1439)

- A.3. PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS (DONATION REVENUE):**

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$12,354.00 REPRESENTING DONATION REVENUE TO THE PARKS, NATURAL RESOURCES, AND CULTURAL AFFAIRS DEPARTMENT (2023-1433)

- #### A.4. ECOSCONNECT, LLC (SOFTWARE SERVICE CONTRACT):

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH ECOSCONNECT, LLC FOR BACKFLOW TRACKING SERVICES WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR

TERMS IN AN AMOUNT NOT TO EXCEED \$50,000.00 PER YEAR (2023-1460)

A.5. PRIME ELECTRIC GROUP, LLC (SERVICE AGREEMENT):

A RESOLUTION TO ACCEPT A QUOTE FROM PRIME ELECTRIC GROUP, INC. IN THE AMOUNT OF \$45,302.00 FOR ELECTRICAL UPGRADES TO THE GULLEY WATER PUMP STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$9,060.40 (2023-1461)

A.6. PURCHASED WATER ACCOUNT (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$550,000.00 FOR THE PURCHASED WATER ACCOUNT DUE TO INCREASED WATER USAGE (2023-1465)

A.7. FLINTCO, LLC (FIRE STATION 2 - CHANGE ORDER #2):

A RESOLUTION TO APPROVE CHANGE ORDER #2 WITH FLINTCO, LLC IN THE AMOUNT OF \$5,345,663.00 FOR WORK ASSOCIATED WITH THE CONSTRUCTION OF FIRE STATION 2, AND TO APPROVE A BUDGET ADJUSTMENT – FIREFIGHTING FACILITY IMPROVEMENTS BOND PROJECT (2023-1435)

A.8. GARVER, LLC (SERVICE AGREEMENT):

A RESOLUTION TO AUTHORIZE A CONTRACT WITH GARVER, LLC, PURSUANT TO RFQ 23-01, FOR THE DESIGN OF A TRAIL BRIDGE ACROSS HAMESTRING CREEK IN THE AMOUNT OF \$122,200.00, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$10,000.00, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1436)

A.9. VANCE BROTHERS, INC. (SERVICE AGREEMENT):

A RESOLUTION TO AWARD BID #23-40 AND AUTHORIZE A CONTRACT WITH VANCE BROTHERS, INC. IN THE AMOUNT OF \$745,175.90 FOR ASPHALT SURFACE TREATMENTS FOR CITY STREETS AND PARKING LOTS, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$75,000.00 (2023-1438)

A.10. TSW, INC. (SERVICE AGREEMENT):

A RESOLUTION TO AUTHORIZE A CONTRACT WITH TSW, INC., PURSUANT TO RFQ 22-01, FOR DESIGN SERVICES ASSOCIATED WITH PHASE ONE IMPROVEMENTS TO WALKER COMMUNITY PARK FOR AN AMOUNT NOT TO EXCEED \$203,075.00, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$10,000.00, AND TO APPROVE A BUDGET ADJUSTMENT – PARK IMPROVEMENT BOND PROJECT (2023-1441)

A.11. SEVEN HILLS HOMELESS CENTER (SUBRECIPIENT AGREEMENTS):

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN SUBRECIPIENT AGREEMENTS WITH SEVEN HILLS HOMELESS CENTER AND ITS PARTNER AGENCIES, PURSUANT TO RESOLUTION NO. 233-23 AND RFP 23-12, IN THE AMOUNT OF \$1,630,000.00 FOR A PROJECT TO ADDRESS HOUSING INSTABILITY IN FAYETTEVILLE (2023-1443)

A.12. 2023 BOSTON MOUNTAIN COMPOST BIN (GRANT AWARD):

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2023 BOSTON MOUNTAIN RECYCLING GRANT IN THE AMOUNT OF \$9,000.00 FOR A PILOT CURBSIDE FOOD WASTE COLLECTION PROGRAM, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1444)

A.13. ANIMAL SERVICES (DONATION REVENUE):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$40,957.00 REPRESENTING DONATION REVENUE TO THE ANIMAL SERVICES DIVISION (2023-1445)

A.14. COMMUNITY RESOURCES (DONATION REVENUE):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$9,352.00 REPRESENTING DONATION REVENUE TO THE COMMUNITY RESOURCES DEPARTMENT (2023-1446)

A.15. GALLS, LLC (PURCHASE AGREEMENT):

A RESOLUTION TO APPROVE THE PURCHASE OF UNIFORMS AND RELATED PRODUCTS, SERVICES, AND SOLUTIONS FROM GALLS, INC. ON AN AS-NEEDED BASIS THROUGH MAY 31, 2025, AND ANY FUTURE RENEWAL PERIODS (2023-1298)

A.16. LION MANUFACTURING (PURCHASE AGREEMENT):

A RESOLUTION TO APPROVE THE PURCHASE OF BUNKER GEAR AND RELATED PRODUCTS, SERVICES, AND SOLUTIONS FROM LION MANUFACTURING THROUGH NAFECO ON AN AS-NEEDED BASIS, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING CONTRACT, THROUGH MAY 7, 2024 AND ANY FUTURE RENEWAL PERIODS (2023-1297)

A.17. FAYETTEVILLE POLICE DEPARTMENT (DONATION REVENUE):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,028.00 REPRESENTING DONATION REVENUE TO THE FAYETTEVILLE POLICE DEPARTMENT (2023-1440)

A.18. FAYETTEVILLE POLICE DEPARTMENT (FORFEITURE REVENUE):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$41,340.00 RECOGNIZING REVENUE ASSOCIATED WITH FEDERAL AND

STATE LAW ENFORCEMENT FORFEITURES (2023-1442)

B. UNFINISHED BUSINESS**C. NEW BUSINESS****C.1. U.S. POSTAL SERVICE (PROCESSING OPERATIONS):**

A RESOLUTION TO REQUEST THAT THE UNITED STATES POSTAL SERVICE MAINTAIN ALL CURRENT MAIL PROCESSING OPERATIONS IN FAYETTEVILLE (2023-1473)

C.2. LISA VALENTINE GRADING PERMIT (APPEAL FEES WAIVER):

A RESOLUTION TO WAIVE APPEAL FEES FOR LISA VALENTINE'S APPEAL OF GRADING PERMIT GRD-2023-0031 TO THE PLANNING COMMISSION (2023-1513)

C.3. 2024 DTF PUBLIC SAFETY EQUIPMENT (GRANT AWARD):

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A NON-MATCHING PUBLIC SAFETY EQUIPMENT GRANT FROM THE ARKANSAS DEPARTMENT OF PUBLIC SAFETY IN THE AMOUNT OF \$40,365.58 FOR THE FOURTH JUDICIAL DISTRICT DRUG TASK FORCE TO PURCHASE A HANDHELD NARCOTICS ANALYZER, AND TO APPROVE A BUDGET ADJUSTMENT (2023-1437)

C.4. INTEGRITY ENERGY PARTNERS (SOLAR SERVICES AGREEMENT):

A RESOLUTION TO APPROVE A 25 YEAR SOLAR SERVICES AGREEMENT WITH INTEGRITY ENERGY PARTNERS, LLC THAT IS ANTICIPATED TO OFFSET 6,538,454 KWH OF THE CITY'S ANNUAL ELECTRICITY CONSUMPTION FROM SOUTHWESTERN ELECTRIC POWER COMPANY AND PRODUCE AN ESTIMATED \$7 MILLION IN SAVINGS OVER THE LIFE OF THE CONTRACT (2023-1458)

C.5. REZONING-2023-0027: (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-027 FOR APPROXIMATELY 0.80 ACRES LOCATED AT 1272 NORTH 59TH AVENUE IN WARD 4 FROM R-A, RESIDENTIAL-AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE (2023-1434)

D. CITY COUNCIL AGENDA SESSION PRESENTATIONS**D.1. ECONOMIC VITALITY UPDATE - DEVIN HOWLAND**

E. CITY COUNCIL TOUR**F. ANNOUNCEMENTS****G. ADJOURNMENT****NOTICE TO MEMBERS OF THE AUDIENCE**

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

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

Agenda Additions: A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

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

Unfinished Business and New Business:

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

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

unanimous consent or majority vote. As part of a person's public comments allowed above, the speaker may use electronic visual aids during their five (5) minutes presentation period concerning the agenda item being considered by the City Council.

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

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

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

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

Robert B. Stafford
Council Member
Ward 1 Position 1

Chair
Mike Wiederkehr
Council Member
Ward 2 Position 2



Sarah Bunch
Council Member
Ward 3 Position 2

Teresa Turk
Council Member
Ward 4 Position 1

Nominating Committee Report December 19, 2023

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

The Nominating Committee recommends the following candidates for appointment:

ACTIVE TRANSPORTATION ADVISORY COMMITTEE

Derek Webb – One Unexpired Resident at Large Term Ending 12/31/2024.

Annee Littell – One Resident at Large Term Ending 12/31/2025.

Brady Carman – One Bicycle Advocate Term Ending 12/31/2025.

AIRPORT BOARD

Richard Rost – One Business Representative Term Ending 12/31/2028.

Charles Wallace – One Federal Aviation Representative Term Ending 12/31/2028.

AUDIT COMMITTEE

Ann Gearity – One CPA Representative Term Ending 12/31/2026.

BLACK HERITAGE PRESERVATION COMMISSION

Joetta Walker – One Member at Large Term Ending 12/31/2026.

Vacant – One Member at Large Term Ending 12/31/2026.

ENVIRONMENTAL ACTION COMMITTEE

Tod Yeslow – One Unexpired Resident at Large Term Ending 06/30/2025.

Glenda Patterson – One Resident at Large Term Ending 12/31/2026.

Jeff Pummill – One Resident at Large Term Ending 12/31/2026.

FAYETTEVILLE PUBLIC LIBRARY BOARD OF TRUSTEES

Carla Davis – One Public at Large Term Ending 04/01/2025.

FAYETTEVILLE YOUTH ADVISORY COUNCIL

Grayson Brown – One 9th – 12th grade High School Student Term Ending 03/31/2025.

Brendan Klaus – One 9th – 12th grade High School Student Term Ending 03/31/2025.

Katherine Hinton – One 9th – 12th grade High School Student Term Ending 03/31/2025.

Elizabeth Robinson – One 9th – 12th grade High School Student Term Ending 03/31/2025.

FAYETTEVILLE YOUTH ADVISORY COUNCIL (Cont.)

Mia Alansari – One 9th – 12th grade High School Student Term Ending 03/31/2026.
Alyosha Wood – One 9th – 12th grade High School Student Term Ending 03/31/2026.
Blythe Heimer – One 9th – 12th grade High School Student Term Ending 03/31/2026.
Ellyette Ceola – One 9th – 12th grade High School Student Term Ending 03/31/2026.

HOUSING AUTHORITY BOARD OF COMMISSIONERS

Debra Humphrey – One Resident Representative Term Ending 12/28/2028.

KEEP FAYETTEVILLE BEAUTIFUL COMMITTEE

Vacant – Two Unexpired Citizen-at-Large Terms Ending 09/30/25.

Vacant – Two Unexpired Citizen-at-Large Terms Ending 09/30/26.

PARKS, NATURAL RESOURCES AND CULTURAL AFFAIRS ADVISORY BOARD

Korab Vranovci – One Public at-Large Term Ending 12/31/2026.

Elizabeth Cunningham – One Public at-Large Term Ending 12/31/2026.

Melissa Zabecki – One Public at-Large Term Ending 12/31/2026.

PUBLIC FACILITIES

Aaron Berg – One Public at Large Term Ending 12/31/2028.

URBAN FORESTRY ADVISORY BOARD

Vacant – One University of Arkansas Representative Term Ending 12/31/2025.

Vacant – One Resident at Large Term Ending 12/31/2025.

Vacant – One Land Development Representative Term Ending 12/31/2025.



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

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

FROM: Lee Farmer, Recreation Superintendent

DATE:

SUBJECT: **Amendment #1 to Contract with Area Agency on Aging of Northwest Arkansas**

RECOMMENDATION:

Approval of Amendment #1 between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas (AAA) in the amount of \$153,104 to provide public recreation services for senior residents of Fayetteville.

BACKGROUND:

On December 20, 2022, the City entered into an agreement with the AAA in the amount of \$145,804 to provide public recreation services for senior residents of Fayetteville.

DISCUSSION:

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

Due to the rising cost of these services, AAA requested an increase in funding provided by the City from \$145,804 annually to \$153,104 annually.

BUDGET/STAFF IMPACT:

The 2024 budget that the City Council passed on November 21, 2023, includes a total of \$153,104 for this request.

ATTACHMENTS: SRF (#3), Amendment #1 to Contract with Area Agency on Ageing (#4), 320-22 RESOLUTION (#5)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1439

Amendment #1 to Contract with Area Agency on Aging of Northwest Arkansas

A RESOLUTION TO APPROVE AMENDMENT NO. 1 TO THE CONTRACT WITH THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS IN THE AMOUNT OF \$153,104.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR SENIOR RESIDENTS OF FAYETTEVILLE

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

WHEREAS, due to the rising cost of services, AAA requested an increase in funding provided by the City from \$145,804.00 annually to \$153,104.00 annually.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the contract with the Area Agency on Aging of Northwest Arkansas to provide an increase in funding to the amount of \$153,104.00 to provide public recreation services for senior residents of Fayetteville in 2024.

City of Fayetteville Staff Review Form

2023-1439

Item ID

12/19/2023

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

Lee Farmer

11/29/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of Amendment #1 between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas (AAA) in the amount of \$153,104 to provide public recreation services for senior residents of Fayetteville.

Budget Impact:

1010.090.6600.5718.01

General

Account Number

Fund

40901.4004

AAANWA (Senior Center)

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 153,104.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 153,104.00

Does item have a direct cost? Yes

Item Cost

\$ 153,104.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 320-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

**AMENDMENT #1 TO THE
CONTRACT BETWEEN
THE CITY OF FAYETTEVILLE, ARKANSAS
AND
AREA AGENCY ON AGING OF NORTHWEST ARKANSAS**

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

WHEREAS, the contract provided for automatic renewals for four additional years; and

WHEREAS, because of the rising costs of providing those services, AAA requested an increase in funding provided by the City from \$145,804 annually to \$153,104 annually and that increase was approved by the City Council in the 2024 Annual Budget and Work Program.

NOW, THEREFORE, BE IT KNOWN TO ALL:

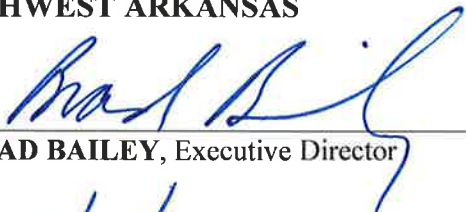
That the City of Fayetteville, Arkansas and the Area Agency on Aging of Northwest Arkansas, on this _____ day of December, 2023, hereby agree that the introductory paragraph in Section 1 of the Contract shall be amended to read as follows:

"The City of Fayetteville shall provide the sum of \$153,104 in equal monthly installments from January 1 until December 31, 2024 in consideration of the following duties and obligations to be performed by the AAA:"

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

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

**AREA AGENCY ON AGING OF
NORTHWEST ARKANSAS**

By: 
BRAD BAILEY, Executive Director

Date: 11/29/23

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN, Mayor

Date: _____

ATTEST:

KARA PAXTON, City Clerk/Treasurer



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

Resolution: 320-22

File Number: 2022-218

2023 ARKANSAS AND THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS CONTRACT:

A RESOLUTION TO AUTHORIZE A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS IN THE AMOUNT OF \$145,804.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR THE SENIOR CITIZENS OF FAYETTEVILLE FOR 2023, WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS

WHEREAS, ensuring the availability of quality recreational opportunities to the senior citizens of our community is of mutual interest to the City of Fayetteville and the Area Agency On Aging of Northwest Arkansas, which has provided these services to seniors in Fayetteville and Northwest Arkansas since 1972; and

WHEREAS, the Area Agency on Aging is very qualified and uniquely able to provide the continuity of services vital to the efficient provision of recreational opportunities to the senior citizens of Fayetteville.

WHEREAS, Ark. Code Ann. § 14-58-104(18) provides for "renewal or extension of the term of an existing contract" without soliciting bids.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract between the City of Fayetteville, Arkansas and the Area Agency on Aging of Northwest Arkansas in the amount of \$145,804.00 to provide public recreation services for the senior citizens of Fayetteville for 2023, with automatic renewals for up to four additional one year terms.

PASSED and APPROVED on December 20, 2022

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer





City of Fayetteville, Arkansas

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

Text File

File Number: 2022-1124

Agenda Date: 12/20/2022

Version: 1

Status: Passed

In Control: City Council Meeting

File Type: Resolution

Agenda Number: A.26

2023 ARKANSAS AND THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS CONTRACT:

A RESOLUTION TO AUTHORIZE A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS IN THE AMOUNT OF \$145,804.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR THE SENIOR CITIZENS OF FAYETTEVILLE FOR 2023, WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS

WHEREAS, ensuring the availability of quality recreational opportunities to the senior citizens of our community is of mutual interest to the City of Fayetteville and the Area Agency On Aging of Northwest Arkansas, which has provided these services to seniors in Fayetteville and Northwest Arkansas since 1972; and

WHEREAS, the Area Agency on Aging is very qualified and uniquely able to provide the continuity of services vital to the efficient provision of recreational opportunities to the senior citizens of Fayetteville.

WHEREAS, Ark. Code Ann. § 14-58-104(18) provides for “renewal or extension of the term of an existing contract” without soliciting bids.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract between the City of Fayetteville, Arkansas and the Area Agency on Aging of Northwest Arkansas in the amount of \$145,804.00 to provide public recreation services for the senior citizens of Fayetteville for 2023, with automatic renewals for up to four additional one year terms.

City of Fayetteville Staff Review Form

2022-1124

Legistar File ID

12/20/2022

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

Lee Farmer

11/28/2022

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a resolution to authorize a contract between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas in the amount of \$145,804 to provide public recreation services for senior residents of Fayetteville in 2023.

Budget Impact:

1010.090.6600.5718.01	General
Account Number	Fund
40901.4004	AAANWA (Senior Center)
Project Number	Project Title
Budgeted Item? Yes	Current Budget \$ 145,804.00
	Funds Obligated \$ -
	Current Balance \$ 145,804.00
Does item have a cost? Yes	Item Cost \$ 145,804.00
Budget Adjustment Attached? No	Budget Adjustment \$ -
	Remaining Budget \$ -

Purchase Order Number: _____

Previous Ordinance or Resolution # 338-21

V20210527

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF DECEMBER 20, 2022

TO: Mayor and City Council

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

FROM: Lee Farmer, Recreation Superintendent

DATE: November 28, 2022

SUBJECT: Approval of a resolution to authorize a contract between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas in the amount of \$145,804 to provide public recreation services for senior residents of Fayetteville in 2023.

RECOMMENDATION:

Approval of a resolution to authorize a contract between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas in the amount of \$145,804 to provide public recreation services for senior residents of Fayetteville in 2023.

BACKGROUND:

Since 1972, the City of Fayetteville has provided financial support through the annual work budget to the Area Agency on Aging of Northwest Arkansas (AAA) to provide recreation services for senior residents. This has been a very successful agreement to provide recreational programs and activities for senior residents of Fayetteville.

AAA provides recreational programs meeting the needs of our senior residents at the Fayetteville Senior Activity and Wellness Center and transportation services for the residents of Hillcrest Towers. It is the intent of AAA and the Fayetteville Parks and Recreation Department to work in cooperation to enhance the recreation facilities and programs in our City, while not duplicating services to spend taxpayers' money as effectively as possible. If the AAA were not serving our senior resident population, the City would need to assume responsibility.

DISCUSSION:

The 2023 budget approved an appropriation of \$145,804 for services to be paid to AAA pursuant to an approved contract. The contract outlines the services the AAA is providing to the City and the senior residents of Fayetteville. The Fayetteville Senior Activity and Wellness Center's building is designated as an emergency shelter for the City of Fayetteville due to their location and facility available to assist in housing residents.

BUDGET/STAFF IMPACT:

The 2023 budget includes a total of \$145,804 for this request.

Attachments:

Signed Contract

CONTRACT

Between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas (AAA)

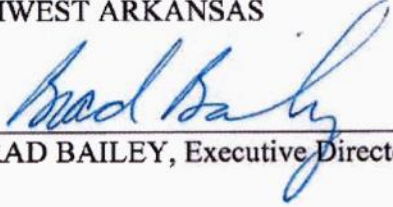
WHEREAS, the Area Agency on Aging of Northwest Arkansas (AAA) is uniquely qualified to provide the full range of public recreation opportunities to the senior citizens of Fayetteville; and,

WHEREAS, it is in the best interest of the City of Fayetteville and its residents to provide operating revenues to the AAA in consideration for the substantial recreational programs provided by the AAA to the senior residents of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

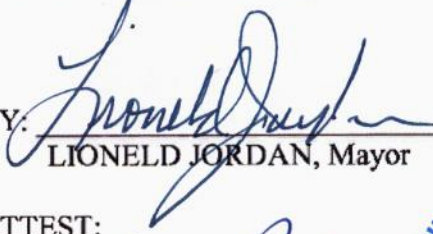
1. The City of Fayetteville shall provide the sum of \$12,150.33 monthly (\$145,804 annually) to the AAA from January 1 until December 31, 2023 in consideration of the following duties and obligations to be performed by the AAA:
 - A. The AAA shall be responsible for providing staff, programming, promotion, and development for the Fayetteville Senior Activity and Wellness Center, and transportation services for the residents of Hillcrest Towers Community Center to participate in all Senior Activity and Wellness Center activities.
 - B. AAA shall make substantial portions of its programs or facilities available to Fayetteville residents (the public) at little or no cost for the needy senior residents. AAA shall report on a quarterly basis the approximate number of Fayetteville residents served by its programs.
 - C. AAA shall provide the Fayetteville Senior Activity and Wellness Center as an emergency shelter when deemed necessary by the City of Fayetteville.
 - D. The AAA shall follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and the AAA which is attached as Exhibit A, and is made a part hereof, as if set forth word for word in its entirety.
2. This Contract shall automatically renew for four (4) additional one (1) year terms, contingent on annual budget approval by the Fayetteville City Council. A renewal term may be cancelled by either party by giving written notice of non-renewal at least sixty (60) days prior to the end of the then current term.

AREA AGENCY ON AGING OF
NORTHWEST ARKANSAS

BY: 

BRAD BAILEY, Executive Director

CITY OF FAYETTEVILLE

BY: 

LIONELD JORDAN, Mayor

ATTEST:

BY: 

KARA PAXTON, City Clerk-Treasurer



EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Department (Parks and Recreation) and the Area Agency on Aging of Northwest Arkansas (hereinafter referred to as AAA).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Parks and Recreation Director and the Executive Director of the AAA; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, the Fayetteville Senior Activity and Wellness Center has been designated as an emergency shelter for the City of Fayetteville due to the location and facility available to house citizens; and

WHEREAS, increased communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and AAA would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and AAA, the following set of detailed operating procedures and responsibilities are hereby established.

1. AAA shall be responsible for providing staffing, programming and promotion, and development of recreational programs for senior citizens including but not limited to, health and fitness activities, recreational trips, arts and crafts, music and games.
2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development of the parks system within the city and the recreational events occurring within the city for all ages.

3. The AAA Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.
4. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis.
5. The AAA is responsible for the management and operation of annual funding allocation to AAA from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds.
6. The Fayetteville Senior Activity and Wellness Center Director and Parks and Recreation Director will work jointly in opening the Fayetteville Senior Activity and Wellness Center as an emergency shelter as deemed necessary by the City of Fayetteville. AAA will utilize funds appropriated by the City of Fayetteville for operational costs as necessary for the emergency shelter.
7. AAA shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director no more than one hundred thirty (130) days after the end of the AAA fiscal year, which ends on June 30, 2023. Such report shall detail AAA's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated below.
8. AAA shall comply with the schedules and procedures established by the Budget and Research Division of the City of Fayetteville for annual funding requests.
9. Quarterly reports shall be submitted to the Parks and Recreation Director on, or before, the following dates: April 15, July 15, October 15, and January 15 (2023). These reports shall detail the following performance measures:
 - A. Operation of a full scope of senior services at the Fayetteville Senior Activity and Wellness Center and Hillcrest Towers. Both locations will provide a warm daily nutritious congregate lunch providing valuable socialization for seniors. An estimated 580 different seniors enjoy over 23,000 congregate meals each year. In addition, weekly social and recreational activities include pool tournaments, bingo, water colors class, Thursday Thoughts educational series, Wii Bowling, Bean Bag Baseball, dominoes and card games, instructor-led line dancing, and Fun Fridays (live music, movies, fairs, and trivia) During the course of the year, an estimated 800 different seniors will participate in 41,000 units of socialization at the two locations.
 - B. The Fayetteville Senior Activity and Wellness Center location will continue to provide a wide variety of daily health and wellness classes including, but not limited to: Use It or Lose It, Fun to be Fit, Silver Sneakers, Yoga, Pilates, Cardio & Toning, Tai Chi, Qigong, B.A.S.E., and Foundation Training. In addition, the center offers a complete fitness area with treadmills, ellipticals, recumbent bikes, and resistance-based weight machines.

C. The Fayetteville Senior Activity and Wellness Center and Hillcrest Tower locations will seek partnerships with outside organizations or community groups to assist in a variety of recreation programs and wellness classes.

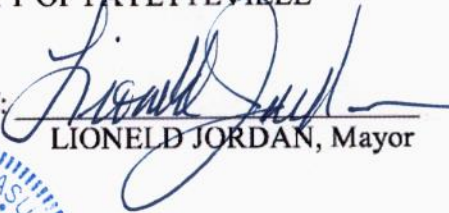
D. Transportation services will be provided at both the Fayetteville Senior Activity and Wellness Center and Hillcrest Towers. Transportation services will include round trip taxi service for seniors from their residence to the senior center, and round-trip taxi service from their residence to necessary appointments in the community. A taxi service for non-ambulatory clients, as well as a Grocery Taxi provided twice a week. In addition, three or more special interest day trips per month will be provided for the senior community. During the course of a year, almost 200 different seniors will participate in 7,000 units of transportation.

E. AAA shall acknowledge the City of Fayetteville's contribution on general marketing flyers, brochures and other general marketing materials.

10. The working procedures and responsibilities contained herein must continue without delays in service and shall become effective January 1, 2023.

CITY OF FAYETTEVILLE

BY:


LIONELD JORDAN, Mayor

Attest:

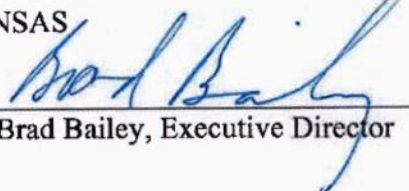
BY:


Kara Paxton, City Clerk / Treasurer



AREA AGENCY ON AGING OF NORTHWEST
ARKANSAS

BY:


Brad Bailey, Executive Director

Attest:

BY:





MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

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

FROM: Lee Farmer, Recreation Superintendent

DATE:

SUBJECT: **A resolution to approve a budget adjustment in the amount of \$12,354 recognizing donation revenue from residents and local businesses.**

RECOMMENDATION:

A resolution to approve a budget adjustment in the amount of \$12,354 recognizing donation revenue from residents and local businesses to the Parks, Natural Resources, and Cultural Affairs.

BACKGROUND:

Residents, organizations, and businesses make donations to assist with various parks and recreation programs throughout the year. A total of \$12,354 was donated to Parks, Natural Resources, and Cultural Affairs for the Yvonne Richardson Community Center, Urban Forestry, special events, and Parks Maintenance.

DISCUSSION:

This resolution will recognize these donated funds to be allocated in the appropriate expense accounts to fulfill the intended use as designated by the donating party. Parks, Natural Resources, and Cultural Affairs is very appreciative of each of these donations and attached is a list of the donations received.

Donors designated funds for the following:

YRCC donations:	\$880
Tree donations:	\$1,200
Parks Maintenance: Lighting of the Ozarks	\$324
Community Garden donation:	\$945
Gulley Park Concert donation	\$8,705
Fayetteville Race Series donation	\$300

BUDGET/STAFF IMPACT:

The budget will be increased in the amount of \$12,354 within the appropriate accounts as shown on the Budget Adjustment

ATTACHMENTS: SRF (#3), BA (#4), Summary of Donation Supporting Documentation (#5)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1433

A resolution to approve a budget adjustment in the amount of \$12,354 recognizing donation revenue from residents and local businesses.

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$12,354.00 REPRESENTING DONATION REVENUE TO THE PARKS, NATURAL RESOURCES, AND CULTURAL AFFAIRS DEPARTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$12,354.00 representing donation revenue to the Parks, Natural Resources, and Cultural Affairs Department.

City of Fayetteville Staff Review Form

2023-1433

Item ID

12/19/2023

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Lee Farmer

11/28/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution to approve a budget adjustment in the total of \$12,354 recognizing donation revenue from residents, and local businesses, to the Parks, Natural Resources, and Cultural Affairs Department.

Budget Impact:

1010.520.5220-4815.00

1010.520.5280-4809.00

2250.520.9255-4809.00

General Fund

Park Development Fund

Account Number

Fund

33051

Parks & Recreation Donations

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 91,471.00

Expenses (Actual+Encum)

\$ 39,580.22

Available Budget

\$ 51,890.78

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 12,354.00

Remaining Budget

\$ 64,244.78

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year 2023	Division /Org2 PARKS & RECREATION (520) Requestor: Alan Bearden	Adjustment Number
--------------------------------	--	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Budget Adjustment to recognize and allocate donations received from citizens and businesses as follows: Anonymous donations for Park Maintenance - \$324, Urban Forestry tree donations - \$1,200, Concert donations - \$8,705, Community Gardens donations - \$945, YRCC donations - \$880 and Special events (Fayetteville Race series) donations - \$300

RESOLUTION/ORDINANCE	COUNCIL DATE:	12/19/2023
	ITEM ID#:	2023-1433
	<i>Holly Black</i>	
	<i>11/29/2023 3:50 PM</i>	
	Budget Division	Date
	D - (City Council)	
	TYPE:	
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/

TOTAL	12,354	12,354	v.20231113			
Account Number	Increase / (Decrease)		Project.Sub#		AT	Account Name
	Expense	Revenue	Project	Sub.Detl		
1010.520.5260-5400.00	324	-	33051	1	EX	Building & Grounds - Maintenance
1010.520.5220-4815.00	-	324	33051	1	RE	Donations Park - Miscellaneous
1010.520.5260-5220.00	1,200	-	33051	1101	EX	Landscape Materials
1010.520.5220-4815.00	-	1,200	33051	1101	RE	Donations Park - Miscellaneous
1010.520.5220-5315.00	8,705	-	33051	6	EX	Contract Services
1010.520.5220-4815.00	-	8,705	33051	6	RE	Donations Park - Miscellaneous
1010.520.5260-5400.00	945	-	33051	7	EX	Building & Grounds - Maintenance
1010.520.5220-4815.00	-	945	33051	7	RE	Donations Park - Miscellaneous
1010.520.5280-5342.00	880	-	33051	1001	EX	Promotionals - Activities
1010.520.5280-4809.00	-	880	33051	1001	RE	Donations
2250.520.9250-5200.05	300	-	33051	8	EX	Supplies - Tournament/Awards
2250.520.9255-4809.00	-	300	33051	8	RE	Donations
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				

Parks & Recreation - Summary of Year-To-Date Donations Received - 2023										
Date	Revenue G/L Account that donation was deposited in	Amount	Donation Received From	Donation Purpose	Donation Group	Receipt #	BA Trnsfr From Budget Contingency to recognize donation?		G/L Expense Account Funds are to be spent from	
1/19/2023	1010 520 5220-4815 00 33051.1	\$324.00	Multiple donations - LOTO	Lights of the Ozarks	Parks	48824631	No	BH	1010 520 5260-5400 00 33051.1	
2/7/2023-8/4/2023	1010 520 5220-4815 00 33051.7	\$945.00	Multiple donations - Community Gardens	Community Gardens	Parks	Multiple	No	BH	1010 520 5260-5400 00 33051.7	
1/23/2023-10/19/2023	2250 520 9255-4809 00 33051.8	\$300.00	Multiple donations	Fay Race Series (Special Events)	Parks	Multiple	No	LF	2250 520 9250-5200 05 33051.8	
3/9/2023	1010 520 5220-4815 00 33051.6	\$1,000.00	Darby Dealon	Concert \$	Parks	50521579	No	LF	1010 520 5220-5342 00 33051.6	
4/11/2023 - 7/21/2023	1010 520 5220-4815 00 33051.6	\$7,705.00	Multiple concerts donations	Concert \$	Parks	Multiple	No	LF	1010 520 5220-5342 00 33051.6	
6/26/2023	1010 520 5220-4815 00 33051.1101	\$300.00	Anonymoust donation	Tree donation - for Richard Price	Parks	55952134	No	TJ	1010 520 5260 5220 00 33051.1101	
10/24/2023	1010 520 5220-4815 00 33051.1101	\$900.00	Multiple donations (3) of \$300 each	Tree donations	Parks	61968854	No	TJ	1010 520 5260 5220 00 33051.1101	
	Parks Subtotal	\$11,474.00								
2/14/2023 - 10/30/2023	1010 520 5280-4809 00 33051.1001	\$880.00	Multiple donations -various individuals	YRCC - Promotional Activities	YRCC	Multiple	No	LF	1010 520 5280-5342 00 33051.1001	
2/24/2023	1010 520 5280-4809 00 33051.1001	\$22,126.00	Friends of YRCC - YRCC program operations	YRCC - Promotional Activities	YRCC	50027969	previous Council Agenda Item	LF	1010 520 5280-5342 00 33051.1001	
	YRCC Subtotal	\$23,006.00								
Total Parks & Recr. YTD Donations		\$34,480.00								
									Total Donations Received This Year	\$34,480.00
									Less: Donations recognized previously	(\$22,126.00)
									Remaining 2023 Donations To Recognize	\$12,354.00



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Tim Nyander, Utilities Director
DATE:
SUBJECT: EcosConnect, LLC – Backflow Tracking Software Contract

RECOMMENDATION:

Staff recommends approval of a one-year contract for Backflow Tracking Services with EcosConnect, LLC with four automatic annual renewals in an amount not to exceed \$50,000.00 per year.

BACKGROUND:

The City began using EcosConnect software in 2017 when the initial procurement was solicited and awarded through RFP 17-07. The software tracks all of the backflow prevention devices in the City and manages the testing and maintenance of these devices. EcosConnect also mails out notifications to customers who are required to have their backflow assembly tested per the annual testing requirement.

DISCUSSION:

City staff is trained in the use of EcosConnect software, and all of the backflow prevention devices are currently stored in EcosConnect software for annual device testing and maintenance purposes.

EcosConnect's existing contract with the City expires on December 31, 2023. Staff proposes this renewable contract to continue backflow tracking software services with EcosConnect in an amount not to exceed \$50,000.00 per year.

BUDGET/STAFF IMPACT:

Funds are available in the Backflow Prevention Assemblies account within the Water & Sewer fund.

ATTACHMENTS: SRF (#3), EcosConnect LLC Contract 2024 signed (#4)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1460

EcosConnect, LLC – Backflow Tracking Software Contract

A RESOLUTION TO APPROVE A ONE YEAR CONTRACT WITH ECOSCONNECT, LLC FOR BACKFLOW TRACKING SERVICES WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS IN AN AMOUNT NOT TO EXCEED \$50,000.00 PER YEAR

WHEREAS, the City began using EcosConnect software in 2017 when the initial procurement was solicited and awarded through RFP 17-07; and

WHEREAS, City staff is trained in the use of EcosConnect software and all backflow prevention devices are currently stored in EcosConnect software for annual device testing and maintenance purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a one year contract with EcosConnect, LLC for backflow tracking services with automatic renewals for up to four additional one year terms in an amount not to exceed \$50,000.00 per year.

City of Fayetteville Staff Review Form

2023-1460

Item ID

12/19/2023

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

Tim Nyander

12/1/2023

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a one-year Contract for Backflow Tracking Services with EcosConnect, LLC with four automatic annual renewals in an amount not to exceed \$50,000.00 per year.

Budget Impact:

56400.720.1840-5314.00

Water and Sewer

Account Number

Fund

02066.1801

Backflow Prevention Assemblies

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 159,271.00

Expenses (Actual+Encum)

\$ 30,388.00

Available Budget

\$ 128,883.00

Does item have a direct cost? Yes

Item Cost

\$ 50,000.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 78,883.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



**CITY OF
FAYETTEVILLE
ARKANSAS**

Contract for Services:
Contract for Backflow Tracking Services
Between the City of Fayetteville, AR
and EcosConnect, LLC

Agreement is made this _____ day of _____, 2023 by and between the **City of Fayetteville, Arkansas (City)** located at 113 W. Mountain, Fayetteville, Arkansas 72701 and **EcosConnect, LLC (EcosConnect)** located at 29572 SW Queens Ct, Wilsonville, OR 97070.

WITNESSETH:

WHEREAS, City has previously determined a need for a PROVIDER FOR BACKFLOW TRACKING SERVICES; and

WHEREAS, City currently uses EcosConnect, LLC for such services and wishes to continue to utilize service provided by EcosConnect, LLC; and

WHEREAS, EcosConnect has represented that it is able to satisfactorily provide these services according to the terms and conditions that are contained herein.

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

1. Term: This Agreement shall be for an initial one-year term commencing on January 1, 2024 until December 31, 2024, with four (4) automatic one-year terms upon mutual agreement by both parties.
 - a. This contract may be canceled by either party with thirty (30) days written notice. In the event of cancellation, all records pertaining to the City of Fayetteville accounts and records shall become the property of the City of Fayetteville and turned over accordingly within thirty (30) calendar days after cancellation of contract. The records shall be delivered to the City of Fayetteville within a comma separated file (.csv) which will include all data that has been stored and collected per this contract.
 - b. Services shall be performed in a timely manner.
 - c. Failure of EcosConnect to comply with any of the provisions of this Contract shall be considered a material breach of Contract and shall be cause for immediate termination of the Contract at the sole discretion of the City.
 - d. In addition to all other legal remedies available to it, the City reserves the right to cancel or obtain from another source any services which have not been provided within the period of time stated in this agreement, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by the City.
2. Attachments: The Contract documents which comprise the contract between the City and the EcosConnect consist of this Contract and the following documents attached hereto, and made a part hereof. In the event of a conflict between the terms of this Contract and the above referenced documents, the conflict shall be resolved as follows: the terms of this Contract shall prevail over the other documents, and the terms of the remaining documents shall be given preference in their above listed order.

- a. Exhibit A – Scope of Services
 - b. Exhibit B – Fee Schedule
3. Fees and Expenses: The City shall pay EcosConnect usage fees based on the attached Exhibit B – Fee Schedule.
 - a. Taxes: Fee payment amounts under this agreement do not include Taxes, and Customer shall pay all Taxes applicable to payments between the parties under this agreement. The City is not a tax-exempt entity.
 - b. EcosConnect shall track, log and provide reporting data related to this agreement along with invoice for payment for each month. Annual fee increases shall be capped at 2% for entry fees and allow for annual for United States Postal Rate increases for notifications.
 - c. The total annual cost shall not exceed the amount of \$50,000.00.
 4. 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.
 5. Applicable Law: This Agreement shall be governed by and construed in accord with the laws of the State of Arkansas and City ordinances. Venue for all legal disputes shall be Washington County, Arkansas.
 6. Entire Agreement: 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.
 7. 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 amendment to the Contract approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
 8. Contract Administration: The Mayor or his/her Designated Representative shall be the Contract Administrator for this contract. EcosConnect Principal or his/her Designated Representative shall be the primary contact for all matters pertaining to this contract.
 9. 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, EcosConnect 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.), exempting those records that, "if disclosed would give advantage to competitors or bidders," as described in Section (b)(9)(A). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.
 10. Professional Responsibility: EcosConnect 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.
 11. Assignment and Subcontracting: EcosConnect shall perform this Contract. No assignment or subcontracting shall be allowed without the prior written consent of the City. In the event of a corporate acquisition and/or merger, EcosConnect shall provide written notice to the City within thirty (30) business

days of such notice of 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.

12. Permits & Licenses: EcosConnect shall secure and maintain any and all permits and licenses required to complete this Contract.
13. Indemnification: EcosConnect shall indemnify, pay the cost of defense, including but not limited to attorneys' fees, and hold harmless the City from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons, or property a result of or by, or in consequence of any neglect in safeguarding the work; or on account of any act or omission, neglect or misconduct of EcosConnect; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, by-laws, ordinances, order of decree, except only such injury or damage as shall have been occasioned by the sole negligence of the City of Fayetteville. The first ten dollars (\$10.00) of compensation received by EcosConnect represents specific consideration for this indemnification obligation.
14. Payments: The City shall pay all invoices within 30 calendar days of acceptance.
15. Special Conditions:
 - a. The City reserves the right to review, audit, and examine any and all records obtained by EcosConnect pertaining to accounts turned over by the City.
 - b. EcosConnect shall show proof of any required licensing required by the State of Arkansas. Any required license shall be kept current throughout the term of this Contract. Proof of bonding certificate and licensing shall be submitted before each renewal.
 - c. Customer accounts and all associated information updates shall be discontinued by the City at the sole discretion of the City. All historical information may be retained within EcosConnect.

IN WITNESS WHEREOF, the parties have executed this Agreement.

By: _____
LIONELD JORDAN, Mayor

By: Paul A. Molisani
Paul Molisani, Principal

ATTEST:

WITNESS: Daniel Blaisdell

By: _____
Kara Paxton, City Clerk/Treasurer

Date Signed: _____

Date Signed: 30 November 2023

CONTRACT FOR SERVICES BETWEEN
CITY OF FAYETTEVILLE, AR AND ECOSCONNECT, LLC

EXHIBIT A – SCOPE OF SERVICES

1. Services to be Provided:

EcosConnect hereby agrees to provide the City with BACKFLOW TRACKING SERVICES, as requested and more specifically outlined in this Contract, and all subsequent documents that are incorporated into the terms and conditions and set forth the rights, duties and obligations of the parties pursuant to this Contract. During the terms of this Agreement, EcosConnect shall:

- a. Provide and maintain an online hosted database to house Fayetteville's Cross Connection customer and tester information with the features currently in use by the City.
- b. Technical support in case of errors or the need for refunds will be provided from 8:00 AM-5:00 PM Central Standard Time, excluding federal holidays. An emergency contact will be provided for after-hours emergencies.
- c. A secure website that complies with Federal Red Flag Rules and Payment Card Industry Data Security Standards (PCI DSS) to protect online users from identity theft and ensure secure credit card transactions.
- d. The website will, at a minimum, support the latest versions of Safari, Firefox, Chrome, and Internet Explorer as of the contract date. Ensure that the City of Fayetteville's website is kept current to accommodate updates in the browsers listed above.
- e. Provide a responsive designed website that is scales and is functional on a variety of screen sizes to support mobile device access.
- f. Provide a daily backup of City of Fayetteville website and transaction information.
- g. Be responsible for issuing multiple letters to properties having testable containment backflow assemblies to facilitate compliance in accordance with Fayetteville's Cross Connection Ordinances. Format and content of letters shall be approved by the City of Fayetteville in advance.
- h. All correspondence and communication documents including but not limited to letters, communication in writing, emails, etc. shall give the appearance of being directly from the City even though the content will be a collaborative effort with the City. Corresponding documents and letters shall only include City logos.
- i. Notifications shall include both customer and backflow assembly information, including when the backflow assembly is due for annual certification, as well as the last tester on record with contact information.
- j. Shall notify Certified Testers of updated information requirements for test kit and certification requirements. Tester's information shall be kept on record and up-to-date at all times.
- k. Shall be responsible for providing real time records of non-compliant customers.
- l. Shall provide all deliverables and performance measures outlined in this Contract.
- m. EcosConnect shall allow the City's GIS department to receive data upon request, within two (2) business days from date of request.

2. Privacy

- a. The term "customer" in this exhibit shall be defined as the City's customer account.
- b. EcosConnect shall collect the following types information for each customer at each location:
 - a. Name
 - b. Mailing and Shipping Address
 - c. E-Mail address (es)
 - d. Phone number (s)
- c. EcosConnect shall not collect credit card information of the City's customers as the City is paying for fees associated and identified as part of this contract.
- d. EcosConnect shall use information provided from each customer only as necessary to complete the order for service. EcosConnect shall not share information with outside parties.
- e. The City shall be considered the owner of all data transmitted as part of this agreement.
- f. EcosConnect shall use return e-mail addresses to answer the e-mail which was received. Such e-mail addresses shall not be used for any other purpose and shall not be shared with outside or third parties.
- g. EcosConnect shall take reasonable steps safeguard and verify customer identity before granting access or making corrections to a customer account. Customers may correct factual errors by sending EcosConnect a request that credibly shows error.
- h. EcosConnect shall maintain a secure network and shall keep all Customer data secure by means of maintaining a firewall configuration. EcosConnect shall maintain a firewall configuration policy and conduct configuration tests.
 - a. In the event of a data breach of information involving the Customer, EcosConnect shall notify the City within 12 hours of becoming aware of such breach.
 - b. Statistical Information: EcosConnect may anonymously compile statistical information related to the performance of the Service for purposes of improving the Service, but only if such information does not identify the data as Customer's or otherwise include Customer's name.

3. Publicity:

- a. Logos: EcosConnect may include City's name and logos in its customer lists, press releases, marketing materials, and on its website with advanced approval of the City.
- b. Press Releases: EcosConnect may issue a high-level press release announcing the relationship and the manner in which Customer will use the Service upon advanced approval from the City.
- c. Removal of Logos: The City reserves the right to require EcosConnect to withdraw any use of City's trademarks, name, and logos if the City reasonably considers that EcosConnect's use of the trademark, name, and logo is derogatory, defamatory, or detrimental to City or in any way damages the City's business or reputation.

4. Performance Measures: EcosConnect shall provide the deliverables as outlined in this Contract.

5. EcosConnect Policies and Principles: Terms provided in this section shall govern regardless of what terms are required to access an EcosConnect Account, Application or Website.

- a. City employees may need an EcosConnect Account in order to use some Services. City of Fayetteville employee EcosConnect Accounts shall be assigned by the City.
- b. Passwords shall be kept confidential for all EcosConnect Accounts.

- c. The City shall be responsible for the activity that happens on or through a City administered EcosConnect Account. In the event the City learns of any unauthorized use of an employee's password or EcosConnect Account, the City shall contact EcosConnect.
- d. Misuse of EcosConnect Services is prohibited. The City agrees to not interfere with our Services or try to access them using a method other than the interface and the instructions provided. City agrees to only use EcosConnect Services only as permitted by law, including applicable export and re-export control laws and regulations. EcosConnect may suspend or stop providing Services if the City does not comply with this agreement.
- e. Using EcosConnect Services does not give the City ownership of any intellectual property rights in our Services or the content accessed by the City. The City may not use content from EcosConnect Services unless you obtain permission from its owner or are otherwise permitted by law. These terms do not grant the City the right to use any branding or logos used in EcosConnect Services. City agrees not to remove, obscure, or alter any legal notices displayed in or along with EcosConnect Services.
- f. EcosConnect Services display some content that is not EcosConnect's. Such content is the sole responsibility of the entity that makes it available. EcosConnect may review content to determine whether it is illegal or violates our policies, and we may remove or refuse to display content that we reasonably believe violates our policies or the law.
- g. In connection with EcosConnect Services, EcosConnect may send the City service announcements, administrative messages, and other information. The City may opt out of some of those communications.
- h. Some of EcosConnect Services are available on mobile devices. City agrees to not use such Services in a way that distracts or prevents from obeying traffic or safety laws.
- i. City's content in EcosConnect Services:
 - i. EcosConnect Services allow customers to submit content through a local Certified Tester. The City shall retain ownership of any intellectual property rights that the City holds in that content. The City's customer list shall not be disclosed to others.
 - ii. When content is uploaded or otherwise submitted to EcosConnect Services, the City gives EcosConnect permission to host, store, reproduce, modify, create derivative works (such as those resulting from translations, adaptations or other changes EcosConnect makes so that the City's content works better with services provided), communicate, publish, and distribute such content in order to perform the work defined within the scope of work. The rights granted in this license are for the limited purpose of operating, promoting, and improving services, and to develop new ones. This license continues even if the City stops using EcosConnect Services. Some Services may offer the City ways to access and remove content that has been provided to that Service.

EXHIBIT B



Fee Schedule

Annual Recurring Fees	
- At launch (if not in January)	\$3/active assembly
- Each January	\$3/assembly based on count of total assemblies on January 1st each year (billed monthly or quarterly)
One Time Set-up Fees	
- Assembly Data migration from current system	All included at no cost
- Establish Customer Data feed repository	
- Training - online	
- Onboarding training for staff - onsite (up to 2 visits)	
- Set up reminder letters (up to 10 templates)	
- Project Management	
- Set-up Administrator accounts (multiple)	
Optional Set-up activity	
- Convert paper/pdf backflow tests submitted prior to launch (tester credentials must be verifiable)	\$4/test report
Optional On-going Services	
-Reminder letter print/stuff/mail fulfillment	\$1.50/sheet
-Mailing Inserts	\$0.50/insert/envelope
-Code development (unique feature requests)	\$300/hour



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE:

SUBJECT: Prime Electric Group, LLC - Gulley Water Pump Station Electrical Upgrades

RECOMMENDATION:

Staff recommends approval of a proposal from Prime Electric Group, Inc. in the amount of \$45,302.00 for electrical upgrades to the Gulley water pump station, and approval of a project contingency in the amount of \$9,060.40.

BACKGROUND:

The Gulley water pump station provides pumping capacity for a large portion of the east side of Fayetteville. The station currently operates three pumps, and during the summer months the pumps run constantly to keep up with water demand. The City purchased a new generator from Riggs Cat recently to replace the 20-year-old generator currently serving as backup power for the station. In the near future, the pump station will undergo upgrades to the pumps and piping. However, the first step in the process is upgrading the electric infrastructure to facilitate the new larger generator and the future pump upgrades.

DISCUSSION:

The pump station currently has a 225-amp electrical service. Prime Electric Group has submitted a proposal in the amount of \$45,302.00 to upgrade the electrical service at the pole to 400-amp and that includes the material and labor for all of the wiring, conduit, and SCADA wiring. The proposal pricing also includes the installation of the new transfer switch and generator, and the crane lifts associated with removing the old generator and setting the new generator in place.

Staff recommends approval of the proposal from Prime Electric Group, Inc. in the amount of \$45,302.00, and approval of a project contingency in the amount of \$9,060.40.

BUDGET/STAFF IMPACT:

Funds are available in the Water Storage & Pump Station Maintenance account within the Water & Sewer fund.

ATTACHMENTS: SRF (#3), Quote from Prime Electric Group (#4), Quote from Fleming Electric (#5), Quote from King Electric (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1461

Prime Electric Group, LLC - Gulley Water Pump Station Electrical Upgrades

A RESOLUTION TO ACCEPT A QUOTE FROM PRIME ELECTRIC GROUP, INC. IN THE AMOUNT OF \$45,302.00 FOR ELECTRICAL UPGRADES TO THE GULLEY WATER PUMP STATION, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$9,060.40

WHEREAS, the Gulley water pump station provides pumping capacity for a large portion of the east side of Fayetteville currently operates three pumps; and

WHEREAS, the pump station will undergo upgrades to the pumps and piping in the near future and upgrading the electric infrastructure to facilitate the new larger generator and the future pump upgrades is the first step.

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 accepts the quote from Prime Electric Group, Inc. in the amount of \$45,302.00 for electrical upgrades to the Gulley Water Pump Station and further approves a project contingency in the amount of \$9,060.40.

City of Fayetteville Staff Review Form

2023-1461

Item ID

12/19/2023

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

Tim Nyander

12/1/2023

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a proposal from Prime Electric Group, Inc. in the amount of \$45,302.00 for electrical upgrades to the Gulley water pump station, and approval of a project contingency in the amount of \$9,060.40.

Budget Impact:

5400.720.5600-5808.00

Water and Sewer

Account Number

Fund

15021.1

Water Storage & Pump Station Maintenance

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 610,150.00

Expenses (Actual+Encum)

\$ 130,255.00

Available Budget

\$ 479,895.00

Does item have a direct cost? Yes

Item Cost

\$ 54,362.40

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 425,532.60

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



Proposal

Proposal For: CITY OF FAYETTEVILLE

Name: SHEA FANKHOUSER

Address:

Phone:

Email:KFANKHOUSER@FAYETTEVILLE-AR.GOV

Supervisor: JOSH WHATLEY

Project Title: **GULLEY ROAD PUMP STATION**

Location: FAYETTEVILLE, AR

Proposal Number: 23-1108

Proposal Date: 11/28/2023

Prime Electric Group is pleased to present this Proposal/Agreement for the above referenced project. This proposal is good for 15 days after proposal date above. Please sign, date, and return a copy to Prime Electric Group. We thank you for the opportunity to quote this project.

DESCRIPTION OF WORK:

Prime Electric Group will provide all labor, materials, and equipment, unless otherwise noted to perform the following scope of work:

GULLEY ROAD PUMP STATION

Scope of Work

Inclusions:

- Provide and install new 400A breaker main service disconnect
- Provide and install new 400A service riser
- Provide and install new metering box and service riser
- Provide and install new 400A parallel service to customer supplied ATS
- Provide concrete pad for ATS placement
- Provide and install 400A parallel service to existing gear from new ATS
- Provide and install 400A parallel service to new generator
- Provide and install control conduit/wire for new ATS & generator
- Provide and install control conduit/wire for SCADA to new ATS & generator
- Provide temporary generator so there is minimum downtime while power company changes over from existing power to new power system
- Generator factored to run no more than (1) 8 hour day including fuel
- ***If generator needs to run longer additional charges will be made***
- Generator to remain on site in case of power failure during swapping of generator from old to new
- Crain service to include removing old generator and setting of new customer delivered generator
- Crain service to include transfer of old generator to city yard and offloading at customer providing staging area
- Demolition of existing main and ats

Exclusions:





- Not responsible for removing fuel from existing generator to prepare for transport
- Not responsible for increasing incoming power provided by utility company

Labor – \$14,400.00

Material – \$30,902.00

Total Cost - \$45,302.00

Signature: _____

Title: _____

Acceptance Date: _____

Purchase Order Number: _____





Fleming Electric, Inc.

Your Total Solution Provider

3311 Southwest I Street Bentonville, AR 72712

(479) 715-6099 Fax: (479) 715-6855

email: dispatch@fleminc.com

QUOTE

NWAQ11528

Date: Nov 28, 2023
Expires: Dec 28, 2023

Quoted To:

CITY OF FAYETTEVILLE

SHEA FANKHOUSER
100 W ROCK ST
FAYETTEVILLE, AR 72701

Phone 479.435.5330

Email kfankhouser@fayetteville-ar.gov

Fax

Contractors License #: 0023160424

Project #: Gulley water pumping station

Plan #:

MC #:

Submitted By: Bob Poole

Estimator: Shay Hardin

Description	Unit Price	Qty	Ext. Price
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City of Fayetteville

Scope of Work:

Provide and install 1-4-inch PVC conduit down pole underground to New service rack	\$54,303.95	1	\$54,303.95
In above conduit there will be copper 600 mcm wiring			
On new service rack			
Provide and install 1-400-amp service rated breaker in a nema 12/3 enclosure.			
Feeders from 400-amp breaker			
Provide and install (2) 2-1/2-inch PVC conduits (total to building 72')			
In feeder conduits run parallel 4/0 copper wire			
Core cut 2- 3-inch holes in block wall for conduits to pass through.			
For transfer switch located inside if possible			
From transfer switch			
Provide and install conduit behind existing switch gear to refeed 400 amps.			
From transfer switch provide and install (2) 2-1/2 PVC conduits to generator			
In above conduits run parallel 4/0 copper wire for generator			
Provide labor to remove 120-volt circuit and re install in new generator.			
Turn the generator 180 on the existing pad.			
Remove 26-30 inches of concrete to relocate the conduits under the generator.			
Re-pour pad over conduits where existing pad was removed.			
Crain services at gully location included in quote.			

Hauling off old Generator not included in quote.

Subtotal		\$54,303.95
Sales Tax		\$5,294.64
Grand Total**		\$59,598.59

I accept the terms and conditions of this quotation.

Signed: _____ Date: _____

Name: _____ Title: _____

Terms: 30 Day Draws. Balance Due Upon Completion/Delivery.

APPLICABLE SHIPPING CHARGES AND SALES TAX, IF ANY, WILL BE CHARGED AT TIME OF BILLING

Exclusions: 1) Cutting, Patching & Painting 2) Concrete 3) Asphalt Cutting & Patching 4) Trash Removal & Dumpster 5) Core Drilling 6) Power Company Charges 7) Roof Penetration 8) Engineering Fees 9) No welding or fabrication 10) No programming or commissioning, unless specifically included in above quote.

Note: If any case of solid rock is encountered, a rock clause will be in effect. The rock clause states there will be a minimum charge of \$1,000.00 per cubic foot removal fee. We exclude all engineering fees.

KING ELECTRICAL CONTRACTORS, INC.

96 LILLIE LANE

FAYETTEVILLE, AR 72701

479-443-0006 FAX 479-368-0908

Email: gordon@ckingelectric.net

PROPOSAL

TO: City Of Fayetteville Attn: Shea Frankhouser	PHONE	DATE September 14, 2023
	JOB NAME Gully Road W18 Generator	
JOB DESCRIPTION See attached scope sheet. We have seen zero (0) addendum(s) or revision(s) or clarification(s) Arkansas Contractor License #0063870424		
PROPOSAL GOOD FOR 30 DAYS. MANUFACTURER PRICE INCREASES WILL REQUIRE RE-QUOTE. MATERIAL PRICE INCREASES GREATER THAN 10% WILL REQUIRE A RE-QUOTE.	DOLLARS: \$54,980.00	
TERMS: PAYMENT DUE UPON RECEIPT OF INVOICE A FINANCE CHARGE WILL BE CHARGED ON ALL PAST DUE ACCOUNTS OF .0833% PER MONTH. ALL ATTORNEY FEES WILL BE COLLECTED ON PAST DUE ACCOUNTS.	AUTHORIZED SIGNATURE  Gordon Ray Project Manager / Estimator	
THE ABOVE PRICES SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.	ACCEPTANCE SIGNATURE	

KING ELECTRICAL CONTRACTORS

Scope Sheet

Gully Road W18 Generator

Inclusions

1. Wiring and scope per site visit 9/7/2023 Division 26 electrical.
2. New 400 amp service.
3. Permit and inspection fees as required.
4. Division 26 excavation.
5. Trenches backfilled with existing dirt and tamped.
6. Equipment Connections: Generator & Automatic Transfer switch furnished by COF.
7. Taxes.
8. Overtime labor.
9. Electrical demo of existing service and generator.
10. Disconnect existing generator and ATS.
11. Demolition/debris or trash removal from site.
12. Fire caulking.

Exclusions

1. Payment, Bid or Performance Bond.
2. Engineering services, stamps, or plans.
3. Temporary power during new electrical service change over.
4. Temporary power during new generator placement and commissioning.
5. Furnishing new generator and automatic transfer switch.
6. Crane, loading and removal offsite of existing generator and ATS.
7. Transporting, loading and offloading, crane, diesel fuel, placement, and start-up & commissioning of new generator.
8. New concrete pad for generator.
9. Manufactures quoted price escalations will require a re-quote.
10. Material price escalations greater than 10% will require a re-quote.
11. Any equipment, material, or labor delays due to COVID-19 infections, government or CDC recommended or required quarantine, restrictions, or policies.
12. Any project delays expediting fees or additional costs due to shipping, material, component supply chain issues, shortages, and availability.
13. Freight charges are subject to change which may result in additional costs when pricing is accepted.
14. Liquidated damages.
15. Utility company fees, terminations, or junction boxes.
16. Furnishing or installing wiring and equipment for Fire Alarm, Phone, Data, CATV, VOIP, POS, Fiber Optic, CCTV, Security, Access control, SCADA, Audio, and Video systems.
17. Additional wiring devices or gear required by AHJ.
18. Allowances or unit prices.

KING ELECTRICAL CONTRACTORS
Scope Sheet
Gully Road W18 Generator

19. Electrical System coordination and/or Arc Flash investigation, studies, calculations, reports and labeling.
20. Access panels for electrical equipment.
21. Cutting, painting, penetrations, backing or repair & patching of concrete, asphalt, walls, ceiling, roof, or floors for electrical conduit & equipment.
22. Cutting or patching parking lot for electrical scope.
23. Ditch compaction testing.
24. Back filling Division 26 excavations with classified rock.
25. Any type of rock excavation.
26. Division 26 excavations dirt or spoils removal from site.
27. Landscaping or repair due to Division 26 excavation.
28. Directional Boring.
29. Seismic bracing for fixtures or gear.
30. Transformer or housekeeping pads.
31. Backboards.
32. Formed or finished concrete.
33. Asbestos or hazardous material abatement.



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU: Paul Becker, Chief Financial Officer
FROM: Kevin Springer, Budget Director
DATE:
SUBJECT: Approval of a budget adjustment for purchased water due to increased water usage

RECOMMENDATION:

Approval of a budget adjustment for purchased water due to increased water usage

BACKGROUND:

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

DISCUSSION:

Water purchased at the end of November 2023 is up by 8.8% compared to water purchased at the end of November 2022. This increase in water usage is due to several factors, but most notably is due to increases seen in customer water usage and water loss due to leaks.

BUDGET/STAFF IMPACT:

The \$550,000 requested for Water Purchases will come from Water and Sewer fund balance.

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



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1465

Approval of a budget adjustment for purchased water due to increased water usage

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$550,000.00 FOR THE PURCHASED WATER ACCOUNT DUE TO INCREASED WATER USAGE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$550,000.00 for the purchased water account due to increased water usage.

City of Fayetteville Staff Review Form

2023-1465

Item ID

12/19/2023

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

Kevin Springer

12/1/2023

BUDGET & INFORMATION MGMT (133)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a budget adjustment in the amount of \$550,000.00 in the Purchased Water account due to increased water usage, which is purchased from Beaver Water District.

Budget Impact:

5400.720.3800-5312.00

Water & Sewer

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 11,616,239.00

Expenses (Actual+Encum)

\$ 10,966,251.04

Available Budget

\$ 649,987.96

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 550,000.00

Remaining Budget

\$ 1,199,987.96

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2023	BUDGET & INFORMATION MGMT (133)	
	Requestor: Kevin Springer	

Staff recommends approval of a budget adjustment in the amount of \$550,000.00 in the Purchased Water account due to increased water usage, which is purchased from Beaver Water District.

RESOLUTION/ORDINANCE

COUNCIL DATE:	12/19/2023
ITEM ID#:	2023-1465
<i>Holly Black</i> 12/1/2023 3:09 PM	
Budget Division	Date
D - (City Council)	
TYPE:	
JOURNAL #:	
GLDATE:	
CHKD/POSTED:	/

[illegible]



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU: Paul Becker, Chief Financial Officer
FROM: Waylon Abernathy, Bond Projects & Construction Dir
DATE:
SUBJECT: Change Order #2 to RFQ# 22-12 with Flintco LLC. for Fire Station 2 Work Package 2.

RECOMMENDATION:

Approval of Change Order #2 to RFQ# 22-12 with Flintco LLC. for WP-2 for Fire Station 2 in the amount of \$5,345,663.00 and approve a Budget Adjustment. An owner contingency is included in the total in the amount of \$107,973.

BACKGROUND:

10/17/2023 Resolution #58-23 was approved for Change Order #1 to include site demolition, site grading, site utilities, site concrete, building concrete, and generator and switchgear.

DISCUSSION:

This change order in the amount of \$5,345,663 completes the GMP. The trade packages include Masonry, Structural Steel, Wood Framing, Millwork, Glass, finishes, MEP. Included in the total is an owner contingency in the amount of \$107,973.00.

BUDGET/STAFF IMPACT:

Budget Adjustment to include Fire Bond Funds, earned interest, and Fire Impact Fees.

PURCHASE ORDER DETAILS

GL Account	Project	Amount
4710.860.7110-5804.00	46100.7110.8040	\$3,543,112.00
4610.860.7110-5804.00	46100.7110.8040	\$529,534.00
2300.300.9300-5804.00	07003.7110.8040	\$1,273,017.00
Total		\$5,345,663.00

ATTACHMENTS: SRF (#3), BA (#4), CO #2 Compiled (#5), Affidavit of Compliance (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1435

Change Order #2 to RFQ# 22-12 with Flintco LLC. for Fire Station 2 Work Package 2.

A RESOLUTION TO APPROVE CHANGE ORDER #2 WITH FLINTCO, LLC IN THE AMOUNT OF \$5,345,663.00 FOR WORK ASSOCIATED WITH THE CONSTRUCTION OF FIRE STATION 2, AND TO APPROVE A BUDGET ADJUSTMENT – FIREFIGHTING FACILITY IMPROVEMENTS BOND PROJECT

WHEREAS, in October 2022, Washington County donated 1.4 acres at the corner of North Street and Woolsey Avenue to the City of Fayetteville for the construction of a new fire station; and,

WHEREAS, in March 2023, the City Council approved Resolution #58-23 authorizing a contract with Flintco, LLC for Construction Management Services for the new fire station; and

WHEREAS, on October 17, 2023, the City Council approved Change Order #1 to include site demolition, site grading, site utilities, site concrete, and generator and switchgear; and

WHEREAS, Change Order #2 includes the completion of construction of the fire station.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Change Order No. 2 with Flintco, LLC in the amount of \$5,345,663.00 for work associated with the construction of Fire Station 2.

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

2023-1435

Item ID

12/19/2023

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

Wade Abernathy

12/1/2023

FACILITIES MANAGEMENT (140)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of Change Order #2 to RFQ# 22-12 contract with Flintco LLC., in the amount of \$5,345,663.00 and approval of a budget adjustment. There is \$107,973.00 included in the total amount for Owner Contingency.

Budget Impact:

4710.860.7110-5804.00

Fire Projects 2019 Bonds

4610.860.7110-5804.00

Fire Projects 2022 Bonds

2300.300.9300-5804.00

Impact Fees

Account Number

Fund

46100.7110.8040

Fire Projects (2019/2022 Bonds)

07003.7110.8040

Fire Impact Fee Improvements

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 7,313,840.00

Expenses (Actual+Encum)

\$ 2,545,182.15

Available Budget

\$ 4,768,657.85

Does item have a direct cost? Yes

Item Cost

\$ 5,345,663.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 715,101.00

Remaining Budget

\$ 138,095.85

Purchase Order Number: 2023-540

Previous Ordinance or Resolution # V20221130 58-23, 208-23

Change Order Number: 2

Approval Date: 10/3/2023

Original Contract Number: 2023-21

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year 2023	Division /Org2 FACILITIES MANAGEMENT (140) Requestor: Wade Abernathy	Adjustment Number
--------------------------------	---	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Approval of Change Order #2 to RFQ# 22-12 contract with Flintco LLC., in the amount of \$5,345,663.00 and approval of a budget adjustment. There is \$107,973.00 included in the total amount for Owner Contingency.

	COUNCIL DATE:	12/19/2023
	ITEM ID#:	2023-1435
	<i>Holly Black</i>	
	<i>12/1/2023 7:50 AM</i>	
	Budget Division	Date
	D - (City Council)	
RESOLUTION/ORDINANCE	TYPE:	
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/

TOTAL	715,101	715,101					v.20231113
	Increase / (Decrease)		Project.Sub#				
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name	
4710.860.7110-5804.00	3,543,112	-	46100	7110.8040	EX	Building Costs	
4610.860.7110-5804.00	529,534	-	46100	7110.8040	EX	Building Costs	
2300.300.9300-5804.00	1,273,017	-	07003	7110.8040	EX	Building Costs	
4710.860.7999-5899.00	(3,543,112)	-	46100	7999	EX	Unallocated - Budget	
4610.860.7999-5899.00	(503,605)	-	46100	7999	EX	Unallocated - Budget	
4610.860.7000-4707.46		25,929	46100	7000	RE	Interest - 2019 Project Funds	
2300.300.9300-5801.00	(583,845)	-	07003	4	EX	Fixed Assets	
2300.300.9300-4999.99	-	689,172			RE	Use Fund Balance - Current	
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					
	-	-					

Account Number	Increase / (Decrease)		Project.Sub#			Account Name
	Expense	Revenue	Project	Sub.Detl	AT	
	-	-				
	-	-				
	-	-				
	-	-				



AIA®

Document G701® – 2017

Change Order

PROJECT: *(Name and address)*

Fayetteville Fire Station No.2
138 W. North Street
Fayetteville Arkansas 72703

OWNER: *(Name and address)*

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

CONTRACT INFORMATION:

Contract For: General Construction

Date: March 7th, 2023

ARCHITECT: *(Name and address)*

MBL Architecture
2397 Green Acres Rd,
Fayetteville, AR 72703

CHANGE ORDER INFORMATION:

Change Order Number: 2

Date: 11/27/2023

CONTRACTOR: *(Name and address)*

Flintco, LLC
184 E. Fanitnel Dr.
Springdale, AR 72762

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Includes labor, material, equipment, and supervision required for all scopes of work as shown in Exhibit A - GMP Itemization, for the construction of the new Fayetteville Fire Station #2. All earthwork, utilities, and concrete was included in CO#1 and is therefore excluded in this change order. All work to be completed in accordance with Construction Documents issued by Miller Boskus Lack Architects dated 8/18/2023, Revision #1 dated 10/17/2023, Addendum #1 dated 10/25/2023, and Addendum #2 dated 11/02/2023, Exhibit C – Enumeration of documents, an exhibits as listed below.

Date	Description
11/27/2023	Exhibit A - GMP Itemization
11/27/2023	Exhibit B - Clarifications & Assumptions
11/27/2023	Exhibit C - Enumeration of Documents

The original Guaranteed Maximum Price was	\$ 30,000.00
The net change by previously authorized Change Orders	\$ 1,703,019.00
The Guaranteed Maximum Price prior to this Change Order was	\$ 1,733,019.00
The Guaranteed Maximum Price will be increased by this Change Order in the amount of	\$ 5,345,663.00
The new Guaranteed Maximum Price including this Change Order will be	\$ 7,078,682.00

The Contract Time will be increased by Zero (0) days.
The new date of Substantial Completion will be 9/30/2024

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT <i>(Firm name)</i>	Flintco, LLC	CONTRACTOR <i>(Firm name)</i>	City of Fayetteville	OWNER <i>(Firm name)</i>
SIGNATURE		SIGNATURE		SIGNATURE
PRINTED NAME AND TITLE	Brent Farmer / Vice President	PRINTED NAME AND TITLE	11/27/23	PRINTED NAME AND TITLE
DATE		DATE		DATE



COST ITEMIZATION
Fayetteville Fire Station #2 - CO#2

Group	Description	Total Amount
01000	GENERAL CONDITIONS	\$ 430,036
01000	PROJECT REQUIREMENTS	\$ 94,245
01000	BID PACKAGE #1C - FINAL CLEAN	\$ 10,490
03000	BID PACKAGE #3C - POLISHED CONCRETE	\$ 27,777
04000	BID PACKAGE #4A - MASONRY	\$ 608,525
05000	BID PACKAGE #5A - STRUCTURAL STEEL SUPPLY	\$ 143,992
05000	BID PACKAGE #5B - STRUCTURAL STEEL ERECTION	\$ 51,500
06000	BID PACKAGE #6A - MILLWORK	\$ 319,775
06000	BID PACKAGE #6B - WOOD FRAMING	\$ 335,154
07000	BID PACKAGE #7A - WATERPROOFING / SEALANTS	\$ 72,107
07000	BID PACKAGE #7B - ROOFING	\$ 140,527
07000	BID PACKAGE #7C - METAL PANELS	\$ 54,550
07000	BID PACKAGE #7D - SPRAY FOAM	\$ 23,190
08000	BID PACKAGE #8A - DOORS, FRAMES, HARDWARE & SPECIALTIES (SUPPLY)	\$ 69,747
08000	BID PACKAGE #8B - DOORS, FRAMES, & HARDWARE (INSTALL)	\$ 14,810
08000	BID PACKAGE #8C - GLASS & GLAZING	\$ 104,305
08000	BID PACKAGE #8D - OVERHEAD DOOR	\$ 189,402
09000	BID PACKAGE #9A - DRYWALL, ACT, WOOD CEILINGS, INSULATION, BLOCKING	\$ 83,995
09000	BID PACKAGE #9C - CARPET, RESILIENT FLOORING, & TILE	\$ 23,935
09000	BID PACKAGE #9E - PAINTS & COATINGS	\$ 76,650
10000	BID PACKAGE #10A - SIGNAGE	\$ 13,855
10000	BID PACKAGE #10D - LOCKERS	\$ 10,042
12000	BID PACKAGE #12A - WINDOW TREATMENT	\$ 5,090
21000	BID PACKAGE #21A - FIRE SUPPRESSION SYSTEM	\$ 113,920
22000	BID PACKAGE #22A / 23A - HVAC & PLUMBING	\$ 839,360
26000	BID PACKAGE #26A - ELECTRICAL	\$ 495,132
32000	BID PACKAGE #32C - FENCES & GATES	\$ 115,776
32000	BID PACKAGE #32D - LANDSCAPING	\$ 51,265
32000	BID PACKAGE #32F - PAVEMENT MARKINGS, SIGNAGE, WHEEL STOPS	\$ 2,956
	Entegrity - LEED Services	\$ 32,120
	Rubber Base @ Fitness Allowance	\$ 240
	Lightning Protection	\$ 13,860
	Sidewalk to UAMS	\$ 3,590
	Appliances Allowance	\$ 47,000
	Unforeseen Conditions Allowance	\$ 100,000
	SUBTOTAL:	\$ 4,718,917
	P & P BOND:	\$ 53,457
	INSURANCE:	\$ 32,074
	SUB DEFAULT INSURANCE:	\$ 58,986
	BUILDERS RISK:	\$ 9,836
	OWNERS CONTRACTORS PROTECTIVE LIABILITY:	\$ 9,058
	CM CONTINGENCY:	\$ 100,793
	OWNER CONTINGENCY:	\$ 107,987
	FEES:	\$ 254,555
	CO#2 Subtotal	\$ 5,345,663

Clarifications and Assumptions Exhibit “B”

Work Package #2:

November 27, 2023
Fayetteville Fire Station #2

CLARIFICATIONS, ASSUMPTIONS, INCLUSIONS AND EXCLUSIONS**Scope of Work**

Change Order #2 includes labor, material, equipment, tools, and supervision required to perform the following scope of work for the new Fayetteville Fire Station #2 Facility in accordance with the construction Documents issued by Miller Boskus Lack Architects dated 8/18/2023, Revision #1 dated 10/13/2023, Addendum #1 dated 10/25/2023, and Addendum #2 dated 11/02/2023, and specifically as listed in Exhibit C – Enumeration of documents.

- Bid Package 1C – Final Clean
- Bid Package 3C – Polished Concrete
- Bid Package 4A – Masonry
- Bid Package 5A – Structural Steel Supply
- Bid Package 5B – Structural Steel Erection
- Bid Package 6A – Millwork
- Bid Package 6B – Wood Framing
- Bid Package 7A – Waterproofing and Sealants
- Bid Package 7B – Roofing
- Bid Package 7C – Metal Panels
- Bid Package 7D – Spray Foam
- Bid Package 8A – Doors, Frames, Hardware & Specialties
- Bid Package 8B – Doors, Frames, Hardware & Specialties Installation
- Bid Package 8C – Glass and Glazing
- Bid Package 8D – Overhead Doors
- Bid Package 9A – Drywall, ACT, Wood Ceilings, Insulation, Blocking
- Bid Package 9C – Carpet, Resilient Flooring, Tile, and Rubber Base
- Bid Package 9E – Paints and Coatings
- Bid Package 10A – Signage
- Bid Package 10D – Lockers
- Bid Package 12A – Window Treatments
- Bid Package 21A – Fire Suppression System
- Bid Package 22A – HVAC
- Bid Package 23A – Plumbing
- Bid Package 26A – Electrical
- Bid Package 32C – Fences and Gates
- Bid Package 32D – Landscaping
- Bid Package 32F – Pavement Markings, Exterior Signage, and Wheel stops

Design Criteria

Where possible, items and systems specified by these C&A's are defined and specific to material, finish and intended use. Where materials, finishes and/or quantities are not clearly defined, this proposal assumes the most practical and economical solution consistent with the design concepts and scope. Where scope is unclear, suggested allowance have been provided.

Any work referred to as “By Owner”, “By Others”, “OFCl” (owner furnished contractor installed), or “N.I.C.” (not in contract) is not part of the scope of this proposal unless installation is specified.

Where the work “allowance” appears, it shall mean that a fixed sum is included in the cost of the work for design, materials, equipment and/or labor for the complete installed product specified. Allowance are identified with a specific dollar amount. Adjustment in the contract amount may be necessary if costs are less than or in excess of these allowances.

Code Requirements

We exclude any liability with regard to errors and omissions from the bid documents. In addition, we have assumed that the Architect/Engineer has incorporated into the bid documents all code requirements, ADA requirements and has taken all seismic design into consideration.

General Conditions & Project Requirements / General Package

General conditions have been included as a lump sum value which will be billed in equal monthly installments. Fixed General Condition Items shall mean the provision of facilities or performance of supervisory work by the Construction Manager with respect to items that are not included in one of the separate trade contracts and are not customarily so included. They shall include all of the Construction Manager's indirect costs and expenses, supervisory or general overhead costs, and personnel and benefit costs related to the administration and supervision of the work. Extension of project duration due to changes in scope of work or unforeseen conditions warrant general conditions extension as well.

Project Requirements items will be billed as cost of work; and shall include but are not limited to, cost and expenses incurred by the Construction Manager in operating and maintaining jobsite security, safety, and supporting the work from the subcontractors in the field. Example of project requirements are permits, layout, documentation photos, temporary toilets, utilities use, cleanup, waste disposal, etc.

Bonds & Insurance

General Insurance (0.6%), (OCP) Owner and Contractor Protective Liability Insurance, General Contractor Bond (1%), and Subcontractor Default Insurance (1.25%) have been included.

Quality Control Services

Costs for testing and special inspection services shall be provided by Owner and are excluded. We will provide coordination and scheduling of said services. These services include, but are not limited to engineering testing services, engineering observation and LEED consultation and testing.

Delays

If the Contractor is delayed at any time in the progress of the work by labor disputes, unavoidable casualties, changes in the work, or any other causes beyond Contractor's control, the time of completion shall be extended. Claims for extension of time and/or adjustments to the Contract Sum shall be made within a reasonable time after the occurrence of the delay.

This proposal excludes any time delays and cost increases arising from or related to the COVID-19 virus and any government or other third-party action in response thereto.

Permits, Bonds, and Fees

The Architect/Engineer is responsible for permit submission and acceptance by the City of Fayetteville and other Authorities Having Jurisdiction (AHJ). The Owner is responsible for the cost of the building permits, tap fees, impact fees and meters. Payment and performance bonds are included however all other bonds (Right of way or Maintenance Bonds) are excluded.

Temporary Utilities/Facilities

Temporary Utilities use fees such as Natural Gas, Water, Sewer and Electric Service is included for the duration of the project until the owner occupies the Facility.

Construction Access

Construction areas will be fenced where possible; all access will be controlled by Flintco personnel. Visitors to the site must sign in with the onsite Flintco Staff.

Prevailing Wage

Prevailing wage rates do not apply to this project and are not included. Certified Payroll and/or project audit is excluded.

Allowances, Contingency, Fees

The following are included:

1. Contractor Contingency	\$100,793
2. Owner Contingency (2%)	\$107,789
3. Appliance Allowance	\$47,000
4. Unforeseen Conditions	\$100,000

General Inclusions/Exclusions

1. Typical hours of construction operations are 7 am through 7 pm.
2. Certain construction procedures such as concrete placement and material deliveries require work outside of normal hours. Work will be scheduled with onsite personnel.
3. Unforeseen conditions and/or items not located and shown on plans are not included in the GMP.

Division 1 – Final Clean

No Exceptions

Division 3 – Building & Site Concrete

No Exceptions

Division 4 Masonry

All cast stone shall be a dry tamp cast stone as provided on FS#8 & FS#9.

Division 5 – Structural Steel Supply & Erection

No Exceptions

Division 6 – Woods, Plastics, and Composites

Includes Plastic Laminate (PLAM) in lieu of Solid Phenolic for all Wardrobe Cabinets.
All standing and running wood trim shall be a clear finish #2 White Pine.

Division 7 – Thermal and Moisture Protection

No Exceptions

Division 8 – Doors, Frames, Hardware, Overhead Doors, Windows, and Glazing

No Exceptions

Division 9 – Drywall, ACT, Wood Ceilings, Insulation, Blocking, Floor Coverings, Paints, and Coatings

All wood ceilings shall be a clear finish #2 White Pine.

Division 10 – Specialties

No Exceptions

Division 11 - Appliances

Includes a \$47,000 allowance for all appliances. Flintco to coordinate with the owner to make final equipment selections.

Division 12 –Window Shades

No Exceptions

Division 21 – Fire Suppression

All sprinkler head escutcheons shall be provided as White or Chrome. Custom colors are not included.

Division 22 - Plumbing

No Exceptions

Division 23 - HVAC

No Exceptions

Division 26, 27, 28 – Electrical, Communications, Electronic Safety, and Security Systems

- Includes lighting protection (L.P. system per UL96A, LP1 175, & NFPA 780, ground ring excluded).
- No power supply for irrigation controls was shown on the contract documents but power supply from a general circuit can be run from a nearby location at no charge.
- No intercom or clock system is shown on the contract documents so none is included.
- Conduit and cabling for Access Control and Security is included per the contract documents, cameras to be owner provided.
- Alert System is to be owner provided but tying into the system is included.
- Provisions for Conduit and wire at the Car Charger locations are included. Equipment and equipment installation is excluded.

Division 32 – Exterior Improvements

No Exceptions

END OF DOCUMENT

EXHIBIT C
ENUMERATION OF DOCUMENTS

Drawing No.	Drawing Title	Revision	Drawing Date	Set Name
G0.0	Cover Sheet	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
G0.1	LIFE SAFETY & CODE INFORMATION	1	10/25/2023	Addendum #1
G0.2	GENERAL INFORMATION	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
G0.3	ASSEMBLY TYPES	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
CIVIL				
C0.0	COVER SHEET	2	10/25/2023	Addendum #1
C0.1	GENERAL NOTES	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C1.0	DEMOLITION PLAN	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C1.1	SITE & PAVING PLAN	2	10/25/2023	Addendum #1
C2.0	GRADING PLAN	2	10/25/2023	Addendum #1
C3.0	UTILITY PLAN	2	10/25/2023	Addendum #1
C3.1	FIRE PLAN & PROFILE	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C3.2	STORM PLAN	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C3.3	STORM PLAN & PROFILE I	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C3.4	STORM PLAN & PROFILE II	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C3.5	STORM PLAN & PROFILE III	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C4.0	EROSION CONTROL PLAN PH. 1	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C4.1	EROSION CONTROL PLAN PH. 2	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C4.2	EROSION CONTROL DETAILS SHEET 1	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C4.3	EROSION CONTROL DETAILS SHEET 2	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.0	DETAILS SHEET 1	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.1	DETAILS SHEET 2	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.2	DETAILS SHEET 3	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.3	DETAILS SHEET 4	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.4	DETAILS SHEET 5	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.5	DETAILS SHEET 6	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
C5.6	DETAILS SHEET 7	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
LANDSCAPE				
L1.0	LANDSCAPE PLAN	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
L1.1	LANDSCAPE NOTES & DETAILS	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
L2.0	TREE PRESERVATION PLAN	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
L2.1	SHEET	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
STRUCTURAL				
S0.1	GENERAL NOTES	2	10/25/2023	Addendum #1
S0.2	SPECIAL INSPECTIONS	1	10/13/2023	Fayetteville Fire Station #2 100% CDs
S0.3	ROOF LOADING	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S1.1A	FOUNDATION PLAN	2	10/25/2023	Addendum #1
S1.1B	FOUNDATION PLAN	2	10/25/2023	Addendum #1
S2.1	TYP FOUNDATION DETAILS	2	10/25/2023	Addendum #1
S2.2	FOUNDATION SECTIONS	2	10/25/2023	Addendum #1
S2.3	FOUNDATION SECTIONS	2	10/25/2023	Addendum #1
S3.1	LOW ROOF FRAMING PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S3.2	HIGH ROOF FRAMING PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.1	TYP FRAMING DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.2	TYP FRAMING DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.3	FRAMING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.4	FRAMING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.5	FRAMING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.6	FRAMING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S4.7	FRAMING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S5.1	TRUSS PROFILES	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
S5.2	TRUSS PROFILES	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
ARCHITECTURAL				
AS.1	ARCHITECTURAL SITE PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A1.1	FLOOR PLAN	1	10/25/2023	Addendum #1
A1.2	MEZZANINE PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A1.3	REFLECTED CEILING PLANS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A1.4	ROOF PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs

EXHIBIT C
ENUMERATION OF DOCUMENTS

A2.1	BUILDING ELEVATIONS	1	11/2/2023	Addendum #2
A2.2	BUILDING ELEVATIONS	1	11/2/2023	Addendum #2
A3.1	BUILDING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A3.2	BUILDING SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A4.1	WALL SECTIONS	1	11/2/2023	Addendum #2
A4.2	WALL SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A4.3	WALL SECTIONS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A5.1	ENLARGED PLANS & INT. ELEVATIONS	1	11/2/2023	Addendum #2
A5.2	ENLARGED PLANS & INT. ELEVATIONS	1	11/2/2023	Addendum #2
A5.3	ENLARGED PLANS, ELEVATIONS, DETAILS	1	10/25/2023	Addendum #1
A5.5	DETAILS	1	11/2/2023	Addendum #2
A5.6	DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A6.1	DOOR & WINDOW SCHEDULE	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A6.2	STOREFRONT & WINDOW DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A6.3	DOOR DETAILS	1	11/2/2023	Addendum #2
A6.4	MILLWORK DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
A7.1	FINISH SCHEDULE & MATERIALS	1	10/25/2023	Addendum #1
PLUMBING				
U2.1	SITE UTILITY PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P1.1	PLUMBING NOTES & LEGEND	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P2.1	PLUMBING PLANS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P2.1A	ENLARGED PLUMBING PLAN -AREA A	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P2.1B	ENLARGED PLUMBING PLAN -AREA B	1	11/2/2023	Addendum #2
P3.1	PLUMBING DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P3.2	PLUMBING DETAILS	1	11/2/2023	Addendum #2
P3.3	PLUMBING DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P4.1	SHEET	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P4.2	PLUMBING RISERS	1	11/2/2023	Addendum #2
P4.3	SHEET CONTENTS PLUMBING RISERS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
P4.4	PLUMBING RISERS	1	11/2/2023	Addendum #2
P5.1	PLUMBING SCHEDULES	2	11/2/2023	Addendum #2
MECHANICAL				
M1.1	HVAC NOTES & LEGEND	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
M2.1	HVAC PLAN	1	10/25/2023	Addendum #1
M2.2	VRV PIPING LAYOUT	1	10/25/2023	Addendum #1
M3.1	HVAC DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
M3.2	HVAC DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
M5.1	HVAC SCHEDULES	1	10/25/2023	Addendum #1
MP2.1	MECHANICAL ROOF PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
ELECTRICAL				
E1.1	ELECTRICAL LEGEND, NOTES & DETAILS	1	10/25/2023	Addendum #1
E2.1	LIGHTING PLAN	1	11/2/2023	Addendum #2
E2.2	POWER PLAN	1	10/25/2023	Addendum #1
E2.3	MECHANICAL POWER PLAN	1	11/2/2023	Addendum #2
E2.4	SPECIAL SYSTEMS PLAN	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
E3.1	ELECTRICAL DETAILS	0	10/13/2023	Fayetteville Fire Station #2 100% CDs
E4.1	ELECTRICAL SCHEDULES	1	11/2/2023	Addendum #2
E4.2	ELECTRICAL SCHEDULES	1	11/2/2023	Addendum #2
ES1.0	ELECTRICAL SITE PLAN	1	11/2/2023	Addendum #2
ES1.1	ELECTRICAL SITE PHOTOMETRIC PLAN	1	11/2/2023	Addendum #2
Project Manual				
Number	Description	Revision	Issued Date	Set
General Requirements				
00 00 00	Cover	1	8/18/2023	50% CDs
00 01 07	Seals Page	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
00 21 00	Geotech	1	8/18/2023	50% CDs
00 21 00	MCE Project Number	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
00 31 32	Geotechnical Data	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
00 31 43	Environmental Compliance	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual

EXHIBIT C
ENUMERATION OF DOCUMENTS

00 41 00	Bid Form	1	8/18/2023	50% CDs
00 43 10	Cost Breakdown Form	1	8/18/2023	50% CDs
00 43 36	Subcontractor Listing	1	8/18/2023	50% CDs
110	Table of Contents			
01 11 00	Summary of Work	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 26 00	Contract Modification Procedures	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 29 00	Payment Procedures	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 31 00	Project Management and Coordination	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 32 00	Construction Progress Documentation	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 33 00	Submittal Procedures	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 40 00	Quality Requirements	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 45 29	Testing And Inspection Services	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 50 00	Construction Facilities and Temporary Con	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 60 00	Product Requirements	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 73 00	Execution	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 74 19	Construction Waste Management	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 77 00	Closeout Procedures	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 79 00	Minimum Owner Training Requirements	1	8/18/2023	50% CDs
01 81 13	LEED Certification Requirements	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
01 81 19	Indoor Air Quality Management	1	8/18/2023	50% CDs
01 81 81	Sustainable Checklist Requirements	1	8/18/2023	50% CDs
01 91 13	General Commissioning Requirements	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Concrete				
03 30 00	Cast-In-Place Concrete	1	8/18/2023	50% CDs
03 31 50	Grout	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
03 35 10	Polished Concrete Finishing	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Architectural Pre-Cast Concrete - Plant			
03 45 33	Cast	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Masonry				
04 20 00	Unit Masonry	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Metals				
05 12 00	Structural Steel Framing	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
05 21 00	Steel Joist Framing	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
05 31 00	Steel Decking	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Metal Fabrications And Miscellaneous			
05 50 00	Metals	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
05 51 33	Metal Access Ladder	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Wood, Plastics, and Comosits				
06 10 00	Carpentry	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
06 16 00	Exterior Grade Sheathing	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
06 18 00	Glue Laminated Structural Units	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
06 40 00	Architectural Woodwork	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Thermal and Moisture Protection				
07 19 00	Water Repellent Coating	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 21 00	Building Insulation	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 21 29	Sprayed Insulation	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 27 26	Liquid Applied Air/Vapor Barrier	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 42 13	Formed Metal Wall Panels	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 46 46	Fiber Cement Siding	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 54 00	Thermoplastic Membrane Roofing	1	8/18/2023	50% CDs
07 60 00	Flashing and Sheet Metal	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
07 92 00	Joint Sealants	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Openings				
08 11 13	Hollow Metal Doors and Frames	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 11 13.13	Interior Steel Doors and Frames	1	8/18/2023	50% CDs
08 11 13.14	Galvanneal Steel Doors and Frames	1	8/18/2023	50% CDs
	High Pressure Plastic Laminated Faced			
08 15 13	Doors	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 30 00	High Speed Rolling Doors	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 33 23	Overhead Coiling Doors	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual

EXHIBIT C
ENUMERATION OF DOCUMENTS

08 36 00	Overhead Sectional Doors	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 41 00	Aluminum Entrances, Storefront And			
08 41 00	Fixed Framing	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 52 13	Metal-Clad Wood Windows	1	8/18/2023	50% CDs
08 54 13	Fiberglass Windows	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 70 00	Finish Hardware	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
08 80 00	Glazing	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Finishes				
09 21 16	Gypsum Board	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
09 30 00	Tiling	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
09 51 13	Acoustical Lay-in Ceiling	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
09 65 13	Resilient Base And Accessories	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
09 65 19	Luxury Vinyl Tile Flooring	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
09 90 00	Painting	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Specialties				
10 11 00	Visual Display Surfaces	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 14 00	Channel and Cut Metal Signage	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 14 53	Signage	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 26 13	Stainless Steel Corner Guards	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 28 13	Toilet Accessories	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 44 00	Fire Protections Specialties	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 51 13	Metal Lockers	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
10 75 00	Flagpole	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Equipment				
11 30 00	Appliances	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Furnishings				
12 24 00	Shades	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Fire Suppression				
21 01 00	General Fire Suppression Provisions	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Common Work Results for Fire			
21 05 01	Suppression	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Vibration and Seismic Controls for Fire-			
21 05 48	Suppression Piping and Equipment	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Identification for Fire Suppression Piping			
21 05 53	and Equipment	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
21 13 01	Fire-Suppression Sprinkler Systems	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Plumbing				
22 01 00	General Plumbing Provisions	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Vibration and Seismic Controls for			
22 05 48	Plumbing Piping and Equipment	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Identification for Plumbing Piping and			
22 05 53	Equipment	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 07 19	Piping Insulation	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 08 00	Commissioning of Plumbing Systems	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 10 05	Plumbing Piping	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 10 06	Plumbing Specialties	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 10 08	Plumbing Solder	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 30 00	Plumbing Equipment	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
22 40 00	Plumbing Fixtures	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Heating, Ventilating, and Air Conditioning				
23 01 00	General HVAC Provisions	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Vibration & Seismic Controls for HVAC			
23 05 48	Piping & Equipment	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Identification for HVAC Piping and			
23 05 53	Equipment	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 05 93	Testing, Adjusting, and Balancing	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 07 13	Duct Insulation	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 08 00	Commissioning of HVAC Systems	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 09 24	VRV Advanced Multi-Zone Controller	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 23 00	Refrigerant Piping and Specialties	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual

EXHIBIT C
ENUMERATION OF DOCUMENTS

23 31 00	Ducts	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 33 00	Duct Accessories	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 33 30	Air Duct Sealants	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 34 23	Power Ventilators	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 37 00	Air Outlets and Inlets	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 40 00	Air Cleaning Devices	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 55 24	Gas-Fired Radiant Heaters	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 55 33	Electric Wall Heaters	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 55 36	Electric Duct Heaters	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 74 33	Dedicated Outside Air Units	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 75 30	VRV-Outdoor Heat Recovery	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 81 26	Split-System Air-Conditioners	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
23 81 40	VRV -Indoor (Indoor Heat Recovery- Heat Pump)	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Electrical				
26 00 10	General Electrical Provisions	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Seismic/Vibration Isolation Specification			
26 00 15	for Electrical & Conduit	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 19	Wires and Cables	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 26	Grounding	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 29	Supporting Devices	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 34	Conduit	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 37	Outlet and Pull Boxes	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 53	Identification	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 05 73	Overcurrent Protective Devices	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 08 00	Commissioning of Electrical Systems	0	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 21 02	Underground Distribution	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 24 16	Panelboards	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Wall Switches, Receptacles, and Plate			
26 27 26	Covers	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 28 18	Motor and Circuit Disconnects	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 32 15	Generator and Automatic Transfer Switch	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 51 00	Interior Building Lighting	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
26 56 00	Exterior Lighting	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Communications				
	Conduit for Telephone/Data and TV			
27 10 05	Raceway System	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Structured Telecommunications Cabling			
27 10 11	and Enclosures	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Electronic Safety and Security				
28 31 05	Fire Alarm System	2	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Earth Work				
31 10 00	Site Clearing and Demolition	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
31 20 00	Earthwork	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
31 23 19	Dewatering	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
31 31 00	Soil Treatment	3	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
Exterior Improvements				
32 13 13	Concrete Paving	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
32 31 19	Steel Ornamental Fence System	0		100% Fayetteville Fire Station #2 Project Manual
Utilities				
33 05 00	Common Work Results for Utilities	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
	Standard Specifications for Design and			
33 20 00	Construction	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual
33 41 00	Storm Drainage	1	10/13/2023	100% Fayetteville Fire Station #2 Project Manual

**AFFIDAVIT OF COMPLIANCE
CONSTRUCTION MANAGER-AT-RISK**

PROJECT: #23082 Fayetteville Fire Station #2

I, Brent Farmer, having been first duly sworn and authorized, provide this Affidavit for and on behalf of Flintco, LLC and state the following in reference to the project solicited and Contracted under RFQ (Ex 22-12,) and applicable to Change Order # ():

1. My name is **Brent Farmer** and I am the **VP/Area Manager for Flintco, LLC**. I am qualified and authorized to execute this affidavit.
2. Brent Farmer, pursuant to its contract with the City of Fayetteville, hereby certifies that it has reviewed the provisions set forth in Ark. Code Ann. § 14-58-1001, and verifies that it has complied with that statute and all other applicable rules and regulations, whether recited in §14-58-1001 or elsewhere in Arkansas law, for the above-identified project.
3. The City of Fayetteville shall be held harmless and indemnified for any disputes that arise regarding the procurement and bidding processes performed by (Firm Name).

FURTHER AFFIANT SAYETH NOT.

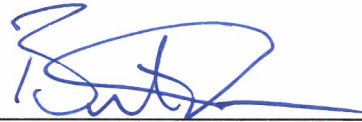
Signed this 27th day of November, 2023.

Brent Farmer

PRINTED NAME

VP Area Manager

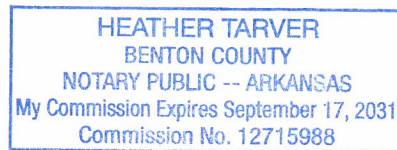
TITLE



SIGNATURE

STATE OF Arkansas)

COUNTY OF Washington)



Subscribed and sworn to me, a Notary Public, this 27th day of November, 2023.



Notary Public

SEAL

My Commission Expires: 9-17-31



MEETING OF DECEMBER 19, 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:

SUBJECT: **Approval of a contract with Garver, LLC for design of a trail bridge across Hamestring Creek**

RECOMMENDATION:

Staff recommends approval of a contract in the amount of \$122,200.00 with Garver, LLC per RFQ 23-01, selection #8 to provide professional services for the design of a trail bridge across Hamestring Creek just east of Ruppel Road and approval of \$10,000.00 in contingency and a budget adjustment.

BACKGROUND:

An extension of the Hamestring Creek Trail is planned to connect the existing section of trail near Shiloh Drive west to the Ruppel Road Trail. A new mixed-use development has been approved on the open land at the southeast side of the intersection of Mount Comfort and Ruppel Road. This development project will be dedicating the land for the trail corridor along the north side of Hamestring Creek and a cost share will be considered for the trail construction.

The trail must cross over Hamestring creek just east of Ruppel Road where trail exists under Ruppel Road and continues along the south side of Hamestring Creek and up to the west side of Ruppel Road where it meets the Ruppel Road Trail. The Ruppel Road Trail now extends 3.7 miles from MLK Jr. Blvd. to the Clabber Creek Trail. The completion of the Hamestring Creek Trail from Ruppel Road to the Shiloh Trail will create a trail and neighborhood bikeway connection from the Ruppel Road Trail to the Meadow Valley and Midtown Trails and on to the Razorback Greenway and will serve as a comfortable alternative to using Mount Comfort.

DISCUSSION:

On September 11th, Garver, LLC was selected by committee based on RFQ 23-01, selection #8. Staff worked with Garver to prepare a detailed scope of work and contract for this project. They have provided a proposed scope and fee in the amount of \$122,200.00 for the design of this project.

Design services will focus on the design of a 12-foot-wide trail bridge over Hamestring Creek, just east of Ruppel Road bridge. The design consultant will provide topographic and boundary surveys, geotechnical, hydraulic study including no-rise certification for the bridge over Hamestring Creek, corps of engineers permitting, trail and bridge design, bid ready construction plans and specifications, bidding services, and easement document preparation.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

BUDGET/STAFF IMPACT:

The design for this project will be paid for with funds from the 2022 allocation of the 2019 voter approved Trails Bond Funds. This is the second bridge project over Hamestring Creek and for simplicity, the same account and subproject numbers will be used for this bridge as was used for the first Bridge that is now fully complete.

ATTACHMENTS: SRF (#3), BA (#4), Hamestring Creek Trail Map (#5), Hamestring Creek Trail Crossing - Garver Agreement 2023-11-28 (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1436

Approval of a contract with Garver, LLC for design of a trail bridge across Hamestring Creek

A RESOLUTION TO AUTHORIZE A CONTRACT WITH GARVER, LLC, PURSUANT TO RFQ 23-01, FOR THE DESIGN OF A TRAIL BRIDGE ACROSS HAMESTRING CREEK IN THE AMOUNT OF \$122,200.00, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$10,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, an extension of the Hamestring Creek Trail is planned to connect the existing section of trail near Shiloh Drive; and

WHEREAS, a new mixed-use development has been approved on the open land at the southeast side of the intersection of Mount Comfort Road and Ruppel Road; and

WHEREAS, the completion of the Hamestring Creek Trail from Ruppel Road to the Shiloh Trail will create a trail and neighborhood bikeway connection from the Ruppel Road Trail to the Meadow Valley and Midtown Trails and on to the Razorback Greenway and will serve as a comfortable alternative to using Mount Comfort.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract with Garver, LLC, in the amount of \$122,200.00, pursuant to RFQ 23-01, for the design of a trail bridge across Hamestring Creek, and further approves a project contingency in the amount of \$10,000.00.

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

City of Fayetteville Staff Review Form

2023-1436

Item ID

12/19/2023

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

Matt Mihalevich

11/29/2023

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a contract in the amount of \$122,200.00 with Garver, LLC per RFQ 23-01, selection #8 to provide professional services for the design of a trail bridge across Hamestring Creek just east of Ruppel Road and approval of \$10,000.00 in contingency and a budget adjustment.

Budget Impact:

4703.860.7301-5860.02

Trails Projects 2019/2022 Bonds

Account Number

Fund

46030.7301

Hamestring Trail Bridge

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,062,705.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 1,062,705.00

Does item have a direct cost? Yes

Item Cost

\$ 122,200.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ -

Remaining Budget

\$ 940,505.00

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

Budget Year	Division	Adjustment Number
2023	ENGINEERING (621)	
	Requestor: Matt Mihalevich	

Staff recommends approval of a contract in the amount of \$122,200.00 with Garver, LLC per RFQ 23-01, selection #8 to provide professional services for the design of a trail bridge across Hamestring Creek just east of Ruppel Road and approval of \$10,000.00 in contingency and a budget adjustment.

v.20231113

\\city\dfs\Divs\Engineering\Trails\Projects\Hamestring Creek Trail\Bridge east of Rupple Road\Garver Contract\Garver Contract
to City Council\2023-1436 BA Hamestring Bridge - Garver

1 of 1
Page 72 of 445

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GARVER, LLC

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 GARVER, LLC (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 capital improvement projects. 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 services in connection with the Project as hereinafter stated.
 - 2.1.1 The Scope of Services to be furnished by ENGINEER during the Project is included in Appendix A attached hereto and made part of this Agreement.
- 2.2 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 FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of 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 Assist ENGINEER in obtaining access to property reasonably necessary for ENGINEER to perform his services under this Agreement.
- 3.1.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 3.1.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 3.1.6 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.
- 3.1.7 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 Appendix A.

SECTION 5 - PAYMENTS TO ENGINEER

- 5.1 The maximum not-to-exceed amount authorized for this Agreement shall be based upon on an Hourly basis as described in Appendix B.
- 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 as 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 study and report 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:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
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
- 6.2.1 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. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER 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 ENGINEER.
- 6.3 Cost Opinions and Projections
- 6.3.1 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
- 6.4.1 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 6.5.1 or 6.5.2 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 6.5.1 or 6.5.2 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 6.5.4 of this clause.
- 6.6 Delays
 - 6.6.1 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

- 6.7.1 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 6.8.3, 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 6.8.3 and 6.8.4 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 6.14 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

- 6.10.1 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

- 6.11.1 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, drawings, and specifications 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

- 6.13.1 Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:
125 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:
2049 E. Joyce Blvd, Suite 400
Fayetteville, Arkansas 72703

6.14 Successor and Assigns

6.14.1 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

6.15.1 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

6.16.1 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

7.2.1 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. 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 7.3.1 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

7.4.1 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 contingent 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, 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 7.5.1, 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

7.6.1 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

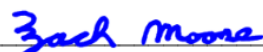
ENGINEER

By: _____
Mayor, Lioneld Jordan

By:  _____
Vice President, Ronald S. Petrie

ATTEST:

By: _____
City Clerk

By:  _____
Project Manager, Zach Moore

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES



EXHIBIT A (SCOPE OF SERVICES)

1. GENERAL

Generally, the scope of services includes surveying, design, drainage studies, environmental services, bidding services, and construction support services for the **Hamestring Creek Pedestrian Crossing**. Improvements will consist primarily of the installation of a pre-cast three-sided pedestrian culvert located to the east of the Ruppel Road bridge.

2. SURVEYS

2.1. Design Surveys

Garver will provide field survey data for designing the Project, and this survey will be tied to the Owner's control network.

Garver will conduct field surveys, utilizing radial topography methods, along the Project site as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Garver will locate drainage features, trees over eight inches in diameter, visible utilities as well as those underground utilities marked by their owners and/or representatives, and any other pertinent topographic features that may be present along the Project site. Garver will establish control points for use during construction.

Survey will include channel cross sections for drainage study. Cross section points shall be from bank to bank, including thalweg/low elevation at location and a couple of points outside of channel banks to tie into lidar.

2.2. Property Surveys

Garver will locate existing monumentation representing right of way and/or easements based on record data which will be provided by an abstractor under a subconsultant agreement with Garver.

3. GEOTECHNICAL SERVICES

Garver will subcontract with TERRACON CONSULTANTS, INC. for obtaining geotechnical data necessary for the design of this Project. Geotechnical tasks include:

- A. Provide two (2) borings 20 feet in depth or 10 feet into competent rock if auger refusal is encountered prior to the planned termination depth.
- B. Prepare field boring logs and Final boring logs representing the Geotechnical Engineer's interpretation of subsurface conditions.
- C. Perform Laboratory Testing that typically includes water content, Atterberg limits, unconfined compressive strength, and soil classification.
- D. Provide a geotechnical report that includes recommendations for earthwork (site preparation, fill materials, compaction requirements) and design/construction considerations for deep foundations.



4. COORDINATION

Garver will attend up to two (2) coordination meetings with the Owner and other agencies as required during project design. Garver will prepare exhibits for these meetings when appropriate.

5. ENVIRONMENTAL SERVICES

Garver will coordinate with the US Army Corps of Engineers (USACE) for the issuance of a Section 404 Nationwide permit (NWPP) for potential stream impacts. Garver will compile a Section 404 NWP package that will include the Preliminary Jurisdictional Determination (PJD) form and supporting materials. Individual permitting and any required cultural, habitat, or threatened and endangered species surveys is considered extra work.

Garver will prepare an initial consultation letter for coordination with the State Historic Preservation Office (SHPO). Consultation with Tribes, additional SHPO coordination beyond what is identified in this scope of work, and any Cultural Resources Surveys are considered extra work.

One Short-Term Activity Authorization (STAA) will be coordinated with DEQ. The Owner shall pay for all permitting fees.

6. SCHEMATIC STUDY

A schematic study is excluded from the scope of services.

7. DRAINAGE STUDY

Garver will perform a drainage study of Hamestring Creek to determine potential effects of the proposed three-sided culvert structure to the FEMA floodplain. County wide maps for Washington County are currently being updated by FEMA and will be newly effective January 2024. However, the Pending FIS states that the stream model was last updated in 1999. Therefore, the model received for the previous Ruppel Road project conducted by Garver is considered to still be the most up-to-date model. This model will be used as the basis for the pedestrian bridge project. No additional model requests will be performed.

The following tasks will be performed as part of the drainage study:

- Data collection, including GIS data and local site visit;
- Duplicate Effective Model run (rerun Duplicate Effective from Ruppel Road project in newer version of HEC-RAS);
- Corrected Effective model to reflect existing conditions (rerun Corrected Effective from Ruppel Road project in newer version of HEC-RAS with as-built Ruppel Road project included);
- Proposed Conditions model, with up to two proposed iterations;
- Floodway model runs for Corrected Effective and Proposed Conditions – only Effective floodway stationing will be modeled; updated proposed encroachments will not be determined;
- Potential scour calculations for proposed structure;
- Internal QA/QC of models and calculations;
- Hydraulic report and no-rise certification.

The goal of the proposed design is to have no rise to the 1% Annual Exceedance Probability (AEP) event along Hamestring Creek. Therefore, no coordination with FEMA in the form of a map revision (CLOMR/LOMR) is anticipated. If a no rise design cannot be determined, coordination with FEMA, including the assembly and submittal of a map revision package, is not included in this scope of services, and will be considered extra work.



8. FINAL DESIGN

Garver will proceed to Final design upon verification of the no-rise condition. During the Final design phase of the Project, Garver will conduct Final design to prepare construction plans and specifications, for one construction contract, for a precast three-sided culvert including:

- Construction drawings including a plan and profile sheet of the trail and pedestrian crossing, culvert layout sheet, structural details, structural foundation details, retaining wall details, erosion control sheet, and typical details
- Project quantities and opinion of probable construction cost.
- Special provisions.
- Front end and technical specifications

Garver will proceed to revised final design upon review of the 90% Final design. Garver will also make any needed plan changes as a result of the Final plan review and prepare the construction documents as required to advertise for bids.

9. PROPERTY ACQUISITION DOCUMENTS

Garver will provide mapping as required for preparing Right of Way/Easement acquisition documents for the Owner's use in acquiring the property. Documentation will include an individual tract map with description of temporary and permanent acquisition for each property. The Owner will provide a standard easement acquisition document or "go-by" example for use by Garver. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than one (1) property. Property acquisition document preparation will begin after receiving the Owner's comments from the Final Design review.

10. BIDDING SERVICES

During the bidding phase of the Project, Garver will:

- A. Prepare Advertisement for Bids. Owner will pay advertising costs outside of this contract.
- B. Support the contract documents by preparing addenda as appropriate.
- C. Participate in a pre-bid meeting if necessary.
- D. Attend the bid opening.
- E. Prepare bid tabulation.
- F. Evaluate bids and recommend award.

11. CONSTRUCTION PHASE SERVICES

Construction Phase Services are excluded from the scope of services.

12. PROJECT DELIVERABLES

The following will be submitted to the Owner, or others as indicated, by Garver:

- A. One digital copy of the Hydraulics Report and associated HEC-RAS Models.
- B. One digital copy of the Geotechnical Report.
- C. One digital copy of the Final Design with opinion of probable construction cost.
- D. One digital copy of the Revised Final Design with opinion of probable construction cost.
- E. One digital copy of the project specifications.



F. Electronic files as requested.

13. EXTRA WORK

The following items are not included under this agreement but will be considered as extra work:

- A. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- B. Submittals or deliverables in addition to those listed herein.
- C. Design of any utilities relocation including water and sewer.
- D. Retaining walls or other significant structural design beyond that required for the bridge foundations.
- E. Lighting or other electrical design.
- F. Construction materials testing.
- G. Record Drawings
- H. SWPPP preparation as it is anticipated disturbed area will be less than one acre.
- I. Any Cultural Resource Surveys.
- J. Individual 404 USACE Permit.
- K. Environmental Handling and Documentation, including mitigation plans or other work related to environmentally or historically (culturally) significant items.
- L. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- M. Scour Calculations.
- N. Resident Construction observation.

Extra Work will be as directed by the Owner in writing for an addition fee as agreed upon by the Owner and Garver.

14. SCHEDULE

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

Phase Description	Calendar Days
Surveys – Design and Property	30 days from NTP
Drainage Study	60 days from selection of Bridge Alternative
Geotechnical Investigation	30 days from Drainage Study Completion
Final Design	90 days from Drainage Study Completion
Property Acquisition Documents	30 days from approval of Final Design



Exhibit B
City of Fayetteville
Hamestring Creek Pedestrian Bridge
Garver Hourly Rate Schedule: July 2023 - June 2024

Classification	Rates	Classification	Rates
Engineers / Architects		Resource Specialists	
E-1	\$ 130.00	RS-1	\$ 104.00
E-2	\$ 144.00	RS-2	\$ 137.00
E-3	\$ 188.00	RS-3	\$ 194.00
E-4	\$ 203.00	RS-4	\$ 268.00
E-5	\$ 247.00	RS-5	\$ 335.00
E-6	\$ 304.00	RS-6	\$ 411.00
E-7	\$ 422.00	RS-7	\$ 460.00
Planners		Environmental Specialists	
P-1	\$ 157.00	ES-1	\$ 104.00
P-2	\$ 196.00	ES-2	\$ 131.00
P-3	\$ 244.00	ES-3	\$ 168.00
P-4	\$ 273.00	ES-4	\$ 198.00
P-5	\$ 308.00	ES-5	\$ 248.00
Designers		ES-6	\$ 318.00
D-1	\$ 118.00	ES-7	\$ 398.00
D-2	\$ 135.00	ES-8	\$ 450.00
D-3	\$ 161.00	Project Controls	
D-4	\$ 193.00	PC-1	\$ 106.00
Technicians		PC-2	\$ 140.00
T-1	\$ 95.00	PC-3	\$ 178.00
T-2	\$ 114.00	PC-4	\$ 229.00
T-3	\$ 139.00	PC-5	\$ 280.00
T-4	\$ 180.00	PC-6	\$ 361.00
Surveyors		PC-7	\$ 454.00
S-1	\$ 58.00	Administration / Management	
S-2	\$ 77.00	AM-1	\$ 75.00
S-3	\$ 103.00	AM-2	\$ 96.00
S-4	\$ 148.00	AM-3	\$ 134.00
S-5	\$ 187.00	AM-4	\$ 171.00
S-6	\$ 218.00	AM-5	\$ 209.00
2-Man Crew (Survey)	\$ 225.00	AM-6	\$ 272.00
3-Man Crew (Survey)	\$ 282.00	AM-7	\$ 320.00
2-Man Crew (GPS Survey)	\$ 245.00	M-1	\$ 510.00
3-Man Crew (GPS Survey)	\$ 302.00		
Construction Observation			
C-1	\$ 112.00		
C-2	\$ 140.00		
C-3	\$ 171.00		
C-4	\$ 221.00		
C-5	\$ 259.00		

Exhibit B

City of Fayetteville Hamestring Creek Pedestrian Bridge

FEE SUMMARY

	Title I Service	Estimated Fees
Rate Schedule	Surveys	\$ 10,100.00
Rate Schedule	H&H Study	\$ 21,300.00
Rate Schedule	Schematic Study	\$ -
Lump Sum	Geotechnical Services (Terracon)	\$ 6,000.00
Rate Schedule	Final Design	\$ 72,050.00
Rate Schedule	Property Acquisition Documents	\$ 4,050.00
Rate Schedule	Bidding Services	\$ 3,500.00
Rate Schedule	Environmental Services	\$ 5,200.00
	Subtotal for Title I Service	\$ 122,200.00
	Title II Service	Estimated Fees
Rate Schedule	Construction Phase Services	\$ -
	Subtotal for Title II Service	\$ -
	Total All Services	\$ 122,200.00

Exhibit B**City of Fayetteville
Hamestring Creek Pedestrian Bridge****SURVEYS**

WORK TASK DESCRIPTION	E-3	S-5	S-4	S-3	2-Man Crew (Survey)	2-Man Crew (GPS Survey)	3-Man Crew (GPS Survey)
	\$188.00	\$187.00	\$148.00	\$103.00	\$225.00	\$245.00	\$302.00
	hr	hr	hr	hr	hr	hr	hr
1. Project Management							
Quality Control Review		1					
Subtotal - Project Management	0	1	0	0	0	0	0
2. Topographic Survey							
Survey Layout Map	1	1					
Review of Existing Control Points		2					
Topographic Surveys			2			8	
Hydrographic X-Sections		1	2			8	
Data Processing/Preparation							
Subtotal - Topographic Survey	1	4	4	0	0	16	0
3. Property Survey							
Survey Layout Map							
Review of Existing Control Points							
Property Surveys		1	4			8	
Data Processing/Preparation		2	2	4			
Subtotal - Property Survey	0	3	6	4	0	8	0

Hours	1	8	10	4	0	24	0
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Salary Costs	\$188.00	\$1,496.00	\$1,480.00	\$412.00	\$0.00	\$5,880.00	\$0.00
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SUBTOTAL - SALARIES:	\$9,456.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$20.00
Survey Supplies	\$10.00
Aerial Photography	\$0.00
Travel Costs	\$114.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$144.00
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SUBTOTAL:	\$9,600.00
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SUBCONSULTANTS FEE: WACO	\$500.00
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TOTAL FEE:	\$10,100.00
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Exhibit B**City of Fayetteville
Hamestring Creek Pedestrian Bridge****ENVIRONMENTAL SERVICES**

WORK TASK DESCRIPTION	ES-5	ES-3	ES-1	E-4	- Select Category -	- Select Category -	- Select Category -
	\$248.00	\$168.00	\$104.00	\$203.00	\$0.00	\$0.00	\$0.00
	hr	hr	hr	hr	hr	hr	hr
1. Phase							
Section 404 Permitting	2	8	8				
Cultural Resources - SHPO Coordination	1	4	4				
STAA	1	2	4				
Subtotal - Phase	4	14	16	0	0	0	0

Hours	4	14	16	0	0	0	0
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Salary Costs	\$992.00	\$2,352.00	\$1,664.00	\$0.00	\$0.00	\$0.00	\$0.00
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SUBTOTAL - SALARIES:	\$5,008.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$100.00
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Travel Costs	\$92.00
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SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$192.00
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SUBTOTAL:	\$5,200.00
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SUBCONSULTANTS FEE:	\$0.00
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TOTAL FEE:	\$5,200.00
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Exhibit B

City of Fayetteville Hamestring Creek Pedestrian Bridge

H&H STUDY

WORK TASK DESCRIPTION	E-5	E-3	E-1
	\$247.00	\$188.00	\$130.00
	hr	hr	hr
1. Hydrology and Hydraulics			
Data Collection, including site visit		4	8
Duplicate Effective Model		2	2
Existing Conditions/Corrected Effective Model - Review and update model	2	6	16
Proposed Conditions Model - two alternatives	2	8	30
Floodway Models (Existing and Proposed)		6	16
Scour Calculations (Not Included in Scope)			
Internal QA/QC of models and scour	4	8	4
Prepare report and no rise certification	2	8	8
Subtotal - Hydrology and Hydraulics	10	42	84

Hours	10	42	84
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Salary Costs	\$2,470.00	\$7,896.00	\$10,920.00
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SUBTOTAL - SALARIES:	\$21,286.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$14.00
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Travel Costs	\$0.00
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SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$14.00
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SUBTOTAL:	\$21,300.00
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SUBCONSULTANTS FEE:	\$0.00
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TOTAL FEE:	\$21,300.00
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Exhibit B**City of Fayetteville
Hamestring Creek Pedestrian Bridge****FINAL DESIGN**

WORK TASK DESCRIPTION	E-6	E-4	E-3	E-2	E-1	T-3	T-2
	\$304.00	\$203.00	\$188.00	\$144.00	\$130.00	\$139.00	\$114.00
	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering							
90% Plans							
Cover Sheet/Survey Control			1				2
Miscellaneous Details			2		4		6
Typical Section			2		4		4
Plan & Profile Sheet	1		4		16		12
Erosion Control Plan			2		4		4
Cross Sections			1		4		
Channelization/Grading Plans	1		2		8		4
Specifications/Contract Documents			8		8		
Quantities			2		6		2
Opinion of Probable Construction Cost	1		2		4		
Quality Control Review	2		4				
Coordination with Geotechnical Subconsultant	1		1				
Coordination and Meetings with Owner (2 Meetings)	2		4		2		
Revised Final - Address City Comment on Final			6		8		3
Subtotal - Civil Engineering	8	0	41	0	68	0	37
2. Structural Engineering							
Crossing Design	2	12		12	12		
Crossing Details	2	32		24	24	40	
Retaining Walls	1	16		20		16	
Structural Specifications		6		4			
Coordination with H&H/Geotech/Supplier		12		2			
Coordination and Meetings with Owner (2 Meetings)		4					
Quantities		6		8	10		
Opinion of Probable Construction Cost	1	4		4			
Revised Final - Address City Comment on Final		8		8	8		
Subtotal - Structural Engineering	6	100	0	82	54	56	0

Hours	14	100	41	82	122	56	37
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Salary Costs	\$4,256.00	\$20,300.00	\$7,708.00	\$11,808.00	\$15,860.00	\$7,784.00	\$4,218.00
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SUBTOTAL - SALARIES:	\$71,934.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$60.00
Travel Costs	\$56.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$116.00
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TOTAL FEE:	\$72,050.00
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Exhibit B**City of Fayetteville
Hamestring Creek Pedestrian Bridge****PROPERTY ACQUISITION DOCUMENTS**

WORK TASK DESCRIPTION	E-3	S-5	S-4	S-3	2-Man Crew (Survey)	2-Man Crew (GPS Survey)	3-Man Crew (Survey)
	\$188.00	\$187.00	\$148.00	\$103.00	\$225.00	\$245.00	\$282.00
	hr	hr	hr	hr	hr	hr	hr
1. Project Management							
Administration and Coordination	1						
Quality Control Review		2					
Submittals to Client		1	2				
Subtotal - Project Management	1	3	2	0	0	0	0
2. Acquisition Documents (1 Parcel)							
Documents		2	4				
Temporary Construction Easements		1	2				
Stake Proposed Easements		1	2			4	
Subtotal - Acquisition Documents (1 Parcel)	0	4	8	0	0	4	0

Hours	1	7	10	0	0	4	0
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Salary Costs	\$188.00	\$1,309.00	\$1,480.00	\$0.00	\$0.00	\$980.00	\$0.00
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SUBTOTAL - SALARIES:	\$3,957.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$23.00
Survey Supplies	\$10.00
Travel Costs	\$60.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$93.00
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SUBTOTAL:	\$4,050.00
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SUBCONSULTANTS FEE:	\$0.00
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TOTAL FEE:	\$4,050.00
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Exhibit B**City of Fayetteville
Hamestring Creek Pedestrian Bridge****BIDDING SERVICES**

WORK TASK DESCRIPTION	E-6	E-5	E-4	E-3	E-2	E-1	T-2
	\$304.00	\$247.00	\$203.00	\$188.00	\$144.00	\$130.00	\$114.00
	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering							
Addendums/Inquiries				4		2	
Pre-Bid Meeting and Preparation				3			
Bid Opening				0.5		0.5	
Prepare bid tabulation				1		1	
Evaluate bids and recommend award				1			
Prepare construction contracts				2			
Subtotal - Civil Engineering	0	0	0	11.5	0	3.5	0
2. Structural Engineering							
Addendums			4				
Subtotal - Structural Engineering	0	0	4	0	0	0	0

Hours	0	0	4	11.5	0	3.5	0
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Salary Costs	\$0.00	\$0.00	\$812.00	\$2,162.00	\$0.00	\$455.00	\$0.00
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SUBTOTAL - SALARIES:	\$3,429.00
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DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$36.00
Travel Costs	\$35.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$71.00
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SUBTOTAL:	\$3,500.00
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SUBCONSULTANTS FEE:	\$0.00
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TOTAL FEE:	\$3,500.00
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MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

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

FROM: Matt Casey, Engineering Design Manager

DATE:

SUBJECT: Bid 23-40, Construction – 2023 Asphalt Surface Treatment

RECOMMENDATION:

Approval of a contract in the amount of \$745,175.90 with Vance Brothers, Inc. and approval of a \$75,000 contingency, for asphalt surface treatments for City Streets and Parking lots.

BACKGROUND:

City staff has identified several streets and city-owned parking lots that are in need of preventative asphalt maintenance. Microsurfacing minimizes aging, reduces water infiltration, corrects raveling and weathering, provides a skid resistance surface and improves overall aesthetics. See the attached plan set for a complete list of streets and parking lots.

DISCUSSION:

On November 8, 2023, the City of Fayetteville accepted bids from licensed firms for the application of micro-surfacing material. One bid was submitted by Vance Brothers, Inc.

BUDGET/STAFF IMPACT:

This project will be funding by three different sources. The street portion of the project (\$496,099.83) will be funded by the Transportation Bond Program. The Parks parking lots (\$179,632.23) will be funded by Sales Tax Capital Improvement Funds for Parks. The Parking Division parking lots (\$69,383.84) will be funded by the Parking Fund.

PURCHASE ORDER

DETAILS

G/L ACCT	PROJECT	AMOUNT
4702.860.7252-5417.00	46020.7252	\$496,099.83
4470.520.8520-5819.00	16004.1	\$179,692.23
2130.430.9133-5819.00	06001.1	\$69,383.84
TOTAL		\$745,175.90

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

ATTACHMENTS: SRF (#3), Bid 23-40, Bid Tab - Final (#4), Vance Construction Contract (#5), Bid 23-40, Appendix A - City Issued Bid (#6), Bid 23-40, Appendix B - Vance Brothers Submittal (#7), 2023 Asphalt Surface Treatment Project (#8)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1438

Bid 23-40, Construction – 2023 Asphalt Surface Treatment

A RESOLUTION TO AWARD BID #23-40 AND AUTHORIZE A CONTRACT WITH VANCE BROTHERS, INC. IN THE AMOUNT OF \$745,175.90 FOR ASPHALT SURFACE TREATMENTS FOR CITY STREETS AND PARKING LOTS, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$75,000.00

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 awards Bid #23-40 and authorizes Mayor Jordan to sign a contract with Vance Brothers, Inc. in the amount of \$745,175.90 for asphalt surface treatments for city streets and parking lots, and further approves a project contingency in the amount of \$75,000.00.

City of Fayetteville Staff Review Form

2023-1438

Item ID

12/19/2023

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

Matt Casey

11/29/2023

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract in the amount of \$745,175.90 with Vance Brothers, Inc. and approval of a \$75,000 contingency, for asphalt surface treatments for City Streets and Parking lots.

Budget Impact:

2130.430.9133-5819.00

4470.520.8520-5819.00

4702.860.7252-5417.00

Account Number

06001.1

16004.1

46020.7252

Project Number

Parking Fund

Sales Tax Capital Fund

Streets Projects (2019/2022 Bonds)

Fund

Parking Lot Improvements & Overlays

Park Paving Improvements

Streets Projects (2019/2022 Bonds) - Pavement Maint

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,799,617.29

Expenses (Actual+Encum)

\$ 874,522.71

Available Budget

\$ 925,094.58

Does item have a direct cost? Yes

Item Cost

\$ 820,175.90

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 104,918.68

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments: Item cost includes contingency



BID TABULATION

Bid 23-40, Construction - 2023 Asphalt Surface Treatment

DEADLINE: Wednesday, November 8, 2023 at 2:00 PM

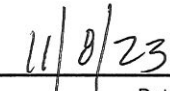
Certification of Funds: \$1,200,000.00 (\$1,500,000.00 total allowed)

				Vance Brothers Inc	
				Total	\$745,175.90
Line #	Description	QTY	UOM	Unit	Extended
1	Mobilization (Not to Exceed 5% of Base Bid)	1	LS	\$25,000.00	\$25,000.00
2	Bonds and Insurance	1	LS	\$10,860.00	\$10,860.00
3	Microsurfacing (18-22 lbs/SY) - Roadway	116,843	SY	\$3.43	\$400,771.49
4	Microsurfacing (18-22 lbs/SY) - Parking Lots	21,797	SY	\$7.75	\$168,926.75
5	Hot Rubber Crack Seal	45,750	LF	\$2.30	\$105,225.00
6	Reflectorized Paint Marking WHITE 4"	14,759	LF	\$1.44	\$21,252.96
7	Thermoplastic Marking - SYMBOLS (Bike, ADA, Shared Lane, etc.)	25	EA	\$402.50	\$10,062.50
8	Thermoplastic Marking - ARROWS	2	EA	\$402.50	\$805.00
9	Thermoplastic Marking - WHITE - 12"	60	LF	\$28.75	\$1,725.00
10	Reflectorized Paint Marking YELLOW 4"	380	LF	\$1.44	\$547.20

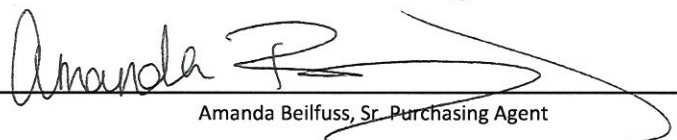
* NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City Officials.



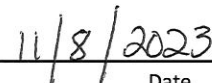
 Kenny Fitch, Purchasing Agent



 Date



 Amanda Beilfuss, Sr. Purchasing Agent



 Date



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 **Vance Brothers, Inc.** (Vendor or Vance Brothers).

CITY OF FAYETTEVILLE from time to time requires professional construction services in connection with construction projects. Therefore, CITY OF FAYETTEVILLE and **Vance Brothers, Inc.**, in consideration of their mutual covenants, agree as follows:

Work performed by **Vance Brothers, Inc.** shall be performed under valid, active, current license with the Arkansas Contractor's Licensing Board. **Vance Brothers, Inc.** shall follow all federal, state, and local laws at all times.

1. Contracted parties and relationship:

- a. This agreement shall be binding between all parties. Fees shall be provided as identified in appendices.
 - i. **Vance Brothers, Inc.'s** Tax identification number (TIN) ending in 7983
 - ii. **Vance Brothers, Inc.'s** Arkansas Contractor License No. 0057410424
 - iii. **Vance Brothers, Inc.'s** Secretary of State Filing No. 100147193
- b. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

- a. Appendices included under this agreement include the following:
 - i. **Appendix A:** Bid package identified as **Bid 23-40, Construction – 2023 Asphalt Surface Treatment** with the specifications and conditions typed thereon inclusive of all bidding documents, plans and drawings, and issued addenda.
 - ii. **Appendix B:** **Vance Brothers, Inc.'s** bid submittal
 - iii. **Appendix C:** Bid Tabulation
 - iv. **Appendix D:** **Vance Brothers, Inc.'s** Certificate of Insurance
 - v. **Appendix E:** **Vance Brothers, Inc.'s** 100% Performance and Payment Bonds
 1. **Appendix D and E** shall be submitted to the City within the timeframe identified in the bid documents or 10 (ten) calendar days.
- b. This agreement may be modified only by a duly executed written instrument signed by the CITY and **Vance Brothers, Inc.**
- c. **ORDER OF PRECEDENCE:** In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written

amendments to this Agreement which are executed by all parties; (b) the Agreement; (c) **Vance Brothers, Inc.'s** Proposal (d) City's published bid and associated Addenda.

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

- a. City of Fayetteville: Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701
- b. Vendor: Vance Brothers, Inc., 5201 Brighton Ave., Kansas City, MO 64130

4. General Provisions:

- i. **ETHICS:** All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Sub subcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.
- ii. **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.
- iii. **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 the vendor 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 the vendor shall be the responsibility of vendor and may be deducted from any amounts due or to become due. 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 vendor of defects, City and Design Professional shall promptly inform the City what action, if any, vendor shall take with regard to the defects.
- iv. **WORKSITE VISIT:** Vendor 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.
- v. Vendor shall perform all duties and responsibilities necessary to coordinate the various parts of the Work and to prepare its Work for the work of City or Others.
 - 1. Cutting, patching, or altering the work of City or Others shall be done with the prior written approval of City and Design Professional. Such approval shall not be unreasonably withheld.
- vi. **COMPLIANCE WITH LAWS:** Vendor shall comply with all the Law at its own cost. Vendor shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Vendor its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.
- vii. **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 Vendor, 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 Vendor incurs costs or is delayed due to such loss or damage, Vendor may seek an equitable adjustment in the Cost of the Work, Date of Substantial Completion or Date of Final Completion. Any equitable adjustment shall be approved by all parties.

- viii. Taxes and Permits: Vendor shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Vendor shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.
1. Vendor shall pay applicable taxes and permit fees associated with the entire project.
- ix. 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.
- x. City may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Vendor shall not unreasonably withhold consent to partial occupancy or use.
- xi. EXTENT OF AGREEMENT: Except as expressly provided, this Agreement is for the exclusive benefit of all Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of all Parties and not for the benefit of any third party.
- xii. 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.
- xiii. Where figures are given, they shall be preferred to scaled dimensions.
- xiv. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Vendor shall perform the Work as though fully described on both. Vendor shall seek clarification from the City or the City's third-party Design Professional for any discrepancies.
- xv. In case of conflicts between the drawings and specifications, the specifications shall govern unless otherwise stated in the bidding documents. In any case of omissions or errors in figures, drawings, or specifications, Vendor shall immediately submit the matter to City and Design Professional for clarification. The City's clarifications are final and binding, which may include third-party Design Professional content.
- xvi. DEBARMENT AND SUSPENSION: By execution of this agreement, Vendor certifies that to the best of its knowledge and belief that the Vendor and its principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

4. (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
5. Vendor 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 \$50,000.
6. Certifications for subcontracts or sub subcontracts executed under this agreement shall include all language in this section.

5. Definitions:

- a. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
- b. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.
- c. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, and Date of Substantial Completion or Date of Final Completion.
- d. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
- e. "Cost of the Work" means the total costs and discounts charged to the City.
- f. The "Vendor" is the person or entity identified in this contract and includes Vendor's Representative.
- g. "Day" means a calendar day unless otherwise specified.
- h. "Defective Work" is any portion of the Work that that does not conform with the requirements of the Contract Documents.
- i. "Design Professional" means the licensed architect retained by the City and its subconsultants, to perform design services for the Project.
- j. "Final Completion" occurs on the date when Vendor's obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.
- k. "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.
- l. "Interim Directive" is a written order containing change to the Work directed by and in consultation with City and Design Professional after execution of this Agreement and before Substantial Completion. Interim Directives shall be consolidated and formalized in a change order to be signed by all parties.
- m. "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Vendor must comply that are enacted as of the Agreement date.
- n. "Others" means City's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, sub subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.
- o. "Overhead" means (a) payroll costs, burden, and other compensation of Vendor's employees in Vendor's principal and branch offices for work associated with this project.

- p. "Owner" is the City of Fayetteville, Arkansas (City).
- q. The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.
- r. The "Parties" are collectively City and Vendor.
- s. The "Project," is the building, facility, or other improvements for which Vendor is to perform Work under this Agreement. It may also include construction by Owner or Others.
- t. The "Schedule of the Work" is the document prepared by Vendor that specifies the dates on which Vendor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.
- u. "Subcontractor" is a person or entity retained by Vendor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.
- v. "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.
- w. A "Sub subcontractor" is a person or entity who has an agreement with a Subcontractor or another sub subcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.
- x. A "Supplier" is a person or entity retained by Vendor to provide material or equipment for the Work.
- y. "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.
- z. "Work" means the construction services necessary or incidental to fulfill Vendor's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.
- aa. "Worksite" means the area of the Project where the Work is to be performed.
- bb. "Bi-monthly basis" means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

- a. Before commencing the Work, Vendor 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 Vendor, and any visible conditions at the Worksite affecting the Work.
- b. Should Vendor discover any errors, omissions, or inconsistencies in the Contract Documents, Vendor shall promptly report them to the City and Design Professional. Following receipt of written notice from Vendor of defects, City shall promptly inform Vendor what action, if any, Vendor shall take with regard to the defect.
- c. Nothing in this section shall relieve VENDOR of responsibility for its own errors, inconsistencies, or omissions.

- d. COST REPORTING: Vendor shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Vendor shall maintain a complete set of all books and records prepared or used by Vendor with respect to the Project. City shall be afforded access to all of Vendor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Vendor shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

- a. Vendor 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, Vendor shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Vendor further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Vendor'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. Vendor's warranty shall commence on the Date of Final Completion of the Project.
- b. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.
- c. Vendor shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Vendor's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Vendor shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.
- d. Correction of Work
 - i. If before Substantial Completion or within two-years after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Vendor in writing. Unless City provides written acceptance of the condition, Vendor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the two-year correction period City discovers and does not promptly notify Vendor or give Vendor an opportunity to test or correct Defective Work as reasonably requested by Vendor, City waives Vendor's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work.
 - ii. If Vendor 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 Vendor. If payments then or thereafter due Vendor are not sufficient to cover such amounts, Vendor shall pay the difference to City.
 - iii. Vendor's obligations and liability, if any, with respect to any Defective Work discovered after the two-year correction period shall be determined by the Law. If, after the two-year correction

period but before the applicable limitation period has expired, City discovers any Work which City considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Vendor and allow Vendor an opportunity to correct the Work if Vendor elects to do so. If Vendor 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 Vendor 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 Vendor, City shall promptly provide Vendor with an accounting of the actual correction costs.

- iv. If Vendor's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Vendor shall be responsible for the cost of correcting the destroyed or damaged property.
- v. The two-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Vendor's other obligations under the Contract Documents.
- vi. Before final payment, at City option and with Vendor's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the contract shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work via formal written change order.

8. Safety of Persons and Property

- a. SAFETY PROGRAMS: Vendor holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Vendor shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.
- b. VENDOR'S SAFETY REPRESENTATIVE: Vendor shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Vendor in writing to City, Vendor's project superintendent shall serve as its safety representative. Vendor shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Vendor is required to file an accident report with a public authority, Vendor shall furnish a copy of the report to City.
- c. Vendor shall provide City with copies of all notices required of Vendor by the Law. Vendor's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.
 - i. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Vendor, or anyone for whose acts Vendor may be liable, shall be promptly remedied by Vendor.
- d. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Vendor's safety program, may require Vendor to stop performance of the Work, take corrective measures satisfactory to City. If Vendor does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Vendor 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 Vendor's compliance with City's reasonable request.

9. Subcontracts:

- a. BINDING OF SUBCONTRACTORS AND SUPPLIERS: Vendor agrees to bind every Subcontractor and Supplier and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract

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Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.

- b. Vendor agrees not to subcontract Vendor at risk related services without prior written consent from the City.

10. Fees, Expenses, and Payments:

- a. **CONTRACT PRICE:** The City of Fayetteville agrees to pay, and **Vance Brothers, Inc.** agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the unit prices bid in the Proposal (BID FORM) which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.
- b. Estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the Engineer of Record. Unit prices have been computed as provided in the bid documents.
- c. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
 - i. There shall be no changes without prior written approval of the Engineer of Record and/or the City's designated Professional Engineer.
- d. **SUBMITTAL AND PROCESSING OF PAYEMENTS:** Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after approval of invoice. The City of Fayetteville reserves the right to request receipts for materials purchased for the City of Fayetteville from suppliers, subcontractors, or other sources. The City of Fayetteville does not agree to any interest or penalty for "untimely" payments.
- e. **PROGRESS PAYMENTS, RETAINAGE:** The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the BID DOCUMENTS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
 - i. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the BID DOCUMENTS.
 - 1. 95% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and

2. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the BID DOCUMENTS.

- f. 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, **Vance Brothers, Inc.** 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 **Vance Brothers, Inc.** to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against **Vance Brothers, Inc.** or sureties under this Agreement.

11. Project Bonding - Performance and payment bonding: After execution of this contract by all parties, **Vance Brothers, Inc.** shall provide 100% **separate** performance and payment bonds (inclusive of any approved contingency) from a bonding company, licensed to do business in the state of Arkansas. Bonds shall be provided within ten (10) calendar days after this contract has been executed by all parties.

- a. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

12. Time:

- a. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in the contract documents as a hard not-to-exceed date. If such dates are not established upon the execution of this Agreement, a Date of Substantial Completion and Date of Final Completion of the Work shall be established via Change Order.
- b. Time is of the essence with regard to the obligations of the Contract Documents.
- c. Unless instructed by City in writing, Vendor shall not knowingly commence the Work before the effective date of Vendor's required insurance and bonds and formal written and signed Purchase Order issued by the City of Fayetteville Purchasing Division.
- d. Schedule of Work: Before submitting its first application for payment, Vendor shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Vendor 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, Vendor shall comply with the approved Schedule of the Work or Vendor.
 - i. 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 Vendor 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 Vendor consequently incurs costs or is delayed, the Dates of Substantial or Final Completion, or both, Vendor may seek equitable adjustment.
- e. NOTICE OF DELAY CLAIMS: If Vendor requests an equitable extension of the Contract Time or an equitable adjustment contract as a result of a delay described, Vendor shall give City written notice of the claim. If Vendor causes delay in the completion of the Work, City shall be entitled to recover its additional costs.

13. Substantial Completion:

- a. Vendor 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. Vendor shall promptly and accurately complete all items on the list.
- b. When Substantial Completion of the Work or a designated portion is achieved, Vendor 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 Vendor to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.
- c. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.
- d. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Vendor 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 Vendor in a mutually agreed upon timeframe.

14. Final Completion:

- a. Upon notification from Vendor that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.
- b. When the Work is complete, Vendor shall prepare for City's written acceptance a final application for payment stating that to the best of Vendor's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.
- c. Final payment shall be made to Vendor within thirty (30) Days after Vendor has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.
- d. Final payment shall be due on Vendor's submission of the following to the City:
 - i. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;
 - ii. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;
 - iii. release of any liens, conditioned on final payment being received;
 - iv. consent of any surety; and
 - v. any outstanding known and unreported accidents or injuries experienced by Vendor or its Subcontractors at the Worksite.

- e. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Vendor. If approved by City, they shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Vendor shall submit to City and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this section.
- f. **ACCEPTANCE OF FINAL PAYMENT:** Unless Vendor provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.
- g. **Vance Brothers, Inc.** shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:
 - i. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (name of surety).'*
 - ii. **Vance Brothers, Inc.** 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.

15. 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.

16. Jurisdiction: Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

17. Venue: Venue for all legal disputes shall be Washington County, Arkansas.

18. 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 **VENDOR** shall do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

19. 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.

20. Insurance:

- a. Before starting the Work and as a condition precedent to payment, Vendor 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. Vendor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Vendor's Employers' Liability,

Business Automobile Liability and CGL policies shall be written with at least the limits of liability presented in Appendix D.

- b. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.
- c. Vendor 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 Vendor fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Vendor or terminate this Agreement.
- d. To the extent commercially available to Vendor 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, Vendor 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, Vendor shall give City prompt written notice upon actual or constructive knowledge of such condition.
- e. Certificates of Insurance shall list the City as Additional Insured Parties.
- f. PROPERTY INSURANCE:
 - i. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.
 - ii. Unless otherwise directed in writing by City, before starting the Work, **Vance Brothers, Inc.** shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Vendor, Subcontractors, Sub subcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:
 - 1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Vendor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;
 - 2. damage resulting from defective design, workmanship, or material;
 - 3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project.
 - 4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;
 - 5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

6. physical loss resulting from Terrorism.

- iii. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.
- iv. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Vendor before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.
- v. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, sub subcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
 - 1. To the extent of the limits of Vendor's Commercial General Liability Insurance, Vendor 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 Vendor, Subcontractor, Supplier, Sub subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.
- g. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.
- h. ADDITIONAL GENERAL LIABILITY COVERAGE: City shall require Vendor to purchase and maintain additional liability coverage. Vendor shall provide:
 - i. Additional Insured. City shall be named as an additional insured on Vendor'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 Vendor, or those acting on Vendor's behalf, in the performance of Vendor's work for Owner at the Worksite. The insurance of the Vendor and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.

- ii. OCP. Vendor shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.
- i. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by VENDOR. Before commencing the Work, Vendor shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.
 - i. ROYALTIES, PATENTS, AND COPYRIGHTS: Vendor 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 Vendor and incorporated in the Work. Vendor 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.
- j. PROFESSIONAL LIABILITY INSURANCE: To the extent Vendor is required to procure design services, Vendor 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 Vendor's design professional, written for not less than one million US dollars (\$1,000,000)

per claim and in the aggregate. Vendor'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.

21. Professional Responsibility: Vance Brothers, Inc. 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 Vance Brothers, Inc. any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so Vance Brothers, Inc. 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 Vance Brothers, Inc.

22. Responsibility of the City of Fayetteville

- a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of Vance Brothers, Inc.:
 - i. Provide full information as to the requirements for the Project.
 - ii. Assist Vance Brothers, Inc. by placing at Vance Brothers, Inc.'s disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - iii. Assist Vance Brothers, Inc. in obtaining access to property reasonably necessary for Vance Brothers, Inc. to perform its services.
 - iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by Vance Brothers, Inc. and render in writing decisions pertaining thereto.
 - v. Review all documents and provide written comments to Vance Brothers, Inc. in a timely manner.
 - vi. The City of Fayetteville Facilities Director is the project representatives with respect to the services to be performed under this Agreement. The Facilities 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.

23. **Cost Opinions and Projections:** Cost opinions and projections prepared by the **Vance Brothers, Inc.** relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on **Vance Brothers, Inc.** experience, qualifications, and judgment as a **Vance Brothers, Inc.** professional.

24. **Period of Service:** This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. **Vance Brothers, Inc.** 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.

25. **Termination:**

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that **Vance Brothers, Inc.** is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to **Vance Brothers, Inc.** at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of **Vance Brothers, Inc.'s** default.
- d. If termination for default is affected by **Vance Brothers, Inc.**, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **Vance Brothers, Inc.** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **Vance Brothers, Inc.** relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action under Paragraphs above, **Vance Brothers, Inc.** shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **Vance Brothers, Inc.** in performing this Agreement, whether completed or in process.

- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of **Vance Brothers, Inc.** to fulfill contractual obligations, it is determined that **Vance Brothers, Inc.** 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.

26. Delays

- a. In the event the services of **Vance Brothers, Inc.** are suspended or delayed by CITY OF FAYETTEVILLE, or by other events beyond **Vance Brothers, Inc.**'s reasonable control, **Vance Brothers, Inc.** shall be entitled to additional compensation and time for reasonable documented costs incurred by **Vance Brothers, Inc.** in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by **Vance Brothers, Inc.**, CITY shall be entitled to compensation and time for reasonable costs incurred in temporarily closing down or delaying the Project.

27. Rights and Benefits

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

28. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and **Vance Brothers, Inc.** 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 **Vance Brothers, Inc.** in the performance of this Agreement, and disputes concerning payment.
- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. Notice of Dispute
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give **Vance Brothers, Inc.** written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and **Vance Brothers, Inc.** 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 **Vance Brothers, Inc.**, 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.

29. **Sufficient Funds:** The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to **Vance Brothers, Inc.** for services rendered by **Vance Brothers, Inc.** All parties agree if funding should become insufficient to complete the project, **VENDOR** shall be notified in a timely manner.

30. **Publications:**

- a. Recognizing the importance of professional services on the part of **Vance Brothers, Inc.'s** employees and the importance of **Vance Brothers, Inc.'s** public relations, **Vance Brothers, Inc.** may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to **Vance Brothers, Inc.'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 **Vance Brothers, Inc.**, 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 **Vance Brothers, Inc.'s** activities pertaining to any such publication shall be for **Vance Brothers, Inc.'s** account.

31. **Indemnification:**

- a. The CITY requires the **Vance Brothers, Inc.** to indemnify, defend and hold harmless the CITY OF FAYETTEVILLE for any loss caused by negligence and 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 **Vance Brothers, Inc.**, or their employees, agents, Subcontractors, sub consultant and Suppliers of the **Vance Brothers, Inc.**

32. **Ownership of Documents:**

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. **Vance Brothers, Inc.** may retain reproduced copies of drawings and copies of other documents.
- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by **Vance Brothers, Inc.** as part of the Services shall become the property of CITY OF FAYETTEVILLE when **Vance Brothers, Inc.** has been compensated for all Services rendered, provided, however, that Vendor shall have the unrestricted right to their use. **Vance Brothers, Inc.** 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 **Vance Brothers, Inc.**
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. **Vance Brothers, Inc.** 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.

33. **Additional Responsibilities of Milestone:**

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve **Vance Brothers, Inc.** of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

- b. **Vance Brothers, Inc.** shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by **Vance Brothers Inc.'s** negligent performance, except beyond the **Vance Brothers Inc.'s** normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. **Vance Brothers, Inc.'s** obligations under this clause are in addition to Vendor'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 **Vance Brothers, Inc.** for faulty materials, equipment, or work.

34. Audit and Access to Records:

- a. **Vance Brothers, Inc.** shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. **Vance Brothers, Inc.** shall also maintain the financial information and data used by **Vance Brothers, Inc.** 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. **Vance Brothers, Inc.** will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 - 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of **Vance Brothers, Inc.**;
 - 2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;
 - 3. If the sub agreement is terminated for default or for convenience.

35. Covenant Against Contingent Fees:

- a. **Vance Brothers, Inc.** warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **Vance Brothers, Inc.** 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.

36. Gratuities:

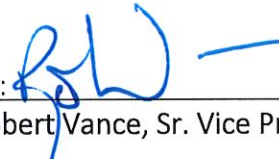
- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that **Vance Brothers, Inc.** or any of **Vance Brothers, Inc.** agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related 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 **Vance Brothers, Inc.** terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- b. The CITY may pursue the same remedies against **Vance Brothers, Inc.** as it could pursue in the event of a breach of the Agreement by **Vance Brothers, Inc.** 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 **Vance Brothers, Inc.** incurs in providing any such gratuities to any such officer or employee.

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

CITY OF FAYETTEVILLE, ARKANSAS

VANCE BROTHERS, INC.

By: _____
Lioneld Jordan, Mayor

By:  _____
Robert Vance, Sr. Vice President

ATTEST:

By: _____
Kara Paxton, City Clerk

Date Signed: _____

Date Signed: 11/17/23



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/17/2023

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

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

PRODUCER HUB International Mid-America 9200 Ward Parkway Suite 500 Kansas City MO 64114	CONTACT NAME: Certificate Department	
	PHONE (A/C, No, Ext): 816-708-4600	FAX (A/C, No): 816-203-4425
INSURED Vance Brothers, Inc. 5201 Brighton Kansas City MO 64130	E-MAIL ADDRESS: HUB-KC.Certificates@HUBInternational.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Travelers Property Casualty Company of America	
	INSURER B: Missouri Employers Mutual Insurance Company	
	INSURER C: The Phoenix Insurance Company	
	INSURER D: Argonaut Insurance Company	
	INSURER E: The Travelers Indemnity Company of America	
INSURER F: Previsor Insurance Co.		

COVERAGES

CERTIFICATE NUMBER: 262000486

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
C	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ Cont. Liab. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	DT-CO-9M212947-PHX-23	1/1/2023	1/1/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
E	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY ☒ MCS-90	Y	Y	810-9M352747-23-26	1/1/2023	1/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ EXCESS LIAB ☐ RETENTION \$ 10,000 ☐ CLAIMS-MADE	Y	Y	CUP-9M422902-23-26	1/1/2023	1/1/2024	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
B F D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	MEG 1021086-15 PRV 3000040-04 WC928948285514	1/1/2023 1/1/2023 1/1/2023	1/1/2024 1/1/2024 1/1/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

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

Re: 2023 Asphalt Surface Treatment. City of Fayetteville, AR is Additional Insured as respects the General, Auto and Umbrella Liability policies, coverage applies on a Primary, Non-Contributory basis. General liability Additional Insured includes coverage for ongoing & completed operations. Waiver of Subrogation applies in favor of Additional Insured as respects General, Auto and Umbrella Liability when required by written contract, per policy provisions.

CERTIFICATE HOLDER

CANCELLATION

City of Fayetteville, AR
113 W. Mountain
Fayetteville AR 72701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas

Purchasing Division – Room 306

113 W. Mountain

Fayetteville, AR 72701

Phone: 479.575.8256

TDD (Telecommunication Device for the Deaf): 479.521.1316

INVITATION TO BID

Bid 23-40, Construction – 2023 Asphalt Surface Treatment

DEADLINE: Wednesday, November 1, 2023 before 2:00 PM, Local Time

PRE-BID MEETING: Wednesday, October 25, 2023 at 10:00 AM, in Room #111 of City Hall

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

DATE OF ISSUE & ADVERTISEMENT: 10/08/2023 & 10/15/2023

No late bids shall be accepted. Bids shall be submitted in one of the following methods: (1) through the City's third-party electronic bidding platform or (2) delivering in person via sealed envelope to the City of Fayetteville Purchasing Division. Submitting through the City's electronic bidding platform is strongly encouraged. All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

NOTICE TO ALL BIDDERS:

All interested parties can obtain files for this project by going to <http://fayetteville-ar.gov/bids>. Bid documents shall be distributed electronically from the City of Fayetteville Purchasing Division only.

BID PACKAGE INCLUDES THE FOLLOWING FILES WHICH SHALL BE LISTED UNDER "ATTACHMENTS":

FILE #00: REQUIRED SIGNATURE FORMS – 6 Total Pages

FILE #01: PROJECT MANUAL – 45 Total Pages

FILE #02: DRAWINGS – 10 Plan Sheets

*Additional files added as addendums are issued. Addendums will be uploaded and posted to the City's electronic bidding platform.

***PLAN HOLDER LISTINGS:** A listing of Contractors who have received documents can be found in the City's electronic bidding platform under the project section tab titled 'Plan Holders'.

Bidder shall assume all responsibility for receiving updates and any addenda issued to this project by monitoring <http://fayetteville-ar.gov/bids>. Failure to acknowledge addenda issued as instructed could result in bid rejection.

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Project Check List

This checklist is for the Bidder's use in preparing & submitting a bid. It is not intended to include all details necessary to prepare a bid and shall not be used as a substitute for the requirements of the bid documents. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid. Bidders are welcome to use this form as a coversheet for a sealed envelope; however, using this form itself is NOT a requirement.

☐

5% Bid Bond of the amount bid accompanied by required documentation (Power of Attorney, etc.)

- In lieu of a bid bond, the bidder may submit a cashier's check from a bank located in the State of Arkansas for at least five percent (5%) of the amount bid (inclusive of any deductive alternates). Cashier's checks shall be made payable to the City of Fayetteville, AR and received prior to the bid deadline by making an in-person delivery to the City Purchasing Division.

☐

All addenda shall be signed, acknowledged, and submitted on the appropriate forms (submitting the actual addendums or marking acknowledgement on other bid pages).

☐

All line items shall be appropriately filled out and extended to reveal the line item price as well as the total bid price. Total base bid should be calculated in the provided space.

☐

All pages provided with signature lines shall be appropriately signed, dated accordingly, and included with submitted bid documents

☐

All bids shall be received before the stated deadline utilizing the City's electronic bidding platform or submitting a physical sealed bid to the location listed below. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. Late or misdirected bids shall not be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or failure of bidder's technical equipment. If submitting a physical bid, all bid documents shall be delivered in a sealed envelope to the address stated in the advertisement or updated deadline issued via Addenda. All bids should be delivered with the name of the bidder (contractor) on the sealed envelope as well as the bidders Arkansas Contractor's License Number.

☐

Additional Information Required:

- List of Subcontractors: Submit form electronically or attach if submitting a physical bid.
- AR Secretary of State Filing #: _____ OR submit electronically.
- Arkansas Contractor License #: _____ OR submit electronically.
- Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
 - Submit electronically or circle applicable answer: YES or NO
- Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.
 - Submit electronically or circle applicable answer: YES or NO

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City of Fayetteville, Arkansas
INVITATION TO BID
Bid 20-40, Construction – 2023 Asphalt Surface Treatment

The City of Fayetteville is accepting bids from properly licensed and authorized firms for the materials, delivery, and installation of asphalt surface treatments in various locations throughout The City of Fayetteville. Questions should be addressed to Amanda Beilfuss, Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov or by calling (479) 575-8220.

A non-mandatory Pre-Bid meeting will be held **Wednesday, October 25, 2023 at 10:00 AM**, in Room #111 of Fayetteville City Hall. Information regarding the pre-bid meeting is available on the project page on the City's electronic bidding platform. All interested parties are encouraged to attend.

Bidding documents, plans, plan holders, and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All bids shall be received by **Wednesday, November 1, 2023 before 2:00 PM, local time** utilizing the electronic bidding software or by submitting a sealed bid to the City of Fayetteville Purchasing Division. All bids shall be received prior to the bid deadline. Late or misdirected bids shall not be accepted. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. The City of Fayetteville shall not be responsible for lost or misdirected bids, or failure of bidder's technical equipment.

Each bid exceeding \$50,000 shall be accompanied by a cashier's check from a bank doing business in the State of Arkansas or a corporate bid bond for five (5) percent of the amount bid. In the event a bidder opts to submit a cashier's check for a bid bond, the actual physical cashier's check shall be delivered to the City prior to the deadline. A one hundred percent (100%) performance and payment bond is required with the contract awarded. This amount includes any approved contingency. A State of Arkansas Contractor's License is required for all bids exceeding \$50,000 and license shall be valid at the time of bid deadline. Any Contractor performing a service shall be registered with the Arkansas Secretary of State.

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 waive irregularities, reject bids, and postpone the award of any Contract for a period which shall not exceed beyond ninety (90) days from the bid opening date.

City of Fayetteville
By: Amanda Beilfuss
City Sr. Purchasing Agent
P: 479.575.8220 Email: abeilfuss@fayetteville-ar.gov
TDD (Telecommunications Device for the Deaf): (479) 521-1316
Date of advertisement: 10.08.23 & 10.15.23
This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.
Amount paid: \$455.30.

Project Manual



CITY OF
FAYETTEVILLE
ARKANSAS

CITY OF FAYETTEVILLE,
ARKANSAS

2023 Asphalt Surface Treatment

BID # 23-40

Date: October 2023

1. SUBMISSION OF BID & BID EVALUATION:

- a. Bids shall be reviewed following the stated deadline, as shown on the cover sheet of this document.
- b. Bidders shall submit bids based on documentation published by the Fayetteville Purchasing Division.
- c. Bidding documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All bids shall be received by the deadline, utilizing the electronic bidding software or as stated in the bid advertisement. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. No late bids shall be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or for failure of proposer's technical equipment.
- d. The City will not be responsible for misdirected bids. Contractor should call the Purchasing Office at 479.575.8256 to ensure correct receipt of bidding documents prior to opening time and date listed on the bid form.
- e. Bidders shall have experience in providing products and/or services of the same or similar nature.
- f. Bidder is advised that exceptions to any of the terms contained in this bid must be identified in its response to the bid. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- g. Local time is defined as the time in Fayetteville, Arkansas on the due date of the deadline. Bids shall be received before the time as shown by the atomic clock located in the Purchasing Division Office.
- h. Bids will be evaluated and awarded based on the best interest of the City of Fayetteville. The City reserves the right to award bids in their entirety, none, or by line item.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

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

3. DESCRIPTION OF SUPPLIES AND SERVICES:

Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality, size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.

4. RIGHTS OF CITY OF FAYETTEVILLE BID PROCESS:

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

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

5. **COSTS INCURRED BY BIDDERS:**

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

6. **CONFLICT OF INTEREST:**

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

7. **WITHDRAWAL OF PROPOSAL:**

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

8. **LATE PROPOSAL OR MODIFICATIONS:**

Bid modifications received after the time set for the bid submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Bidders should call the Purchasing Division at (479) 575-8256 to ensure receipt of their submittal documents prior to opening time and date listed.

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

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

10. **COLLUSION:**

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

11. **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 in Washington County, Arkansas with Arkansas law applying to the case.

12. **CITY INDEMNIFICATION:**

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

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

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

14. **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.

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

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

16. **PAYMENTS AND INVOICING:**

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

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

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

19. NON-EXCLUSIVE CONTRACT:

Award of this bid 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-term contracts, this provision shall apply separately to each item.

20. LOBBYING:

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

21. ADDITIONAL REQUIREMENTS:

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

22. ADD OR DELETE LOCATIONS OR SERVICES:

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

23. INTEGRITY OF BID DOCUMENTS:

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

24. **CERTIFICATE OF INSURANCE:**

The successful bidder shall provide a Certificate of Insurance in accordance with the following guidelines, prior to commencement of any work: \$1,000,000 Commercial Liability, Statutory Worker's Compensation, and General Automotive, if applicable. Such certificate shall list the City of Fayetteville as an additional insured. Insurance shall remain valid, when applicable, throughout project completion.

- a. This bid is considered a public improvement bid. Public improvement bids shall submit certificates of insurance within 10 days of notice of notice to proceed, after City Council approval. Certificates of insurance are to be addressed to the City of Fayetteville, showing that the contractor carries the following insurance which shall be maintained throughout the term of the bid. Any work sublet; the contractor shall require the subcontractor similarly to provide the same insurance coverage. In case any employee engaged in work on the project is not protected under Workers' Compensation, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

25. **PRICING:**

Pricing shall be submitted in the format as specified in the bid. Bidders are required to submit pricing on entire project as a turn-key price. Bidders are strictly prohibited against submitting bids for partial scope.

26. **NOTICE TO PROCEED:**

- a. After contract award, the Contractor will provide the City with a 100% performance bond and a separate 100% payment bond, as required in the contract. The performance and payment bonds shall include any approved contingency.
- b. Upon the City receiving and accepting the separate 100% Performance and Payment Bonds, the City will issue a Purchase Order along with a Notice of Award (NOA).
- c. The City will coordinate with the Contractor on the timing of the Notice to Proceed being issued, which shall take into consideration the expected delivery of items with a long lead time.
- d. Calendar days for substantial and final completion shall not start until the day following the issuance of a Notice to Proceed.
- e. The City will make progress payments for materials delivered on site, after verification of delivered materials by City.

27. **OTHER GENERAL CONDITIONS:**

- a. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.
- b. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the products and services presented. ***Sales tax shall not be included in the bid price.*** Applicable Arkansas sales tax laws will apply when necessary but will not be considered in award of this project.

- c. Each bidder should state the anticipated number of days from the date of receipt of an order for delivery of services to the City of Fayetteville.
- d. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
- e. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
- f. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind, nor does it commit the city to pay for any costs incurred by bidder in preparation. It shall be clearly understood that any costs incurred by the Bidder in responding to this solicitation is at the bidder's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Bidder for any expense so incurred, regardless of whether or not the submittal is accepted.
- g. If products, components, or services other than those described in this bid document are proposed, the bidder must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- h. NOTE: Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via telephone (479.575.8220) or e-mail (abeilfuss@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms.
- i. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Amanda Beilfuss, City of Fayetteville, Sr. Purchasing Agent via e-mail (abeilfuss@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- j. Any information provided herein is intended to assist the bidder in the preparation of proposals necessary to properly respond to this bid. The bid is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a bid's content or to exclude any relevant or essential data.
- k. Bidders irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be prevailed by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- l. The successful bidder shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful bidder assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful bidder shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

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

End of Section – General Terms and Conditions

1. DEFINED TERMS

- a. Terms used in these Instructions to Bidders which are defined in the General Conditions have the meanings assigned to them in the General Conditions. Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.
- b. Bidder/Contractor - one who submits a Bid directly to City of Fayetteville as distinct from a sub-bidder, which submits a bid to a Bidder.
- c. Purchasing Division - the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- d. Successful Bidder - the lowest, responsible, and responsive Bidder to whom the City of Fayetteville (on the basis of the City of Fayetteville's evaluation as hereinafter provided) makes an award.
- e. Contractor - the awarded bidder who has executed the contract for this project with the City of Fayetteville.

2. COPIES OF BIDDING DOCUMENTS

- a. All bidders are strongly encouraged to download the complete bid documents and also complete Bid submission through the City's online bidding portal at www.fayetteville-ar.gov/bids. Bidders interested in submitting a physical bid shall contact the Purchasing Division.
- b. Complete sets of Bidding Documents must be used in preparing Bids. City of Fayetteville assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- c. City of Fayetteville, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

3. EXAMINATION OF SITE AND CONTRACT DOCUMENTS

- a. Bidders are advised that the Drawings and Specifications are on file at City of Fayetteville Purchasing Division and shall constitute all the information which City of Fayetteville shall furnish. No other information given or sounding made by City of Fayetteville or any official thereof, prior to the execution of said contract, shall ever become a part of, or change the contract, drawings, specifications and estimates, or be binding on the City of Fayetteville.
- i. Prior to submitting any Bid, Bidders shall: read carefully the specifications, contract, and bonds; examine carefully all Drawings; visit the site of the Work to carefully examine local conditions; inform themselves by their independent research and sounding of the difficulties to be encountered, and all attending circumstances affecting the cost of doing the work, and the time specified for its completion; and obtain all information required to make a compliant bid.
- b. Bidders shall rely exclusively upon their surveys, estimates, investigations, and other things which are necessary for full and complete information upon which the bid may be made and for which a

contract is to be awarded. The Bid Form, providing for unit and lump sum prices bid by the Contractor, contains a statement that all bids are made with the full knowledge of the difficulties and conditions that may be encountered, the kind, quality and quantity of the plans, work to be done, excavation, and materials required and with full knowledge of the drawings, profiles, specifications, and estimates and all provisions of the contract and bonds.

- c. Bidders shall promptly notify owner of all conflicts, errors, ambiguities, or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents.
- d. Information and data shown or indicated in the Contract Documents with respect to existing underground facilities at or contiguous to the site, is based upon information and data furnished to City of Fayetteville by City of Fayetteville's such Underground Facilities or others, and City of Fayetteville does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
- e. On request, City of Fayetteville will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests, and studies as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests, and studies.
- f. Reference is made to the General Requirements for the identification of the general nature of work that is to be performed at the site by City of Fayetteville or others (such as utilities and other prime contractors) that relates to the work for which a Bid is to be submitted. On request, and as available, City of Fayetteville will provide to each Bidder, for examination, access to or copies of Contract Documents (other than portions thereof related to price) for such work.
- g. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement. Without exception, the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences, or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents. Bidder has given owner written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Contract Documents and that the written resolutions thereof by owner are acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

4. AVAILABILITY OF LANDS FOR WORK AND WORK BY OTHERS

The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by City of Fayetteville unless otherwise provided in the Contract Documents.

5. INTERPRETATION OF CONTRACT DOCUMENTS AND ADDENDA

- a. If any person contemplating submitting a bid for construction of the Work is in doubt as to the true meaning of any part of the proposed Contract Documents or finds discrepancies in or omissions from any part of the proposed Contract Documents, he should submit a written request for

interpretation thereof to the owner not later than seven days before the date set for bid opening. The person submitting the request shall be responsible for its prompt delivery.

- b. Interpretation or correction of proposed Contract Documents will be made only by Addendum to all holders of Bidding Documents. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. City of Fayetteville will not be responsible for any other explanations or interpretations of the proposed Contract Documents.
- d. Addenda may also be issued to modify the Bidding Documents as deemed advisable by City of Fayetteville.
- e. Bidder assumes all responsibility for checking the City's online bidding portal at www.fayetteville-ar.gov/bids for updates and addenda issued to this project.

6. APPROXIMATE ESTIMATE OF QUANTITIES

The provided estimate of quantities is approximate only and shall be the basis for receiving unit price bids for each item but shall not be considered by Bidders as actual quantities that may be required for the completion of the proposed work. However, such quantities, at the unit and lump sum prices bid for each item, shall determine the amount of each bid for comparison of Bids and aid in determining the low and responsive Bidder for the purpose of awarding the contract, and will be used as basis for fixing the amount of the required Bonds.

7. PRICES

- a. Bidders must state a price for each item of work named in the Bid Form. Unit and Lump Sum prices shall include amounts sufficient for the furnishing of all labor, materials, tools, equipment, and apparatus of every description to construct, erect, and finish completely all of the work as called for in the Specifications or indicated on the Drawings.
- b. Prices bid on the various items in the Bid Form shall bear a fair relationship to the cost of the work to be done. Bids which appear unbalanced and are deemed not to be in the best interest of City of Fayetteville may be rejected at the discretion of City of Fayetteville.
- a. By submission of a Bid, Bidder represents that Bidder has considered the entire Project and the Work required and has reviewed the Drawings and Specifications to verify the full scope of the Work.

8. BID FORM

- a. Bids are due as indicated in the Advertisement for Bids.
- b. Bids which are incomplete, unbalanced, conditional, or obscure or which contain additions not called for, erasures, alterations, or irregularities of any kind or which do not comply with these Instructions to Bidders may be rejected as informal or non-responsive at the option of City of Fayetteville. However, City of Fayetteville reserves the right to waive technicalities as to changes, alterations, or revisions and to make the award in the best interest of City of Fayetteville.
- c. It is the sole responsibility of Bidder to see that the Bid is received on time.
- d. Acceptance of deductive alternate bids is at the City of Fayetteville's discretion, as best services the City of Fayetteville's interest. Each deductive alternate, if applicable, will be provided on the Bid Form. The price of the Bid for each deductive alternate will be the amount to be deducted from the

price of the Total Base Bid if the City of Fayetteville selects any of the alternates. The unit price amount for each alternate shall be the same as the unit price amount listed in the Bid.

- e. No Bidder shall divulge the information in the Bid to any person whomsoever, except those having a partnership or other financial interest with him in the Bid, until after the bids have been opened.

9. SIGNATURE ON BIDS

- a. If the Bid is made by an individual, the firm name shall be given, and the Bid Form signed by the individual or a duly authorized agent. If the Bid is made by a partnership, the firm name and the names of each member shall be given, and the Bid signed by a member of the partnership, or a person duly authorized. If the Bid is made by a company or corporation, the company or corporate name shall be given, and the Bid signed by an officer or agent duly authorized. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- b. All names must be typed or printed in black ink below the signature.
- c. The address and telephone number for communications regarding the Bid must be shown.
- d. Powers of attorney, properly certified, for agents and others to sign bids must be in writing and filed with City of Fayetteville.
- e. The Bid shall also contain a signed acknowledgment of receipt of all Addenda.

10. BID SECURITY

- a. A five percent (5%) bid security, in the form of a bid bond, or cashier's check from a bank located in the State of Arkansas, as stated in the Advertisement, shall accompany each bid. Bid bonds for the difference in price between low bidder and second low bidder shall not be acceptable. The Successful Bidder's security shall be retained until City of Fayetteville receives a signed Agreement and required Bonds and Certificates of Insurance. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen days after the Notice of Selection, City of Fayetteville may annul the Notice of Selection and the Bid security of that Bidder will be forfeited.
- b. The City of Fayetteville reserves the right to retain the security until the Successful Bidder enters into the Contract or until sixty (60) days after bid opening, whichever is sooner. Cash equivalent security of the second and third low bidder may be exchanged for an equivalent bid bond after bid tabulations are complete or thirty (30) days after bid opening, whichever is sooner.

11. PERFORMANCE BOND AND PAYMENT BONDS

- a. Prior to signing the Agreement, Contractor shall furnish a surety performance Bond and a separate payment Bond, equal to one hundred percent (100%) of the contract price. This shall include any approved contingency.
- b. Contractor shall pay all expenses in connection with the obtaining of said Bonds. The Bonds shall be conditioned that Contractor shall faithfully perform the contract and shall pay all indebtedness for labor and materials furnished or performed in the construction of such alterations and additions as prescribed in this contract.

- c. The surety company issuing the Bonds must be a solvent company on the "Surety Companies Annual List" issued by the U.S. Department of the Treasury, and the Bonds are not to be issued in an amount greater than the underwriting limitations for the surety company as set out therein.
- d. In Arkansas, prevailing law requires that performance and payment Bonds on public works contracts shall be executed by a resident local agent who is licensed by the Insurance Commissioner to represent the surety company executing said Bonds and filing with such Bonds his Power of Attorney as his authority. The mere countersigning of the Bonds shall not be sufficient.
- e. The date of the Bonds, and of the Power of Attorney, must not be prior to the date of the contract. At least two originals of the Bonds shall be furnished, each with Power of Attorney attached.
- f. Bonds are to be approved by City of Fayetteville. If any Bonds contracted for become unsatisfactory or unacceptable to City of Fayetteville after the acceptance and approval thereof, Contractor, upon being notified to that effect, shall promptly execute and furnish acceptable Bonds in the amounts herein specified. Upon presentation of acceptable Bonds, the unsatisfactory Bonds may be canceled at the discretion of Contractor.
- g. The bonds shall be presented to the City after being file marked at the Washington County Circuit Clerk's Office. Multiple copies of the original bonds may be necessary for filing purposes.

12. SUBCONTRACTORS, SUPPLIERS, AND OTHERS

Contractor shall not assign or sublet all or any part of this contract without the prior written approval of City of Fayetteville nor shall Contractor allow such subcontractor to commence work until approval of workman's compensation insurance and public liability insurance as may be required. Approval of each subcontract by City of Fayetteville will in no manner release Contractor from any obligations as set out in the Drawings, Specifications, contract, and Bonds.

13. SUBSTITUTE AND "OR EQUAL" ITEMS

Any reference to a specific brand or manufacture is in an effort to establish an acceptable level of quality for this purchase. Brands or manufacturers that are included in a bid that are of at least equal quality, size and specification as to what has been specified, will be acceptable for consideration.

14. COMPLIANCE WITH STATE LICENSING LAW

A Contractor's License is required to bid this project, however, prior to executing the agreement with the City of Fayetteville, the Contractor shall be licensed in accordance with the requirements of Act 150, Arkansas Acts of 1965, the "Arkansas State Licensing Law for Contractors" for bids in excess of \$50,000.

15. QUALIFICATIONS AND RESPONSIBILITY OF BIDDERS

Each Bidder shall be prepared to submit within five days after bid opening, upon City of Fayetteville's or owner's request, detailed written evidence such as financial data, present commitments, and other such data as may be called for. Each Bid must contain evidence of Bidder's qualification to do business in the State of Arkansas. Bidders shall be registered with the Arkansas Secretary of State.

16. DISQUALIFICATIONS OF BIDDERS

- a. Any one or more of the following may be considered as sufficient for the disqualification of bidders and the rejection of Bids.

- b. More than one Bid Form for the same work from an individual, firm, partnership, or corporation under the same or different names.
- c. Evidence of collusion among bidders. Participants in such collusion may receive no recognition as bidders for any future work.
- d. Unbalanced Bid Forms in which the prices for some items are out of proportion to the prices for other items, or changes written in, or amendments by letter, or failure to submit a unit price for each item of work for which a bid price is required by the Bid Form, or failure to include all required contract documents.
- e. Lack of competency as revealed by the financial statement, experience, plant, and equipment statements submitted. Lack of responsibility as shown by past work judged from the standpoint of workmanship and progress.
- f. Uncompleted work which, in the judgment of City of Fayetteville, might hinder or prevent the prompt completion of additional work if awarded.
- g. Being in arrears on existing contracts, in litigation with City of Fayetteville, or having defaulted on a previous contract.

17. OPENING OF BIDS

Bids will be opened and read aloud publicly in a room to be designated by City of Fayetteville the day of the bid opening and shall be livestreamed through the City of Fayetteville's YouTube page. A Bid Tabulation of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids.

18. CONSIDERATION OF BIDS

- a. After the bids are opened and read, the quantities will be extended and totaled in accordance with the bid prices of the accepted Bids. This review of the Bids will confirm the low bidder.
- b. In evaluating Bids, City of Fayetteville will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data as may be requested in the Bid Form or prior to the Notice of Selection.
- c. City of Fayetteville may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. City of Fayetteville also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Selection.

19. RIGHT TO REJECT BIDS

- a. City of Fayetteville reserves the right to reject any and all Bids, to waive technicalities, and to advertise for new bids. All Bids are subject to this reservation. City of Fayetteville reserves to itself the right to decide which shall be deemed the lowest responsive and responsible Bid. Due consideration will be given to the reputation, financial ability, experience and equipment of the Bidder.

- b. City of Fayetteville also reserves the right to waive informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder.

20. AWARDING OF CONTRACT

City of Fayetteville reserves the right to withhold the awarding of a contract a reasonable period of time from the date of opening bids, not to exceed sixty (60) days except with the consent of the Successful Bidder. The awarding of a contract upon a successful Bid shall give the Bidder no right to action or claim against City of Fayetteville upon the contract until the contract is reduced to writing and signed by the contracting parties. The letting of a contract shall not be complete until the contract is executed, and the necessary Bonds approved.

21. SIGNING OF AGREEMENT

When City of Fayetteville gives a Notice of Selection to the Successful Bidder, it will be accompanied by the number of unsigned counterparts of the Agreement as indicated in the Supplementary Conditions, with all other written Contract Documents attached. Within ten (10) days thereafter, Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to City of Fayetteville with the required Bonds & Certificate of Insurance. Within ten (10) days thereafter City of Fayetteville shall deliver one fully signed counterpart to Contractor.

22. MATERIALS GUARANTY

Before any contract is awarded Bidder may be required to furnish a complete statement of the origin, composition, or manufacture of any or all materials proposed to be used in the construction of the Work, together with samples, which may be subjected to tests provided for in the Specifications to determine their quality and fitness for the Work.

23. FAMILIARITY WITH LAWS

Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Contractor will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.

24. ADDITIONAL LAWS AND REGULATIONS

- a. Bidders' attention is called to the following laws and regulations which may have an impact on the Work and on the preparation of the Bid:
 - i. Americans with Disabilities Act.
 - ii. Storm water discharge regulations; enacted under the Clean Water Act and administered by the Arkansas Department of Environmental Quality (ADEQ) under a general permit program. Contractor may be required to obtain coverage under general permit ARR001000 prior to commencing work at the site.
 - iii. Arkansas Act 291 of 1993, dealing with excavation safety, signed into law on March 1, 1993.

25. CERTIFICATION OF FUNDS

- a. Bidders are required to provide pricing for all line items. Failure to provide pricing on all line items can result in bid rejection.
- b. The City intends to award this contract to the lowest qualified, responsive, responsible bidder based on the total base bid as long as such bid falls within the amount of funds certified for the project, plus 25%.
- c. In the event no bid falls within the amount certified, plus 25%, all bids will be rejected and become confidential.
- d. The City shall have the authority to negotiate an award with the apparent responsive responsible low bidder but only if the low bid is within twenty-five percent (25%) of the certification of funds.

26. RETAINAGE

- a. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but in each case, less the aggregate of payments previously made and less such amounts as City/Engineer shall determine, or the City of Fayetteville may withhold.
- b. 95% of Work completed (with the balance being retainage). If Work has been 50% completed as determined by the City/Engineer, and if the character and progress of the Work have been satisfactory to the City/Engineer, the City may determine that as long as the character and progress of the Work subsequently remain satisfactory, there shall be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion shall be an amount equal to 100% of the Work completed less the aggregate of payments previously made.
- c. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to the City of Fayetteville.

27. SUBSTANTIAL AND FINAL COMPLETION

The Work shall be Substantially Completed within 60 calendar days after Notice to Proceed and final completion and ready for final payment in within 90 calendar days after Notice to Proceed.

28. LIQUIDATED DAMAGES

The Contractor shall pay the City of Fayetteville liquidated damages for delay (not as a penalty). Contractor shall pay the City Seven Hundred and Fifty Dollars (\$750) for each calendar day that expires after the completion time/date as laid out in this Bid Form, for Final Completion until the Work is Complete.

29. MOBILIZATION

The amount bid for the item of "Mobilization" shall not exceed 5% of the total bid amount for all items listed, or bid shall be rejected.

30. MISCELLANEOUS

- a. Contractor shall not perform any burning of materials or perform any blasting.
- b. If a dumpster is needed for this project, Contractor shall obtain a dumpster from the City of Fayetteville's Recycling and Trash Division.

- c. Work shall be performed during regular work hours, and Contractor shall not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without the City's written consent.

End of Section – Instructions to Bidders

1. **DESCRIPTION:**

- 1.1. This work shall consist of the application of micro-surfacing material to asphaltic pavement surfaces and related surface preparation. The micro-surfacing shall consist of a mixture of cationic latex modified asphaltic emulsion, mineral aggregate, Portland cement, set-control additives and water. The micro-surfacing material shall be properly transported, proportioned, mixed and evenly spread on the asphaltic pavement surface in strict accordance with the plans, these specifications and as directed by the CITY. In some cases, more than one lift may be required to obtain the specified thickness.
- 1.2. The cured micro-surfacing shall have a uniform and homogeneous appearance, substantially fill all cracks, and adhere firmly to the existing surface. The mix shall be capable of being spread in varying thickness cross-sections (wedges, wheel path depressions, scratch courses and surfaces) which, after curing and initial traffic consolidation, resist compaction throughout the entire design tolerance range of bitumen content and varying thickness to be encountered. The end product shall maintain a friction resistant surface (high wet friction co-efficient) throughout the service life of the micro-surfacing.
- 1.3. The completed mixture shall be such that the micro-surfacing mixture has proper workability during lay down and will permit straight running traffic on 12.7 mm (1/2 inch) thick micro-surfacing within one hour after placement at 24°C (75°F) or greater and 50% or lower humidity. Micro-surfacing shall be placed without the occurrence of bleeding, raveling, separation or other distress.
- 1.4. Work shall be performed in accordance with the current edition of "Recommended Performance Guidelines for Polymer-Modified Micro-Surfacing" A143 (revised) published by the International Slurry Surfacing Association (ISSA), ASTM D 6372-99a Standard Practice for Design, Testing and Construction of Micro-Surfacing, with the modifications specified herein.

2. **APPLICATION RATE:**

- 2.1. Single lift applications of micro-surfacing material shall be applied in one (1) lift of 18-22 pounds per square yard of the dry mass of the mineral aggregate.
- 2.2. At the direction of the City, additionally, due to irregularities in road profile, a single lift application of micro-surfacing in excess of 22 pounds per square yard may be required. Any application in excess of 30 pounds per square yard shall be applied in two lifts ("scratch" course followed by normal application).
- 2.3. Application of scratch course or any material in excess of 22 pounds per square yard will be measured separately per pound in accordance with the measurement and payment section. The contractor shall notify the City and receive approval for application of material in excess of 22 pounds per square yard and shall allow for verification of quantities by the City. Any installations in excess of 22 pounds per square yard that is not approved or that the City does not have the opportunity to verify quantities of will not be paid for.

3. PRE-CONSTRUCTION MEETING:

- 3.1. The CONTRACTOR shall present samples of materials, laboratory reports, calibration reports, as required by these specifications to the City at the pre-construction meeting.

4. MATERIALS:

- 4.1. Latex Modified Asphalt Emulsion: The asphalt shall be a latex modified grade CSS-1h (cationic) emulsified asphalt. The grade CSS-1h shall be modified with an approved latex.

- a. The approved latex shall be milled into the asphalt emulsion prior to the emulsification process. The asphaltic emulsion manufacturer shall certify that the emulsion contains 3.0% to 5.0% latex solids based on the mass of asphalt (asphalt residual) within the emulsion.
- b. The residual asphalt content shall be 6.0% to 10.0% as measured by the weight (mass) of the dry aggregate or as approved by the City. An approved set-control agent in such a quantity as to produce a one hour set and shall not vary more than $\pm 1\%$ of the quantity specified in the mix design.
- c. The latex modified CSS-1h shall comply with following requirements when sampled in accordance with ASSHTO T-40 and shall comply with the following requirements when tested in accordance with the specified test methods:

TESTS ON EMULSION	TEST METHOD	REQUIREMENTS
Viscosity, Saybolt Furol at 77°F	AASHTO T 59	20-100 seconds
Storage Stability Test (24 hours)	AASHTO T 59	1.0% maximum
Particle Charge Test	AASHTO T 59	Positive*
Sieve Test	AASHTO T 59	0.1% maximum
Distillation: Residual by Evaporation	AASHTO T 59	62% maximum
Oil Distillate, by volume of emulsion	AASHTO T 59	0.5% maximum
*If the particle charge test is inconclusive, material having a maximum pH of 6.7 will be acceptable		

TESTS ON EMULSION RESIDUE	TEST METHOD	REQUIREMENTS
Penetration, 77°F, 100 g, 5 seconds	AASHTO T 49	40-90
Ductility, 77°F (25°C), 5cm/min., cm	AASHTO T 51	70 minimum
Solubility in Trichloroethylene (performed only as required)	AASHTO T 44	97% minimum
Softening Point, R & B	AASHTO T 23	135°F minimum
Viscosity at 140°F (60°C), 300 mmHg vacuum	AASHTO T 202	8,000 Poises (800 Pa s) min.

- d. The standard distillation procedure shall be performed according to AASHTO T-59 except as modified as follows: The temperature for this test shall be held at $347 \pm 9^\circ\text{F}$ ($175^\circ\text{F} \pm 5^\circ\text{C}$).
- e. The distillation residue of the modified emulsion shall contain 3.0% to 5.0% polymer solids by mass of asphalt, as determined by an analytical method approved by the City.
- f. The polymer modified emulsified asphalt shall be so formulated that when the paving mixture is applied with the relative humidity at not more than 50% and the ambient air temperature of at least 75°F (24°C), the paving mixture will sufficiently cure so that uniformly moving traffic can be allowed in one hour. Reduced curing time may be required at locations such as driveways, intersections and where sharp turning movements may take place or where vehicles may accelerate sharply.

4.2. Mineral Aggregate

- a. The mineral aggregate used shall be of the type and grade specified for the particular use of the Micro-Surfacing. The aggregate shall be manufactured crushed aggregate meeting hardness and abrasion resistance requirements provided in the specifications. To assure the material is totally crushed, 100% of the parent aggregate will be larger than the largest stone in the gradation to be used. The aggregate shall be free of cemented or conglomerated lumps and shall not have any coatings or injurious material. Aggregate shall be free of oversize contamination prior to loading into truck.
- b. Aggregate may be provided in two portions. A minimum of 35% of the aggregate shall be Portion 1, with the remainder Portion 2 as noted in the Table in Section 4.2.3.
- c. Aggregate used for this project shall conform to the following requirements when tested in accordance with the specified test methods:

TEST	METHOD	REQUIREMENT
Sand Equivalent	ASTM D 2419	65% minimum
Abrasion Resistance after 500 revolutions*	ASTM C 131	35% maximum (net proportion)
Portion 1	ASTM C 131	17-22%
Portion 2	ASTM C 131	25-30%
Moisture Content of Aggregate	ASTM C 566	As tested
Sieve Analysis (individual and combined)	ASTM C 136	As tested
Material Passing No. 200 Sieve	ASTM C 117	As tested
Soundness of Aggregates by use of Sodium Sulfate, 5 cycles	ASTM C 88	15% maximum
Combined Aggregate Bulk Specific Gravity	ASTM C 127	As tested
*On parent aggregate before crushing		

- d. A stockpile of aggregate shall be dedicated for this project. The aggregate size shall not exceed a 3/8" sieve opening. The aggregate gradation, asphalt content, and other relevant mix design components shall be properly proportioned to meet the performance of Section 4.7.2 described below.

4.3. Mineral Filler

- a. The Portland Cement mineral filler may be any recognized brand of non-air entrained Type I Portland cement that is free from lumps or foreign matter. The amount of mineral filler needed shall be determined by the laboratory mix design and will be considered as part of the mineral gradation requirement. The mineral filler shall be between 0.5% and 3.0% by the weight of dry aggregate. The laboratory mix design percentage of mineral filler can be increased or decreased up to one percent ($\pm 1\%$) when directed by the City as the micro-surfacing is being placed if it is found to be necessary for better consistency or set times.

4.4. Water

- a. The water shall be potable, free of harmful soluble salts, and shall be added in an amount to provide proper consistency.

4.5. Set-Control Agent

- a. To improve workability a set-control agent that is approved by the City, and will not adversely affect the micro-surfacing, may be used. Set-control agent must be included as part of the mix design and be compatible with the other components of the mix. The use of set-control additive shall not vary $\pm 1\%$ of the additive optimum recommended in the highest temperature mix test in the mix design.

4.6. Polymer Modifier

- a. An approved polymer-based modifier shall be milled into the asphalt emulsion. This additive shall allow the micro-surfacing mixture to cure sufficiently so that normal traffic can be permitted in one hour after placement of the micro-surfacing mixture, without damage to the new surface.

4.7. Composition of Micro-Surfacing Mixtures

- a. Mix Design; At least 14 calendar days before micro-surfacing placement commences, the CONTRACTOR shall submit to the City for approval, a dated laboratory report of tests and a proposed mix design. The date of the mix design will reflect that tests were performed no longer than 120 days prior to the start of paving construction. The recommended percentages of each individual material required shall be shown in the laboratory report. Adjustments of water and set-control agent by the City may be required during construction based on field conditions. The City shall approve the design mix and all micro-surfacing materials and methods prior to use and shall designate the proportions to be used within the following limits:

Residual Asphalt	6.0% to 10% by dry weight (mass) of aggregate
Mineral Filler	0.5% to 3% by dry weight (mass) of aggregate
Latex-based Modifier	3.0% to 5.0% latex solids based on weight (mass) of binder (asphalt and rubber)
Water	As required to produce proper specified properties
Set-control Agent	Approved system to provide one-hour set

- b. The mix design shall be performed by a laboratory capable of performing all of the current applicable International Slurry Surfacing Association (ISSA) tests at one location. The City may disqualify any mix design submitted by any laboratory whose capability or experience with micro-surfacing cannot be verified. The proposed micro-surfacing mixture to be used for this project shall conform to the requirements specified when tested in accordance with the following tests:

ASTM TEST	DESCRIPTION	REQUIREMENT
D 3910	Consistency Test	2-3 cm
D 3910	Cure time	½ hour maximum
ISSA TEST	DESCRIPTION	REQUIREMENT
TB 139	Wet Cohesion	12 kg-cm minimum
	30 minutes (set time)	20 kg-cm minimum (or near spin)
TB 109	Excess Asphalt	538 g/m ² (50 g/ft ²) maximum
TB 114	Wet Stripping	Pass (90% minimum)
TB 100	Wet Track Abrasion	

	One-hour soak, loss	108 g/m ² (10 g/ft ²) maximum with 8.5% residual asphalt content
	Six-day soak, loss	215 g/m ² (20 g/ft ²) maximum with 8.5% residual asphalt content
TB 113	Mix Time @ 25°C (77°F)	Controllable to 120 seconds minimum
TB 147	Measurement of Stability Lateral Displacement Vertical Displacement	5% maximum 10% maximum

- c. The mix design report shall be reported on the testing laboratory's letterhead, signed by a manager of the laboratory that performed the tests and shall show the results of each of the required tests compared to the specification values. The CONTRACTOR name, date and time of collection and location of sample collection shall be noted on the report. Any test values out of specification shall be clearly noted. The report shall clearly state a recommendation of the proportions of the mineral aggregate, mineral filler, water (minimum and maximum), set-control additive (minimum and maximum), and asphalt solids content (minimum and maximum) based on the dry weight of the mineral aggregate. The laboratory shall also report the quantitative effects of moisture content on the unit weight of the mineral aggregate (bulking effect).
- d. The mix design will further show recommended changes in Portland cement, water and additive proportions for high temperature weather conditions by reporting proportions of materials required for 120 seconds of mix time with materials heated to 38°C (100°F). This elevated temperature mixing report will not be required for night-time application nor application where either cool, foggy or overcast conditions will prevent high temperature mixing problems.
- e. All the component materials used in the mix design shall be representative of the materials to be used on the project. Once the proportions of materials to be used are approved by the City, no substitutions of other materials will be permitted, unless the materials proposed for substitution are first tested and a laboratory report is submitted for design approval by the City as specified above. Substituted materials shall not be used until the mix design for those materials is approved by the City.

5. SAMPLING AND TESTING RESPONSIBILITIES:

- 5.1. If requested, the CONTRACTOR shall submit to the City samples from all suppliers furnishing a minimum of the following materials with corresponding Material Safety Data Sheets (MSDS) sheets:

4 liters (1 gallon) of the base asphalt
1 liter (2 pints) of the polymer additive (with clear labeling of the polymer type)
4 liters (1 gallon) of the asphaltic emulsion
45 kilograms (100 pounds) of combined micro-surfacing mineral aggregate
23 kilograms (50 pounds) of each parent mineral aggregate
3 kilograms (6 pounds) of mineral filler (with supplier label)

- 5.2. Extractions of the micro-surfacing may be made by the City for every 5th day of material placed, starting on the first day or as directed by the City. The City, in the presence of the Contractor, shall take a minimum of 2 samples per 5th day for extraction/gradation analyses. The samples shall be taken from the pug mill discharge chute using a contractor supplied rectangular non-absorptive container, such as a loaf pan, of sufficient size to obtain a sample from the entire cross section of the mixture being discharged. Each sample should weigh (have a mass) of 2.5 to 4 lbs. (1000 to 1500 grams). Each sample shall be tested to determine the asphalt binder content and gradation of

aggregate in the mixture in accordance with AASHTO T-308(Determining the Asphalt Binder Content of Hot-Mix Asphalt (HMA) by the Ignition Method) and AASHTO T-30 (Mechanical Analysis of Extracted Aggregate), respectively. The sampling and testing of the micro-surfacing by the City will result in a report submitted to the CONTRACTOR after the lab has tested the samples. Failure of a test may require removal of material placed or non-payment for the area represented by the test, as directed by the City. Laboratory testing report shall be in accordance with Section 4.7.3 of this provision and will determine:

Tests on emulsion/residue as per Section 4.1.4
Tests on Mineral Aggregate: Sieve Analysis as per Section 4.2.2

- 5.3. Copies of all material load tickets, and certified test reports shall be given to the City. A certified analysis (test report) of emulsified asphalt shall accompany each shipment of emulsion to the CONTRACTOR, and the exact residual asphalt cement content of each tanker shall be plainly marked on the load tickets.
- 5.4. The CONTRACTOR shall furnish to the City an aggregate moisture determination for the stockpile prior to placing the micro-surfacing. This shall be re-tested on delivery of new aggregate to the stockpile or if weather conditions have changed the aggregate moisture content appreciably. Aggregate moisture will be accounted for in determining the aggregate/bitumen ratio to be used during placement.
- 5.5. Copies of a daily control log kept in accordance with ISSA Technical Bulletin No. 107 shall be given to the City before start of the next day's production, or as otherwise directed by the City. The log shall contain tons of dry aggregate consumed that day, tons of asphalt emulsion consumed that day and square yardage covered that day.

6. **EQUIPMENT:**

- 6.1. Equipment used shall be specifically designed and manufactured to lay micro-surfacing. The material shall be mixed by an automatic sequenced, self-propelled micro-surfacing mixing machine, which shall be a continuous flow mixing unit, able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive and water to a revolving multi-blade twin shafted mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive and water to maintain an adequate supply to the proportioning controls.
- 6.2. Mixer-Spreader Trucks
 - a. The micro-surfacing shall be mixed in pugmill mixers of adequate size and power for the type of micro-surfacing to be placed.
 - b. Mixer-spreader truck shall be equipped to proportion the mineral aggregate, Portland cement mineral filler, water, set-control additives and emulsified asphalt by weight, to a revolving multi-blade dual mixer, and discharge the thoroughly mixed product. The machine shall have sufficient storage capacity for mineral aggregate, emulsified asphalt, Portland cement mineral filler, water and set-control additive to maintain an adequate supply to the proportioning controls. All rotating and reciprocating equipment on mixer-spreader trucks shall be covered with metal guards. The paddles or augers shall be designed and operated so all fresh mix will be agitated

and to create a turbulence or laminar flow to prevent the mixture from setting up in the box, causing side build-ups and lumps.

6.3. Spreader Boxes - The micro-surfacing mixture shall be spread by means of one of the following controlled spreader box configurations conforming to the following requirements:

- a. Variable Full Width Spreader Box - The variable full width spreader box shall be capable of spreading a traffic lane 9-14 feet in width while simultaneously applying mixed material. The box shall be equipped with strips of flexible rubber seals or similar material on each side of the spreader box. The box shall be in contact with the pavement to positively prevent the loss of micro-surfacing from the ends of the box and shall be equipped with devices to adjust thickness or grade of the surface. All spreader boxes shall have baffles, reversible motor driven augers, or other suitable means, to insure uniform application on super-elevated sections and shoulder slopes. Spreader box skids shall be maintained in such a manner as to prevent transverse chatter (wash boarding), tearing or shoving in the finished mat or the mat adjacent to the box. Rear flexible strike-off blades shall make close contact with the pavement, shall be designed and operated to achieve a uniform consistency that provides a free flow of material to the rear strike-off without causing skips, lumps, or tears in the finished surface. A secondary rubber strike-off shall be provided to improve surface texture. The secondary strike-off shall have the same leveling adjustments as the spreader box.
- b. Wheel Path Depression (Rut) Box. The wheel path depression box shall be designed as a double chambered box with adjustable screeds to regulate depth and shall be either 1.52 m (5 feet) or 1.81 m (6 feet) in width. Hydraulic augers set at a 45 ("V") degree angle shall move the mixed material from the rear to the front of the filling chamber. The augers shall push the larger aggregate into the center, deeper section of the wheel path depression and send the fine material toward the edges of the pass to act as a mastic and for feathering down the longitudinal joint along the wheel path.

7. MATERIAL STOCKPILING AND STORAGE:

7.1. Aggregate Storage - If the mineral aggregates are stored or stockpiled, they shall be handled in such a manner as to prevent segregation, mixing of the various material, and contamination with foreign materials. The grading of aggregates proposed for use and as supplied to the mixing plant shall be uniform. Suitable equipment of acceptable size shall be furnished by the CONTRACTOR to work the stockpiles and prevent segregation and excessive breakdown of mineral aggregates. The aggregate shall be free of oversize material.

- a. The CONTRACTOR'S material and equipment may be stored at designated area within a Department's maintenance facility, as directed by the City. Equipment and materials shall not be stored on the public road right-of-way.

7.2. Asphaltic Material Storage - The asphaltic material storage shall be ample to meet the requirements of the plant. All equipment used in the storage and handling of asphaltic material shall be kept in a clean condition at all times and shall be operated in such a manner that there will be no contamination with foreign matter. The storage stability test may be waived provided the asphalt emulsion storage tank at the project site has adequate provisions for circulating the entire contents of the tank and provided satisfactory field results are obtained.

8. CONSTRUCTION METHODS:

8.1. Weather Limitations

- a. No mixture shall be placed when:
 - i. The pavement temperature is 10°C (50°F) or below
 - ii. When the ambient air temperature is 10°C (50°F) or below
 - iii. When there is a forecast of temperatures (as per the National Weather Service) below 32°F within twenty-four (24) hours after mix placement
 - iv. When it is raining
 - v. As directed by the City

8.2. Test Strip - Prior to the application of the micro-surfacing mixture, the CONTRACTOR shall place a test strip, at a location established by the City, to demonstrate the compatibility of the modified emulsion and the mineral aggregate under field conditions. This test strip shall also be used to demonstrate mix uniformity and compliance of the mix to the requirements of proportioning of the asphalt, mineral aggregate, mineral filler, polymer modifier, set-control agent and water. The test strip shall be at least 500 feet in length (unless otherwise agreed), and the width of one lane and shall consist of the application courses specified in the contract. The test strip shall be conducted at the same time of day or night the full production will be applied, in the presence of the City, at least twenty-four (24) hours prior to the CONTRACTOR'S intended start-up date. The City will evaluate the test strip after it is fully cured to determine that the mix design and materials are acceptable. A new test strip shall be performed when the test strip is deemed unacceptable, a change in the mix design become necessary or as directed by the City. The establishment of a test strip will be considered incidental, however the approved test strip will be measured and paid for in accordance with the contract provisions for the actual square yards of micro-surfacing placed. Failure of the test strip shall require the CONTRACTOR to completely remove the test strip with no compensation for the labor, equipment or material to place, remove or properly dispose of the failed test strip. Method or equipment substitutions used and approved by the City in the test strip, shall be used in field production.

8.3. Surface Preparation - The City shall approve all surface preparation prior to application of the micro-surfacing. Additional preparatory items as specified below, or as directed, shall be the Contractor's responsibility and are subsidiary to the micro-surfacing pay item.

- a. Immediately prior to placement of the micro-surfacing mixture, the CONTRACTOR shall sweep the pavement thoroughly using a self-propelled rotary-type broom to remove all loose materials, dirt, mud and other objectionable material that may prevent adhesion of the micro-surfacing to the existing pavement surface and then pre-wet as required. Removal of any existing vegetation and dirt from asphalt/curb interfaces shall be accomplished using approved methods.
- b. Bid items for crack sealing are included in this project. City forces have sealed most cracks; however, any cracks not sealed or require additional sealant are the responsibility of the Contractor as part of surface preparation.
- c. Potable Water shall be used in pre-wetting the surface ahead of the spreader box and shall be applied at such a rate that the entire surface shall be damp and free of ponding or free-flowing water.

- d. Utility covers, manholes, grated inlets, curb inlets, and traffic device covers located in the roadway to be paved shall be protected from coverage by the micro-surfacing and referenced for prompt location and cleaning following application. The CONTRACTOR shall be responsible for covering, locating, removing and cleaning of these items following the micro-surfacing application operation. The methods used to protect, reference, locate and clean shall be submitted by the CONTRACTOR and shall be subject to approval by the City. All such materials shall be removed and properly disposed of by the CONTRACTOR after the surfacing material has cured. The above items shall be cleaned to their pre-surfacing condition or as directed by the City.
- e. Roadway striping and traffic markings shall be protected by approved methods. Any damage to roadway striping or markings shall be repaired by placing new striping and/or markings of the same material as the damaged material. If designated on the plans to replace striping and markings, such striping and markings shall be installed by a qualified installer and shall meet specifications as designated on the plans.

8.4. Spreading of Mixture - The micro-surfacing shall be homogeneous during and following mixing and spreading. It shall be free of excess water or emulsion and free of segregation of the emulsion and aggregate fines from the coarser aggregate. A sufficient amount of materials shall be carried to all parts of the spreader at all times so that complete coverage is obtained. Overloading the spreader box shall be avoided. No lumping, balling, or unmixed aggregate shall be permitted.

- a. The mixture shall be uniform and homogeneous after spreading on the surfacing and shall not show separation of the emulsion and aggregate after setting. Streaks, such as those caused by oversized aggregate, shall be avoided. If excess streaking develops, the job will be stopped by the City until the CONTRACTOR can demonstrate that the occurrence has been eliminated. Excessive streaking is defined as: more than four (4) drag marks greater than one-half inch (12.7mm) and/or 4 inches (100 mm) long; or 1-inch (25mm) to 3 inches (76mm) long in any 27.3 yd.² (25 m²) area. No transverse ripples or longitudinal streaks in excess of one-quarter inch (6 mm) will be permitted when measured by placing a 10 foot (3 meter) straight edge over the surface.
- b. Inaccessible Areas - Micro-surfacing to be spread in areas inaccessible to the spreader box shall be surfaced using approved hand squeegees to provide complete and uniform coverage. If necessary, the area to be hand worked shall be lightly dampened with potable water prior to mix placement. Care shall be exercised to leave no unsightly appearance from hand work. The same type of finish as applied by the spreader box shall be required. Micro-surfacing shall not be applied over steel expansion plates or bridge decks, unless directed by the City.
- c. Excess Material - All excess material that overruns in gutters, on curbs, inlet tops, or on sidewalks shall be removed immediately or squeegeed back onto the surface. All excess material removed from any non-paved area and from the ends of each job site shall be removed immediately. Discolored curbs, inlets and sidewalks shall be immediately cleaned and flushed before the material sets.

8.5. Paving Courses - Micro-surfacing material shall be applied in one (1) lift of 18-22 pounds per square yard of the dry mass of the mineral aggregate. Additionally, due to irregularities in road profile, a single lift application of micro-surfacing in excess of 22 pounds per square yard may be required. The CONTRACTOR shall apply an amount in excess of 22 pounds per square yard only after having received prior approval from the City. Compensation to the CONTRACTOR for amounts in excess of 22 pounds

per square yard shall not be made without prior approval. Any application in excess of 30 pounds per square yard shall be applied in two lifts ("scratch" course followed by normal application).

- a. Adequate means shall be provided by the CONTRACTOR to protect the micro-surfacing from damage by traffic until such time that the mixture has cured sufficiently so that the micro-surfacing mixture will not adhere to and be picked up by the tires of vehicles.

8.6. Seams and Joints

- a. No excess buildup, uncovered areas, or unsightly appearance shall be permitted on longitudinal or transverse joints. The CONTRACTOR shall provide suitable spreading equipment to produce a minimum number of longitudinal joints throughout the project. Half passes and odd width passes will be used only in minimum amounts. If half passes are used, they shall not be the last pass of any paved area. Any damage to, or irregularities in, micro-surfacing shall be repaired by the CONTRACTOR at the CONTRACTOR'S expense, as directed by the City. All repairs are to be made with a paver box, except those designated as hand work area.
- b. Whenever possible the longitudinal joints shall be placed on the lane lines, staggering the underlying joints by 6 inches (150 mm). The City may permit the CONTRACTOR to use other patterns of longitudinal joints, if such patterns will not adversely affect the quality of the finished product.
- c. Longitudinal joints common to two driving lanes, shall not overlap more than three inches (76.2 mm). If the City determines that this is exceeded or that the seam is rough enough to cause a noticeable effect on steering of an automobile, the seam shall be removed, and new micro-surfacing patch shall be applied by the CONTRACTOR at no additional cost to the City.

8.7. Work Experience and Workmanship

- a. The CONTRACTOR shall be required to have at least two (2) years of work experience in the application of these precise materials, methods of placement, and scope of work as described herein.
- b. Edge lines and joints shall be uniform and parallel, radial or perpendicular with the centerline of the roadway. Lines at and through intersections and tapers shall be kept straight and uniform in appearance.

8.8. Surface Preparation

- a. Hot Rubber Crack Filler. Crack fill material shall meet all requirements of ASTM D6690, Type II, "Joint and Crack Sealants, Hot-Applied, for Concrete and Asphalt Pavements." Width of cracks to be filled shall generally be in excess of ¼", or at the discretion of the City. Crack fill material shall be applied at the proper temperature and using the proper equipment designed for the material to be used. Prior to material injection, cracks in excess of ¼" shall be dry and free of loose debris. Cracks shall be uniformly filled from the bottom. Excess material shall be removed from the pavement prior to micro-surfacing. Hot rubber crack fill shall be paid for in accordance with the items contained in this contract.

9. **METHOD OF MEASUREMENT:** Method of materials shall be specified in this section. Quantities shown on the Plans and in the Bid documents are estimated quantities. Actual quantities as measured will be the basis of payment.

- 9.1. Micro-surfacing 18-22 pounds per square yard: All materials, including the dry mass of the mineral aggregate, are required to be measured and recorded for quality control purposes. Measurements for the payment of micro-surfacing, complete and acceptably in place, will be made to the nearest square yard. Linear measurements to determine the square yardage of surface area shall be made to the nearest one (1) foot.
- 9.2. Single lift of micro-surfacing applied in excess of 22 pounds per square yard: If included as a pay item, wheel path depression lifts, and mineral aggregate applied in excess of 22 pounds per square yard, will be measured by the pound of the dry mass of the mineral aggregate recorded from the calibrated belt conveyor counter.
- 9.3. Measurement of hot rubber crack fill material applied shall be made to the nearest (1) linear foot.
- 9.4. Full depth ACHM pavement removal and replacement: Pavement removal and replacement shall be measured to the nearest square yard. Linear measurements to determine the square yardage of surface area shall be made to the nearest one (1) foot.
10. **BASIS OF PAYMENT:** Prices shall include full compensation for furnishing all labor, materials, tools and equipment for: quality control sampling, testing and mix design; for preparation of the road surface; for supplying, installing and removing temporary signs; for transporting, mixing, applying, blotting (furnishing, placing and removal of material), general clean-up; furnishing, constructing and maintaining traffic control and safety devices as directed by the City, shown on the plans or included in the construction contract, addendums or specifications; and other incidentals necessary to complete and warrant the job as specified herein.
- 10.1. Micro-surfacing applied 18-22 pounds per square yard: The accepted quantity of micro-surfacing as provided above in the Method of Measurement, shall be paid for at the contract unit price per square yard. Payment will be made for actual square yardage measured.
- 10.2. Single lift of micro-surfacing applied in excess of 22 pounds per square yard: In areas where material is applied in excess of 22 pounds per square yard, the excess will be paid for by the pound of material as measured per 9.2 above. Payment will be made for actual weight of additional material.
- 10.3. Hot rubber crack fill: The accepted quantity of hot rubber crack fill as provided above in the Method of Measurement section shall be paid for at the contract unit price per linear foot.
- 10.4. Full depth ACHM pavement removal and replacement: Pavement removal and replacement shall include all equipment and work for saw cutting the existing pavement, excavation of existing pavement and up to one foot of underlying material, disposal of all excavated material, compaction of existing subgrade, placement and compaction of up to one foot of Class 7 Base, and 3 inches of ACHM pavement. Payment will be made for actual square yardage measured.
11. **CONTRACTOR QUALIFICATION REQUIREMENTS:**
- 11.1. Bidders shall be qualified and experienced to provide the work presented in this bid. Upon request by the City after bid opening, qualification requirements are due within 24 hours of request.

Qualifications will be determined based on information provided as follows. All information is required for contract approval.

- 11.2. The bidder shall submit a letter of verification addressed to the CITY stating the project(s), and agency contact(s) that satisfies the minimum work experience requirements described in paragraph 8.7.1 herein.

End of Section – Specifications

Contract Name: Construction – 2023 Asphalt Surface Treatment
Bid Number: 23-40

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: _____

Section 1 – Intent:

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Fayetteville in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

Section 2 – Terms & Conditions:

Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 180 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of City's Notice of Award.

Section 3 – Bidder's Representations:

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

1. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

2. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
3. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
4. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that City and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.
5. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
6. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
7. Bidder is aware of the general nature of work to be performed by City and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
8. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
11. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over City.

12. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations (if applicable).
13. No Bid shall be based upon aggregate of Subcontractors performing more than 60 percent of the total Work.
14. The experience, past performance, and ability of each proposed Subcontractor will be considered in the evaluation of Bids. Any Subcontractor so requested shall be required to furnish experience statements prior to the Notice of Awards.
15. Bidder, as an officer of their organization, or per the attached letter of authorization, is duly authorized to certify the information provided herein is accurate and true.
16. Bidder shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment in addition to all federal, state, and local laws.
17. As a bidder on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
 - a. 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.
 - b. Your signature below 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.

Section 4 – Price:

Reference online bidding portal for Line Item pricing at www.fayetteville-ar.gov/bids.

Section 5 – Listing of Subcontractors:

I, the signed General Contractor, certify that proposals from the following subcontractors were used in the preparation of my proposal. I agree that if I am the successful bidder, and if the following subcontractors are approved by the City, I will not enter into contracts with others for these divisions of the Work without written approval from the City.

Section 6 – Contract Times:

1. Bidder agrees that the Work will be substantially completed and ready for final payment within the number of calendar days indicated in the Agreement.
2. Bidder accepts the provisions of the Agreement referring to liquidated damages in the event of failure to complete the Work with the times specified in the Agreement.

Section 7 – Communications:

Communications concerning this Bid shall be addressed to the Bidder as follows:

Phone No. _____

FAX No. _____

Section 8 – SIGNATURE:

This bid is being submitted in good faith, according to the entire bid package presented:

SUBMITTED on this _____ Date of _____, 20_____.

AR State Contractor License No. _____ Tax ID # _____

Unique Entity Number: _____ CAGE #: _____

OPTION 1: An Individual

Name (type or printed): _____

By: _____ (SEAL)
(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

OPTION 2: A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

OPTION 3: A Corporation or LLC

Corporation Name: _____ (SEAL)

Date of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____

(Signature – attach evidence of authority to sign)

Name (type or printed): _____

Title: _____

(CORPORATE SEAL)

Business address: _____

Phone No.: _____ FAX No.: _____

End of Section – Bid Form

City of Fayetteville
Bid 23-40, Construction – 2023 Asphalt Surface Treatment
Contractor References

The following information is required from all Bidders so all bids may be reviewed and properly evaluated:

COMPANY NAME: _____

NUMBER OF YEARS IN BUSINESS: _____ HOW LONG IN PRESENT LOCATION: _____

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

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

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

1. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

DATE COMPLETED

E-MAIL ADDRESS

3. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

DATE COMPLETED

E-MAIL ADDRESS

2. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

DATE COMPLETED

E-MAIL ADDRESS

4. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

DATE COMPLETED

E-MAIL ADDRESS



This contract executed this _____ day of _____, 2023, between the City of Fayetteville, Arkansas (City) and VENDOR FORMAL LEGAL NAME AS BID (Vendor) In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Vendor at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per **Bid 23-40, 2023 Asphalt Surface Treatment** as stated in Vendor bid response, and in accordance with specifications attached hereto and made a part hereof under Bid 23-40, all included herein as if spelled out word for word.
 - a. This turn-key project providing labor and materials shall be provided to the City for a not to exceed fee of **####,###.##** US Dollars.
 - b. The City of Fayetteville shall pay Vendor for completion of the project based on a percentage of work completed. At no point shall payment exceed the percentage of work completed, as determined by the City.
 - c. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after approval of invoice. The City of Fayetteville reserves the right to request receipts for materials purchased for the City of Fayetteville from suppliers, subcontractors, or other sources. The City of Fayetteville does not agree to any interest or penalty for “untimely” payments.
 - d. The City shall withhold five percent (5%) retainage from all payments until project is completed in full.
2. The Contract documents which comprise the contract between the City of Fayetteville and Vendor consist of this Contract and the following documents attached hereto, and made a part hereof:
 - a. Bid package identified as **Bid 23-40, 2023 Asphalt Surface Treatment** with the specifications and conditions typed thereon inclusive of all bidding documents, plans and drawings and issued addenda.
 - b. Vendor bid proposal.
 - c. The Notice to Prospective Bidders and the Bid Tabulation.
3. These Contract documents constitute the entire agreement between the City of Fayetteville and Vendor and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Vendor.
4. Vendor shall not assign its duties under the terms of this agreement.
5. Vendor agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Vendor performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
6. Vendor shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that applicable coverage exists for the following insurance which shall be maintained throughout the term of the Contract. Any

work sublet; the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Vendor shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected. The premiums for all insurance and the bond required herein shall be paid by Vendor.

- a. Workmen's Compensation: Statutory Amount
- b. Comprehensive General & Automobile Insurance: \$500,000 for each person injured.
- c. Bodily Injury Liability: \$1,000,000 for each accident.
- d. Property Damage Liability: \$1,000,000 aggregate.

7. Vendor shall furnish proof of licensure as required by all local and state agencies.
8. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
9. Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the Fayetteville City Council **in advance** of the change in scope, cost or fees.
10. Jurisdiction: Legal jurisdiction to resolve any disputes shall be Washington County, Arkansas with Arkansas law applying to the case. The City will not agree to be forced to mediate or arbitrate any dispute.
11. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments. The City will pay all invoices within 30 calendar days of accepted invoice.
12. Security: No later than 10 calendar days of contract award, a one hundred percent (100%) performance and a one hundred percent (100%) payment bond shall be provided to the City after being file marked at the Washington County Circuit Clerk's Office. Vendor shall warranty work performed under this contract for a period of one (1) full year from the date of final payment.
13. Contractor's Representations:
 - a. Vendor has examined and carefully studied all contract documents.
 - b. Vendor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
 - c. Vendor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
 - d. Vendor has carefully studied all:
 - A. Reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - B. Reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for

the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.

- e. Vendor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
 - f. Vendor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - g. Vendor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
 - h. Vendor has correlated the information known to Vendor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
 - i. Vendor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Vendor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Vendor.
 - j. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - k. Vendor is responsible for obtaining all applicable permits; however, fees for the City issued permits shall be waived.
 - l. Any use of a third-party dumpster or roll off container shall be procured from the City of Fayetteville Recycling and Trash Collection Division. Use of a Non-City dumpster or roll off container is not allowed.
14. Liens: No liens against this construction project are allowed. Arkansas law (A.C.A. §§18-44-501 through 508) prohibits the filing of any mechanics' or materialmen's liens in relation to this public construction project. Arkansas law requires, and the contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment or labor or material on the bond. The contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.
15. Contract Time:
- a. All time limits or milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
 - b. The Work shall be Substantially Completed within **60 calendar days** after Notice to Proceed and final completion and ready for final payment in within **90 calendar days** after Notice to Proceed.

16. Liquidated Damages: The City and Vendor recognize time is of the essence of this agreement and The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Vendor agree that as liquidated damages for delay (but not as a penalty) Vendor shall pay The City of Fayetteville One Hundred Dollars (\$750.00) for each calendar day that expires after the time specified for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if Vendor shall neglect, refuse, or fail to complete the remaining Work within the time specified above for completion.
17. 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.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2023.

CITY OF FAYETTEVILLE, ARKANSAS

VENDOR FULL LEGAL NAME

By: _____
Lioneld Jordan, Mayor

By: _____
Name, Title

ATTEST:

By: _____
Kara Paxton, City Clerk

Date Signed: _____ Date Signed: _____

Bid 23-40, Addendum 1



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Tuesday, October 31, 2023

To: All Prospective Vendors

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

RE: Bid 23-40, Construction – 2023 Asphalt Surface Treatment

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

1. A non-mandatory Pre-Bid meeting was held in Room #111 of Fayetteville City Hall on Wednesday, October 25, 2023 at 10:00 AM. The sign-in sheet of attendees is also attached to this addendum for disclosure to all interested parties (see Attachment A).
 - a. Attendees:
 - i. City of Fayetteville:
 1. Amanda Beilfuss, Sr. Purchasing Agent
 2. Kenny Fitch, Purchasing Agent
 3. Les McGaugh, Purchasing Director
 4. Chase Webb, Staff Engineer
 5. Matt Casey, Engineering Design Manager
 - ii. Vendors:
 1. Vance Brothers
2. Specifications: The Specifications (pages 24-35 of the Project Manual) have been revised and updated to meet latest A-143 guidelines for Micro-surfacing (see Attachment B). The previous Specifications shall be disregarded.
3. Addendum Attachments:
 - a. Attachment A: Pre-Bid Sign-In Sheet
 - b. Attachment B: Revised Specifications



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/RFQ #: Bid 23-40

Description: Construction - 2023 Asphalt Surface Treatment

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

Date: 10 / 25 / 2023

Time: 10:00 AM

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

	Name	Company	Title	Phone	Email
1	Chase Webb	COF	Staff Engineer	479-444-3424	chwebb@fayetteville-ar.gov
2	Kenny Fitch	COF	PURCH AGENT	479-575-8258	kfitch@
3	Alek Vance	Vance Brothers	Project Manager	816-927-6262	avance@vancebrothers.com
4	Tim Harrawood	Vance Brothers	Manager	501-231-8849	Tharwood@vancebrothers.com
5	Matt Casey	COF	ENG DESIGN MGR	479-444-3429	mccsey2 -
6	Les McLaughlin	COF	Purch Dir	479-575-8259	lmcgaughlin
7	Amanda Beilfuss	COF	Sr Purch Agent	575-8220	abeilfuss@
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

** All Bid Openings are also streamed live on the City of Fayetteville's YouTube Channel.

1. **DESCRIPTION:**

- 1.1. This work shall consist of the application of micro-surfacing material to asphaltic pavement surfaces and related surface preparation. The micro-surfacing shall consist of a mixture of cationic latex modified asphaltic emulsion, mineral aggregate, Portland cement, set-control additives and water. The micro-surfacing material shall be properly transported, proportioned, mixed and evenly spread on the asphaltic pavement surface in strict accordance with the plans, these specifications and as directed by the CITY. ~~In some cases, more than one lift may be required to obtain the specified thickness.~~
- 1.2. The cured micro-surfacing shall have a uniform and homogeneous appearance, substantially fill all cracks, and adhere firmly to the existing surface. The mix shall be capable of being spread in varying thickness cross-sections (wedges, wheel path depressions, scratch courses and surfaces) which, after curing and initial traffic consolidation, resist compaction throughout the entire design tolerance range of bitumen content and varying thickness to be encountered. The end product shall maintain a friction resistant surface (high wet friction co-efficient) throughout the service life of the micro-surfacing.
- 1.3. ~~The completed mixture shall be such that the micro surfacing mixture has proper workability during lay down and will permit straight running traffic on 12.7 mm (1/2 inch) thick micro surfacing within one hour after placement at 24°C (75°F) or greater and 50% or lower humidity. Micro-surfacing shall be placed without the occurrence of bleeding, raveling, separation or other distress.~~
- 1.4. Work shall be performed in accordance with the current edition of "Recommended Performance Guidelines for Polymer-Modified Micro-Surfacing" A143 (revised) published by the International Slurry Surfacing Association (ISSA), ASTM D 6372-99a Standard Practice for Design, Testing and Construction of Micro-Surfacing, with the modifications specified herein.

2. **APPLICATION RATE:**

- 2.1. Single lift applications of micro-surfacing material shall be applied in one (1) lift of 18-22 pounds per square yard of the dry mass of the mineral aggregate.
- 2.2. ~~At the direction of the City, additionally, due to irregularities in road profile, a single lift application of micro surfacing in excess of 22 pounds per square yard may be required. Any application in excess of 30 pounds per square yard shall be applied in two lifts ("scratch" course followed by normal application).~~
- 2.3. ~~Application of scratch course or any material in excess of 22 pounds per square yard will be measured separately per pound in accordance with the measurement and payment section. The contractor shall notify the City and receive approval for application of material in excess of 22 pounds per square yard and shall allow for verification of quantities by the City. Any installations in excess of 22 pounds per square yard that is not approved or that the City does not have the opportunity to verify quantities of will not be paid for.~~

3. PRE-CONSTRUCTION MEETING:

- 3.1. The CONTRACTOR shall present samples of materials, laboratory reports, calibration reports, as required by these specifications to the City at the pre-construction meeting.

4. MATERIALS:

- 4.1. Latex/**Polymer** Modified Asphalt Emulsion: The asphalt shall be a latex/**polymer** modified grade CSS-1h**P** (cationic) emulsified asphalt. The grade CSS-1h**P** shall be modified with an approved latex/**polymer**.

- The approved latex/**polymer** shall be milled into the asphalt emulsion prior to the emulsification process. The asphaltic emulsion manufacturer shall certify that the emulsion contains 3.0% to 5.0% latex/**polymer** solids based on the mass of asphalt (asphalt residual) within the emulsion.
- The residual asphalt content shall be 6.0% to 10.0% as measured by the weight (mass) of the dry aggregate or as approved by the City. ~~An approved set control agent in such a quantity as to produce a one hour set and shall not vary more than ±1% of the quantity specified in the mix design.~~
- The latex/**polymer** modified CSS-1h**P** shall comply with following requirements when sampled in accordance with ASSHTO T-40 and shall comply with the following requirements when tested in accordance with the specified test methods:

TESTS ON EMULSION	TEST METHOD	REQUIREMENTS
Viscosity, Saybolt Furol at 77°F	AASHTO T 59	20-100 seconds
Storage Stability Test (24 hours)	AASHTO T 59	1.0% maximum
Particle Charge Test	AASHTO T 59	Positive*
Sieve Test	AASHTO T 59	0.1% maximum
Distillation: Residual by Evaporation	AASHTO T 59	62% maximum
Oil Distillate, by volume of emulsion	AASHTO T 59	0.5% maximum
*If the particle charge test is inconclusive, material having a maximum pH of 6.7 will be acceptable		

TESTS ON EMULSION RESIDUE	TEST METHOD	REQUIREMENTS
Penetration, 77°F, 100 g, 5 seconds	AASHTO T 49	40-90
Ductility, 77°F (25°C), 5cm/min, cm	AASHTO T 51	70 minimum
Solubility in Trichloroethylene (performed only as required)	AASHTO T 44	97% minimum
Softening Point, R & B	AASHTO T 23	135°F minimum
Viscosity at 140°F (60°C), 300 mmHg vacuum	AASHTO T 202	8,000 Poises (800 Pa s) min.

- The standard distillation procedure shall be performed according to AASHTO T-59 except as modified as follows: The temperature for this test shall be held at 347 ±9°F (175°F ± 5°C).
- The distillation residue of the modified emulsion shall contain 3.0% to 5.0% polymer solids by mass of asphalt, as determined by an analytical method approved by the City.
- ~~The polymer modified emulsified asphalt shall be so formulated that when the paving mixture is applied with the relative humidity at not more than 50% and the ambient air temperature of at least 75°F (24°C), the paving mixture will sufficiently cure so that uniformly moving traffic can be allowed in one hour. Reduced curing time may be required at locations such as driveways, intersections and where sharp turning movements may take place or where vehicles may~~

~~accelerate sharply.~~

4.2. Mineral Aggregate

- a. The mineral aggregate used shall be of the type and grade specified for the particular use of the Micro-Surfacing. The aggregate shall be manufactured crushed aggregate meeting hardness and abrasion resistance requirements provided in the specifications. To assure the material is totally crushed, 100% of the parent aggregate will be larger than the largest stone in the gradation to be used. The aggregate shall be free of cemented or conglomerated lumps and shall not have any coatings or injurious material. Aggregate shall be free of oversize contamination prior to loading into truck.
- b. ~~Aggregate may be provided in two portions. A minimum of 35% of the aggregate shall be Portion 1, with the remainder Portion 2 as noted in the Table in Section 4.2.3.~~
- c. Aggregate used for this project shall conform to the following requirements when tested in accordance with the specified test methods:

TEST	METHOD	REQUIREMENT
Sand Equivalent	ASTM D 2419	65% minimum
Abrasion Resistance after 500 revolutions*	ASTM C 131	35% maximum (net proportion)
Portion 1	ASTM C 131	47-22%
Portion 2	ASTM C 131	25-30%
Moisture Content of Aggregate	ASTM C 566	As tested
Sieve Analysis (individual and combined)	ASTM C 136	As tested
Material Passing No. 200 Sieve	ASTM C 117	As tested
Soundness of Aggregates by use of Sodium Sulfate, 5 cycles	ASTM C 88	15% maximum
Combined Aggregate Bulk Specific Gravity	ASTM C 127	As tested
*On parent aggregate before crushing		

- d. A stockpile of aggregate shall be dedicated for this project. ~~The aggregate size shall not exceed a 3/8" sieve opening. The aggregate gradation, asphalt content, and other relevant mix design components shall be properly proportioned to meet the performance of Section 4.7.2 described below~~ shall be ISSA Type II for parking lots and ISSA Type III for streets.

4.3. Mineral Filler

- a. The Portland **Limestone** Cement mineral filler may be any recognized brand of non-air entrained Type I Portland cement that is free from lumps or foreign matter. The amount of mineral filler needed shall be determined by the laboratory mix design and will be considered as part of the mineral gradation requirement. The mineral filler shall be between 0.5% and 3.0% by the weight of dry aggregate. The laboratory mix design percentage of mineral filler can be increased or decreased up to one percent ($\pm 1\%$) when directed by the City as the micro-surfacing is being placed if it is found to be necessary for better consistency or set times.

4.4. Water

- a. The water shall be potable, free of harmful soluble salts, and shall be added in an amount to provide proper consistency.

4.5. ~~Set~~Break-Control Agent/Additive

- a. To improve workability a set-control agent that is approved by the City, and will not adversely affect the micro-surfacing, may be used. ~~Set control agent must be included as part of the mix design and be compatible with the other components of the mix. The use of set control additive shall not vary $\pm 1\%$ of the additive optimum recommended in the highest temperature mix test in the mix design.~~

4.6. Polymer Modifier

- a. An approved polymer-based modifier shall be milled into the asphalt emulsion. ~~This additive shall allow the micro surfacing mixture to cure sufficiently so that normal traffic can be permitted in one hour after placement of the micro surfacing mixture, without damage to the new surface.~~

4.7. Composition of Micro-Surfacing Mixtures

- a. Mix Design; At least 14 calendar days before micro-surfacing placement commences, the CONTRACTOR shall submit to the City for approval, a dated laboratory report of tests and a proposed mix design. The date of the mix design will reflect that tests were performed no longer than ~~120~~ 365 days prior to the start of paving construction. The recommended percentages of each individual material required shall be shown in the laboratory report. Adjustments of water and set-control agent by the City may be required during construction based on field conditions. The City shall approve the design mix and all micro-surfacing materials and methods prior to use and shall designate the proportions to be used within the following limits:

Residual Asphalt	5.0% 5.5% to 10.5% by dry weight (mass)-of aggregate
Mineral Filler	0.05% - 1% to 3% by dry weight (mass)-of aggregate
Latex/ Polymer -based Modifier	3.0% to 5.0% latex solids based on weight (mass) of binder (asphalt and rubber) Minimum of 3.0% solids based on bitumen weight content
Additives	As needed
Water	As required to produce proper specified properties mix consistency
Set-control Agent	Approved system to provide one hour set

- b. The mix design shall be performed by a laboratory capable of performing all of the current applicable International Slurry Surfacing Association (ISSA) tests at one location. The City may disqualify any mix design submitted by any laboratory whose capability or experience with micro surfacing cannot be verified. The proposed micro surfacing mixture to be used for this project shall conform to the requirements specified when tested in accordance with the following tests evaluate the compatibility of the aggregate, polymer-modified emulsified asphalt, water, mineral filler, and other additives. The mix design shall be completed using materials consistent with those supplied by the contractor for the project. Recommended tests and values are as follows:

ASTM TEST	DESCRIPTIONISSA TB NO.	REQUIREMENTSPECIFICATION
D-3910Mix Time @ 77°F (25°C)	Consistency TestTB 113	2-3 cmControllable to 120 Seconds Minimum

D-3910 Wet Cohesion @ 30 Minutes Minimum (Set) @ 60 Minutes Minimum (Traffic)	Cure time TB 139	1/2 hour maximum 12 kg-cm Minimum 20 kg-cm or Near Spin Minimum
ISSA TEST Wet Stripping	DESCRIPTION TB 114	REQUIREMENT Pass (90% Minimum)
TB 139 Wet Track Abrasion Loss One-hour Soak Six-day Soak	Wet Cohesion 30 minutes (set time) 60 minutes (traffic time) TB 100	12 kg-cm minimum 20 kg-cm minimum (or near spin) 50 g/ft ² (538 g/m ²) Maximum 75 g/ft ² (807 g/m ²) Maximum
TB 109 Lateral Displacement Specific Gravity after 1,000 Cycles of 125 lb. (56.71 kg.)	Excess Asphalt TB 147	538 g/m ² (50 g/ft ²) maximum 5% Maximum 2.10 Maximum
TB 114 Excess Asphalt by LWT Sand Adhesion	Wet Stripping TB 109	Pass (90% minimum) 50 g/ft ² (538 g/m ²) Maximum
TB 100 Classification Compatibility	TB 144 Wet Track Abrasion One-hour soak, loss Six-day soak, loss	11 Grade Points Minimum (AAA, BAA) 108 g/m ² (10 g/ft ²) maximum with 8.5% residual asphalt content 215 g/m ² (20 g/ft ²) maximum with 8.5% residual asphalt content
TB 113	Mix Time @ 25°C (77°F)	Controllable to 120 seconds minimum
TB 147	Measurement of Stability Lateral Displacement Vertical Displacement	5% maximum 10% maximum

- c. The Wet Track Abrasion Test is performed under laboratory conditions as a component of the mix design process. The purpose of this test is to determine the minimum asphalt content required in a micro-surfacing system. The Wet Track Abrasion Test is not recommended as a field quality control or acceptance test.
- d. The mixing test is used to predict the length of time the material can be mixed before it begins to break. It can be a good reference check to verify consistent sources of material. The laboratory should verify that mix and set times are appropriate for the climatic conditions expected during the project.
- e. The laboratory shall also report the quantitative effects of moisture content on the unit weight of the aggregate (bulking effect) according to AASHTO T19 (ASTM C29).
- f. The percentage of each individual material required shall be shown in the laboratory report. Based on field conditions, adjustments within the specific ranges of the mix design may be required.
- g. The mix design report shall be reported on the testing laboratory's letterhead, signed by a manager of the laboratory that performed the tests and shall show the results of each of the required tests compared to the specification values. The CONTRACTOR name, date and time of collection and location of sample collection shall be noted on the report. Any test values out of specification shall be clearly noted. The report shall clearly state a recommendation of the proportions of the mineral aggregate, mineral filler, water (minimum and maximum), ~~set control additive (minimum and maximum)~~, and asphalt solids content (minimum and maximum) based

on the dry weight of the mineral aggregate. The laboratory shall also report the quantitative effects of moisture content on the unit weight of the mineral aggregate (bulking effect).

- h. ~~The mix design will further show recommended changes in Portland cement, water and additive proportions for high temperature weather conditions by reporting proportions of materials required for 120 seconds of mix time with materials heated to 38°C (100°F). This elevated temperature mixing report will not be required for night time application nor application where either cool, foggy or overcast conditions will prevent high temperature mixing problems.~~
- i. All the component materials used in the mix design shall be representative of the materials to be used on the project. Once the proportions of materials to be used are approved by the City, no substitutions of other materials will be permitted, unless the materials proposed for substitution are first tested and a laboratory report is submitted for design approval by the City as specified above. Substituted materials shall not be used until the mix design for those materials is approved by the City.

5. SAMPLING AND TESTING RESPONSIBILITIES:

- 5.1. If requested, the CONTRACTOR shall submit to the City samples from all suppliers furnishing a minimum of the following materials with corresponding Material Safety Data Sheets (MSDS) sheets:

4 liters (1 gallon) of the base asphalt
1 liter (2 pints) of the polymer additive (with clear labeling of the polymer type)
4 liters (1 gallon) of the asphaltic emulsion
45 kilograms (100 pounds) of combined micro-surfacing mineral aggregate
23 kilograms (50 pounds) of each parent mineral aggregate
3 kilograms (6 pounds) of mineral filler (with supplier label)

- 5.2. ~~Extractions of the micro surfacing may be made by the City for every 5th day of material placed, starting on the first day or as directed by the City. The City, in the presence of the Contractor, shall take a minimum of 2 samples per 5th day for extraction/gradation analyses. The samples shall be taken from the pug mill discharge chute using a contractor supplied rectangular non absorptive container, such as a loaf pan, of sufficient size to obtain a sample from the entire cross section of the mixture being discharged. Each sample should weigh (have a mass) of 2.5 to 4 lbs. (1000 to 1500 grams). Each sample shall be tested to determine the asphalt binder content and gradation of aggregate in the mixture in accordance with AASHTO T 308 (Determining the Asphalt Binder Content of Hot Mix Asphalt (HMA) by the Ignition Method) and AASHTO T 30 (Mechanical Analysis of Extracted Aggregate), respectively. The sampling and testing of the micro surfacing by the City will result in a report submitted to the CONTRACTOR after the lab has tested the samples. Failure of a test may require removal of material placed or non payment for the area represented by the test, as directed by the City. Laboratory testing report shall be in accordance with Section 4.7.3 of this provision and will determine:~~

Tests on emulsion/residue as per Section 4.1.4
Tests on Mineral Aggregate: Sieve Analysis as per Section 4.2.2

- 5.3. Copies of all material load tickets, and certified test reports shall be given to the City. A certified analysis (test report) of emulsified asphalt shall accompany each shipment of emulsion to the CONTRACTOR, and the exact residual asphalt cement content of each tanker shall be plainly marked on the load tickets.

- 5.4. The CONTRACTOR shall furnish to the City an aggregate moisture determination for the stockpile prior to placing the micro-surfacing. This shall be re-tested on delivery of new aggregate to the stockpile or if weather conditions have changed the aggregate moisture content appreciably. Aggregate moisture will be accounted for in determining the aggregate/bitumen ratio to be used during placement.
- 5.5. Copies of a daily control log kept in accordance with ISSA Technical Bulletin No. 107 shall be given to the City before start of the next day's production, or as otherwise directed by the City. The log shall contain tons of dry aggregate consumed that day, tons of asphalt emulsion consumed that day and square yardage covered that day.

6. **EQUIPMENT:**

- 6.1. ~~Equipment used shall be specifically designed and manufactured to lay micro-surfacing. The material shall be mixed by an automatic sequenced, self-propelled micro-surfacing mixing machine, which shall be a continuous flow mixing unit, able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive and water to a revolving multi-blade twin shafted mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive and water to maintain an adequate supply to the proportioning controls.~~

General

- a. All equipment, tools, and machines used in the application of micro-surfacing shall be maintained in satisfactory working condition at all times.

6.2. ~~Mixer Spreader Trucks~~ **Mixing Equipment**

- a. ~~The micro-surfacing shall be mixed in pugmill mixers of adequate size and power for the type of micro-surfacing to be placed. The machine shall be specifically designed and manufactured to apply micro-surfacing. The material shall be mixed by an automatic-sequenced, self-propelled micro-surfacing mixing machine. It shall be a continuous-flow mixing unit that accurately delivers and proportions the mix components through a revolving multi-blade, double-shafted mixer. Sufficient storage capacity for all mix components is required to maintain an adequate supply to the proportioning controls.~~
- b. ~~Mixer spreader truck shall be equipped to proportion the mineral aggregate, Portland cement mineral filler, water, set control additives and emulsified asphalt by weight, to a revolving multi-blade dual mixer, and discharge the thoroughly mixed product. The machine shall have sufficient storage capacity for mineral aggregate, emulsified asphalt, Portland cement mineral filler, water and set control additive to maintain an adequate supply to the proportioning controls. All rotating and reciprocating equipment on mixer spreader trucks shall be covered with metal guards. The paddles or augers shall be designed and operated so all fresh mix will be agitated and to create a turbulence or laminar flow to prevent the mixture from setting up in the box, causing side build ups and lumps. When specifying continuous machinery to minimize transverse joints, the specified machine must be capable of loading materials while continuing to apply micro-surfacing. The continuous-run machine shall be equipped to provide the operator with full control of the forward and reverse speeds during application. It shall be equipped with opposite-side driver stations to assist in alignment. The self-loading device, opposite-side driver stations,~~

and forward and reverse speed controls shall be of original-equipment-manufacturer design.

6.3. ~~Spreader Boxes~~ — ~~The micro surfacing mixture shall be spread by means of one of the following controlled spreader box configurations conforming to the following requirements:~~

- a. ~~Variable Full Width Spreader Box~~ — ~~The variable full width spreader box shall be capable of spreading a traffic lane 9 14 feet in width while simultaneously applying mixed material. The box shall be equipped with strips of flexible rubber seals or similar material on each side of the spreader box. The box shall be in contact with the pavement to positively prevent the loss of micro surfacing from the ends of the box and shall be equipped with devices to adjust thickness or grade of the surface. All spreader boxes shall have baffles, reversible motor driven augers, or other suitable means, to insure uniform application on super elevated sections and shoulder slopes. Spreader box skids shall be maintained in such a manner as to prevent transverse chatter (wash boarding), tearing or shoving in the finished mat or the mat adjacent to the box. Rear flexible strike off blades shall make close contact with the pavement, shall be designed and operated to achieve a uniform consistency that provides a free flow of material to the rear strike off without causing skips, lumps, or tears in the finished surface. A secondary rubber strike off shall be provided to improve surface texture. The secondary strike off shall have the same leveling adjustments as the spreader box.~~
- b. ~~Wheel Path Depression (Rut) Box~~. ~~The wheel path depression box shall be designed as a double chambered box with adjustable screeds to regulate depth and shall be either 1.52 m (5 feet) or 1.81 m (6 feet) in width. Hydraulic augers set at a 45 ("V") degree angle shall move the mixed material from the rear to the front of the filling chamber. The augers shall push the larger aggregate into the center, deeper section of the wheel path depression and send the fine material toward the edges of the pass to act as a mastic and for feathering down the longitudinal joint along the wheel path.~~

6.4. Proportioning Devices

- a. Individual volume or weight controls for the proportioning mix components shall be provided and properly labeled. These proportioning devices are used in material calibration to determine the material output at any time.

6.5. Spreading Equipment

- a. The mixture shall be agitated and spread uniformly in the surfacing box by means of twin-shafted paddles or spiral augers fixed in the spreader box. A front seal shall be provided to insure no loss of the mixture at the road contact point. The rear seal shall act as a final strike-off and shall be adjustable. The spreader box and rear strike-off shall be so designed and operated that a uniform consistency is achieved, and a free flow of material is provided to the rear strike-off. The spreader box shall have suitable means provided to side shift the box to compensate for variations in the pavement geometry.

6.6. Secondary Strike-Off

- a. A secondary strike-off shall be provided to improve surface texture. The secondary strike-off shall be adjustable to match the width of the spreader box and allow for varying pressures to control the surface texture.

6.7. Rut-Filling Equipment

- a. When project plans require, Micro-surfacing material may be used to fill ruts, utility cuts, depressions in the existing surface, etc. Ruts of 0.5 in. (12.7 mm), or greater in depth, shall be filled independently with a rut-filling box, either 5 ft. (1.5 m) or 6 ft. (1.8 m) in width. Ruts that are in excess of 1.5 in. (38.1 mm) in depth may require multiple applications with the rut-filling box to restore the cross-section. When rutting or deformation is less than 0.5 in. (12.7 mm), a full width scratch course may be applied with the spreader box using a metal or stiff rubber strike-off. Apply at a sufficient rate to level the pavement surface. The leveling course may, or may not, meet the suggested application rate in the table in Section 11.2. All rut-filling and level-up material should cure under traffic for at least twenty-four (24) hours before additional material is placed.

6.8. Auxiliary Equipment

- a. Suitable surface preparation equipment, traffic control equipment, hand tools, and other support and safety equipment necessary to perform the work shall be provided by the contractor.

7. MATERIAL STOCKPILING AND STORAGE:

- 7.1. Aggregate Storage - If the mineral aggregates are stored or stockpiled, they shall be handled in such a manner as to prevent segregation, mixing of the various material, and contamination with foreign materials. The grading of aggregates proposed for use and as supplied to the mixing plant shall be uniform. Suitable equipment of acceptable size shall be furnished by the CONTRACTOR to work the stockpiles and prevent segregation and excessive breakdown of mineral aggregates. The aggregate shall be free of oversize material.
 - a. The CONTRACTOR'S material and equipment may be stored at designated area within a Department's maintenance facility, as directed by the City. Equipment and materials shall not be stored on the public road right-of-way.
 - b. All aggregate must be screened directly into the application equipment immediately prior to installation to minimize the potential of oversized material.
- 7.2. Asphaltic Material Storage - The asphaltic material storage shall be ample to meet the requirements of the plant. All equipment used in the storage and handling of asphaltic material shall be kept in a clean condition at all times and shall be operated in such a manner that there will be no contamination with foreign matter. ~~The storage stability test may be waived provided the asphalt emulsion storage tank at the project site has adequate provisions for circulating the entire contents of the tank and provided satisfactory field results are obtained.~~

8. CONSTRUCTION METHODS:

8.1. Weather Limitations

- a. No mixture shall be placed when:
 - i. The pavement temperature is 10°C (50°F) or below
 - ii. When the ambient air temperature is 10°C (50°F) or below

- iii. When there is a forecast of temperatures (as per the National Weather Service) below 32°F within twenty-four (24) hours after mix placement
- iv. When it is raining
- v. As directed by the City

8.2. Test Strip - Prior to the application of the micro-surfacing mixture, the CONTRACTOR shall place a test strip, at a location established by the City, to demonstrate the compatibility of the modified emulsion and the mineral aggregate under field conditions. This test strip shall also be used to demonstrate mix uniformity and compliance of the mix to the requirements of proportioning of the asphalt, mineral aggregate, mineral filler, polymer modifier, set-control agent and water. The test strip shall be at least 500 feet in length (unless otherwise agreed), and the width of one lane and shall consist of the application courses specified in the contract. The test strip shall be conducted at the same time of day or night the full production will be applied, in the presence of the City, at least twenty-four (24) hours prior to the CONTRACTOR'S intended start-up date. The City will evaluate the test strip ~~after it is fully cured~~ **approximately 1 hour after the placement of the test strip** to determine that the mix design and materials are acceptable. A new test strip shall be performed when the test strip is deemed unacceptable, a change in the mix design become necessary or as directed by the City. The establishment of a test strip will be considered incidental, however the approved test strip will be measured and paid for in accordance with the contract provisions for the actual square yards of micro-surfacing placed. ~~Failure of the test strip shall require the CONTRACTOR to completely remove the test strip with no compensation for the labor, equipment or material to place, remove or properly dispose of the failed test strip.~~ Method or equipment substitutions used and approved by the City in the test strip, shall be used in field production.

8.3. Surface Preparation - The City shall approve all surface preparation prior to application of the micro-surfacing. Additional preparatory items as specified below, or as directed, shall be the Contractor's responsibility and are subsidiary to the micro-surfacing pay item.

- a. Immediately prior to placement of the micro-surfacing mixture, the CONTRACTOR shall sweep the pavement thoroughly using a self-propelled rotary-type broom to remove all loose materials, dirt, mud and other objectionable material that may prevent adhesion of the micro-surfacing to the existing pavement surface and then pre-wet as required. Removal of any existing vegetation and dirt from asphalt/curb interfaces shall be accomplished using approved methods.
- b. Bid items for crack sealing are included in this project. City forces have sealed most cracks; however, any cracks not sealed or require additional sealant are the responsibility of the Contractor as part of surface preparation.
- c. Potable Water shall be used in pre-wetting the surface ahead of the spreader box and shall be applied at such a rate that the entire surface shall be damp and free of ponding or free-flowing water.
- d. Utility covers, manholes, grated inlets, curb inlets, and traffic device covers located in the roadway to be paved shall be protected from coverage by the micro-surfacing and referenced for prompt location and cleaning following application. The CONTRACTOR shall be responsible for covering, locating, removing and cleaning of these items following the micro-surfacing application operation. The methods used to protect, reference, locate and clean shall be submitted by the CONTRACTOR and shall be subject to approval by the City. All such materials shall be removed and properly

disposed of by the CONTRACTOR after the surfacing material has cured. The above items shall be cleaned to their pre-surfacing condition or as directed by the City.

- e. Roadway striping and traffic markings shall be protected by approved methods. Any damage to roadway striping or markings shall be repaired by placing new striping and/or markings of the same material as the damaged material. If designated on the plans to replace striping and markings, such striping and markings shall be installed by a qualified installer and shall meet specifications as designated on the plans.

8.4. Spreading of Mixture - The micro-surfacing shall be homogeneous during and following mixing and spreading. It shall be free of excess water or emulsion and free of segregation of the emulsion and aggregate fines from the coarser aggregate. A sufficient amount of materials shall be carried to all parts of the spreader at all times so that complete coverage is obtained. Overloading the spreader box shall be avoided. No lumping, balling, or unmixed aggregate shall be permitted.

- a. The mixture shall be uniform and homogeneous after spreading on the surfacing and shall not show separation of the emulsion and aggregate after setting. Streaks, such as those caused by oversized aggregate, shall be avoided. If excess streaking develops, the job will be stopped by the City until the CONTRACTOR can demonstrate that the occurrence has been eliminated. Excessive streaking is defined as: more than four (4) drag marks greater than one-half inch (12.7mm) and/or 4 inches (100 mm) long; or 1-inch (25mm) to 3 inches (76mm) long in any 27.3 yd.² (25 m²) area. No transverse ripples or longitudinal streaks in excess of one-quarter inch (6 mm) will be permitted when measured by placing a 10 foot (3 meter) straight edge over the surface.
- b. Inaccessible Areas - Micro-surfacing to be spread in areas inaccessible to the spreader box shall be surfaced using approved hand squeegees to provide complete and uniform coverage. If necessary, the area to be hand worked shall be lightly dampened with potable water prior to mix placement. Care shall be exercised to leave no unsightly appearance from hand work. ~~The same type of finish as applied by the spreader box shall be required.~~ Micro-surfacing shall not be applied over steel expansion plates or bridge decks, unless directed by the City.
- c. Excess Material - All excess material that overruns in gutters, on curbs, inlet tops, or on sidewalks shall be removed immediately or squeegeed back onto the surface. All excess material removed from any non-paved area and from the ends of each job site shall be removed immediately. Discolored curbs, inlets and sidewalks shall be immediately cleaned and flushed before the material sets.

8.5. Paving Courses - Micro-surfacing material shall be applied in one (1) lift of 18-22 pounds per square yard of the dry mass of the mineral aggregate. ~~Additionally, due to irregularities in road profile, a single lift application of micro-surfacing in excess of 22 pounds per square yard may be required.~~ The CONTRACTOR shall apply an amount in excess of 22 pounds per square yard only after having received prior approval from the City. Compensation to the CONTRACTOR for amounts in excess of 22 pounds per square yard shall not be made without prior approval. Any application in excess of 30 pounds per square yard shall be applied in two lifts ("scratch" course followed by normal application).

- a. Adequate means shall be provided by the CONTRACTOR to protect the micro-surfacing from damage by traffic until such time that the mixture has cured sufficiently so that the micro-surfacing mixture will not adhere to and be picked up by the tires of vehicles.

8.6. Seams and Joints

- a. No excess buildup, uncovered areas, or unsightly appearance shall be permitted on longitudinal or transverse joints. The CONTRACTOR shall provide suitable spreading equipment to produce a minimum number of longitudinal joints throughout the project. Half passes and odd width passes will be used only in minimum amounts. If half passes are used, they shall not be the last pass of any paved area. Any damage to, or irregularities in, micro-surfacing shall be repaired by the CONTRACTOR at the CONTRACTOR'S expense, as directed by the City. All repairs are to be made with a paver box, except those designated as hand work area.
- b. Whenever possible the longitudinal joints shall be placed on the lane lines, staggering the underlaying joints by 6 inches (150 mm). The City may permit the CONTRACTOR to use other patterns of longitudinal joints, if such patterns will not adversely affect the quality of the finished product.
- c. Longitudinal joints common to two driving lanes, shall not overlap more than three inches (76.2 mm). If the City determines that this is exceeded or that the seam is rough enough to cause a noticeable effect on steering of an automobile, the seam shall be ~~removed~~ repaired, and new micro-surfacing patch shall be applied by the CONTRACTOR at no additional cost to the City.

8.7. Work Experience and Workmanship

- a. The CONTRACTOR shall be required to have at least two (2) years of work experience in the application of these precise materials, methods of placement, and scope of work as described herein.
- b. Edge lines and joints shall be uniform and parallel, radial or perpendicular with the centerline of the roadway. Lines at and through intersections and tapers shall be kept straight and uniform in appearance.

8.8. Surface Preparation

- a. Hot Rubber Crack Filler. Crack fill material shall meet all requirements of ASTM D6690, Type II, "Joint and Crack Sealants, Hot-Applied, for Concrete and Asphalt Pavements." Width of cracks to be filled shall generally be in excess of $\frac{1}{4}$ ", or at the discretion of the City. Crack fill material shall be applied at the proper temperature and using the proper equipment designed for the material to be used. Prior to material injection, cracks in excess of $\frac{1}{4}$ " shall be dry and free of loose debris. Cracks shall be uniformly filled from the bottom. Excess material shall be removed from the pavement prior to micro-surfacing. Hot rubber crack fill shall be paid for in accordance with the items contained in this contract.

9. **METHOD OF MEASUREMENT:** Method of materials shall be specified in this section. Quantities shown on the Plans and in the Bid documents are estimated quantities. Actual quantities as measured will be the basis of payment.

- 9.1. Micro-surfacing 18-22 pounds per square yard: All materials, including the dry mass of the mineral aggregate, are required to be measured and recorded for quality control purposes. Measurements for the payment of micro-surfacing, complete and acceptably in place, will be made to the nearest square yard. Linear measurements to determine the square yardage of surface area shall be made to the nearest one (1) foot.

9.2. Single lift of micro-surfacing applied in excess of 22 pounds per square yard: If included as a pay item, wheel path depression lifts, and mineral aggregate applied in excess of 22 pounds per square yard, will be measured by the pound of the dry mass of the mineral aggregate recorded from the calibrated belt conveyor counter.

9.3. Measurement of hot rubber crack fill material applied shall be made to the nearest (1) linear foot.

9.4. ~~Full depth ACHM pavement removal and replacement: Pavement removal and replacement shall be measured to the nearest square yard. Linear measurements to determine the square yardage of surface area shall be made to the nearest one (1) foot.~~

10. **BASIS OF PAYMENT:** Prices shall include full compensation for furnishing all labor, materials, tools and equipment for: quality control sampling, testing and mix design; for preparation of the road surface; for supplying, installing and removing temporary signs; for transporting, mixing, applying, blotting (furnishing, placing and removal of material), general clean-up; furnishing, constructing and maintaining traffic control and safety devices as directed by the City, shown on the plans or included in the construction contract, addendums or specifications; and other incidentals necessary to complete and warrant the job as specified herein.

10.1. Micro-surfacing applied 18-22 pounds per square yard: The accepted quantity of micro-surfacing as provided above in the Method of Measurement, shall be paid for at the contract unit price per square yard. Payment will be made for actual square yardage measured.

10.2. Single lift of micro-surfacing applied in excess of 22 pounds per square yard: In areas where material is applied in excess of 22 pounds per square yard, the excess will be paid for by the pound of material as measured per 9.2 above. Payment will be made for actual weight of additional material.

10.3. Hot rubber crack fill: The accepted quantity of hot rubber crack fill as provided above in the Method of Measurement section shall be paid for at the contract unit price per linear foot.

10.4. ~~Full depth ACHM pavement removal and replacement: Pavement removal and replacement shall include all equipment and work for saw cutting the existing pavement, excavation of existing pavement and up to one foot of underlying material, disposal of all excavated material, compaction of existing subgrade, placement and compaction of up to one foot of Class 7 Base, and 3 inches of ACHM pavement. Payment will be made for actual square yardage measured.~~

11. **CONTRACTOR QUALIFICATION REQUIREMENTS:**

11.1. Bidders shall be qualified and experienced to provide the work presented in this bid. Upon request by the City after bid opening, qualification requirements are due within 24 hours of request. Qualifications will be determined based on information provided as follows. All information is required for contract approval.

11.2. The bidder shall submit a letter of verification addressed to the CITY stating the project(s), and agency contact(s) that satisfies the minimum work experience requirements described in paragraph 8.7.1 herein.

Bid 23-40, Addendum 2



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Wednesday, November 1, 2023

To: All Prospective Vendors

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

RE: Bid 23-40, Construction – 2023 Asphalt Surface Treatment

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

1. **BID DEADLINE:** THE BID DEADLINE HAS BEEN EXTENDED. ALL BIDS SHALL BE SUBMITTED BY 2:00 PM ON WEDNESDAY, NOVEMBER 8, 2023.



CITY OF
FAYETTEVILLE
ARKANSAS

Bid 23-40 Addendum 2

Vance Brothers Inc

Supplier Response

Event Information

Number: Bid 23-40 Addendum 2
Title: Construction - 2023 Asphalt Surface Treatment
Type: Invitation to Bid
Issue Date: 10/8/2023
Deadline: 11/8/2023 02:00 PM (CT)
Notes: The City of Fayetteville is accepting bids from properly licensed and authorized firms for the materials, delivery, and installation of asphalt surface treatments in various locations throughout The City of Fayetteville. Questions regarding this bid should be addressed to Amanda Beilfuss, Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov.

Contact Information

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

Vance Brothers Inc Information

Address: 5201 Brighton Ave
Kansas City, MO 64130
Phone: (816) 923-4325

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

Robert A Vance

Signature

Submitted at 11/7/2023 09:02:21 AM (CT)

asewell@vancebrothers.com

Email

Requested Attachments

Bid 23-40, Required Signature Forms

Required Signature Forms -
Vance Brothers, Inc.pdf

Please attach your completed forms. These documents can be found in the Project Manual or as a convenience file in the 'Attachments' tab titled File #00.

Bid 23-40, Bid Bond

Bid Bond - Fayetteville, AR -
Vance Brothers, Inc.pdf

Please attach a signed and completed copy of your bid bond. Bid bonds in the form of a cashier's check shall be delivered to City Hall, Purchasing Division before bid deadline and have a copy of the cashier's check uploaded with submittal.

Response Attachments

Evidence of Authority to Sign - Vance Brothers, Inc.pdf

Evidence of authority to sign.

Arkansas Contractor's License - Vance Brothers, Inc.pdf

Arkansas Contractor License

Work Experience & Subcontractor List - Vance Brothers, Inc.pdf

Work experience and subcontractor list.

Bid Attributes

1 Arkansas Secretary of State Filing Number:

100147193

2 Arkansas Contractor License Number:

0057410424

3 Check Yes or No:

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

☒ Yes, I agree

☐ No, I don't agree

4 Check Yes or No:

Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

☒ Yes, I agree

☐ No, I don't agree
5 Addendum Acknowledgement

By selecting "I agree", you acknowledge that you have read and understand any addendums that have been issued for this bid.

☒ I agree
Bid Lines**1 Mobilization (Not to Exceed 5% of Base Bid)**

Quantity: 1 UOM: LS Price: \$25,000.00 Total: \$25,000.00

2 Bonds and Insurance

Quantity: 1 UOM: LS Price: \$10,860.00 Total: \$10,860.00

3 Microsurfacing (18-22 lbs/SY) - Roadway

Quantity: 116843 UOM: SY Price: \$3.43 Total: \$400,771.49

4 Microsurfacing (18-22 lbs/SY) - Parking Lots

Quantity: 21797 UOM: SY Price: \$7.75 Total: \$168,926.75

5 Hot Rubber Crack Seal

Quantity: 45750 UOM: LF Price: \$2.30 Total: \$105,225.00

6 Reflectorized Paint Marking WHITE 4"

Quantity: 14759 UOM: LF Price: \$1.44 Total: \$21,252.96

7 Thermoplastic Marking - SYMBOLS (Bike, ADA, Shared Lane, etc.)

Quantity: 25 UOM: EA Price: \$402.50 Total: \$10,062.50

8 Thermoplastic Marking - ARROWS

Quantity: 2 UOM: EA Price: \$402.50 Total: \$805.00

9 Thermoplastic Marking - WHITE - 12"

Quantity: 60 UOM: LF Price: \$28.75 Total: \$1,725.00

10 Reflectorized Paint Marking YELLOW 4"

Quantity: 380 UOM: LF Price: \$1.44 Total: \$547.20

Response Total: \$745,175.90

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310 Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Vance Brothers, Inc.

5201 Brighton Avenue P O Box 300107, Kansas City, MO 64130-0107

as Principal, hereinafter called the Principal, and Liberty Mutual Insurance Company

175 Berkeley Street, Boston, MA 02116

a corporation duly organized under the laws of the State of MA

as Surety, hereinafter called the Surety, are held and firmly bound unto City of Fayetteville Arkansas

113 W. Mountain, Fayetteville, AR 72701

as Obligee, hereinafter called the Obligee, in the sum of Five Percent of Amount Bid

Dollars (\$ 5%),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Construction - 2023 Asphalt Surface Treatment

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 8th day of November 2023

**VANCE BROTHERS INC
CORPORATE SEAL**

MISSOURI

Vance Brothers, Inc.

(Principal)

(Seal)

VANCE BROTHERS INC (816) 923-4325

By:

Robert A. Vance
Sr. Vice President

(Title)

Liberty Mutual Insurance Company

(Surety)

(Seal)

By:

C. LaVonne Engeman

Attorney-in-Fact C. LaVonne Engeman

(Title)

Surety Phone No. 617-357-9500



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint C. LaVonne Engeman all of the city of Kansas City, state of MO its true and lawful attorney-in-fact, with full power and authority hereby conferred to sign, execute and acknowledge the following surety bond:

Principal Name: Vance Brothers, Inc.

Obligee Name: City of Fayetteville Arkansas

Surety Bond Number: Bid Bond

Bond Amount: See Bond Form

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 8th day of November, 2023.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey

David M. Carey, Assistant Secretary



STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 8th day of November, 2023, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella

Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company do hereby certify that this power of attorney executed by said Companies is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 8th day of November, 2023.



By: Renee C. Llewellyn

Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.



Project Check List

This checklist is for the Bidder's use in preparing & submitting a bid. It is not intended to include all details necessary to prepare a bid and shall not be used as a substitute for the requirements of the bid documents. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid. Bidders are welcome to use this form as a coversheet for a sealed envelope; however, using this form itself is NOT a requirement.



5% Bid Bond of the amount bid accompanied by required documentation (Power of Attorney, etc.)

- In lieu of a bid bond, the bidder may submit a cashier's check from a bank located in the State of Arkansas for at least five percent (5%) of the amount bid (inclusive of any deductive alternates). Cashier's checks shall be made payable to the City of Fayetteville, AR and received prior to the bid deadline by making an in-person delivery to the City Purchasing Division.



All addenda shall be signed, acknowledged, and submitted on the appropriate forms (submitting the actual addendums or marking acknowledgement on other bid pages).



All line items shall be appropriately filled out and extended to reveal the line item price as well as the total bid price. Total base bid should be calculated in the provided space.



All pages provided with signature lines shall be appropriately signed, dated accordingly, and included with submitted bid documents



All bids shall be received before the stated deadline utilizing the City's electronic bidding platform or submitting a physical sealed bid to the location listed below. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. Late or misdirected bids shall not be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or failure of bidder's technical equipment. If submitting a physical bid, all bid documents shall be delivered in a sealed envelope to the address stated in the advertisement or updated deadline issued via Addenda. All bids should be delivered with the name of the bidder (contractor) on the sealed envelope as well as the bidders Arkansas Contractor's License Number.



Additional Information Required:

- List of Subcontractors: Submit form electronically or attach if submitting a physical bid.
- AR Secretary of State Filing #: 100147193 OR submit electronically.
- Arkansas Contractor License #: 0057410424 OR submit electronically.
- Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
- Submit electronically or circle applicable answer: YES or NO
- Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.
- Submit electronically or circle applicable answer: YES or NO

City of Fayetteville
Bid 23-40, Construction – 2023 Asphalt Surface Treatment
Bid Form

Contract Name: Construction – 2023 Asphalt Surface Treatment
Bid Number: 23-40

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: Vance Brothers, Inc.

5201 Brighton Ave, Kansas City, MO 64130

Section 1 – Intent:

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Fayetteville in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

Section 2 – Terms & Conditions:

Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 180 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of City's Notice of Award.

Section 3 – Bidder's Representations:

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

1. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged.

<u>Number</u>	<u>Date</u>
<u>1</u>	<u>10/31/23</u>
<u>2</u>	<u>11/1/23</u>
_____	_____
_____	_____

2. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
3. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
4. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that City and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.
5. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
6. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
7. Bidder is aware of the general nature of work to be performed by City and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
8. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
11. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over City.

12. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations (see Appendix A).
13. No Bid shall be based upon aggregate of Subcontractors performing more than 60 percent of the total Work.
14. The experience, past performance, and ability of each proposed Subcontractor will be considered in the evaluation of Bids. Any Subcontractor so requested shall be required to furnish experience statements prior to the Notice of Awards.
15. Bidder, as an officer of their organization, or per the attached letter of authorization, is duly authorized to certify the information provided herein is accurate and true.
16. Bidder shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment in addition to all federal, state, and local laws.
17. As a bidder on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
 - a. 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.
 - b. Your signature below 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.

Section 4 – Price:

Reference online bidding portal for Line Item pricing at www.fayetteville-ar.gov/bids.

Section 5 – Listing of Subcontractors:

I, the signed General Contractor, certify that proposals from the following subcontractors were used in the preparation of my proposal. I agree that if I am the successful bidder, and if the following subcontractors are approved by the City, I will not enter into contracts with others for these divisions of the Work without written approval from the City.

Section 6 – Contract Times:

1. Bidder agrees that the Work will be substantially completed and ready for final payment within the number of calendar days indicated in the Agreement.
2. Bidder accepts the provisions of the Agreement referring to liquidated damages in the event of failure to complete the Work with the times specified in the Agreement.

Section 7 – Communications:

Communications concerning this Bid shall be addressed to the Bidder as follows:

Tim Harrawood, tharrawood@vancebrothers.com
PO Box 300107, 5201 Brighton Ave.
Kansas City, MO 64130
Phone No. 501-231-8949
FAX No. 816-923-6472

Section 8 – SIGNATURE:

This bid is being submitted in good faith, according to the entire bid package presented:

SUBMITTED on this 7th Date of November, 2023.

AR State Contractor License No. 0057410424 Tax ID # 44-0577983

Unique Entity Number: K3NFP631N483 CAGE #: 1J276

OPTION 1: An Individual

Name (type or printed): _____

By: _____ (SEAL)
(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

OPTION 2: A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

OPTION 3: A Corporation or LLC

Corporation Name: Vance Brothers, Inc.

(SEAL) VANCE BROTHERS INC
CORPORATE SEAL
MISSOURI

Date of Incorporation: 12/31/1958

Type (General Business, Professional, Service, Limited Liability): General VANCE BROTHERS INC (816) 923-4325

By: [Signature]

(Signature – attach evidence of authority to sign)

Name (type or printed): Robert A. Vance

Title: SR. Vice President

(CORPORATE SEAL)

VANCE BROTHERS INC
CORPORATE SEAL
MISSOURI

Business address: 5201 Beighton Ave

VANCE BROTHERS INC (816) 923-4325

Kansas City, MO 64130

Phone No.: 816-923-4325

FAX No.: 816-923-6972

End of Section – Bid Form

City of Fayetteville
Bid 23-40, Construction – 2023 Asphalt Surface Treatment
Contractor References

The following information is required from all Bidders so all bids may be reviewed and properly evaluated:

COMPANY NAME: Vance Brothers, Inc.

NUMBER OF YEARS IN BUSINESS: 100 HOW LONG IN PRESENT LOCATION: 55

TOTAL NUMBER OF CURRENT EMPLOYEES: 371 FULL TIME 1 PART TIME

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: 15 FULL TIME 0 PART TIME

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

1. City of Bella Vista, AR
COMPANY NAME

Bella Vista, AR 72714
CITY, STATE, ZIP

Karen Hunt
CONTACT PERSON

479-855-8222
TELEPHONE

July, 2023
DATE COMPLETED

Khunt@bellavistagar.gov
E-MAIL ADDRESS

2. City of Tulsa, OK
COMPANY NAME

Tulsa, OK 74103
CITY, STATE, ZIP

Derek Langley
CONTACT PERSON

918-596-9249
TELEPHONE

September, 2023
DATE COMPLETED

dlangley@cityoftulsa.org
E-MAIL ADDRESS

3. City of Jenks, OK
COMPANY NAME

Jenks, OK 74037
CITY, STATE, ZIP

Chris Cloyde
CONTACT PERSON

918-556-7479
TELEPHONE

September, 2023
DATE COMPLETED

ccloyde@jenksok.org
E-MAIL ADDRESS

4. Arkansas DOT
COMPANY NAME

North Little Rock, AR 72117
CITY, STATE, ZIP

Sam Davies, P.E.
CONTACT PERSON

501-945-9514
TELEPHONE

September, 2023
DATE COMPLETED

Samuel.davies@ardot.gov
E-MAIL ADDRESS

Bid 23-40, Addendum 2



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Wednesday, November 1, 2023

To: All Prospective Vendors

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

RE: Bid 23-40, Construction – 2023 Asphalt Surface Treatment

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

1. **BID DEADLINE:** THE BID DEADLINE HAS BEEN EXTENDED. ALL BIDS SHALL BE SUBMITTED BY 2:00 PM ON WEDNESDAY, NOVEMBER 8, 2023.

Bid 23-40, Addendum 1



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Tuesday, October 31, 2023

To: All Prospective Vendors

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

RE: Bid 23-40, Construction – 2023 Asphalt Surface Treatment

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

1. A non-mandatory Pre-Bid meeting was held in Room #111 of Fayetteville City Hall on Wednesday, October 25, 2023 at 10:00 AM. The sign-in sheet of attendees is also attached to this addendum for disclosure to all interested parties (see Attachment A).
 - a. Attendees:
 - i. City of Fayetteville:
 1. Amanda Beilfuss, Sr. Purchasing Agent
 2. Kenny Fitch, Purchasing Agent
 3. Les McGaugh, Purchasing Director
 4. Chase Webb, Staff Engineer
 5. Matt Casey, Engineering Design Manager
 - ii. Vendors:
 1. Vance Brothers
2. Specifications: The Specifications (pages 24-35 of the Project Manual) have been revised and updated to meet latest A-143 guidelines for Micro-surfacing (see Attachment B). The previous Specifications shall be disregarded.
3. Addendum Attachments:
 - a. Attachment A: Pre-Bid Sign-In Sheet
 - b. Attachment B: Revised Specifications



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas
Attendance Sheet

BID/RFP/RFQ #: Bid 23-40

Description: Construction - 2023 Asphalt Surface Treatment
Function (circle one) : Bid Opening, Selection Committee Meeting, Pre-Bid, Interview

Date: 10 / 25 / 2023 Time: 10:00 AM

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

	Name	Company	Title	Phone	Email
1	Chase Webb	COF	Staff Engineer	479-444-3424	chase@fayetteville-ar.gov
2	Kenny Fitch	COF	PURCH AGENT	479-575-8258	kfitch@fayetteville-ar.gov
3	Alex Vance	Vance Brothers	Project Manager	816 927-6662	alex@vancebrothers.com
4	Tim Harwood	Vance Brothers	Manager	801-931-8849	tim@vancebrothers.com
5	Matt Casey	COF	ENG DESIGN MGR	479 444 3429	mccasey@fayetteville-ar.gov
6	Les McInnis	COF	Pub Dir	479-575-8269	lmccinnis@fayetteville-ar.gov
7	Ambera Beifuss	COF	Sr. Purch Agent	575-8220	abeifuss@fayetteville-ar.gov
8					
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** All Bid Openings are also streamed live on the City of Fayetteville's YouTube Channel.

1. DESCRIPTION:

- 1.1. This work shall consist of the application of micro-surfacing material to asphaltic pavement surfaces and related surface preparation. The micro-surfacing shall consist of a mixture of cationic latex modified asphaltic emulsion, mineral aggregate, Portland cement, set-control additives and water. The micro-surfacing material shall be properly transported, proportioned, mixed and evenly spread on the asphaltic pavement surface in strict accordance with the plans, these specifications and as directed by the CITY. ~~In some cases, more than one lift may be required to obtain the specified thickness.~~
- 1.2. The cured micro-surfacing shall have a uniform and homogeneous appearance, substantially fill all cracks, and adhere firmly to the existing surface. The mix shall be capable of being spread in varying thickness cross-sections (wedges, wheel path depressions, scratch courses and surfaces) which, after curing and initial traffic consolidation, resist compaction throughout the entire design tolerance range of bitumen content and varying thickness to be encountered. The end product shall maintain a friction resistant surface (high wet friction co-efficient) throughout the service life of the micro-surfacing.
- 1.3. ~~The completed mixture shall be such that the micro-surfacing mixture has proper workability during lay down and will permit straight running traffic on 12.7 mm (1/2 inch) thick micro-surfacing within one hour after placement at 24°C (75°F) or greater and 50% or lower humidity. Micro-surfacing shall be placed without the occurrence of bleeding, raveling, separation or other distress.~~
- 1.4. Work shall be performed in accordance with the current edition of "Recommended Performance Guidelines for Polymer-Modified Micro-Surfacing" A143 (revised) published by the International Slurry Surfacing Association (ISSA), ASTM D 6372-99a Standard Practice for Design, Testing and Construction of Micro-Surfacing, with the modifications specified herein.

2. APPLICATION RATE:

- 2.1. Single lift applications of micro-surfacing material shall be applied in one (1) lift of 18-22 pounds per square yard of the dry mass of the mineral aggregate.
- 2.2. ~~At the direction of the City, additionally, due to irregularities in road profile, a single lift application of micro-surfacing in excess of 22 pounds per square yard may be required. Any application in excess of 30 pounds per square yard shall be applied in two lifts ("scratch" course followed by normal application).~~
- 2.3. ~~Application of scratch course or any material in excess of 22 pounds per square yard will be measured separately per pound in accordance with the measurement and payment section. The contractor shall notify the City and receive approval for application of material in excess of 22 pounds per square yard and shall allow for verification of quantities by the City. Any installations in excess of 22 pounds per square yard that is not approved or that the City does not have the opportunity to verify quantities of will not be paid for.~~

3. PRE-CONSTRUCTION MEETING:

3.1. The CONTRACTOR shall present samples of materials, laboratory reports, calibration reports, as required by these specifications to the City at the pre-construction meeting.

4. MATERIALS:

4.1. Latex/**Polymer** Modified Asphalt Emulsion: The asphalt shall be a latex/**polymer** modified grade CSS-1h**P** (cationic) emulsified asphalt. The grade CSS-1h**P** shall be modified with an approved latex/**polymer**.

- a. The approved latex/**polymer** shall be milled into the asphalt emulsion prior to the emulsification process. The asphaltic emulsion manufacturer shall certify that the emulsion contains 3.0% to 5.0% latex/**polymer** solids based on the mass of asphalt (asphalt residual) within the emulsion.
- b. The residual asphalt content shall be 6.0% to 10.0% as measured by the weight (mass) of the dry aggregate or as approved by the City. ~~An approved set control agent in such a quantity as to produce a one hour set and shall not vary more than ±1% of the quantity specified in the mix design.~~
- c. The latex/**polymer** modified CSS-1h**P** shall comply with following requirements when sampled in accordance with ASSHTO T-40 and shall comply with the following requirements when tested in accordance with the specified test methods:

TESTS ON EMULSION	TEST METHOD	REQUIREMENTS
Viscosity, Saybolt Furol at 77°F	AASHTO T 59	20-100 seconds
Storage Stability Test (24 hours)	AASHTO T 59	1.0% maximum
Particle Charge Test	AASHTO T 59	Positive*
Sieve Test	AASHTO T 59	0.1% maximum
Distillation: Residual by Evaporation	AASHTO T 59	62% maximum
Oil Distillate, by volume of emulsion	AASHTO T 59	0.5% maximum
*If the particle charge test is inconclusive, material having a maximum pH of 6.7 will be acceptable		

TESTS ON EMULSION RESIDUE	TEST METHOD	REQUIREMENTS
Penetration, 77°F, 100 g, 5 seconds	AASHTO T 49	40-90
Ductility, 77°F (25°C), 5cm/min, cm	AASHTO T 51	70 minimum
Solubility in Trichloroethylene (performed only as required)	AASHTO T 44	97% minimum
Softening Point, R & B	AASHTO T 23	135°F minimum
Viscosity at 140°F (60°C), 300 mmHg vacuum	AASHTO T 202	8,000 Poises (800 Pa s) min.

- d. The standard distillation procedure shall be performed according to AASHTO T-59 except as modified as follows: The temperature for this test shall be held at 347 ±9°F (175°F ± 5°C).
- e. The distillation residue of the modified emulsion shall contain 3.0% to 5.0% polymer solids by mass of asphalt, as determined by an analytical method approved by the City.
- f. ~~The polymer modified emulsified asphalt shall be so formulated that when the paving mixture is applied with the relative humidity at not more than 50% and the ambient air temperature of at least 75°F (24°C), the paving mixture will sufficiently cure so that uniformly moving traffic can be allowed in one hour. Reduced curing time may be required at locations such as driveways, intersections and where sharp turning movements may take place or where vehicles may~~

accelerate sharply.

4.2. Mineral Aggregate

- a. The mineral aggregate used shall be of the type and grade specified for the particular use of the Micro-Surfacing. The aggregate shall be manufactured crushed aggregate meeting hardness and abrasion resistance requirements provided in the specifications. To assure the material is totally crushed, 100% of the parent aggregate will be larger than the largest stone in the gradation to be used. The aggregate shall be free of cemented or conglomerated lumps and shall not have any coatings or injurious material. Aggregate shall be free of oversize contamination prior to loading into truck.
- b. ~~Aggregate may be provided in two portions. A minimum of 35% of the aggregate shall be Portion 1, with the remainder Portion 2 as noted in the Table in Section 4.2.3.~~
- c. Aggregate used for this project shall conform to the following requirements when tested in accordance with the specified test methods:

TEST	METHOD	REQUIREMENT
Sand Equivalent	ASTM D 2419	65% minimum
Abrasion Resistance after 500 revolutions*	ASTM C 131	35% maximum (net proportion)
Portion 1	ASTM C 131	17-22%
Portion 2	ASTM C 131	25-30%
Moisture Content of Aggregate	ASTM C 566	As tested
Sieve Analysis (individual and combined)	ASTM C 136	As tested
Material Passing No. 200 Sieve	ASTM C 117	As tested
Soundness of Aggregates by use of Sodium Sulfate, 5 cycles	ASTM C 88	15% maximum
Combined Aggregate Bulk Specific Gravity	ASTM C 127	As tested
*On parent aggregate before crushing		

- d. A stockpile of aggregate shall be dedicated for this project. ~~The aggregate size shall not exceed a 3/8" sieve opening. The aggregate gradation, asphalt content, and other relevant mix design components shall be properly proportioned to meet the performance of Section 4.7.2 described below~~ shall be ISSA Type II for parking lots and ISSA Type III for streets.

4.3. Mineral Filler

- a. The Portland-Limestone Cement mineral filler may be any recognized brand of non-air entrained Type I Portland cement that is free from lumps or foreign matter. The amount of mineral filler needed shall be determined by the laboratory mix design and will be considered as part of the mineral gradation requirement. The mineral filler shall be between 0.5% and 3.0% by the weight of dry aggregate. The laboratory mix design percentage of mineral filler can be increased or decreased up to one percent ($\pm 1\%$) when directed by the City as the micro-surfacing is being placed if it is found to be necessary for better consistency or set times.

4.4. Water

- a. The water shall be potable, free of harmful soluble salts, and shall be added in an amount to provide proper consistency.

4.5. Set~~Break~~-Control Agent/~~Additive~~

- a. To improve workability a set-control agent that is approved by the City, and will not adversely affect the micro-surfacing, may be used. ~~Set-control agent must be included as part of the mix design and be compatible with the other components of the mix. The use of set-control additive shall not vary $\pm 1\%$ of the additive optimum recommended in the highest temperature mix test in the mix design.~~

4.6. Polymer Modifier

- a. An approved polymer-based modifier shall be milled into the asphalt emulsion. ~~This additive shall allow the micro-surfacing mixture to cure sufficiently so that normal traffic can be permitted in one hour after placement of the micro-surfacing mixture, without damage to the new surface.~~

4.7. Composition of Micro-Surfacing Mixtures

- a. Mix Design; At least 14 calendar days before micro-surfacing placement commences, the CONTRACTOR shall submit to the City for approval, a dated laboratory report of tests and a proposed mix design. The date of the mix design will reflect that tests were performed no longer than ~~120~~ 365 days prior to the start of paving construction. The recommended percentages of each individual material required shall be shown in the laboratory report. Adjustments of water and set-control agent by the City may be required during construction based on field conditions. The City shall approve the design mix and all micro-surfacing materials and methods prior to use and shall designate the proportions to be used within the following limits:

Residual Asphalt	6.0% 5.5% to 10.5% by dry weight (mass)-of aggregate
Mineral Filler	0.05% - to 3% by dry weight (mass)-of aggregate
Latex/ Polymer -based Modifier	3.0% to 5.0% latex solids based on weight (mass) of binder (asphalt and rubber) Minimum of 3.0% solids based on bitumen weight content
Additives	As needed
Water	As required to produce proper specified properties mix consistency
Set-control Agent	Approved system to provide one-hour set

- b. ~~The mix design shall be performed by a laboratory capable of performing all of the current applicable International Slurry Surfacing Association (ISSA) tests at one location. The City may disqualify any mix design submitted by any laboratory whose capability or experience with micro-surfacing cannot be verified. The proposed micro-surfacing mixture to be used for this project shall conform to the requirements specified when tested in accordance with the following tests~~**evaluate the compatibility of the aggregate, polymer-modified emulsified asphalt, water, mineral filler, and other additives. The mix design shall be completed using materials consistent with those supplied by the contractor for the project. Recommended tests and values are as follows:**

ASTM TEST	DESCRIPTION ISSA TB NO.	REQUIREMENT SPECIFICATION
D-3910 Mix Time @ 77°F (25°C)	Consistency Test TB 113	2-3 cm Controllable to 120 Seconds Minimum

D-3910 Wet Cohesion @ 30 Minutes Minimum (Set) @ 60 Minutes Minimum (Traffic)	Cure time TB 139	1/2 hour maximum 12 kg-cm Minimum 20 kg-cm or Near Spin Minimum
ISSA TEST Wet Stripping	DESCRIPTION TB 114	REQUIREMENT Pass (90% Minimum)
TB 139 Wet Track Abrasion Loss One-hour Soak Six-day Soak	Wet Cohesion 30 minutes (set time) 60 minutes (traffic time) TB 100	12 kg-cm minimum 20 kg-cm minimum (or near spin) 50 g/ft ² (538 g/m ²) Maximum 75 g/ft ² (807 g/m ²) Maximum
TB 109 Lateral Displacement Specific Gravity after 1,000 Cycles of 125 lb. (56.71 kg.)	Excess Asphalt TB 147	538 g/m ² (50 g/ft ²) maximum 5% Maximum 2.10 Maximum
TB 114 Excess Asphalt by LWT Sand Adhesion	Wet Stripping TB 109	Pass (90% minimum) 50 g/ft ² (538 g/m ²) Maximum
TB 100 Classification Compatibility	TB 144 Wet Track Abrasion One-hour soak, loss Six-day soak, loss	11 Grade Points Minimum (AAA, BAA) 108 g/m ² (10 g/ft ²) maximum with 8.5% residual asphalt content 215 g/m ² (20 g/ft ²) maximum with 8.5% residual asphalt content
TB 113	Mix Time @ 25°C (77°F)	Controllable to 120 seconds minimum
TB 147	Measurement of Stability Lateral Displacement Vertical Displacement	5% maximum 10% maximum

- c. The Wet Track Abrasion Test is performed under laboratory conditions as a component of the mix design process. The purpose of this test is to determine the minimum asphalt content required in a micro-surfacing system. The Wet Track Abrasion Test is not recommended as a field quality control or acceptance test.
- d. The mixing test is used to predict the length of time the material can be mixed before it begins to break. It can be a good reference check to verify consistent sources of material. The laboratory should verify that mix and set times are appropriate for the climatic conditions expected during the project.
- e. The laboratory shall also report the quantitative effects of moisture content on the unit weight of the aggregate (bulking effect) according to AASHTO T19 (ASTM C29).
- f. The percentage of each individual material required shall be shown in the laboratory report. Based on field conditions, adjustments within the specific ranges of the mix design may be required.
- g. The mix design report shall be reported on the testing laboratory's letterhead, signed by a manager of the laboratory that performed the tests and shall show the results of each of the required tests compared to the specification values. The CONTRACTOR name, date and time of collection and location of sample collection shall be noted on the report. Any test values out of specification shall be clearly noted. The report shall clearly state a recommendation of the proportions of the mineral aggregate, mineral filler, water (minimum and maximum), set control additive (minimum and maximum), and asphalt solids content (minimum and maximum) based

on the dry weight of the mineral aggregate. The laboratory shall also report the quantitative effects of moisture content on the unit weight of the mineral aggregate (bulking effect).

- h. ~~The mix design will further show recommended changes in Portland cement, water and additive proportions for high temperature weather conditions by reporting proportions of materials required for 120 seconds of mix time with materials heated to 38°C (100°F). This elevated temperature mixing report will not be required for night time application nor application where either cool, foggy or overcast conditions will prevent high temperature mixing problems.~~
- i. All the component materials used in the mix design shall be representative of the materials to be used on the project. Once the proportions of materials to be used are approved by the City, no substitutions of other materials will be permitted, unless the materials proposed for substitution are first tested and a laboratory report is submitted for design approval by the City as specified above. Substituted materials shall not be used until the mix design for those materials is approved by the City.

5. SAMPLING AND TESTING RESPONSIBILITIES:

- 5.1. If requested, the CONTRACTOR shall submit to the City samples from all suppliers furnishing a minimum of the following materials with corresponding Material Safety Data Sheets (MSDS) sheets:

4 liters (1 gallon) of the base asphalt
1 liter (2 pints) of the polymer additive (with clear labeling of the polymer type)
4 liters (1 gallon) of the asphaltic emulsion
45 kilograms (100 pounds) of combined micro-surfacing mineral aggregate
23 kilograms (50 pounds) of each parent mineral aggregate
3 kilograms (6 pounds) of mineral filler (with supplier label)

- 5.2. ~~Extractions of the micro surfacing may be made by the City for every 5th day of material placed, starting on the first day or as directed by the City. The City, in the presence of the Contractor, shall take a minimum of 2 samples per 5th day for extraction/gradation analyses. The samples shall be taken from the pug mill discharge chute using a contractor supplied rectangular non absorptive container, such as a loaf pan, of sufficient size to obtain a sample from the entire cross section of the mixture being discharged. Each sample should weigh (have a mass) of 2.5 to 4 lbs. (1000 to 1500 grams). Each sample shall be tested to determine the asphalt binder content and gradation of aggregate in the mixture in accordance with AASHTO T 308(Determining the Asphalt Binder Content of Hot Mix Asphalt (HMA) by the Ignition Method) and AASHTO T 30 (Mechanical Analysis of Extracted Aggregate), respectively. The sampling and testing of the micro surfacing by the City will result in a report submitted to the CONTRACTOR after the lab has tested the samples. Failure of a test may require removal of material placed or non payment for the area represented by the test, as directed by the City. Laboratory testing report shall be in accordance with Section 4.7.3 of this provision and will determine:~~

Tests on emulsion/residue as per Section 4.1.4
Tests on Mineral Aggregate: Sieve Analysis as per Section 4.2.2

- 5.3. Copies of all material load tickets, and certified test reports shall be given to the City. A certified analysis (test report) of emulsified asphalt shall accompany each shipment of emulsion to the CONTRACTOR, and the exact residual asphalt cement content of each tanker shall be plainly marked on the load tickets.

5.4. The CONTRACTOR shall furnish to the City an aggregate moisture determination for the stockpile prior to placing the micro-surfacing. This shall be re-tested on delivery of new aggregate to the stockpile or if weather conditions have changed the aggregate moisture content appreciably. Aggregate moisture will be accounted for in determining the aggregate/bitumen ratio to be used during placement.

5.5. Copies of a daily control log kept in accordance with ISSA Technical Bulletin No. 107 shall be given to the City before start of the next day's production, or as otherwise directed by the City. The log shall contain tons of dry aggregate consumed that day, tons of asphalt emulsion consumed that day and square yardage covered that day.

6. EQUIPMENT:

6.1. ~~Equipment used shall be specifically designed and manufactured to lay micro-surfacing. The material shall be mixed by an automatic sequenced, self propelled micro surfacing mixing machine, which shall be a continuous flow mixing unit, able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive and water to a revolving multi blade twin shafted mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive and water to maintain an adequate supply to the proportioning controls.~~

General

- a. All equipment, tools, and machines used in the application of micro-surfacing shall be maintained in satisfactory working condition at all times.

6.2. ~~Mixer Spreader Trucks~~ **Mixing Equipment**

- a. ~~The micro-surfacing shall be mixed in pugmill mixers of adequate size and power for the type of micro-surfacing to be placed. The machine shall be specifically designed and manufactured to apply micro-surfacing. The material shall be mixed by an automatic-sequenced, self-propelled micro-surfacing mixing machine. It shall be a continuous-flow mixing unit that accurately delivers and proportions the mix components through a revolving multi-blade, double-shafted mixer. Sufficient storage capacity for all mix components is required to maintain an adequate supply to the proportioning controls.~~
- b. ~~Mixer spreader truck shall be equipped to proportion the mineral aggregate, Portland cement mineral filler, water, set control additives and emulsified asphalt by weight, to a revolving multi-blade dual mixer, and discharge the thoroughly mixed product. The machine shall have sufficient storage capacity for mineral aggregate, emulsified asphalt, Portland cement mineral filler, water and set control additive to maintain an adequate supply to the proportioning controls. All rotating and reciprocating equipment on mixer spreader trucks shall be covered with metal guards. The paddles or augers shall be designed and operated so all fresh mix will be agitated and to create a turbulence or laminar flow to prevent the mixture from setting up in the box, causing side build ups and lumps. When specifying continuous machinery to minimize transverse joints, the specified machine must be capable of loading materials while continuing to apply micro-surfacing. The continuous-run machine shall be equipped to provide the operator with full control of the forward and reverse speeds during application. It shall be equipped with opposite-side driver stations to assist in alignment. The self-loading device, opposite-side driver stations,~~

and forward and reverse speed controls shall be of original-equipment-manufacturer design.

6.3. ~~Spreader Boxes~~ The micro-surfacing mixture shall be spread by means of one of the following controlled spreader box configurations conforming to the following requirements:

- a. ~~Variable Full Width Spreader Box~~ The variable full width spreader box shall be capable of spreading a traffic lane 9-14 feet in width while simultaneously applying mixed material. The box shall be equipped with strips of flexible rubber seals or similar material on each side of the spreader box. The box shall be in contact with the pavement to positively prevent the loss of micro-surfacing from the ends of the box and shall be equipped with devices to adjust thickness or grade of the surface. All spreader boxes shall have baffles, reversible motor-driven augers, or other suitable means, to insure uniform application on super-elevated sections and shoulder slopes. Spreader box skids shall be maintained in such a manner as to prevent transverse chatter (wash boarding), tearing or shoving in the finished mat or the mat adjacent to the box. Rear flexible strike-off blades shall make close contact with the pavement, shall be designed and operated to achieve a uniform consistency that provides a free flow of material to the rear strike-off without causing skips, lumps, or tears in the finished surface. A secondary rubber strike-off shall be provided to improve surface texture. The secondary strike-off shall have the same leveling adjustments as the spreader box.
- b. ~~Wheel Path Depression (Rut) Box~~ The wheel path depression box shall be designed as a double chambered box with adjustable screeds to regulate depth and shall be either 1.52 m (5 feet) or 1.81 m (6 feet) in width. Hydraulic augers set at a 45 ("V") degree angle shall move the mixed material from the rear to the front of the filling chamber. The augers shall push the larger aggregate into the center, deeper section of the wheel path depression and send the fine material toward the edges of the pass to act as a mastic and for feathering down the longitudinal joint along the wheel path.

6.4. Proportioning Devices

- a. Individual volume or weight controls for the proportioning mix components shall be provided and properly labeled. These proportioning devices are used in material calibration to determine the material output at any time.

6.5. Spreading Equipment

- a. The mixture shall be agitated and spread uniformly in the surfacing box by means of twin-shafted paddles or spiral augers fixed in the spreader box. A front seal shall be provided to insure no loss of the mixture at the road contact point. The rear seal shall act as a final strike-off and shall be adjustable. The spreader box and rear strike-off shall be so designed and operated that a uniform consistency is achieved, and a free flow of material is provided to the rear strike-off. The spreader box shall have suitable means provided to side shift the box to compensate for variations in the pavement geometry.

6.6. Secondary Strike-Off

- a. A secondary strike-off shall be provided to improve surface texture. The secondary strike-off shall be adjustable to match the width of the spreader box and allow for varying pressures to control the surface texture.

6.7. Rut-Filling Equipment

- a. When project plans require, Micro-surfacing material may be used to fill ruts, utility cuts, depressions in the existing surface, etc. Ruts of 0.5 in. (12.7 mm), or greater in depth, shall be filled independently with a rut-filling box, either 5 ft. (1.5 m) or 6 ft. (1.8 m) in width. Ruts that are in excess of 1.5 in. (38.1 mm) in depth may require multiple applications with the rut-filling box to restore the cross-section. When rutting or deformation is less than 0.5 in. (12.7 mm), a full width scratch course may be applied with the spreader box using a metal or stiff rubber strike-off. Apply at a sufficient rate to level the pavement surface. The leveling course may, or may not, meet the suggested application rate in the table in Section 11.2. All rut-filling and level-up material should cure under traffic for at least twenty-four (24) hours before additional material is placed.

6.8. Auxiliary Equipment

- a. Suitable surface preparation equipment, traffic control equipment, hand tools, and other support and safety equipment necessary to perform the work shall be provided by the contractor.

7. MATERIAL STOCKPILING AND STORAGE:

7.1. Aggregate Storage - If the mineral aggregates are stored or stockpiled, they shall be handled in such a manner as to prevent segregation, mixing of the various material, and contamination with foreign materials. The grading of aggregates proposed for use and as supplied to the mixing plant shall be uniform. Suitable equipment of acceptable size shall be furnished by the CONTRACTOR to work the stockpiles and prevent segregation and excessive breakdown of mineral aggregates. The aggregate shall be free of oversize material.

- a. The CONTRACTOR'S material and equipment may be stored at designated area within a Department's maintenance facility, as directed by the City. Equipment and materials shall not be stored on the public road right-of-way.
- b. All aggregate must be screened directly into the application equipment immediately prior to installation to minimize the potential of oversized material.

7.2. Asphaltic Material Storage - The asphaltic material storage shall be ample to meet the requirements of the plant. All equipment used in the storage and handling of asphaltic material shall be kept in a clean condition at all times and shall be operated in such a manner that there will be no contamination with foreign matter. The storage stability test may be waived provided the asphalt emulsion storage tank at the project site has adequate provisions for circulating the entire contents of the tank and provided satisfactory field results are obtained.

8. CONSTRUCTION METHODS:

8.1. Weather Limitations

- a. No mixture shall be placed when:
 - i. The pavement temperature is 10°C (50°F) or below
 - ii. When the ambient air temperature is 10°C (50°F) or below

- iii. When there is a forecast of temperatures (as per the National Weather Service) below 32°F within twenty-four (24) hours after mix placement
- iv. When it is raining
- v. As directed by the City

8.2. Test Strip - Prior to the application of the micro-surfacing mixture, the CONTRACTOR shall place a test strip, at a location established by the City, to demonstrate the compatibility of the modified emulsion and the mineral aggregate under field conditions. This test strip shall also be used to demonstrate mix uniformity and compliance of the mix to the requirements of proportioning of the asphalt, mineral aggregate, mineral filler, polymer modifier, set-control agent and water. The test strip shall be at least 500 feet in length (unless otherwise agreed), and the width of one lane and shall consist of the application courses specified in the contract. The test strip shall be conducted at the same time of day or night the full production will be applied, in the presence of the City, at least twenty-four (24) hours prior to the CONTRACTOR'S intended start-up date. The City will evaluate the test strip after it is fully cured **approximately 1 hour after the placement of the test strip** to determine that the mix design and materials are acceptable. A new test strip shall be performed when the test strip is deemed unacceptable, a change in the mix design become necessary or as directed by the City. The establishment of a test strip will be considered incidental, however the approved test strip will be measured and paid for in accordance with the contract provisions for the actual square yards of micro-surfacing placed. Failure of the test strip shall require the CONTRACTOR to completely remove the test strip with no compensation for the labor, equipment or material to place, remove or properly dispose of the failed test strip. Method or equipment substitutions used and approved by the City in the test strip, shall be used in field production.

8.3. Surface Preparation - The City shall approve all surface preparation prior to application of the micro-surfacing. Additional preparatory items as specified below, or as directed, shall be the Contractor's responsibility and are subsidiary to the micro-surfacing pay item.

- a. Immediately prior to placement of the micro-surfacing mixture, the CONTRACTOR shall sweep the pavement thoroughly using a self-propelled rotary-type broom to remove all loose materials, dirt, mud and other objectionable material that may prevent adhesion of the micro-surfacing to the existing pavement surface and then pre-wet as required. Removal of any existing vegetation and dirt from asphalt/curb interfaces shall be accomplished using approved methods.
- b. Bid items for crack sealing are included in this project. City forces have sealed most cracks; however, any cracks not sealed or require additional sealant are the responsibility of the Contractor as part of surface preparation.
- c. Potable Water shall be used in pre-wetting the surface ahead of the spreader box and shall be applied at such a rate that the entire surface shall be damp and free of ponding or free-flowing water.
- d. Utility covers, manholes, grated inlets, curb inlets, and traffic device covers located in the roadway to be paved shall be protected from coverage by the micro-surfacing and referenced for prompt location and cleaning following application. The CONTRACTOR shall be responsible for covering, locating, removing and cleaning of these items following the micro-surfacing application operation. The methods used to protect, reference, locate and clean shall be submitted by the CONTRACTOR and shall be subject to approval by the City. All such materials shall be removed and properly

disposed of by the CONTRACTOR after the surfacing material has cured. The above items shall be cleaned to their pre-surfacing condition or as directed by the City.

- e. Roadway striping and traffic markings shall be protected by approved methods. Any damage to roadway striping or markings shall be repaired by placing new striping and/or markings of the same material as the damaged material. If designated on the plans to replace striping and markings, such striping and markings shall be installed by a qualified installer and shall meet specifications as designated on the plans.

8.4. Spreading of Mixture - The micro-surfacing shall be homogeneous during and following mixing and spreading. It shall be free of excess water or emulsion and free of segregation of the emulsion and aggregate fines from the coarser aggregate. A sufficient amount of materials shall be carried to all parts of the spreader at all times so that complete coverage is obtained. Overloading the spreader box shall be avoided. No lumping, balling, or unmixed aggregate shall be permitted.

- a. The mixture shall be uniform and homogeneous after spreading on the surfacing and shall not show separation of the emulsion and aggregate after setting. Streaks, such as those caused by oversized aggregate, shall be avoided. If excess streaking develops, the job will be stopped by the City until the CONTRACTOR can demonstrate that the occurrence has been eliminated. Excessive streaking is defined as: more than four (4) drag marks greater than one-half inch (12.7mm) and/or 4 inches (100 mm) long; or 1-inch (25mm) to 3 inches (76mm) long in any 27.3 yd.² (25 m²) area. No transverse ripples or longitudinal streaks in excess of one-quarter inch (6 mm) will be permitted when measured by placing a 10 foot (3 meter) straight edge over the surface.
- b. Inaccessible Areas - Micro-surfacing to be spread in areas inaccessible to the spreader box shall be surfaced using approved hand squeegees to provide complete and uniform coverage. If necessary, the area to be hand worked shall be lightly dampened with potable water prior to mix placement. Care shall be exercised to leave no unsightly appearance from hand work. ~~The same type of finish as applied by the spreader box shall be required.~~ Micro-surfacing shall not be applied over steel expansion plates or bridge decks, unless directed by the City.
- c. Excess Material - All excess material that overruns in gutters, on curbs, inlet tops, or on sidewalks shall be removed immediately or squeegeed back onto the surface. All excess material removed from any non-paved area and from the ends of each job site shall be removed immediately. Discolored curbs, inlets and sidewalks shall be immediately cleaned and flushed before the material sets.

8.5. Paving Courses - Micro-surfacing material shall be applied in one (1) lift of 18-22 pounds per square yard of the dry mass of the mineral aggregate. ~~Additionally, due to irregularities in road profile, a single lift application of micro-surfacing in excess of 22 pounds per square yard may be required.~~ The CONTRACTOR shall apply an amount in excess of 22 pounds per square yard only after having received prior approval from the City. Compensation to the CONTRACTOR for amounts in excess of 22 pounds per square yard shall not be made without prior approval. Any application in excess of 30 pounds per square yard shall be applied in two lifts ("scratch" course followed by normal application).

- a. Adequate means shall be provided by the CONTRACTOR to protect the micro-surfacing from damage by traffic until such time that the mixture has cured sufficiently so that the micro-surfacing mixture will not adhere to and be picked up by the tires of vehicles.

8.6. Seams and Joints

- a. No excess buildup, uncovered areas, or unsightly appearance shall be permitted on longitudinal or transverse joints. The CONTRACTOR shall provide suitable spreading equipment to produce a minimum number of longitudinal joints throughout the project. Half passes and odd width passes will be used only in minimum amounts. If half passes are used, they shall not be the last pass of any paved area. Any damage to, or irregularities in, micro-surfacing shall be repaired by the CONTRACTOR at the CONTRACTOR'S expense, as directed by the City. All repairs are to be made with a paver box, except those designated as hand work area.
- b. Whenever possible the longitudinal joints shall be placed on the lane lines, staggering the underlying joints by 6 inches (150 mm). The City may permit the CONTRACTOR to use other patterns of longitudinal joints, if such patterns will not adversely affect the quality of the finished product.
- c. Longitudinal joints common to two driving lanes, shall not overlap more than three inches (76.2 mm). If the City determines that this is exceeded or that the seam is rough enough to cause a noticeable effect on steering of an automobile, the seam shall be removed and repaired, and new micro-surfacing patch shall be applied by the CONTRACTOR at no additional cost to the City.

8.7. Work Experience and Workmanship

- a. The CONTRACTOR shall be required to have at least two (2) years of work experience in the application of these precise materials, methods of placement, and scope of work as described herein.
- b. Edge lines and joints shall be uniform and parallel, radial or perpendicular with the centerline of the roadway. Lines at and through intersections and tapers shall be kept straight and uniform in appearance.

8.8. Surface Preparation

- a. Hot Rubber Crack Filler: Crack fill material shall meet all requirements of ASTM D6690, Type II, "Joint and Crack Sealants, Hot-Applied, for Concrete and Asphalt Pavements." Width of cracks to be filled shall generally be in excess of ¼", or at the discretion of the City. Crack fill material shall be applied at the proper temperature and using the proper equipment designed for the material to be used. Prior to material injection, cracks in excess of ¼" shall be dry and free of loose debris. Cracks shall be uniformly filled from the bottom. Excess material shall be removed from the pavement prior to micro-surfacing. Hot rubber crack fill shall be paid for in accordance with the items contained in this contract.

9. **METHOD OF MEASUREMENT:** Method of materials shall be specified in this section. Quantities shown on the Plans and in the Bid documents are estimated quantities. Actual quantities as measured will be the basis of payment.

- 9.1. Micro-surfacing 18-22 pounds per square yard: All materials, including the dry mass of the mineral aggregate, are required to be measured and recorded for quality control purposes. Measurements for the payment of micro-surfacing, complete and acceptably in place, will be made to the nearest square yard. Linear measurements to determine the square yardage of surface area shall be made to the nearest one (1) foot.

- 9.2. Single lift of micro-surfacing applied in excess of 22 pounds per square yard: If included as a pay item, wheel path depression lifts, and mineral aggregate applied in excess of 22 pounds per square yard, will be measured by the pound of the dry mass of the mineral aggregate recorded from the calibrated belt conveyor counter.
- 9.3. Measurement of hot rubber crack fill material applied shall be made to the nearest (1) linear foot.
- 9.4. ~~Full depth ACHM pavement removal and replacement: Pavement removal and replacement shall be measured to the nearest square yard. Linear measurements to determine the square yardage of surface area shall be made to the nearest one (1) foot.~~
10. **BASIS OF PAYMENT:** Prices shall include full compensation for furnishing all labor, materials, tools and equipment for: quality control sampling, testing and mix design; for preparation of the road surface; for supplying, installing and removing temporary signs; for transporting, mixing, applying, blotting (furnishing, placing and removal of material), general clean-up; furnishing, constructing and maintaining traffic control and safety devices as directed by the City, shown on the plans or included in the construction contract, addendums or specifications; and other incidentals necessary to complete and warrant the job as specified herein.
- 10.1. Micro-surfacing applied 18-22 pounds per square yard: The accepted quantity of micro-surfacing as provided above in the Method of Measurement, shall be paid for at the contract unit price per square yard. Payment will be made for actual square yardage measured.
- 10.2. Single lift of micro-surfacing applied in excess of 22 pounds per square yard: In areas where material is applied in excess of 22 pounds per square yard, the excess will be paid for by the pound of material as measured per 9.2 above. Payment will be made for actual weight of additional material.
- 10.3. Hot rubber crack fill: The accepted quantity of hot rubber crack fill as provided above in the Method of Measurement section shall be paid for at the contract unit price per linear foot.
- 10.4. ~~Full depth ACHM pavement removal and replacement: Pavement removal and replacement shall include all equipment and work for saw cutting the existing pavement, excavation of existing pavement and up to one foot of underlying material, disposal of all excavated material, compaction of existing subgrade, placement and compaction of up to one foot of Class 7 Base, and 3 inches of ACHM pavement. Payment will be made for actual square yardage measured.~~
11. **CONTRACTOR QUALIFICATION REQUIREMENTS:**
- 11.1. Bidders shall be qualified and experienced to provide the work presented in this bid. Upon request by the City after bid opening, qualification requirements are due within 24 hours of request. Qualifications will be determined based on information provided as follows. All information is required for contract approval.
- 11.2. The bidder shall submit a letter of verification addressed to the CITY stating the project(s), and agency contact(s) that satisfies the minimum work experience requirements described in paragraph 8.7.1 herein.

State of Arkansas
Commercial Contractors Licensing Board

VANCE BROTHERS, INC.
5201 BRIGHTON
KANSAS CITY, MO 64130-0107

VANCE BROTHERS, INC.

This is to Certify That

is duly licensed under the provisions of Ark. Code Ann. § 17-25-101 et. seq. as amended and is entitled to practice Contracting in the State of Arkansas within the following classifications/specialties:

HIGHWAY, RAILROAD, AIRPORT
CONSTRUCTION

This contractor has an unlimited suggested bid limit.

from March 17, 2023 until April 30, 2024 when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



Ray [Signature]

CHAIRMAN

Mike [Signature]

SECRETARY

March 17, 2023 - dsa

Certificate of President

The undersigned, Tim Vance, President of Vance Brothers, Inc., a Missouri corporation, hereby certifies that the following is a true and correct copy of a Resolution duly adopted by the Board of Directors of the Corporation on the 25th Day of October 2021.

RESOLVED, that Tim Vance, Robert A. Vance and Shawn Brost are authorized to execute and enter into bids, contracts, bonds, affidavits and any ancillary documents, on behalf of the corporation.

The undersigned further certifies that this Resolution is in full force and effect as of the date of this Certificate and has not been amended, modified, revoked or rescinded.

IN WITNESS WHEREOF, I have executed this Certificate this 20th Day of January 2022.



President

Tim Vance
Printed Name



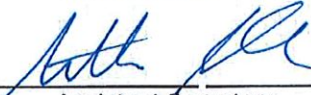
Vice President, Contracting

Shawn Brost
Printed Name



Sr. Vice President

Robert A Vance
Printed Name



Assistant Secretary

Arthur Sewell
Printed Name

Work Experience & Subcontractor List

Work Experience

Vance Brothers, Inc. has submitted four references on the form supplied by the City of Fayetteville which will show the experience and workmanship of the company. All references listed were for projects completed during the 2023 season, but Vance Brothers, Inc. has done work for most of these clients for many years.

Subcontractor List

Custom Pavement Maintenance and Safety

2805 Co-Op Dr.

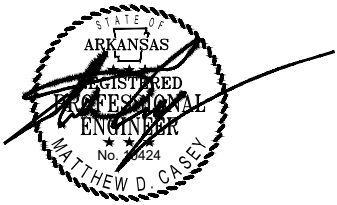
Van Buren, AR 72956

Vance Brothers, Inc. intends to subcontract the Hot Rubber Crack Seal and Pavement Marking line items to Custom Pavement.

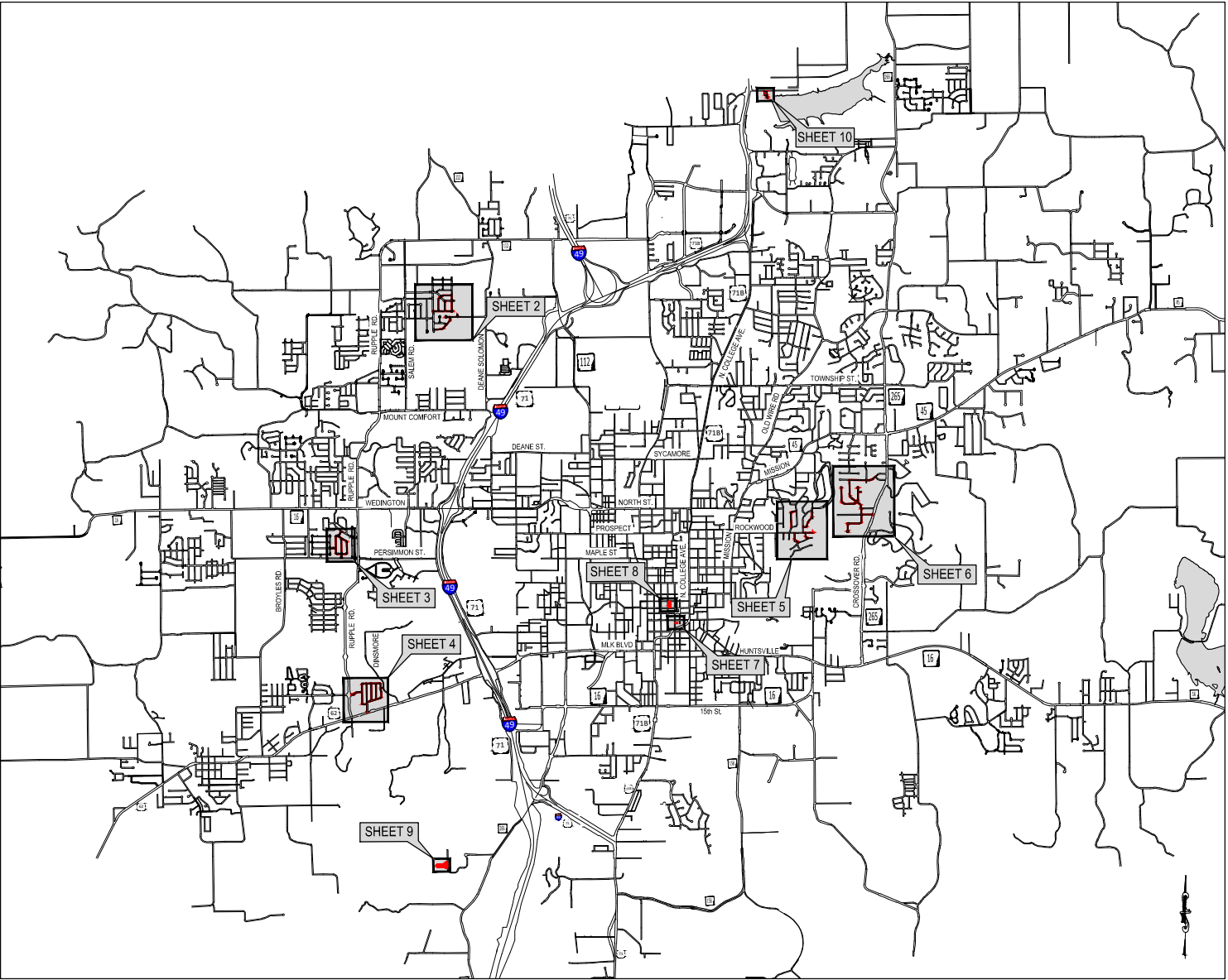
2023 ASPHALT SURFACE TREATMENT PROJECT

for the
City of Fayetteville

BID No. 23-40
September 2023



PLAN INDEX	
Sheet No.	Description
1	COVER SHEET
WEST FAYETTEVILLE	
2	AZURE AVENUE, BENTLEY RIDGE, IKA LANE, LABORDITE DRIVE, MIRAMAR DRIVE, NEVERMORE LANE, TIGER EYE DRIVE, TOPAZ DRIVE, VANIKE DRIVE AND VERONA LANE
3	BRADSTREET LANE, DAFFIDIL DRIVE, KEATS DRIVE, LONGFELLOW LANE, MARLOWE LANE, PUTTING GREEN DRIVE AND TENNYSON LANE
4	CAMELLIA LANE, CATALPA DRIVE, CHINA BERRY LANE, GRAPE MYRTLE PLACE, GARDENIA DRIVE, JASMINE LANE, LILAC LANE, OLEANDER LANE AND PEPPER TREE LANE
EAST FAYETTEVILLE	
5	AINSWORTH AVENUE, KENILWORTH AVENUE, PEMBROKE ROAD, RUTH AVENUE, AND SHREWBURY LANE
6	ARTHURS COURT, AMBERWOOD LANE, CAMROSE LANE, LONDONDERRY DRIVE, MANOR DRIVE, MEANDERING WAY, MONTVIEW DRIVE, RIDGELY DRIVE, SUMMERSBY DRIVE, AND WHISPERING OAKS LANE
PARKING LOTS	
7	BLOCK STREET PARKING LOT
8	DOWNTOWN SQUARE NORTH PARKING LOT
9	KESSLER MOUNTAIN REGIONAL PARK BASEBALL PARKING LOT
10	LAKE FAYETTEVILLE SOFTBALL PARKING LOT



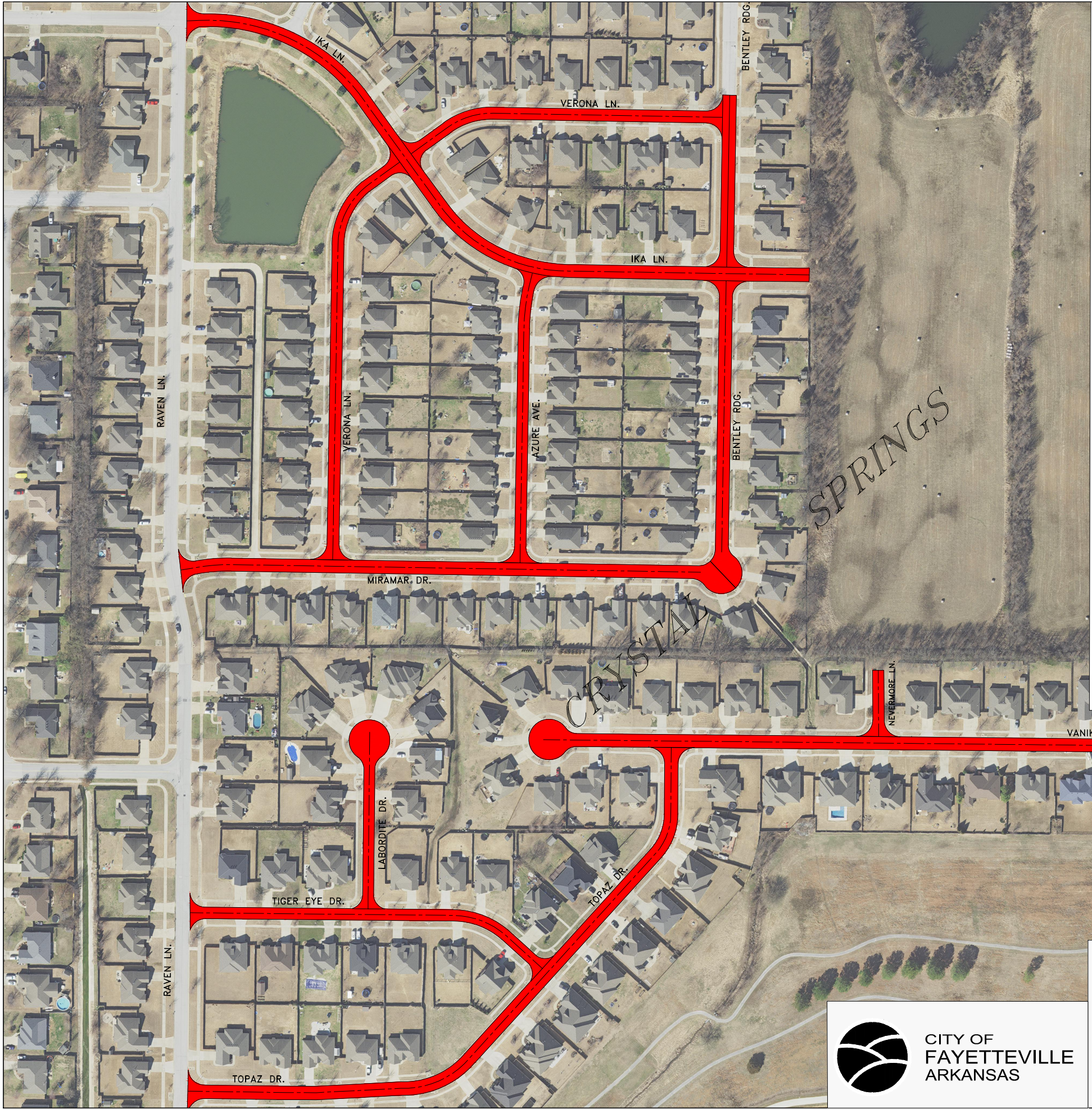
VICINITY MAP

GENERAL NOTES

1. THE CONTRACTOR SHALL PROVIDE A TRAFFIC CONTROL PLAN THAT INDICATES TYPE OF SIGNING, SPACING OF SIGNING, FLAGGERS, CHANNELIZERS AND OTHER TRAFFIC CONTROL ITEMS IN ACCORDANCE WITH THE CURRENT EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
2. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE, INSTALL AND MAINTAIN SUCH SIGNS, CONES, LANE DELINEATORS, AND OTHER FACILITIES THAT MAY BE NECESSARY TO PROTECT THE WORK AND PROVIDE FOR SAFE TRAVEL THROUGH THE CONSTRUCTION AREA. ALL SIGNING SHALL CONFORM TO THE LATEST EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.
3. UTILITY COVERS, MANHOLES, GRATED INLETS, CURB INLETS AND TRAFFIC DEVICE COVERS LOCATED IN THE ROADWAY TO BE PAVED SHALL BE PROTECTED FROM COVERAGE BY THE MICROSURFACING AND REFERENCED FOR PROMPT LOCATION AND CLEANING FOLLOWING APPLICATION. THE ABOVE ITEMS SHALL BE CLEANED TO THEIR PRE-SURFACING CONDITION OR AS DIRECTED BY THE CITY.
4. WORK AT INTERSECTIONS SHALL BE DONE IN STAGES, OR BLOTTER MATERIALS SHALL BE USED, TO ALLOW CROSSING AND TURNING MOVEMENTS.
5. WHEN CONSTRUCTION IS BEING PERFORMED UNDER TRAFFIC, ALL EQUIPMENT, INCLUDING LOADING VEHICLES AND SUPPLY TRUCKS WILL BE REQUIRED TO OPERATE IN A SINGLE LANE ON WHICH THE MICROSURFACING IS BEING APPLIED, UNLESS OTHERWISE APPROVED.
6. THE CONTRACTOR SHALL PROVIDE NOTICE TO THE CITY AND AFFECTED RESIDENTS A MINIMUM OF 3 BUSINESS DAYS PRIOR TO COMMENCEMENT OF THE PROJECT.

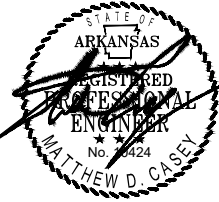


ENGINEERING DIVISION
PHONE: (479) 575-8206 FAX NO: (479) 575-8202





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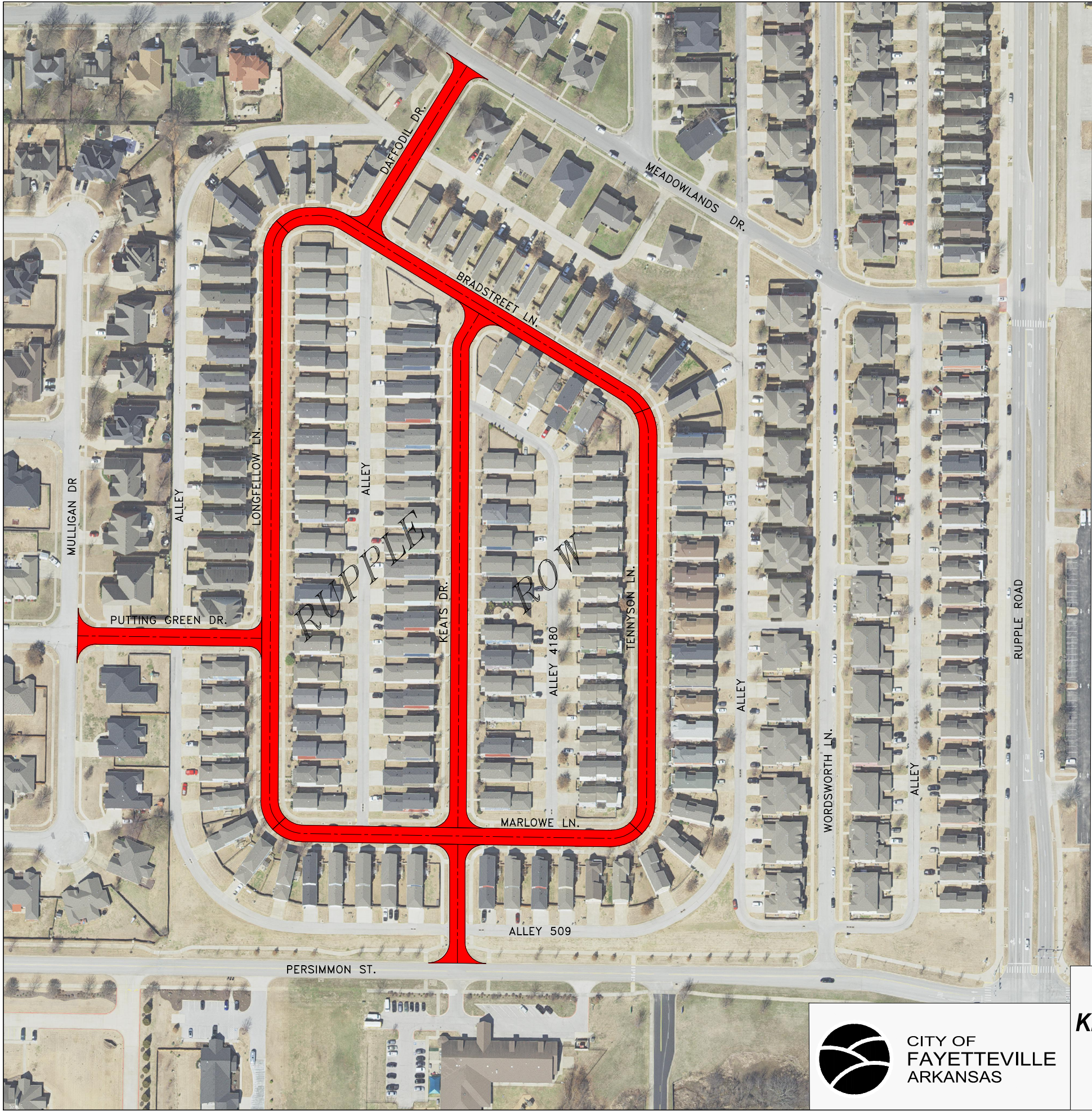
STREET	AREA (Sq. Yd.)	LENGTH (L.F.)	HOT RUBBER CRACK SEALING (LF) (≥1")
AZURE AVE.	1,335	539	475
BENTLEY RDG.	2,564	874	685
IKA LN.	3,706	1,354	1525
LABORDITE DR.	1,162	350	230
MIRAMAR DR.	2,868	1,007	1,665
NEVERMORE LN.	330	123	145
TIGER EYE DR.	1,661	686	645
TOPAZ DR.	3,579	1,255	1,735
VANIKE DR.	6,020	2,128	2,475
VERONA LN.	3,543	1,384	850
TOTAL	26,768	9,700	10,430



CITY OF
FAYETTEVILLE
ARKANSAS

**AZURE AVENUE, BENTLEY RIDGE, IKA LANE,
LABORDITE DRIVE, MIRAMAR DRIVE, NEVERMORE
LANE, TIGER EYE DRIVE, TOPAZ DRIVE,
VANIKE DRIVE AND VERONA LANE
2023 SURFACE TREATMENT PLAN**

DATE:
February 15, 2023
SHEET:





Not to SCALE



STREET	AREA (Sq. Yd.)	LENGTH (L.F.)	HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ "
BRADSTREET LN.	1,805	659	350
DAFFODIL DR.	987	298	310
KEATS DR.	3,023	1,001	1,200
LONGFELLOW LN.	2,859	944	325
MARLOWE LN.	1,643	569	465
PUTTING GREEN DR.	897	289	285
TENNYSON LN.	2,031	662	500
TOTAL	13,245	4,422	3,435

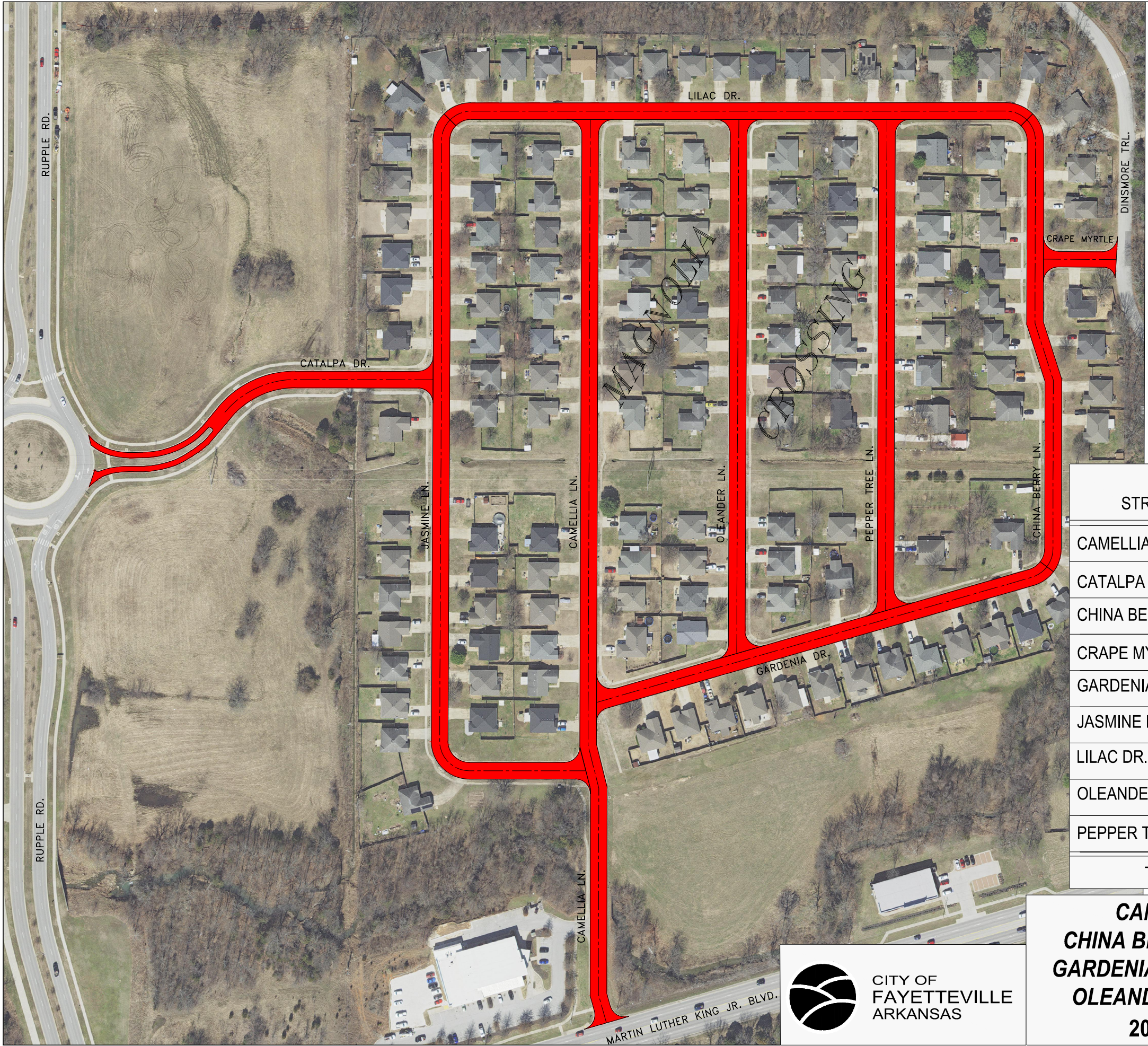
**BRADSTREET LANE, DAFFIDIL DRIVE,
KEATS DRIVE, LONGFELLOW LANE, MARLOWE LANE,
PUTTING GREEN DRIVE AND TENNYSON LANE
2023 SURFACE TREATMENT PLAN**

DATE:
February 15, 2023

SHEET:
3

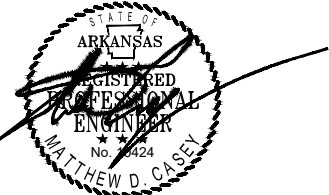


CITY OF
FAYETTEVILLE
ARKANSAS





Not to SCALE



STREET	AREA (Sq. Yd.)	LENGTH (L.F.)	HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ ")
CAMELLIA LN.	4,802	1,525	1,475
CATALPA DR.	1,744	884	675
CHINA BERRY LN.	2,374	764	775
CRAPE MYRTLE PL.	407	123	350
GARDENIA DR.	2,506	793	1,100
JASMINE LN.	4,152	1,324	1,675
LILAC DR.	3,045	979	1,155
OLEANDER LN.	2,861	898	865
PEPPER TREE LN.	2,637	825	710
TOTAL	24,528	8,115	8,780

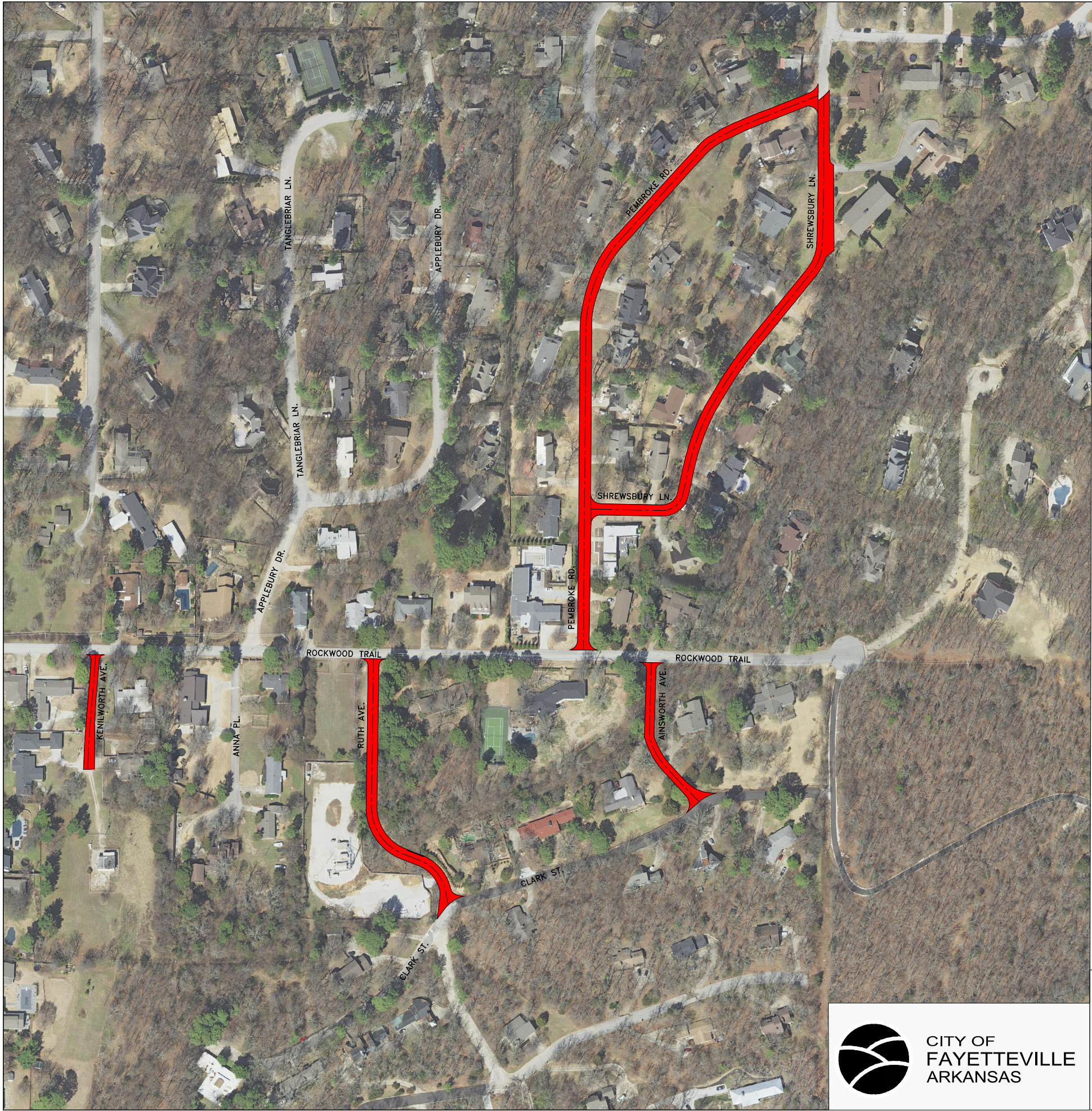


CITY OF
FAYETTEVILLE
ARKANSAS

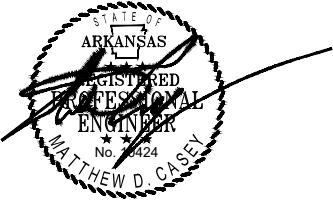
**CAMELLIA LANE, CATALPA DRIVE,
CHINA BERRY LANE, CRAPE MYRTLE PLACE,
GARDENIA DRIVE, JASMINE LANE, LILAC LANE,
OLEANDER LANE AND PEPPER TREE LANE
2023 SURFACE TREATMENT PLAN**

DATE:
February 15, 2023
SHEET:

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Not to SCALE



STREET	AREA (Sq. Yd.)	LENGTH (L.F.)	HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ ")
AINSWORTH AVE.	815	333	575
KENILWORTH AVE.	515	244	220
PEMBROKE RD.	3,919	1,418	875
RUTH AVE.	1,597	598	715
SHREWSBURY LN.	3,295	1,142	1,825
TOTAL	10,141	3,735	4,210

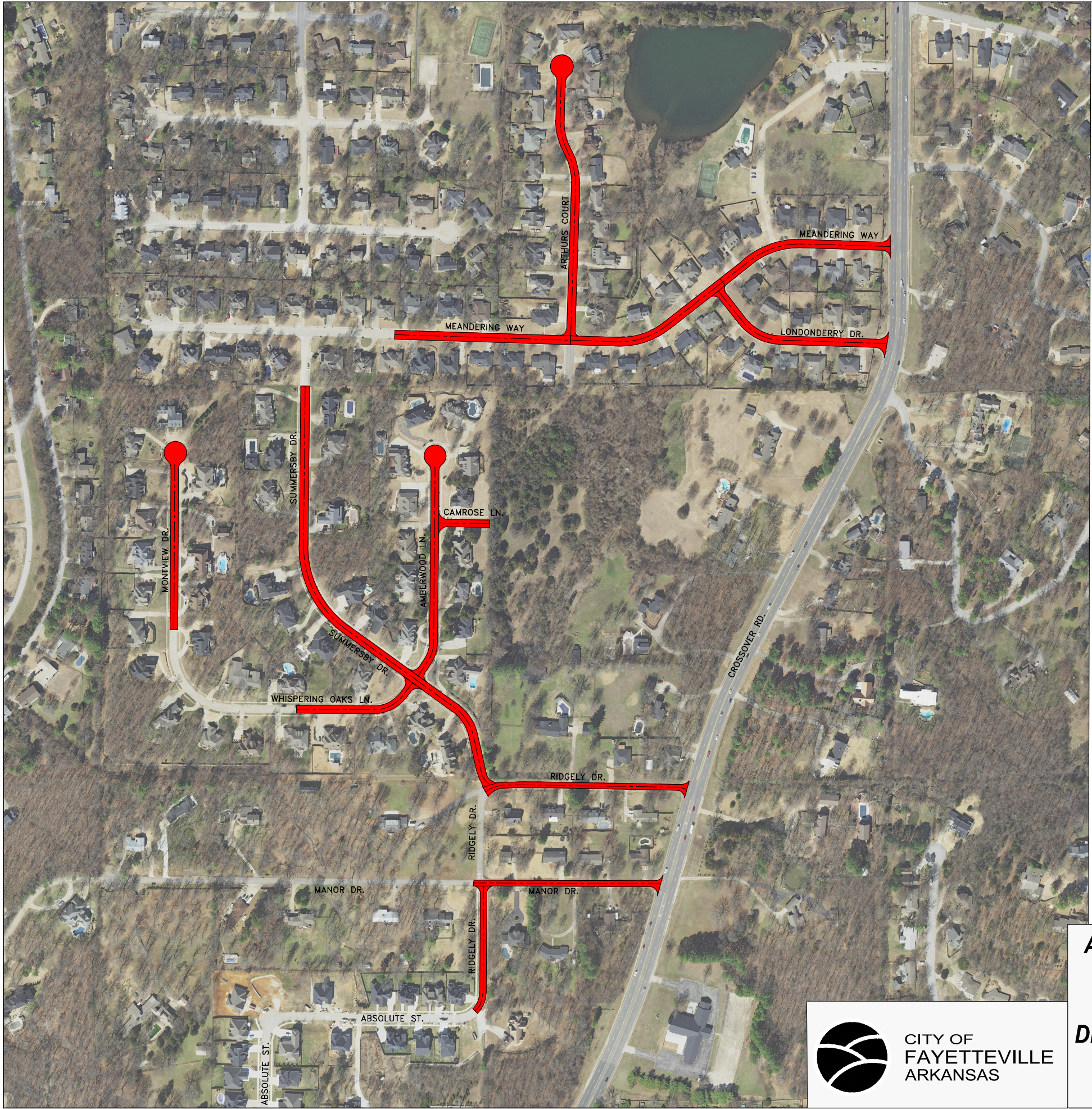


CITY OF
FAYETTEVILLE
ARKANSAS

**AINSWORTH AVENUE, KENILWORTH AVENUE,
PEMBROKE ROAD, RUTH AVENUE,
AND SHREWBURY LANE
2023 SURFACE TREATMENT PLAN**

DATE:
February 14, 2023
SHEET:

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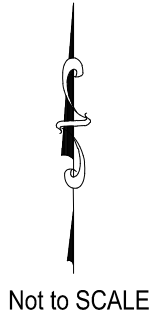
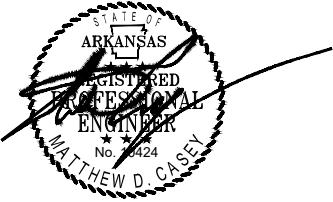


STREET	AREA (Sq. Yd.)	LENGTH (L.F.)	HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ ")
ARTHURS CT.	3,327	962	825
AMBERWOOD LN.	2,688	798	425
CAMROSE LN.	522	173	15
LONDONDERRY DR.	2,132	643	600
MANOR DR.	1,430	636	650
MEANDERING WAY	5,878	1,785	2,375
MONTVIEW DR.	2,137	638	325
RIDGELY DR.	2,655	1,122	1,465
SUMMERSBY DR.	5,423	1,626	740
WHISPERING OAKS LN.	1,289	432	150
TOTAL	27,481	8,815	7,570

ARTHURS COURT, AMBERWOOD LANE, CAMROSE LANE, LONDONDERRY DRIVE, MANOR DRIVE, MEANDERING WAY, MONTVIEW DRIVE, RIDGELY DRIVE, SUMMERSBY DRIVE, AND WHISPERING OAKS LANE

2023 SURFACE TREATMENT PLAN





BLOCK STREET PARKING LOT	
MICROSURFACE (SY)	845
HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ "	350



CITY OF
FAYETTEVILLE
ARKANSAS

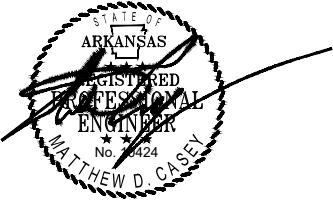
**BLOCK STREET
PARKING LOT
2023 SURFACE TREATMENT PLAN**

DATE:
February 15, 2023
SHEET:

7



Not to SCALE



DOWNTOWN SQUARE NORTH PARKING LOT	
MICROSURFACE (SY)	4,924
HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ "	3,300



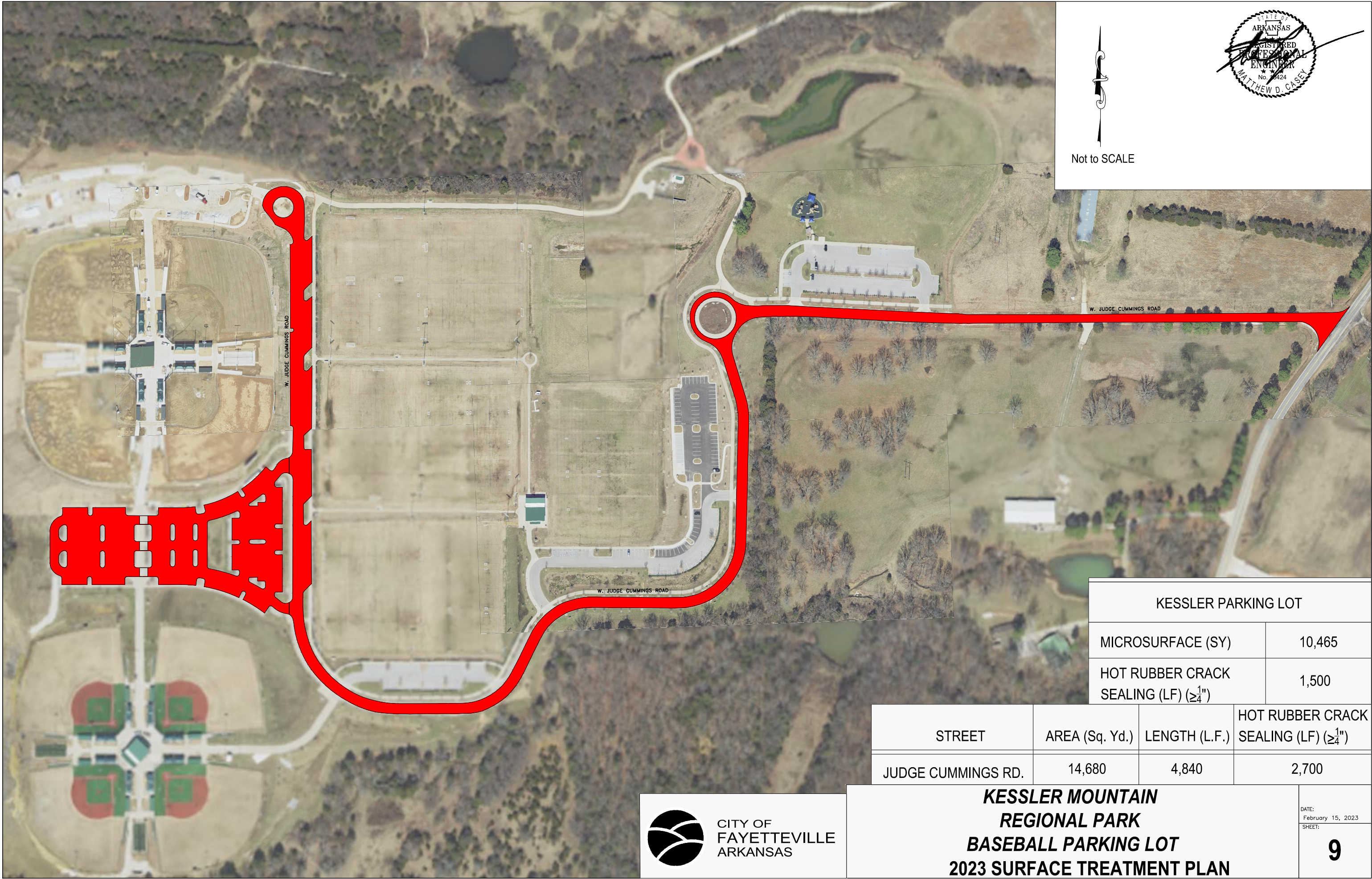
CITY OF
FAYETTEVILLE
ARKANSAS

**DOWNTOWN SQUARE NORTH
PARKING LOT**

2023 SURFACE TREATMENT PLAN

DATE:
February 15, 2023
SHEET:

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KESSLER PARKING LOT	
MICROSURFACE (SY)	10,465
HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ "	1,500

STREET	AREA (Sq. Yd.)	LENGTH (L.F.)	HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ "
JUDGE CUMMINGS RD.	14,680	4,840	2,700



**KESSLER MOUNTAIN
REGIONAL PARK
BASEBALL PARKING LOT
2023 SURFACE TREATMENT PLAN**

DATE:
February 15, 2023
SHEET:
9



Not to SCALE



SOFTBALL PARKING LOT	
MICROSURFACE (SY)	5,563
HOT RUBBER CRACK SEALING (LF) ($\geq \frac{1}{4}$ "	4,350



**LAKE FAYETTEVILLE
SOFTBALL PARKING LOT
2023 SURFACE TREATMENT PLAN**

DATE:
February 15, 2023
SHEET:

10



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

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

FROM: Ted Jack, Park Planning Superintendent

DATE:

SUBJECT: Walker Community Park Phase One Improvements Design Contract

RECOMMENDATION:

Staff recommends entering a contract with TSW, Inc. to provide design services for Phase One improvements to Walker Community Park for a fee not to exceed \$203,075.00 and to approve a project contingency of \$10,000 and associated Budget Adjustment.

BACKGROUND:

TSW was selected through RFQ 22-01, Selection 10, to provide a master plan and design documents for Walker Community Park. The master plan has been completed and this contract will continue their work creating the construction and bid documents, and construction administration necessary for phase one improvements at the park.

DISCUSSION:

Walker Park and the surrounding neighborhood have seen much change over the past several years. Today, much of the south part of the park has limited use. Fayetteville Youth Baseball has used the park for decades for their leagues; however, four new ballfields were recently completed at Kessler Mountain Regional Park creating a new home for the club. In this first phase of construction, the area where the old fields south of 13th Street will be changed to a more diverse area offering many recreational opportunities as shown in the new master plan.

BUDGET/STAFF IMPACT:

Funds for this contract are available in the Parks Projects Bond Phase II (2022) Fund in project (46050.7550.2000).

**PURCHASE ORDER
DETAILS**

GLACCOUNT	PROJECT	AMOUNT	Notes:
4705.860.7550-5860.02	46050.7550.2000	\$203,075.00	Design Contract

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

TOTAL		\$203,075.00	
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ATTACHMENTS: SRF (#3), BA (#4), TSW Professional Design Contract Ph One 11 28 23 (#5), TSW Scope of Services 11.28.23 Appendix A (#6)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1441

Walker Community Park Phase One Improvements Design Contract

A RESOLUTION TO AUTHORIZE A CONTRACT WITH TSW, INC., PURSUANT TO RFQ 22-01, FOR DESIGN SERVICES ASSOCIATED WITH PHASE ONE IMPROVEMENTS TO WALKER COMMUNITY PARK FOR AN AMOUNT NOT TO EXCEED \$203,075.00, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$10,000.00, AND TO APPROVE A BUDGET ADJUSTMENT – PARK IMPROVEMENT BOND PROJECT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract with TSW, Inc. pursuant to RFQ 22-01, for design services associated with Phase One Improvements to Walker Community Park for an amount not to exceed \$203,075.00, and further approves a project contingency in the amount of \$10,000.00.

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

City of Fayetteville Staff Review Form

2023-1441

Item ID

12/17/2023

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

Ted Jack

11/29/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends entering a contract with TSW, Inc. to provide design services for Phase One improvements to Walker Community Park for a fee not to exceed \$203,075.00 and to approve a project contingency of \$10,000 and associated Budget Adjustment.

Budget Impact:

4705.860.7550-5860.02

Parks Project 2022 Bonds

Account Number

Fund

46050.7550.2000

Park Projects (2019/2022 Bonds) -
Walker Park Impr, Phase One

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 96,208.00

Expenses (Actual+Encum)

\$ 91,207.50

Available Budget

\$ 5,000.50

Does item have a direct cost? Yes

Item Cost

\$ 203,075.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 213,075.00

Remaining Budget

\$ 15,000.50

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 2022-0935

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

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

Budget adjustment to allocate funds to enter a contract with TSW, Inc. for design services for Phase 1 improvements at Walker Community Park. The not-to-exceed contract amount is \$203,075 and the related contingency is an additional \$10,000.

	COUNCIL DATE:	12/19/2023
	ITEM ID#:	2023-1441
	Holly Black	
	11/30/2023 7:47 AM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

v.20231113



**CITY OF
FAYETTEVILLE
ARKANSAS**

**CONTRACT FOR PROFESSIONAL SERVICES
ENGINEERING & LANDSCAPE ARCHITECTURAL SERVICES
WALKER PARK PHASE ONE IMPROVEMENTS
between
City of Fayetteville, Arkansas
and
TSW, Inc.**

THIS AGREEMENT is executed this _____ day of _____, 202__, by and between the **City of Fayetteville** acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or **CITY**) and **TSW, Inc.** (hereinafter called “**TSW**” or “**Consultant**”).

CITY OF FAYETTEVILLE requires professional services in connection with proposed improvements to Walker Community Park. TSW was selected through RFQ 22-01, Selection 9 to provide master planning services for Walker Park. This contract continues services through construction of Phase One improvements as identified in this contract. Therefore, **City** and **TSW** in consideration of their mutual covenants agree as follows:

TSW shall serve as the professional consultant to the CITY in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a licensed landscape architect or engineer registered in the State of Arkansas and qualified in the particular field.

1. Contracted parties:

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

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

- a. Appendices included under this agreement include the following and shall govern in the following order. Contract language in this document shall prevail over all exhibits:
 - i. **Appendix A: Scope of Work & Fees**
 - ii. **Appendix B: Topographical Survey Area**

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

a. **City of Fayetteville:** Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701
TSW: Attention: Adam Williamson, PLA, LEED AP, Principal-in-Charge, 1447 Peachtree St, Ste 850
Atlanta GA 30309

4. Fees, Expenses, and Payments:

- a. The maximum not-to-exceed amount authorized for this agreement is \$203,075.00 US DOLLARS which includes the services as shown below. Progress payments shall be paid to the **TSW** as described in **Appendix A**.
- b. **TSW** shall track, log and report hours and expenses directly related to this Agreement. Invoices shall be itemized by phase. Invoice and payment requests shall not exceed the percentage of work completed as defined by **Appendix A**.
- c. **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 **TSW** 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.
- d. Monthly invoices 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 **TSW** 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 **TSW** and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.
- e. **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, **TSW** 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 **TSW** to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE claims against **TSW** or sureties under this Agreement.

5. **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.
6. **Jurisdiction:** Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.
7. **Venue:** Venue for all legal disputes shall be Washington County, Arkansas.
8. **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 architect will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

9. **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 in some instances the City Council **in advance** of the change in scope, cost or fees.
10. **Omissions by the Consultant:** If **TSW or its subconsultants** fails to include or omits an item from the Contract Documents, which was fully anticipated to be included in the Project, thereby necessitating the need for a Change Order, **TSW** will not receive a fee for work associated with the Change Order.
11. **Insurance:** **TSW** shall furnish a certificate of insurance addressed to the City of Fayetteville, showing coverages for the following insurance which shall be maintained throughout the term of this agreement. Any work sublet to major subconsultants including MEP, Structural, and Civil, **TSW** shall require the subconsultant to provide the insurance identified. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, **TSW** shall provide and shall cause each Subcontractor to provide adequate insurance for the protection of such of his employees as are not otherwise protected.
 - a. **TSW** shall provide to the City certificates as evidence of the specified insurance presented in **Appendix C** within ten (10) calendar days of the date of this agreement and upon each renewal coverage. The City shall be listed as additional insured entity.
 - b. Subconsultants shall maintain reasonable insurance including but not limited to worker's compensation, auto as applicable, general liability, errors and omissions, etc.
12. **Professional Responsibility:** **TSW** 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 **TSW** any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so **TSW** 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 **TSW**.
13. **Responsibility of the City of Fayetteville**
 - a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of **TSW**:
 - i. Provide full information as to the requirements for the Project.
 - ii. Assist **TSW** by placing at **TSW's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - iii. Assist **TSW** in obtaining access to property reasonably necessary for **TSW** to perform its services under this Agreement.
 - iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by **TSW** and render in writing decisions pertaining thereto.
 - v. Review all documents and provide written comments to **TSW** in a timely manner.
 - vi. The City of Fayetteville's Park Planning Superintendent is the project representative with respect to the services to be performed under this Agreement. The Park Planning Superintendent 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.

14. Cost Opinions and Projections: Cost opinions and projections prepared by **TSW** relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on **TSW's** experience, qualifications, and judgment as a design professional. Since **TSW** 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, **TSW** does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by **TSW**.

15. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. **TSW** 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 within **Appendix A**.

16. Debarment Certification: **TSW** 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. **TSW** hereby attests its principal is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

17. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that **TSW** is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price

provided for in this Agreement shall be made, but

- i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to **TSW** at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of **TSW's** default.
- d. If termination for default is affected by **TSW**, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **TSW** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **TSW** relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action, **TSW** shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **TSW** in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of **TSW** to fulfill contractual obligations, it is determined that **TSW** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

18. Delays

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

19. Rights and Benefits

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

20. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and **TSW** 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 **TSW** in the performance of this Agreement, and disputes concerning payment.
- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion

of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.

c. Notice of Dispute

- i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
- ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give **TSW** written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
- iii. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and **TSW** 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 **TSW** and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

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

22. Publications:

- a. Recognizing the importance of professional development on the part of **TSW's** employees and the importance of **TSW's** public relations, **TSW** may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to **TSW'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 **TSW**, 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 **TSW's** activities pertaining to any such publication shall be for **TSW's** account.

23. Indemnification:

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

24. Ownership of Documents:

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. **TSW**

may retain reproduced copies of drawings and copies of other documents.

- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by **TSW** as part of the Services shall become the property of CITY OF FAYETTEVILLE when **TSW** has been compensated for Services rendered, provided, however, that **TSW** shall have an unrestricted perpetual license right to their use. **TSW** 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 **TSW**. **TSW** will provide the city an electronic copy of the CAD files (.dwg compatible).
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. **TSW** 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.

25. Additional Responsibilities of TSW:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve **TSW** of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. **TSW** shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by **TSW's** negligent performance, except beyond the **TSW** normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. **TSW's** obligations under this clause are in addition to **TSW'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 **TSW** for faulty materials, equipment, or work.
- d. Deliverables for Record Documents or "as-builts" shall be defined as the following. **TSW** will provide one set of Drawings in digital (PDF) format that includes final revisions formalized by **TSW** through the course of the Work. Field revisions as supplied by the CMAR to **TSW** at close out shall be included as part of **TSW's** "As-Builts". **TSW** will also provide AutoCAD compatible (DWG) vector format digital background files of the construction plans.

26. Audit and Access to Records:

- a. **TSW** shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. **TSW** shall also maintain the financial information and data used by **TSW** in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. **TSW** will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this

Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements:
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement:
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 - 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of **TSW**;
 - 2. If there is any indication that fraud, gross abuse or corrupt practices may be involved;
 - 3. If the sub agreement is terminated for default or for convenience.

27. Covenant Against Contingent Fees:

- a. **TSW** 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 **TSW** 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.

28. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that **TSW** or any of **TSW's** agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to **TSW** terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- b. The CITY may pursue the same remedies against **TSW** as it could pursue in the event of a breach of the Agreement by **TSW**. 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 **TSW** incurs in providing any such gratuities to any such officer or employee.

29. Clarification and Understanding of all parties:

- a. **TSW** shall not assign its duties under the terms of this agreement without prior written consent of the City. Subconsultants identified in **Appendix A** shall be permitted as being referenced herein.

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

IN WITNESS WHEREOF, **CITY OF FAYETTEVILLE, ARKANSAS** by and through its Mayor, and **TSW (CONSULTANT)**, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS (CITY)

TSW (CONSULTANT)

By: _____
LIONELD JORDAN, MAYOR

By: Adam Williamson
ADAM WILLIAMSON, PRINCIPAL-IN-CHARGE

ATTEST:

By: _____
Kara Paxton, City Clerk

Date Signed: _____

Date Signed: November 29, 2023

Exhibit A: Scope of Services and Fees

For Walker Park Phase One Improvements

Walker Park, 10 W 15th Street, Fayetteville, Arkansas

Construction Drawings Phase 1 | Walker Park

The construction drawings are for Phase 1 Walker Park identified in the 2023 Master Plan. The project will consist of removing the existing baseball fields and batting cages. The baseball parking lot, restroom building is to remain and replacing with multi-use sports fields, horseshoe pits, sand volleyball, small playground, and walking trail. Three pickleball courts will be built using the batting cage slab. The estimated construction budget for the project is approximately \$2,000,000.

The team will consist of the following:

TSW (project management and landscape architecture)

MCE (surveying/civil engineering)

Covalent Consulting (electrical engineering)

Task 1: Kick-Off + Coordination

1.1 TSW Team will conduct an initial consultation session (Teams or Zoom meeting) to finalize project approach and make project team introductions. Project goals and timelines for each phase will be finalized during this meeting. Work generally consist of demolition of some existing facilities, construction of new lighted multi purpose grass fields, sand volleyball courts, horseshoes, conversion of existing batting cades to three pickleball courts, small playground area, supporting seating areas, signage, walkways, drainage, utilities and other improvements in the general locations shown in 1.5 below.

1.2 TSW will manage the project, including all subconsultants, to ensure all work is completed accurately and on time. TSW will also handle all billing of each subconsultant.

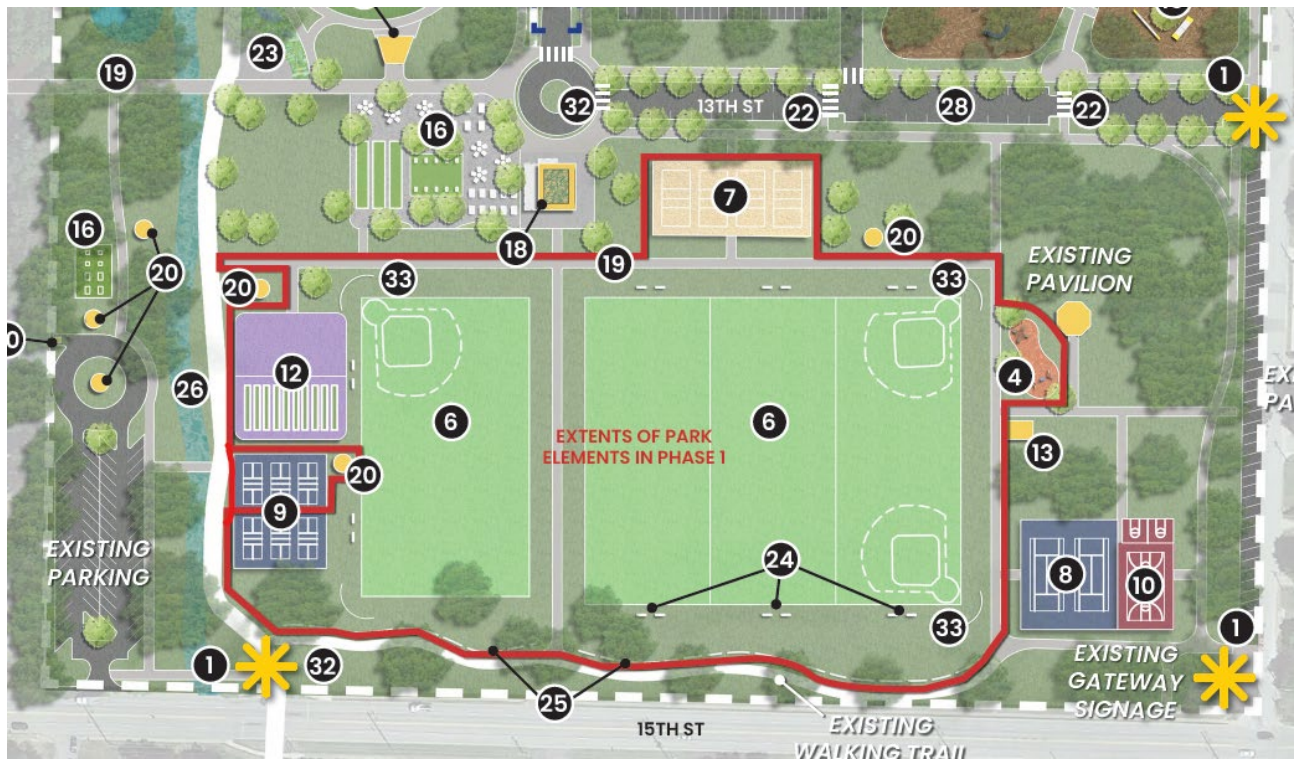
1.3 Prepare a boundary, topographic, tree, utility, and field run topographic survey of the project site.

A detailed topographic survey within the limits of the subject parcels (Exhibit 'B').

Details shown include, but are not limited to: contours at 1' intervals, spot elevations, building corners, FFEs, threshold locations, trees over 6" DBH or larger, existing site features (walls, concrete, roads, curbs, fences, signs, etc.) flood zones, streamside buffers, flowlines, utility poles and pedestals, structures, roads, sidewalks, storm water infrastructure, water mains, sanitary sewer manholes, and utility marks provided by a utility location service. The team will complete records research, field research and boundary resolution of the project parcel. The property lines of the parcel will be shown only on the topographic survey. This scope does not include a separate boundary survey of the property.

1.4 Prepare a pervious surface of existing conditions in the park (square feet) document to be used to show changes in percent of pervious surfaces in future construction projects.

1.5. Primary area of Phase One Improvements



Task 2: Design Development

2.1 Based on the master plan layout and survey the team will develop the drawings. Design Development drawings will include, but not be limited to:

- Revised Overall Site Plan
- Enlarged Plans for Key Areas
- Hardscape and Landscape Call Outs
- Spot Grading Plan
- Construction Details
- Preliminary Cost Model for Phase I

2.1.1 TSW Team QA/QC review of Design Development documents.

2.1.2 City review of Design Development documents (approximately 3 weeks).

Task 3: Construction Documentation

3.1 Based on feedback from Task 3, the TSW Team will advance Design Development drawings into Construction Documents (100% Final Plans). Construction Documents will include, but not be limited to:

- Cover Sheet
- General Notes
- Existing Conditions Plan
- Site Demolition Plan
- Construction Item Plan
- Site Layout Plan
- Grading and Drainage Plan
- Tree Preservation Plan
- Erosion Control Plan
- Utility Plan and Profiles
- Construction Details
- Lighting Layout, Plans, and Details
- Electrical Plans
- Project Manual Format Specifications
- Revised Cost Model

The drainage design and reporting will be as prescribed by city code. At the time of this proposal, it is assumed that impervious area will be decreased from existing and only required a Green Stormwater Practice (GSP) Worksheet. Design for stormwater detention or water quality is excluded from this contract.

3.1.2 TSW Team QA/QC review of Draft Construction Documents.

3.1.3 City review of Draft Construction Documents (approximately 3 weeks).

Task 4: Permitting Services

4.1 The TSW Team will identify necessary permitting early in the planning process and work with local authorities to determine those requirements.

4.1.1 The team will provide project coordination with the project team, utility service providers, and permitting with the City of Fayetteville required to obtain permits necessary for project construction.

City Meeting Attendance: MCE shall attend the following city meetings required for project approval:

- Pre-application Meeting
- Technical Plat Review
- Subdivision Committee (if required)
- Planning Commission (if required)

Additional Meetings: Site visits and project design team meetings will be conducted and attended by McClelland during the design and coordination phases of the project.

4.1.2 Utility Coordination: Coordination with the water and sewer departments for private utility services and connections will be provided. Additionally, MCE will coordinate electric services with SWEPCO. Information gathered during coordination will be shared with the project team and reflected within the final utility plan of the construction document set.

Task 5: Bidding + Construction Administration Services

5.1 The TSW Team will provide Bid Phase Services that include, but not limited to:

- Attend a pre-bid meeting (if requested)
- Issue addenda as necessary
- Respond to bidders as necessary
- Assist the City with the evaluation of the bidders

5.2 The TSW Team will provide Construction Phase Services that include, but not limited to:

- Respond to request for information as needed
- Monthly virtual meetings and/or site visits
- Prepare construction observation reports as needed
- Post Permit and Construction Phase Drawing Revisions

Services Not Included

- Record drawings
- Engineers' certification of improvements
- Off site utility plans
- Off site street improvement plans such as road widening
- LEED permitting / certification
- Construction staking services
- Conditional-use permits or variances (including variances for work within side the streamside protection areas)
- Materials testing
- Perspectives, renderings, and models
- Traffic studies
- Environmental site assessments
- Environmental impact analysis
- Replatting
- Easement Plat

- Alley vacation, easements abandonments and right of way dedications
- Historical or archeological studies
- Major stormwater drainage plans or relocation i.e. box culverts, large ditches and stormwater conductors
- Wetlands delineation / 404 permitting
- Boundary Survey
- Rezoning
- Geotechnical reporting
- Retaining wall design
- Elevation certificates or detailed study of areas within or adjacent to the Spout Spring Branch

FEES

Task 1-4 will be completed for \$158,575. Task 5 & 6 Bidding/CA and Reimbursable Expenses will be completed as a NOT TO EXCEED TASK OF \$45,000. Billings will include hours for team members.

The **project schedule** is anticipated to take 12 to 16 months for design, bidding, and construction.

Fee Breakdown by Tasks

TASK	FEE	
Task 1: Kick-Off + Coordination	\$35,345	
Task 2: Design Development	\$16,000	
Task 3: Construction Documentation	\$96,455	
Task 4: Permitting	\$10,775	
Task 5: Bidding + Construction Admin		\$40,000 (Not to Exceed)
Work Task Total	\$158,575	
Reimbursable Expenses		\$4,500 (Not to Exceed)
Project Total	\$158,575	\$44,500 (Not to Exceed)

Maximum fee with expenses is \$203,075.

Exhibit B: Survey Area





MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Blake Pennington, Assistant City Attorney

DATE:

SUBJECT: Subrecipient Agreements with Seven Hills Homeless Center's partner agencies

RECOMMENDATION:

Approval of a resolution authorizing Mayor Jordan to sign subrecipient agreements with each of the Seven Hills Homeless Center's partner agencies as outlined in the proposal submitted in response to RFP 23-12.

BACKGROUND:

On October 17, 2023, the City Council, sitting as the selection committee, selected a proposal by Seven Hills Homeless Center for a comprehensive solution from concept to execution to address housing instability using the remaining \$1.63 million of the City's American Rescue Plan Act funds, which included individual projects by Seven Hills and five partner agencies.

Also on October 17, 2023, the City Council approved Resolution 233-23 authorizing Mayor Jordan to sign a subrecipient agreement with Seven Hills but the resolution did not specifically authorize agreements with the Seven Hills partner agencies.

DISCUSSION:

While the American Rescue Plan Act authorizes funds to be provided to sub-subrecipients under certain conditions, the scope of the New Beginnings NWA project will require a separate subrecipient agreement. The New Beginnings portion of this project will use more than half of the \$1.63 million approved by the City Council and will require specific restrictions in the agreement that apply to land purchases using federal funds. Our office recommends that the City Council specifically authorize Mayor Jordan to sign subrecipient agreements with New Beginnings NWA and the other partner agencies included in the the Seven Hills Homeless Center's proposal.

BUDGET/STAFF IMPACT:

Budget impact was addressed by Resolution 233-23

ATTACHMENTS: RFP 23-12, Submittal - 7hills Homeless Center - E (#3), Draft ARPA Subrecipient Contract - New Beginnings NWA - 11.30.23 (#4), 233-23 RESOLUTION (#5)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1443

Subrecipient Agreements with Seven Hills Homeless Center's partner agencies

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN SUBRECIPIENT AGREEMENTS WITH SEVEN HILLS HOMELESS CENTER AND ITS PARTNER AGENCIES, PURSUANT TO RESOLUTION NO. 233-23 AND RFP 23-12, IN THE AMOUNT OF \$1,630,000.00 FOR A PROJECT TO ADDRESS HOUSING INSTABILITY IN FAYETTEVILLE

WHEREAS, on October 17, 2023, the City Council, sitting as the selection committee, selected a proposal by Seven Hills Homeless Center for a comprehensive solution from concept to execution to address housing instability using the remaining \$1.63 million of the City's American Rescue Plan Act funds, which included individual projects by Seven Hills and five partner agencies; and

WHEREAS, also on October 17, 2023, the City Council approved Resolution 233-23 authorizing Mayor Jordan to sign a subrecipient agreement with Seven Hills to fund the proposed projects but the resolution did not specifically authorize agreements with Seven Hills Homeless Center's partner agencies; and

WHEREAS, while the American Rescue Plan Act authorizes funds to be provided to sub-subrecipients under certain conditions, the scope of the New Beginnings NWA project will require a separate subrecipient agreement.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign subrecipient agreements, pursuant to RFP 23-12, in the total amount of \$1,630,000.00 for a project to address housing instability in Fayetteville. A copy of the Seven Hills Homeless Center proposal is attached to this Resolution. The Mayor is authorized to sign subrecipient agreements with Seven Hills Homeless Center, as the fiscal agent, and with the following partner agencies for the projects described in RFP 23-12:

- DiVAology, Inc. d/b/a DiVA & DuDe Community Outreach
- CPR NWA Incorporated
- NWA Continuum of Care
- The Salvation Army

- Serve Northwest Arkansas, Inc. d/b/a New Beginnings NWA



RFP 23-12 Addendum 1

7hills Homeless Center

Supplier Response

Event Information

Number: RFP 23-12 Addendum 1
Title: Innovative Concepts for Housing Solutions and Case Management
Type: Request for Proposal
Issue Date: 6/25/2023
Deadline: 8/15/2023 02:00 PM (CT)
Notes: The City of Fayetteville is seeking proposals for innovative concepts for housing and case management. Any questions regarding this RFP shall be directed to Les McGaugh, City of Fayetteville Purchasing Director at lmcgaugh@fayetteville-ar.gov.

Contact Information

Contact: Les McGaugh - Purchasing Director
Address: Purchasing
Room 306
City Hall
113 West Mountain Street
Fayetteville, AR 72701
Phone: (479) 575-8289
Email: lmcgaugh@fayetteville-ar.gov

7hills Homeless Center Information

Contact: Becci Sisson
Address: 1519 S. School St.
Fayetteville, AR 72701
Phone: (479) 435-6685
Email: Becci@7hillscenter.org
Web Address: 7hillscenter.org

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

K Rebecca Sisson

Signature

Submitted at 8/15/2023 12:59:49 PM (CT)

becci@7hillscenter.org

Email

Requested Attachments

RFP 23-12, Innovative Concepts for Housing Solutions and Case Management

Innovative Concepts for
Housing.pdf

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

Response Attachments

Proposal Resume.pdf

Proposer resume

Disclosure.pdf

Disclosure

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

Executive Summary

Overview

Addressing homelessness in Fayetteville requires a system-wide response grounded in authentic collaboration. This proposal brings together housing and homeless service providers to increase the local capacity to make homelessness rare, brief, and non-recurring in our community.

The Need

The need for affordable housing and a robust homeless response system continues to intensify in our community. The *2023 Point-in-Time Survey* counted 262 “literally homeless” people on a given night in Fayetteville. On that night, 55% slept in an emergency or transitional shelter while 45% were unsheltered— sleeping in places not meant for human habitation. The NWA Continuum of Care estimates that 125-150 people in our region qualify as “chronically homeless,” which involves people who have a disability alongside long-term, recurring homelessness. The vast majority of chronically homeless individuals reside in Fayetteville. In addition, according to the Fayetteville School District’s Year 2022-2023 data, 254 students in the district qualify as homeless, the vast majority of whom are temporarily sharing housing with another family member or friend, due to a crisis (i.e. “doubled-up”). While re-housing programs do exist to help people regain housing in private market rentals, programs effectiveness is curtailed by the shortage of private market landlords willing to work with tenants using housing vouchers and assistance programs. Currently, 11 people receiving support through the City’s HEARTH program are enrolled but seeking landlords who will lease to them and 17 of FHA’s emergency housing vouchers reserved for people exiting homelessness are not leased up. In the current housing market, many property managers do not see an incentive to lease to prospective tenants receiving voucher or program support.

The Innovative Solution

This proposal entails a holistic, collaborative plan to enhance capacities within our homeless response system to meet the needs of people in various circumstances who are affected by the affordable housing and homelessness crisis. Very different interventions are needed to resolve homelessness for a family with children who were recently evicted due to a job loss, versus an able-bodied-able-minded individual sleeping in their car, versus a person with a lifelong disability who has been camping in a tent for the past ten years. In this proposal, resources are targeted and coordinated to meet people along the spectrum of services that will most efficiently and effectively resolve their homelessness. This proposal will:

- Expand *street outreach services* utilizing “housing problem solving” and “diversion” techniques to engage with newly homeless and nearly homeless people. These strategies help a person resolve their housing crisis by using the resources within their current support system boosted by flexible funds spent to solve a missing piece of the puzzle for the person, thereby diverting them from our shelter system. Intervening on the front end is the least destabilizing to an individual or family at-risk or in the very early stages of homelessness. It is also the most cost-efficient dollar the homeless response system spends, because it diverts people from more costly system expenses if a person spirals into longer-term homelessness.
- Expand *immediate shelter capacity* by an additional 64 individual beds through converting the 7hills Homeless Center transitional dormitory building into a low-barrier congregate overnight shelter. Case management with the shelter guests will be re-housing focused.
- Expand *family focused shelter* by implementing the Salvation Army’s Pathway of Hope model, potentially in conjunction with the launch of the Family Promise initiative in Fayetteville. Pathway of Hope provides case management and re-housing financial assistance targeted exclusively to families with children. In addition there is opportunity to partner with the Family Promise initiative which is currently being explored by a group of Fayetteville congregations to create family-dedicated shelter space on a rotation between participating congregations. If this initiative becomes a reality in the near future, our proposal intends to help kickstart that effort with supplies or facility modifications and pair those shelter guests with the case management and re-housing assistance available through Pathway of Hope.
- Open a *permanent supportive housing* micro-neighborhood so 6-10 chronically homeless people can move out from New Beginnings into affordable homes with personalized support, in an established Fayetteville neighborhood. Permanent supportive housing is a proven tool to help people with disabilities and long-term homeless backgrounds become stable and thrive in their own homes. As 6-10 people move on to supportive housing, 6-10 new chronically homeless people will move off the street and into New Beginnings.
- Expand the NWA CoC *landlord engagement* program to recruit and incentivize private market landlords in Fayetteville to lease to people receiving vouchers or other program support as they regain housing. The program offers incentives for first-time landlord partners and second-year lease-ups as well as a risk mitigation fund to address concerns about property damage. This expansion will accelerate the rate at which people in re-housing programs are able to move from shelters and into permanent housing.

Project Implementation

The fiscal agent for this proposal is 7hills Homeless Center working closely with a team of partner agencies who are experienced in implementing the services and programs identified in the proposal. The cohort of agencies who are party to this proposal will complete training together on ARPA compliance, collective impact, trauma informed practice, and diversity equity and inclusion. The cohort will meet bi-monthly to coordinate implementation of the proposal.

Fiscal Agent
7hills Homeless Center
1832 S. School Ave
Fayetteville, AR, 72701

Proposal

Part 1 - Solution Concept

This proposal sees clearly that a system problem needs a system solution. Each partner in this proposal brings their expertise and experience to bear to implement our shared agenda. This solution points new resources to the places in our homeless response system that will have the broadest and deepest impact: increasing our capacity to meet people on the front end with resources to prevent them from spiraling into homelessness, helping unsheltered individuals and families access dignified shelter and exit as quickly as possible to permanent housing, and beginning to develop supportive housing for people in our community with disabilities who may need ongoing support. A stronger homeless response system means fewer people will fall into homelessness and more people will access the level of services and support they need to return to permanent housing as quickly as possible.

Part 2 - Who is the team and does it have capacity?

Fiscal Agent - 7hills Homeless Center

Subcontractor - Diva & Dudes Community Outreach & C.P.R. NWA

Subcontractor - NWA Continuum of Care

Subcontractor - Salvation Army

Subcontractor - New Beginnings NWA

7hills Homeless Center has demonstrated financial management capacity through successfully managing funds from the City of Fayetteville for the past 6 consecutive years. Partner agencies to this proposal are the most experienced service providers in the region, specializing in complimentary services within the homeless response system.

Part 3 - How do you plan to implement this solution?

This proposal will be implemented with 7hills Homeless Center as the responsible agent liaising with the City of Fayetteville. 7hills will subcontract with each participating agency to implement the different aspects of the plan. Participating agencies will coordinate together through shared training and regular coordination. The project will provide status updates to City staff at 6 month intervals.

The component projects of this proposal are detailed below. Each project identifies the agency that will serve as the sub-contractor for that piece of the plan. Each project estimates the number of people sheltered and housed by the activities within that plan.

Some aspects of the plan are force multipliers across projects, for example, as the landlord engagement initiative recruits and incentivizes landlords to work with re-housing programs, the individual and family shelter projects will be able to accelerate the rate at which people move out into permanent housing.

Expand Street Outreach (Diva & Dudes Community Outreach)
2 Year Outcome: 125 People diverted from shelter system

Street Outreach with Diversion will be provided through a partnership with the NWA CoC and Diva & Dudes Community Outreach and C.P.R NWA. This partnership will incorporate street outreach to provide immediate resources for individuals experiencing homelessness within the city limits of Fayetteville.

Street Outreach entails proactively identifying and building relationships with individuals or families living in unsheltered settings for the purpose of providing immediate support and connections with homeless assistance programs or mainstream social services and housing programs. This is the front door of our homelessness service system – often the first interaction a person in crisis has with the homeless response system. The purpose of street outreach is a) to assist people to resolve their housing crisis without becoming a long-term participant in the homeless care system and b) to connect people to the most appropriate homeless assistance programs in our system.

Diversion Strategies are interactions which assist people to resolve their immediate housing crisis by accessing alternatives to the experience of unsheltered living. Our goal is to prevent individuals and families from spending a night at a shelter, in a motel with a voucher, in a place not meant for human habitation, or unsheltered. It entails a combination of services with flexible financial assistance, such as a one-way bus ticket to stay with a family member who lives outside of the region, a grocery gift card for the friend with whom the person can stay with while a permanent housing option is located, or the purchase a pair of workboots to enable a person staying in a hotel to start a new job and extend their stay in the hotel while they save for a housing deposit.

The ‘homeward bound’ option is a good example of how diversion works with unhoused people involved in the justice system. Street outreach with diversion services partners with the supervising agents in the Arkansas Department of Corrections to allow probationers to transfer back to their residing state in lieu of entering street homelessness in Fayetteville upon release. It also positively impacts unhoused people who have been released from jail awaiting trial. Providing problem solving and services to unhoused people released from jail helps them successfully meet the requirements of the court system while at the same time reducing jail system expenses accrued by high frequency utilizers.

Diversion services are available on call from partners in the homeless response system and work closely with other frontline service providers to intervene and follow up with appropriate candidates for diversion services. Street outreach with diversion services is delivered by people with lived experience whenever possible, as part of a trauma informed practice.

Outreach/Diversion Services Budget	Year 1	Year 2
staffing	\$25,000.00	\$25,000.00
hotels stays	\$4,800.00	\$4,800.00
transportation	\$4,800.00	\$4,800.00
supplies	\$4,200.00	\$4,200.00
flexible assistance fund	\$6,000.00	\$6,000.00
Subtotal		\$89,600.00

Expand Immediate Shelter (7hills Homeless Center)
2 years Outcomes: 300 people in 64 shelter beds

Expanding immediate shelter will be provided by 7hills Homeless Center. We are at a pivotal point in our community and the need to increase low-barrier, immediate shelter for people experiencing homelessness is NOW. 7hills Homeless Center is requesting funding for the following:

- Renovation of the dorms at our Walker location. Convert the space from 16 individual transitional units into 16 rooms that will accommodate 2 bunk beds per room; allowing us to have 64 beds nightly for individual shelter.
- Overnight shelter staff and security

Immediate shelter, often referred to as emergency shelter, has a vital role to play in Housing First approaches to ending homelessness. We know that shelters must be low-barrier, have a focus on assessment and triage, and intentionally link to permanent housing resources so that people move through to housing quickly. Working with urgency to end homelessness for each person, each family, must be our goal

Our current service model provides immediate needs at our DayCenter location and three types of housing options at the Walker location; rapid rehousing, transitional, and permanent supportive housing. Though we have seen success with this model we know there is a better way. Imagine the shift in this scenario for our neighbors that are

experiencing homelessness. SAFE overnight shelter, a shower, breakfast and a conversation with a case manager to set goals for the remainder of their day **versus** coming to our DayCenter location hoping to find a moment of recovery after a night of survival.

This model provides a SAFE place for someone to be 24/7, allowing us to get to better outcomes. We will provide a place for people to store belongings, access employment services and healthcare, and quickly move on to permanent housing through our Housing Navigator and intensive case management support.

What works for one person or family will not necessarily work for the next. There will be those who are not interested in moving inside to shelter, even after consistent outreach. Therefore, shelter should not be the only access point for permanent housing. *Someone can be diverted away from entering the shelter system all together.* Coordinated outreach teams, like Divas and Dudes, with “diversion” funds or flexible dollars to quickly move a person to stability, efficient coordinated entry processes that match them to the right housing intervention, and access to permanent housing resources can also be the answer.

Immediate Individual Shelter Budget	Year1	Year2
remodel units	\$75,000.00	0.00
staffing + security	\$250,000.00	\$155,232.00
Subtotal		\$480,232.00

Expand family focused shelter (Salvation Army & Family Promise)

Outcomes: 100 people sheltered and 60 people in permanent housing

Expanding family-focused shelter will be provided by the Salvation Army’s Pathway of Hope program, potentially in conjunction with the Family Promise initiative. Pathway of Hope is an approach for providing targeted case management and housing focused financial assistance to families facing homelessness. This program will accelerate the rate at which families can move on from shelter to permanent housing. It is rooted in a case management approach that focuses on client needs through a strength-based lens and utilizes short term financial assistance to help a family get its feet back under them. Family Promise is an initiative under exploration by Fayetteville congregations to offer their space for families in need of shelter, using partner congregations’ facilities and volunteers on a rotating basis. If Family Promise becomes ready to launch funds will be spent on facility modifications and/or needed supplies. Pathways of Hope will partner to provide family focused case management for families in Family Promise. If

Family Promise does not launch within this timeframe, funds will revert to the Pathways of Hope programming.

Families will come to the program through referrals from the CoC coordinated entry process, from the school districts Families in Transition staff, community partners such as Family Promise, and other service providers in this cohort.

Pathways of Hope key activities are:

- Specialized case management for providing targeted services to families, changing life trajectories and increasing hope, using individualized case management plans specific to each family's needs.
- Bringing all the Army's internal resources to bear, aligned to the goals of clients. In addition to targeted case management, these resources include assistance with food, clothing and household items, utility assistance and seasonal holiday assistance.
- Catalyzing community collaboration in service with shared clients. Connecting families with employment, childcare, counseling, and other community resources.
- Moving families from crises and vulnerability to stability and eventually self-sufficiency, tracking family progress along the way with a dedicated HMIS program with built in pre and post assessments.
- Strengths-based case management services.

Funds will partially cover a current Salvation Army case manager's salary to be able to focus that case manager exclusively on families. It will also cover financial assistance costs related to housing including rent assistance, utility deposits, rental application fees, move-in costs, and transportation. Through each family's involvement with Pathway of Hope, they will be introduced to both Salvation Army and other community based services. These include: job training, health services, childcare and education, housing options, legal services and more.

Immediate Family Shelter Budget	Year 1	Year 2
family promise kickstart	\$25,000.00	\$0.00
case management	\$8,000.00	\$8,000.00
rent and financial assistance	\$34,084.00	\$34,084.00
Subtotal		\$109,168.00

Open Permanent Supportive Housing (New Beginning NWA)

Outcomes: 16 People, 8 in permanent housing 8 people in shelter

New Beginnings NWA will develop the New Community, a supportive housing micro-neighborhood which will benefit 6-10 chronically homeless persons immediately and more than 30 chronically homeless persons over the life of the project. The project offers affordable, quality rental homes paired with personalized support services located in a welcoming neighborhood. New Beginnings support services will follow alongside each resident moving into their new home to promote the tenant's health and wellbeing while honoring their freedom and independence. This project helps address the critical shortage of supportive housing as an indispensable part of a comprehensive response to the homeless crisis facing our community.

American Rescue Plan Funds will be used to purchase, remodel, and improve two triplexes. The units are located close to essential community services including public transportation. The property is under contract for \$630,000.00. An additional \$200,000 will be spent on an extensive renovation of the units to improve quality, upgrade energy efficiency, and prolong their useful life. An additional \$120,000 will be spent on shared outdoor spaces, community gardens, and site development to set up the community for onsite aqua/hydroponic farming. This community-integrated model will showcase that people who are completing their recovery from chronic homelessness can thrive and belong within the neighborhoods and cities we already have.

The New Community serves chronically homeless persons, which HUD defines as those who have a disability and have been homeless 12 months or more (often much longer). Within our local Continuum of Care, it is estimated 150 people are chronically homeless, with the vast majority living in Fayetteville.

New Beginnings currently provides low-barrier, transitional shelter, for 20 individuals at a time. The vast majority of New Beginnings residents have acquired their ID documents, found stability through connecting with health and mental health services, have begun receiving income through starting employment and/or receiving disability benefits, and feel they are ready to move out into a long-term home of their own. However, these individuals face a community-level shortage of appropriate housing to move out into.

Appropriate housing for chronically homeless individuals should be housing with key features rarely produced within the standard housing market. It should be: a) affordable to those on fixed income (disability income is typically \$840/month), b) accessible to people who have no tenant history and are still working on criminal or credit background issues on their record, c) paired with wrap around support services to help people

remain stably housed and thrive, and d) ideally, is located within a “yes in my backyard” community of welcome and belonging.

The New Community contains each of these key features:

A) Affordability: The city’s upfront subsidy using ARPA funds enables units to be offered at rates affordable to people on disability income and still carry the cost of taxes, insurance, maintenance, and property management fees.

B) Accessibility: Renter qualifications will be relaxed to allow people working on credit and criminal background issues and who have no recent tenant history a second chance at housing.

C) Support Services: Support services are provided by extending and enhancing the New Beginnings support team to tailor support to the needs of the tenants in their homes.

The presence of social work services on the team offers assistance with social services navigation (such as SNAP, SSI, SSDI, Arkansas Works Health Insurance, Medicaid, Medicare, Veterans benefits).

The presence of occupational therapy on the team offers life skills training that a person may have never learned or may have been lost during the course of physical or mental illness, substance use, or homelessness. This support equips community members to succeed independently at doing the things they want and need to do each day including personal hygiene, clothing care, nutrition and cooking, home management, leisure, work, money management, and more.

The presence of peer advocacy on the team offers support from a person with first-hand experience with mental illness, substance abuse, and/or homelessness. Peer advocates have completed peer-training to become competent in assisting others as they walk their own journey. Peers assist individuals to stay connected to recovery services and to their own personal support system. They help answer questions, give encouragement, and offer guidance based on their own lived expertise.

New Beginnings current support team and its partners allows for the team to adjust how much time and what kind of support is most helpful to promote tenants stability and success in the community.

In addition to personal support services, the complex is governed by a “supportive property management” approach that works best for mission-driven housing. Supportive property management delineates appropriate role differences between property managers and support service providers, promotes confidentiality, healthy boundaries, and coordinates between an at-risk tenant and their support team to equip each tenant to meet high standards and ensure a quality living environment for everyone.

D) Community of belonging: The good neighbor program helps develop positive relationships among those who live in New Community and those in the broader neighborhood. The program offers free education to neighbors about health, mental health, and behavioral health issues and how to welcome neighbors who are recovering from long-term homelessness. It offers a community garden for the whole neighborhood to share. It hosts neighborhood events to promote positive interactions between those who live and play in the broader neighborhood.

New Beginnings will privately fundraise the cost of providing ongoing support services to tenants in the New Beginnings. Any unspent funds from the capital improvements portion of the budget will be used to supplement operation and support services costs during year one and two.

Due to the vagaries of the local real estate market, two backup properties have been vetted for further exploration in addition to the triplex scenario. Scenario #2 follows a similar approach as the triplexes but with an 18 unit multi-family complex near Walker Park. New Beginnings has made a backup offer for this property for \$1,300,000.00. In this scenario, New Beginnings will raise additional funds privately to complete the purchase and renovations. Scenario #3 entails developing a portion of New Beginnings current property with 6 Avery Park Model tiny homes.

Scenario #1: Under Contract \$630,000
1902, 1920 W Kaywood Ln, Fayetteville, AR, 72701

Scenario #2: Backup Offer \$1,300,000
270, 272, 274, 276, 278, 280, 203, 205, 207, 209, 239 E 12th St, Fayetteville, AR, 72701

Scenario #3: New Beginnings NWA's Current Property \$927,000
Site Development: \$485,000
6 Avery PMRV Tiny Homes: \$432,000

Permanent Supportive Housing	Year 1	Year 2
housing units	\$630,000.00	
rehabilitation	\$200,000.00	
landscaping/gardens	\$50,000.00	\$50,000.00
Subtotal		\$930,000.00

Expand Landlord Engagement Initiative

Outcomes: Indirectly contribute to permanent housing numbers

The NWA Continuum of Care Landlord Engagement Initiative was created as a regional response to recruit and retain landlords willing to lease to people transitioning from homelessness to housing using support programs or housing choice vouchers. This initiative was created because landlords were not renting to people who had vouchers. Whether it was negative past experiences with damage done to the apartment or those individuals served by housing programs tend to have low credit scores and poor criminal background issues, there never seemed to be adequate opportunity for partnership with many landlords. Through this initiative, landlords will be given an opportunity to connect with the housing case manager in a way that builds trust and a transparency that leads to positive outcomes for both the landlord and the tenant.

A robust landlord engagement initiative creates viable re-housing opportunities regardless of if the prospective tenant household is supported by a housing choice voucher, a rapid rehousing program, or a permanent supportive housing program. Currently the City of Fayetteville's Hearth Program has 11 voucher clients that are struggling to find housing that will meet the qualification of the Hearth Program and the client's needs. Fayetteville Housing Authority 19 Emergency Housing Vouchers that are waiting to be leased up as well. Rapid Re-housing grant-funded projects throughout the city also identify this barrier to moving program participants into housing.

This initiative will provide a \$500 bonus payment for first-year leases with a \$250 bonus for a 2nd year lease up for each individual/family that the landlord houses off the CoC's coordinated entry systems "by-name list". Additionally, the initiative will provide up to \$750 for repairs incurred after the deposit is spent.

Landlord Engagement Budget	Year 1	Year 2
voucher program incentives	\$7,500.00	\$7,500.00
risk mitigation funds	\$2,250.00	\$3,750.00
Subtotal		\$21,000.00

Combines Shelter and Housing Outcomes

Outcomes		
Proposal component	# of people in shelter beds	# of people in permanent supportive housing units
Purchase Permanent Supportive Housing and Case Management	8	8
Expand Individual Shelter and Case Management	300	75
Launch Family Shelter Project and Case Management	50	30
Increase Street Outreach and Diversion Services		25
Expand Landlord Engagement Program	N/A	N/A
Provide Cohort Training for Collective Impact	N/A	N/A
Total	358	138

Part 4 - What experience does the team have that makes this solution viable?

Partner agencies in this proposal have varying years of experience working with people impacted by homelessness and insecure housing. Over the past decade, these teams have worked diligently to break down the silos and to utilize each other's expertise in ways that benefit the organizations and the clients that are being served. In the last two years, there has been a marked shift in terms of collaboration and understanding the importance of the non-duplication of efforts. With this specific project, the team has created a client-centered, outcome-based process where the client has multiple touch points from street outreach through emergency shelter or diversion all the way to housing. This A to Z process requires clear communication, full transparency and the ability to work together for a common goal. Our team continues to work in this manner through other programs such as utilizing the SAFE program through the City of Fayetteville for extreme weather. This process is collaborative with clear communication, guidelines and complete transparency.

Many of the partner agencies in this proposal have administered HUD funded projects and have experience with compliance and reporting requirements. Many have also worked with the City of Fayetteville utilizing block grant funds and other revenue sources. The team believes that utilizing the knowledge and understanding that we have all gained over the past few years along with knowledge from the City of Fayetteville and the council that this project not only is viable but it is a project that can be sustained, extended, and duplicated within Fayetteville and throughout the region.

Part 5 - Timeline of project

The rollout of these funds will occur over the course of two years.

Year 1 - In the first year new street outreach with diversion strategies will be fully implemented, more than sixty additional individual shelter beds will be online, family focused case management and financial assistance will be active, 80% of supportive housing units will be leased up, and landlord engagement partners will be increased.

Year 2 - In the second year funds will continue to fund street outreach, the operations of the expanded shelter beds, case management, and financial assistance, and landlord engagement initiative. 100% of the supportive housing units will be leased up.

Part 6 - Long-term predictions and lasting effects

Without a doubt this RFP has helped this team realize the need for collaboration as we strengthen the ecosystem of service providers serving our homeless population. One of the key challenges to ending homelessness is the distributed nature of homelessness response. This team is committed to working together to examine how we can connect people to permanent housing, moving from a mentality of “my client” to “our clients.” We can see the system as a whole and collectively remove barriers that are impacting the whole population of people experiencing homelessness.

Our commitment to work together, along with the City of Fayetteville’s financial commitment, will allow us collectively to support those experiencing homelessness and work towards the following [lasting COMMUNITY effects]:

- Reduce new entries into homelessness by consistently offering prevention and diversion resources upfront.
- Accelerate the rate at which people move through the system to permanent housing;
- Increase number of dedicated supportive housing units
- Improve data collection and data quality to provide accurate information on what kind of assistance the unhoused need.
- NOT “end homelessness” but wouldn’t that be a great long term prediction?

Ending homelessness doesn’t mean that no one is ever homeless again. It means that homelessness is rare and short because THIS community, YOUR community, has a strong system to immediately re-house someone who becomes homeless.

Part 7 - Cost Proposal

Innovative Housing Solutions Budget		
	Year1	Year2
Outreach/Diversion Services		
staffing	\$25,000.00	\$25,000.00
hotels stays	\$4,800.00	\$4,800.00
transportation	\$4,800.00	\$4,800.00
supplies	\$4,200.00	\$4,200.00
flexible assistance fund	\$6,000.00	\$6,000.00
Immediate Individual Shelter		
remodel units	\$75,000.00	
staffing + security	\$250,000.00	\$155,232.00
Immediate Family Shelter		
family promise kickstart	\$25,000.00	\$0.00
case management	\$8,000.00	\$8,000.00
rent and financial assistance	\$34,084.00	\$34,084.00
Supportive Housing		
housing units	\$630,000.00	
rehabilitation	\$200,000.00	
landscaping/gardens	\$100,000.00	
Landlord Engagement		
voucher program incentives	\$7,500.00	\$7,500.00
risk mitigation funds	\$2,250.00	\$3,750.00
2 Year Total		\$1,630,000.00

Debbie Martin

5 Copinsay Drive, Bella Vista, AR 72715

Phone: (479) 531-3957

E-mail: dmartin72712@gmail.com

Highly self-motivated and goal oriented professional with more than 25 years of experience in both the nonprofit and for-profit business sectors. Committed to serving individuals by providing them with the resources necessary to help them meet their immediate and long term personal and professional goals. Possess the experience of working with a diverse population with wide ranges of socioeconomic and educational backgrounds. Professional demeanor with the ability to communicate a clear and concise message for a broad audience in both the written and spoken word.

Working knowledge in:

Grant Management

Nonprofit Finance

Organizational Collaboration

HMIS

Housing First Model Approach

Strategic Planning

Government Funding

Homelessness & Housing Crisis Mgmt

EDUCATION

Master of Science in College Student Personnel, (4.0 GPA), Arkansas Tech University, May, 2014

Ministry Preparation Program - Ordained Deacon, (4.0 GPA), Nazarene Bible College, 2012

Bachelor of Science in Microbiology, University of Arkansas, 1989

Associate of Science in Computer Science, Mercer County Community College, 1988

PROFESSIONAL WORK EXPERIENCE

Executive Director – NWA Continuum of Care – January 2023 to present

Interim Executive Director – NWA Continuum of Care August, 2022 – December, 2022

- Took part in creating a community response to ending homelessness in NWA
- Collaborative Applicant for CoC FY 2022 Competition
- Created the processes for Coordinated Entry & the transition of the By Name List from Hark as a stand-alone process to one that incorporates the HMIS system

Executive Director – Havenwood, Inc. 2015 – August, 2022

- Grant Management – Community, foundational and government grants for housing assistance for transitional housing program and community outreach programs
- Increased yearly P&L from \$100,000 to ending fiscal year 2022 at \$800,000.
- Transitioned Havenwood from a program of the Community Development Corporation of Bentonville & Bella Vista, Inc. to Havenwood, Inc. (501©3 effective July 2019)
- From 2020-2022, served over 130 households through housing and/or rental assistance to avoid eviction received by individuals and families
- Ran a 14 family transitional housing program where families stayed for 2 years receiving counseling, case management and resource allocation

Program Director – Havenwood Inc., 2014 – 2015

COMMUNITY SERVICE

Board of Directors, NWA Continuum of Care (2016 – August 2022)

- Vice Chair (2021 – August 2022)
- Current Coordinated Entry and Case Conferencing Chair

Board of Directors, Benton County Sunshine School (2008-2015)

Kim(Karen) Koyote MA/M-ED

406 SW 6th Street

Bentonville, AR 72712

575-770-5751

karenkoyote@gmail.com

Has an extensive and varied background that includes experience in fundraising, counseling, case management, business, and education.

Skills

Solid work ethic, exceptional listener, motivational interviewing, highly analytical, flexible team player, proven relationship-builder, results-driven, detail oriented, innovative problem-solver, effective presenter

Relevant Experience

NORTHWEST ARKANSAS SALVATION ARMY AREA COMMAND

Fayetteville, AR

2021 to Present

Director of Social Services

- Provides supervision and training to social services staff.
- Writes grants and oversees grant requirements.
- Oversees program structure and makes recommendations.
- Develops Policies and Procedures for programs.
- Provides oversight of HMIS data collection.
- Participates in community homeless response.
- Sits on key committees and boards in NW Arkansas.
- Assists with program development.

THE DREAMTREE PROJECT

Taos, NM

2013 to 2016

Case Manager/Transitional Living Program

- Screened, interviewed, and determined eligibility for program participants.
- Completed intakes, assessments, and transition planning.
- Provided skills training and advocated for participants.
- Utilized motivational interviewing and harm reduction techniques.
- Maintained records, files, and case management notes.
- Collaborated with team members for participant progress.
- Monitored standards for participant behavior.
- Utilized Crisis Prevention Intervention and Nurtured Heart approaches.
- Provided on call support to shelter staff as needed.

Certifications: Life Coach, Hypnotherapy, CPR and First Aid

Education

MS Counseling/Psychology, UCO, Edmond, OK.

M-Ed Special Education, UCO, Edmond, OK.

BS Voc-Ed, UCO, Edmond, OK.

Related Experience: Art Therapy. Careers, Food and Nutrition and Life Skills curriculum development.

CARLA SMITH-THOMPSON

FOUNDER- CEO



Contact

Phone

479-235-0313

Email

live@dlyfe.org

Address

1200 W Walnut #1500
Rogers Arkansas 72756

Acknowledgements,

Awards & Achievements

Arkansas Community of Corrections
'Community Pillar Award'

Black Action Collective
'Leading with Excellence'

Oklahoma Juvenile Bureau
'Above & Beyond'

Published Author

International Podcaster

Top 3 Most Cited (Scholarly) in
United States

DiVa & DuDe

Community Outreach/Training Center

1985 to Current

Arkansas, Oklahoma, Missouri, Mississippi, Nevada & Texas

More than 20 years' experience in training development , strategy, motivation, team building, leadership, management, negotiation, and mediation. I am a published author, lived experience instructor, community liaison, with the ability to establish rapport with audiences and convey information with clarity and enthusiasm.

Employment Experience

Goodys Clothing 1998-2000

Cash Office Manager/Assistant Manager

MC Squared 1998-2019

Owner

Wal-Mart Inc 2000 - 2015

Import Logistics Coordinator/ Asset Protection/Area Manager

Xprezzions Hair & Wigs 2008 - 2011

Owner

Harbor House 2016 - 2018

Operations Manager/Recovery Coach

Education

2012

Purdue Global

Bachelors Degree

Arts & Science

2014

Purdue Global

Masters Degree

Psychology

NWA Community

Board of Directors:

NWA Continuum of Care

Servants Heart Outreach

NAACP NWA

Regional Outreach Navigator

SOLOMON BURCHFIELD RESUME

PROFESSIONAL EXPERIENCE

EXECUTIVE DIRECTOR

NEW BEGINNINGS NWA, FAYETTEVILLE, AR CURRENT

Responsible for all aspects of the New Beginnings bridge housing community. Designed and launched the project, facilitate strategic planning with board of directors, lead resource development efforts including writing grants and private giving, hire and supervise staff, development partnerships, recruit and coordinated volunteers, oversee all aspects of community operations.

DIRECTOR OF OPERATIONS

7HILLS HOMELESS CENTER; FAYETTEVILLE, AR 2016 - 2019

Managed 7hills Day Center and Transitional Housing programs. Created and performed P&L management for budgets totaling \$600k. Supervised team of nine staff members to deliver client services efficiently and effectively. Supervised maintenance and repairs of 27-unit apartment complex and day shelter facilities. Developed community partnerships to expand key services and deepen impact. Created monthly impact reports.

OUTREACH COORDINATOR/CASE MANAGER, 7HILLS HOMELESS CENTER;
FAYETTEVILLE, AR 2014 - 2016

Created plans for first NWA housing summit, in partnership with the VA, to increase access to housing for homeless veterans. Developed curriculum and taught classes on financial literacy and career development. Provided effective case management support for individuals transitioning out of homelessness.

TEAM FACILITATOR, COMMUNITY VISION, PORTLAND, OR 2006 - 2009

Hired and led teams of 6-8 staff supporting individuals with significant behavioral issues. Engaged community partners to help individuals realize goals. Conducted weekly staff meetings to continuously improve quality of client services.

EDUCATION

OZARK CHRISTIAN COLLEGE, JOPLIN, MO – BACHELOR OF THEOLOGY
(154 CREDIT HOURS COMPLETED)

COMMUNITY INVOLVEMENT

Co-chair, Arkansas Poor People's Campaign

REBECCA SISSON
(540) 819-2075
bsisson72@gmail.com

WORK EXPERIENCE

7hills Homeless Center - January 2023 - Present

Interim CEO/Director of Development

- Currently providing guidance and oversight for the organization during staffing transitions. This includes building and maintaining critical relationships with key organizations in the community to ensure that the services provided by 7hills continue in a manner that serves those that need us most.
- Responsible for ALL day to day fundraising activities.

Roanoke Rescue Mission – July 2017 to December 2022

Director of Development

- Successfully led my team to exceed our budgeted fundraising goal of \$3.5 million dollars by \$900k dollars in 2021; through online giving, monthly donor strategies and major gifts. We are on track to surpass that in 2022.
- Oversight and implementation of all donor research, prospecting, cultivation and stewardship; current software experience is Donorperfect.
- Responsible for all Marketing and Communication initiatives including; social media, traditional outlets, digital marketing and mailed piece trends.
- Responsible for all aspects and support of the Roanoke Rescue Mission Foundation Board Planned Giving including; printed pieces, board development and recruitment and engagement of new board members.
- Responsible for oversight of the Drumstick Dash and all aspects that changed during the pandemic which include; virtual options and progressive marketing initiatives, etc. This event nets \$300k/year.
- Responsible for grant management and grant procurement.
- Led the following special projects/initiatives; Point in Time Count (HMIS/Clarity), Medical Street Outreach, Impact Data, Strategic Plan, Board Retreats and Annual Staff Retreats.
- Volunteered as the volunteer coordinator for the Drumstick Dash (July 2015-2017)

This Girl Paints – Owned and Operated August 2015-June 2017

YMCA of Roanoke Valley - February 2009 to July 2015

Association Director of Development (February 2009 to July 2015)

- Annual Campaign - Provide direction and support to the Association (4 branches).
- Provide strategic direction for collaborative programming with local non-profits.
- Increased 2015 Annual Campaign dollars by 25% from 2014.
- Created and Implemented Relationship Management Process.
- Perform analysis of current donor trends within the organization and the Valley.
- Work directly with the President/CEO to enhance Board Development and engagement, Board and Staff Retreats and the Strategic Planning Process.
- Successfully plan and execute major events, including the Annual Board Meeting.
- Provide leadership to my management peers in community engagement and networking.
- Assist with the Botetourt Capital Campaign, prospect and donor cultivation.

Boys & Girls Clubs of Southwest Virginia - August 2000 to January 2009

Chief Professional Officer (August 2000 to January 2009)

- Organization Budget \$4million.
- Staff Leadership for corporate board and two area boards (60 Board Members).
- Oversight of fifteen locations, 11 chartered within a service area spanning 100 miles.
- Oversight of two capital campaigns; securing a major gift from the Sunshine Lady Foundation.
- Established organizational endowment.
- Established and maintained relationships with local governments and school systems in four counties.
- Facilitated expansion into Martinsville Henry County, five locations.

EDUCATION, TRAINING AND ACCOMPLISHMENTS

John Brown University, Major Focus Psychology, May 1992-1995 A.A./B.S.

Cortex Leadership, Leading a Winning Team, Graduate, December 2021

Professional Member, Associations of Fundraising Professionals Professional

Certificate, Fundraising College, Association of Fundraising Professionals
Certificate, Non Profit Leadership and Management Development
BGCA Executive Leadership Certificate

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: 7hills Homeless Center

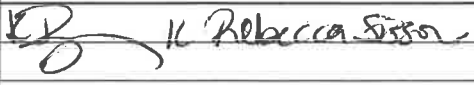
Primary Contact: Becci Sisson Title of Primary Contact: Interim CEO

Phone#1 (cell preferred): 540-819 2075 Phone#2: 479 332 0255

E-Mail Address: becca@7hillscenter.org

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-23-12	 K. Rebecca Sisson	08/15/2023

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: 7hills Homeless Center

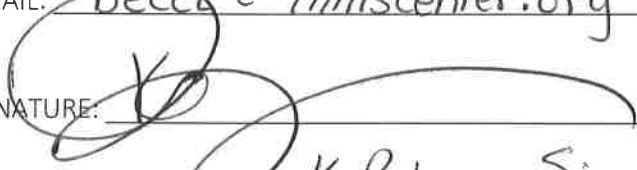
PHYSICAL ADDRESS: 1519 S. School St.

MAILING ADDRESS: same

TAX ID #: 73-1603960 AR. SECRETARY OF STATE FILING #: 100195142

PHONE: 540-89-2075(c) 479-332-0255 FAX:

E-MAIL: becca@7hillscenter.org

SIGNATURE: 

PRINTED NAME: K. Rebecca Sisson

TITLE: Interim CEO DATE: 8/15/2023



SUBRECIPIENT AGREEMENT for AMERICAN RESCUE PLAN
City of Fayetteville, AR
and
SERVE NORTHWEST ARKANSAS, INC. D/B/A NEW BEGINNINGS NWA
City of Fayetteville Subrecipient# ARPA-2023-011

This Subrecipient Agreement (Agreement) is entered into and effective on this [REDACTED] day of [REDACTED], 2023 between **the City of Fayetteville**, hereafter referred to as ("the City) and Serve Northwest Arkansas, Inc. d/b/a New Beginnings NWA (hereinafter referred to as "New Beginnings" or the "subrecipient").

WHEREAS, Seven Hills Homeless Center and five partner agencies have requested funding for a project to address housing instability in Fayetteville, including the purchase of real property; and

WHEREAS, The City of Fayetteville has received funding through the American Rescue Plan Act ("ARPA" or the "Act"), from the United States Department of the Treasury; and

WHEREAS, it shall be hereby disclosed this Agreement shall make New Beginnings a subrecipient / pass-through entity under 2 CFR 200.1 receiving a subaward under sections 602(c)(3) and 603(c)(3) of the Act and be considered for this subaward to carry out a program or project on behalf of the City with the City's Federal award funding; and

WHEREAS, the City notifies the subrecipient: (1) that this funding shall be considered a subaward of ARPA funds; (2) subrecipient shall adhere to any and all compliance requirements for use of ARPA funds; and (3) any and all reporting requirements for expenditures of ARPA funds; and

WHEREAS, this Agreement is reflective of requirements issued and identified with the **Final Rule** of the Department of the Treasury;

WHEREAS, this project qualifies under the final rule as a response to the negative economic impacts of the pandemic. Eligible uses within this category include cash assistance and programs or services to support long-term housing security including the development of affordable and permanent supportive housing. Services or programs under this heading, and projects for the development repair, or operation of affordable rental housing with certain income and affordability requirements are considered a presumptively eligible use. Treasury has also clarified in the Final Rule that transitional shelters are eligible capital expenses. Both the development of affordable housing (including operating subsidies) and wraparound services such as behavioral health services, employment services, and other supportive services, are eligible response to the public health crisis or its negative economic impacts.

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter set forth, the City and subrecipient agree as follows:

1. INFORMATION REQUIRED BY THE UNIFORM GRANT GUIDANCE (UGG) §200.332:

a) **Subrecipient Name** (must match the name associated with its Unique Entity Identifier):

New Beginnings NWA
1519 S. School Avenue
Fayetteville, AR 72701
EIN: [REDACTED]

b) **Subrecipient's Unique Entity Identifier (formerly known as DUNS number):** [REDACTED]

c) **Subaward Budget Period:** Subaward budget period shall be set forth in Section 4 below.

d) **Total Amount of Federal Funds obligated to the subrecipient by the City:** \$930,000.00

e) **Name of Federal Awarding Agency and Contact Information:**

United States Department of Treasury (US Treasury)
Attn: State and Local Fiscal Recovery Funds
1500 Pennsylvania Avenue NW,
Washington, DC 20220
SLFRP@treasury.gov
Telephone: 202-622-6415
Website: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-fund>

Contact Information for the City:

Paul A. Becker
Chief Financial Officer
113 W. Mountain
Fayetteville, AR 72701
pbecker@fayetteville-ar.gov
Telephone: 479-575-8330

Contact Information for the Subrecipient:

New Beginnings NWA
ATTN: Name, Title
Address 1
Address 2

f) **Assistance Listings Number and Title:** 21.027 Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) (AKA the American Rescue Plan Local Recovery Funds, hereinafter ARPA) See <https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view>

This subaward is a program grant and not for Research and Development.

g) **Indirect Cost Rate:** (de minimis cost rate) maximum of 10% of direct costs if indicated in the budget.

2. **AGREEMENT:** This Agreement, contains the entire agreement and understanding between the parties hereto and supersedes any prior or contemporaneous written or oral agreements, representations and warranties between them respecting the subject matter hereof. This Agreement is also composed of the following appendices:

a. **Appendix A – Scope of Work & Project Allocation**

b. **Appendix B – Department of the Treasury, 31 CFR Part 35, RIN 1505-AC77, Coronavirus State and Local Fiscal Recovery Funds, Action: Final Rule**

c. **Appendix C – Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds**

3. **SUBCONTRACTING:** Subrecipient is permitted to sub-contract with third parties to complete the scope of work identified in this contract. Any sub-contract or sub-sub recipient shall follow all federal, local and state regulations. Subrecipient shall not be allowed to disperse funds in a subrecipient manner to another third party without prior written City approval.
4. **PERIOD OF PERFORMANCE:** This Agreement shall commence on the effective date stated above and the acquisition of the real property identified in Appendix A shall be accomplished within one year from commencement. The Agreement may be extended or shortened upon mutual written agreement of the parties. The Subrecipient's performance of the purposes for which the real property is being acquired shall not expire.
5. **STANDARDS OF WORK:** Subrecipient agrees that the performance of the work and services of this Agreement shall conform to the highest professional standards.
6. **TAXES:** Subrecipient shall pay all current and applicable local, city, county, state and federal taxes, licenses and assessments related to the Scope of Work to be performed by Subrecipient including but not limited to those payments required by all federal, state and local laws, and any other laws and Acts under which Subrecipient may be liable.
7. **COMPLIANCE WITH APPLICABLE LAWS:** Subrecipient shall perform all activities funded by this Agreement in accordance with all applicable federal, state and local laws, including without limitation laws which regulate the use of funds allocated under ARPA. The term "federal, state and local laws" as used in this Agreement shall mean all applicable statutes, rules, regulations, executive orders, directives or other laws, including all laws as presently in effect and as may be amended or otherwise altered during the Agreement Term, as well as all such laws which may be enacted or otherwise become effective during the Agreement Term. The term "federal, state and local laws" shall include, without limitation:

a. **Federal Requirements:**

- i. Subrecipient agrees to comply with the requirements of section 603 of the **ARPA**, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. The Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and the Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

ii. Federal regulations applicable to this award include, without limitation, the following:

- a. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award. The following 2 CFR Part 200 Policy requirements are excluded from coverage under this assistance listing: For 2 CFR Part 200, Subpart C, the following provisions do not apply to the CSLFRF program: 2 C.F.R. § 200.204 (Notices of Funding Opportunities); 2 C.F.R. § 200.205 (Federal awarding agency review of merit of proposal); 2 C.F.R. § 200.210 (Pre-award costs); and 2 C.F.R. § 200.213 (Reporting a determination that a non-Federal entity is not qualified for a Federal award). For 2 CFR Part 200, Subpart D, the following provisions do not apply to the SLFRF program: 2 C.F.R. § 200.308 (revision of budget or program plan); 2 C.F.R. § 200.309 (modifications to period of performance); C.F.R. § 200.305 (b)(8) and (9) (Federal Payment).
- b. **Universal Identifier and System for Award Management (SAM)**, 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference. As SAM is scheduled to be phased out, compliance with a successor government-wide system officially designated by the Office of Management and Budget (OMB).
- c. **Reporting Subaward and Executive Compensation Information**, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- d. **OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)**, 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- e. **Subrecipient Integrity and Performance Matters**, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- f. **Governmentwide Requirements for Drug-Free Workplace**, 31 C.F.R. Part 20.
- g. **New Restrictions on Lobbying**, 31 C.F.R. Part 21.
- h. **Uniform Relocation Assistance and Real Property Acquisitions Act of 1970** (42 U.S.C. §§ 4601-4655) and implementing regulations.
- i. Generally applicable federal environmental laws and regulations.

- iii. Statutes and regulations prohibiting discrimination applicable to this award include without limitation, the following:
 - a. **Title VI of the Civil Rights Act of 1964** (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance; Subrecipient and its sub-contractors, sub-recipients, sub-grantees, successors, transferees, or assignees, shall comply with: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) and its applicable federal statutory, regulatory authorities, other pertinent directives, circulars, policy, memoranda, and guidance prohibiting discrimination on the basis of race, color, national origin, age, sex, and disability and give assurance that it will promptly take any measures necessary to ensure such compliance.
 - b. **The Fair Housing Act, Title VIII of the Civil Rights Act of 1968** (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - c. **Section 504 of the Rehabilitation Act of 1973**, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - d. **The Age Discrimination Act of 1975**, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - e. **Title II of the Americans with Disabilities Act of 1990**, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- iv. **Remedial Actions.** In the event of the Subrecipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on the receipt of a subsequent payments, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
- v. **Hatch Act.** The Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
- vi. **False Statements.** The Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties,

debarment from participating in federal awards or contracts, and/or any other remedy available by law.

- vii. **Monitoring:** The Subrecipient agrees to allow the City and the US Treasury to monitor the subaward in accordance with all applicable statutes, regulations, OMB circulars, and guidelines. The Subrecipient shall allow the City to have oversight of any Subrecipient's spending and monitoring of specific outcomes and benefits attributable to use of subaward funds by Subrecipient.
 - viii. **Audits** In accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, nonfederal entities that expend financial assistance of \$750,000 or more in Federal awards will have a single audit conducted for that year. Non-federal entities that expend less than \$750,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503. The City is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving cross-cutting findings (§200.332(d)(4)).
 - ix. **Disclosure of Information.** Any confidential or personally identifiable information (PII) acquired during the course of the subaward shall not be disclosed by the Subrecipient to any person, firm, corporation, association, or other entity for any reason or purpose whatsoever without the prior written consent of the City, either during the term of the Agreement or after termination of the Agreement for any reasons whatsoever. The Subrecipient agrees to abide by applicable federal regulations regarding confidential information and research standards, as appropriate, for federally supported projects.
 - x. **Conflicts of Interest.** The Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to the City, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- b. City and Other City Requirements (see §200.332(a)(3)):
- i. **Reporting:** Subrecipient agrees to comply with any reporting obligations established by the City as it relates to this award. Subrecipient shall submit a Quarterly Grant Report by the last day of each quarter through 12/31/26 to the Contact for the City. Additional information may be required beyond 12/31/26 for reporting purposes.
 - ii. **Maintenance of and Access to Records:**
 - a. The Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The US Treasury Office of Inspector General and the Government Accountability Office, the City, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of the Subrecipient in order to conduct audits or other investigations.

- c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been audited, the audit resolved, and all funds expended or returned to Treasury, whichever is later.
- iii. **Administrative Considerations.** Where policies of the Subrecipient differ from those of, such as travel reimbursement, fringe benefits, indirect costs, etc., the policies of the subrecipient shall be applicable to cost incurrences under the Agreement provided such policies comply with awarding agency regulations.
- iv. **Responsibilities.** The Subrecipient agrees to furnish the necessary resources, materials, services, and otherwise to do all things necessary for the performance of the work described in Scope of Work, which is incorporated into the Agreement as Attachment , along with the Budget required for that performance, which is incorporated into the Agreement as Attachment B and C respectively. (see Attachment B: Scope of Work and Attachment C Budget). Subrecipient shall provide Quarterly Reports as provided above.
- v. **Relationship of Parties.** The parties are independent, and neither party is the agent, joint venturer, partner, or employer of the other.
- vi. **Rebudgeting and Prior Approvals.** Subrecipient is permitted to rebudget direct costs, if necessary, as described in the uniform guidance (§200.308) to better reflect spending requirements, subject to the City's written approval, and subject to the federal awarding agency's policy and UGG's that would define requirements for prior written approval (§200.407) before implementation.
- vii. **Monitoring Plan and Reporting.** The City will monitor the Subrecipient to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved, as required by §200.332(d). The City will monitor the Subrecipient and identify any failures in the administration and performance of the award. The monitoring plan will also serve to identify whether the Subrecipient needs technical assistance.

In addition to program performance, The City will monitor financial performance as required by §200.332(d)(1)). Monitoring will be used to document allowable and unallowable costs, time and effort reporting and travel. Monitoring also will be used to follow up on findings identified in an earlier monitoring visit, from document reviews or after an audit to ensure the Subrecipient took corrective action (§200.332(d)(2)).

As appropriate, the cooperative audit resolution process may be applied. The monitoring plan may include on-site visits, follow-up, document and/or desk reviews, third-party evaluations, virtual monitoring, technical assistance and informal monitoring such as email and telephone interviews.

The City will also issue management decisions for applicable audit findings as required by §200.521 (§200.332(d)(3)). For reporting, UGG requires that the City and the Subrecipient use OMB approved government-wide standard information collections when providing performance information and data in reports.

The books and records of the Subrecipient shall be made available, if needed and upon request, at subrecipient's regular place of business, for audit by personnel authorized by the City or federal government. The Subrecipient books and records must be retained for a period of five (5) years following receipt of final report, understanding no other actions require an extension of the record retention period, such as open audit findings, committed program income, or other reasons, as applicable.

- viii. **Risk Assessments, Specific Conditions and Remedies.** The City has conducted a risk assessment as required by §200.332(b) and determined the subrecipient's level of risk as low. Risk assessments may be repeated throughout the project period after scheduled reports, audits, unanticipated issues or other adverse circumstances that may arise. In the event of noncompliance or failure to perform, the City has the authority to apply remedies, as defined in the uniform guidance (§200.339), including but not limited to: temporarily withholding payments, disallowances, suspension or termination of the federal award, suspension of other federal awards received by the subrecipient, debarment or other remedies including civil and/or criminal penalties, as appropriate (§200.332(h)). The City will also consider whether the monitoring results of the Subrecipient necessitate adjustments to the its own record (see §200.332(9)).
- ix. **Copyright/Intellectual Property.** The federal government will possess the entire copyright, title, and interest in all materials, inventions or deliverables produced as a result of this subaward, including use of logos, as appropriate. As a general principle, subject to the rights of the federal government and with respect to any subject, invention, material, or deliverable in which the City [and subrecipient] retain title resulting from this subaward, the federal government shall have a nonexclusive, nontransferable, irrevocable paid-up license to practice or have practiced for or on behalf of the United States the subject invention, material or deliverable throughout the world. The City and Subrecipient will credit the federal award agency on any materials, inventions or deliverables produced under the federal award and subaward.
- c. **Suspension and Debarment.** Subrecipient represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts as defined in regulations implementing Office of Management and Budget Guidelines on Governmentwide Debarment and Suspension (Non-procurement) in Executive Order 12549. Subrecipient further agrees that it will notify the City immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or non-procurement programs available at www.sam.gov;
- d. **DUNS Number.** Subrecipient agrees and acknowledges the City may not grant the Subaward and Subrecipient may not receive the Subaward unless Subrecipient has provided its Data Universal Numbering System ("DUNS") number to the City. The DUNS number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify business entities;
- e. **Federal Funding Accountability and Transparency Act of 2006.** Subrecipient agrees to provide the City with all information requested by the City to enable the City to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006;
- f. **Licenses, Certifications, Permits, Accreditation.** Subrecipient shall procure and keep current any license, certification, permit or accreditation required by federal, state or local law and shall submit to the City proof of any licensure, certification, permit or accreditation upon request; and

- g. Other City Agreements. Subrecipient shall fulfill all other agreements with the City and shall comply with all federal, state and local laws applicable to programs funded by such agreements.
8. LIMITATION OF FUNDING AND COMPENSATION: It is expressly agreed and understood that upon execution of the Agreement, the City agrees to allocate no more than the amount of **\$930,000.00 DOLLARS** for full and complete satisfactory performance of this Agreement. Drawdowns for the advance payment of eligible expenses shall be made against the line item budgets specified in **Appendix A** in accordance with the following procedures:
- a. Subrecipient shall submit a request to the City for the advance payment along with an invoice or other documentation establishing the cost of the item.
 - b. The City will advance funds to Subrecipient or to a qualified escrow company for the item.
 - c. Following Subrecipient's payment for the item, Subrecipient shall provide a receipt or other proof of payment acceptable to the City within seven (7) days of payment.
 - d. The City may withhold advance funds for items if any required documentation has not been provided for previous purchases within the time required by 8.c

Alternatively, the Subrecipient may request reimbursement for expenses by submitting monthly invoices, itemized by budget category, along with copies of invoices, receipts, and other documentation acceptable to the City. The City will then remit reimbursement payments to Subrecipient within thirty (30) days of acceptance of the invoice. Subrecipient shall not be entitled to receive any additional or separate compensation from the City in connection with the project without prior written approval of the City.

9. SCOPE OF WORK: The Subrecipient shall perform all services according to the Scope of Work as indicated in **Appendix A**. Any deviation from the provisions detailed in the Scope of Work shall be prohibited unless prior approval is granted by formal change order to this Agreement. In accomplishing this scope of work, New Beginnings represents and warrants that:
- a. It has received sufficient funding in addition to the ARPA funds awarded by the City to purchase the real property identified in **Appendix A**.
 - b. It has and will maintain sufficient funding for any necessary immediate repairs as well as the ongoing maintenance and upkeep of the real property described in **Appendix A**.
10. ONGOING OBLIGATIONS FOR REAL PROPERTY PURCHASES. Subrecipient's purchase, rehabilitation, and use of the property described in **Appendix A** shall be an ongoing obligation of New Beginnings for the purposes set forth in this Agreement. Pursuant to 2 C.F.R. § 200.316, real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. New Beginnings shall, at the time it acquires the real property, to record a lien or other appropriate notice of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

New Beginnings shall not convey, sell, pledge, or mortgage any interest in or otherwise encumber the real property without the express written approval of the City. This provision shall not restrict New Beginnings

from entering into lease agreements or other contractual relationships with tenants that comply with the scope of work as set forth in Appendix A.

11. DISPOSITION OF REAL PROPERTY. Pursuant to 2 C.F.R. § 200.311, if the real property is no longer needed for the originally authorized purpose(s), New Beginnings or its successors or assigns shall notify the City which will provide disposition instructions, which will provide for one of the following:

- a. Retain title after compensating the City. The amount paid to the City will be computed by applying the City's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the non-Federal entity is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property
- b. Sell the property and compensate the City. The amount due to the City will be calculated by applying the City's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the non-Federal entity is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
- c. Transfer title to the City or to a third party designated/approved by the City. The non-Federal entity is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

12. PUBLICITY AND USE OF NAME:

- a. Any and all news releases, advertising, promotion, sales literature containing the City of Fayetteville logo or name shall be subject to prior written approval of the other party, and subject to the prior written approval of the City, as appropriate. Any such publicity shall credit the contributions of each party.
- b. Neither party shall use the name, insignia, or trademark of the other party, nor any adaptation thereof, nor the names of any of its employees in any advertising, promotion or sales literature without the written consent of the other party.

13. FISCAL AND ADMINISTRATIVE RESPONSIBILITIES: The Subrecipient agrees to comply with the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost. as applicable, and all requirements and standards which shall include but are not limited to the following:

- a. Compliance with Federal Procurement Laws: The City hereby designates and the Subrecipient hereby agrees to receive funding through the City's ARPA funding and to administer such funding in accordance the United States Treasury **Final Rule**, 31 CFR Part 35, 87 FR 4446, Coronavirus State and Local Fiscal Recovery Funds with this agreement. Compliance with procurement laws shall be inclusive of all appendices within this Agreement.

All contracts for services and procurement for materials shall be carried out in compliance with **2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**.

- b. Compliance with Other Federal, State and Local Procurement: All contracts for services and procurement for materials shall be carried out in compliance with and all other applicable federal, state, and local rules and regulations, including regulations and policies from the City's Purchasing Division.

City of Fayetteville Procurement Thresholds:

- a. \$0 - \$999: No quotes required
- b. \$1,000 - \$2,499: minimum of 3 verbal quotes required
- c. \$2,500 - \$34,999: minimum of 3 written quotes required
- d. \$35,000 and up: Formal sealed bid / solicitation process

Refer to State of Arkansas Procurement laws, City of Fayetteville Purchasing Policies and Ordinances for requirements for formal solicitation processes.

- c. Records and Reports: The Subrecipient shall, at a minimum, submit the following reports to the City and report as required in **Appendix C**:
- i. **Quarterly reports** shall be submitted to the City by the last day of each quarter. Quarterly reports shall be submitted on the City provided form and will provide and outline funded activities undertaken during each month for the duration of the project as it relates to **Appendix A – Scope of Work & Project Allocation**. Failure to provide the required documentation and information will affect the funding in this agreement and future requests for funding.
 - ii. **A Final Summary Report** due no later than thirty (30) calendar days after the end of the Agreement period shall include a summary of all compiled information and activities related to this Agreement.
 - iii. The Subrecipient agrees to maintain records and reports related to the project for a period of no less than **five years** following the term of this Agreement.
 - iv. Access to Records (See §200.332(a)(5))
 - a. The City, its auditors, and if necessary, the federal agency, will be provided access to the subrecipient's programmatic and financial records (§200.337(a)).
 - b. The Subrecipient will maintain all programmatic and financial records, including but not limited to:
 - i. records providing a full description of each activity undertaken;

- ii. records demonstrating that each activity undertaken meets the national objectives of the federally- connected program;
 - iii. records required to determine the eligibility of activities;
 - iv. records required to document the acquisition, improvement, use or disposition of real property acquired or improved with the subaward assistance;
 - v. records documenting compliance with federal and local laws; and
 - vi. financial records required by program regulations and the Office of Management and Budget.
- c. The Subrecipient shall retain all records pertinent to program activities and financial expenditures incurred under this Agreement for a period of three years after the date of submission of the final expenditure report under this award (§200.334). Notwithstanding the above, if there are litigation, claims, audits, negotiations, written notification from the federal program or cognizant agencies or the City, or other actions that involve any of the records cited and that have started before the expiration of the three year period, then such records must be retained until completion of the actions and resolutions of all issues (§200.334(a)), or the expiration of the three-year period, whichever occurs later.
- d. Documentation of Costs: The Subrecipient shall maintain records on materials purchased, services performed, individuals and families served. All costs shall be supported by evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- e. Limitations on Expenditures. Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to the Effective Date or following the earlier of the expiration or termination of this Agreement. The City shall only reimburse Subrecipient for documented expenditures incurred during the Agreement Term that are: (i) reasonable and necessary to carry out the Scope of Work; (ii) documented by contracts or other evidence of liability consistent with established federal, state and local procurement guidelines; and (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement.
- f. Improper Payments. Any item of expenditure by Subrecipient under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of the City, the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the Notice of Prime Award or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Subrecipient, shall become Subrecipient's liability, to be paid by Subrecipient from funds other than those provided by City under this Agreement or any other agreements between City and Subrecipient. This provision shall survive the expiration or termination of this Agreement.

- g. Audited Financial Statements. In any fiscal year in which Subrecipient expends \$750,000 or more in federal awards during such fiscal year, including awards received as a subrecipient, Subrecipient must comply with the federal audit requirements contained in 2 CFR § 200, including the preparation of an audit by an independent Certified Public Accountant in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501-7507, and with Generally Accepted Accounting Principles.¹ If Subrecipient expends less than \$750,000 in federal awards in any fiscal year, it is exempt from federal audit requirements, but its records must be available for review by the City and appropriate officials of the U.S. Government Accountability Office and the Comptroller General of the United States, and it must still have a financial audit performed for that year by an independent Certified Public Accountant. Subrecipient shall provide the City with a copy of Subrecipient's most recent audited financial statements, federal Single Audit report, if applicable (including financial statements, schedule of expenditures of federal awards, schedule of findings and questioned costs, summary of prior audit findings, and corrective action plan, if applicable), and management letter within thirty (30) days after execution of this Agreement and thereafter within nine (9) months following the end of Subrecipient's most recently ended fiscal year.
- h. Closeout (see 200.332(a)(6)): The City will determine whether all applicable administrative actions and all required work have been completed by the Subrecipient at the end of the period of performance. If the Subrecipient fails to complete the requirements, the federal awarding agency or pass-through will proceed to closeout the award with the information available (§200.344). The pass-through will note if closeout relates to the end of a 12-month period and termination of subaward, or if the closeout relates to the end of a 12-month period and preparation for an upcoming continuation period.
- i. The City must provide timelines for completion of tasks (see §200.344).
 - ii. The City must identify submission dates of all performance and financial reports (no later than 90 calendar days after the period of performance) (§200.344(a)).
 - iii. The City must describe requirements for liquidation of financial obligations if the award is ending, or identification of carry-over of funds, if needed, to the next award period (§200.344(b)).
 - iv. The City must include completion of any other required closeout activities, such as submission of deliverables, payments, if any, due to the Subrecipient from the City, attribution to the federal agency and/or copyright or patent rights, and any accounting of real or personal property (§200.344(c) and (f)).
 - v. The Subrecipient must permit the City and auditors to have access to the subrecipient's records and financial statements as necessary for audits and monitoring during the record retention period of three years, or more as appropriate (§200.337(a)).
 - vi. The federal agency and/or City has the right to return to audit the program after close-out at any time during the record retention period and as long as the records are retained, to conduct recovery audits including the recovery of funds, as appropriate (§200.337(c)).

14. COOPERATION IN MONITORING AND EVALUATION:

- a. City Responsibilities. The City shall monitor, evaluate and provide guidance and direction to Subrecipient in the conduct of Approved Services performed under this Agreement. The City has the

responsibility to determine whether Subrecipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Subrecipient to ensure that Subrecipient has met such requirements. The City may require Subrecipient to take corrective action if deficiencies are found.

b. Subrecipient Responsibilities:

- i. Subrecipient shall permit the City to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable Notice of Prime Award, and Subrecipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.
- ii. Subrecipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of the City, the U.S. Government Accountability Office or the Comptroller General of the United States and Subrecipient agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

15. PROGRAM INCOME: It is not the intent of this Agreement to produce income relating from the Scope of Work; however, income directly generated from the use funds associated with this Agreement by the Subrecipient shall be returned to the City of Fayetteville.
16. MONITORING AND AUDITS: The City is required to ensure that federal funding requirements are met, that the funds are used for the purpose of the program, and the Subrecipient complies with reporting and auditing requirements. The City will monitor and audit the Subrecipient to assure the compliance of project.
17. REMEDIES FOR NONCOMPLIANCE OR DEFAULT: If the Subrecipient fails to comply with any term in this Agreement, the City may take one or more of the actions indicated in **2 CFR Part 200.339 Remedies for noncompliance**. In addition to the remedies for noncompliance available to the City pursuant to the Code of Federal Regulations, the City may
18. PERFORMANCE TERM EXTENSION: The City may consider an extension of the term of performance based on justifiable circumstances beyond the control of the Subrecipient. The Subrecipient shall make application and submit documentation to the City regarding such circumstances, and acceptance of a proposal for the new time frame constitutes an amendment to this Agreement. Any such request for extensions shall be subject to the written approval of the City. The decision of the City shall be final and conclusive.
19. TERMINATION OF AGREEMENT: This Agreement may be terminated at any time by either party, upon giving 30 calendar days written notice to the non-terminating party. This Agreement shall be automatically terminated in the event that funds under federal award are discontinued by the awarding agency for any reason. Such termination shall take effect upon receipt of written notice to Subrecipient from the City. If there is a need to settle on an early termination, partial payment up to the termination date would be determined by incurrence of allowable cost, by completion of task, by percent of time completed up to the settlement, or some other method as defined by the City upon review of the subrecipient's records.
20. CLAIMS AGAINST THE CITY: The Subrecipient agrees to defend, indemnify and save harmless the City from any and all claims of any nature whatsoever which may arise from the Subrecipient's performance of this

Agreement; provided, however, that nothing contained in this Agreement shall be construed as rendering the Subrecipient liable for acts of the City, its officers, agents or employees.

21. **CONFLICTS OF INTEREST:** The Subrecipient represents that none of its employees, officers, or directors presently have any interest, either directly or indirectly, which would conflict in any manner with the Subrecipient's performance or procurement under this Agreement, and that no person having such interest will be appointed or employed by the Subrecipient.
22. **BINDING EFFECT:** This Agreement shall be binding upon and shall ensure to the benefit of the parties hereto and their respective heirs and assigns; provided, however, that no assignment shall be effective to relieve a party of any liability under this Agreement unless the other party has consented in writing to the assignment and agreed to the release of such liability. The City and the Subrecipient hereby acknowledge receipt of a duly executed copy of this Agreement complete with all Appendices attached hereto.
23. **PAYMENTS:** Specific project completion dates may be negotiated during the contract term. Payment may be reduced, delayed, or denied until acceptable work products are produced.
- a. Costs shall be necessary, reasonable and directly related to the scope of the project in this agreement. All costs shall be legal and proper. The budget included in **Appendix A** shall control amounts of allowable expenditures within budget categories.
 - b. The total amount invoiced to the City over the course of the contract period shall not exceed \$930,000.00 Dollars, the agreed upon contribution of the City pursuant to **Appendix A**.
 - c. On or before the fifteenth (15th) day of each month and in any event no later than thirty (30) calendar days after the earlier of the expiration or termination of this Agreement, Subrecipient shall submit invoices for the most recent month ended, to the City, setting forth actual expenditures of Subrecipient in accordance with this Agreement. The Subrecipient shall provide backup documentation with all invoices to show compliance with all federal, state and local laws.
 - d. The City may disapprove the requested compensation. If the compensation is so disapproved, the City shall notify Subrecipient as to the disapproval. If payment is approved, no notice will be given.
24. **INSURANCE:** Subrecipient shall, at all times throughout the Agreement Term, carry insurance in such form and in such amounts as City may from time to time reasonably require against other insurable hazards and casualties that are commonly insured against in the performance of similar services as are to be provided under this Agreement. At a minimum, Subrecipient shall maintain during the Agreement Term at least the following types and limits of insurance coverage:
- a. Workers' compensation in amounts no less than required by law and statutory amount;
 - b. Employer's Liability Insurance with a limit of no less than \$1,000,000;
 - c. Commercial general liability insurance, including personal injury, contractual liability and property damage, with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - d. Umbrella liability insurance with a limit of \$1,000,000 per occurrence and in the aggregate.
 - e. **Insurance coverage for the real property and equipment acquired with ARPA funds in an amount equivalent to other property owned by New Beginnings pursuant to 2 C.F.R. § 200.310; however, in no case shall this coverage be less than the full replacement value.**

All policies (other than workers' compensation and employer's liability insurance) providing such coverage shall name the City as an additional insured with respect to Subrecipient's performance of services under this Agreement. Subrecipient shall provide the City with certificates of insurance evidencing such coverage within thirty (30) calendar days after execution of this Agreement, which certificates shall provide that the City shall receive thirty (30) days' advance written notice of any pending cancellation or non-renewal of any of the coverages required by the City pursuant to this Agreement. Insurance coverages that expire before the expiration of the Agreement Term shall be promptly renewed by Subrecipient so that there is no gap in coverage and certificates of insurance evidencing such renewal coverage shall be provided to the City, by a copy provided to the City immediately upon renewal. Subrecipient's failure to maintain insurance in the form and/or amounts required by the City pursuant to this Agreement shall be deemed a material breach of this Agreement and the City shall have the right thereupon to terminate this Agreement immediately in addition to any other remedy provided herein.

25. Changes in Scope or Price: Changes, modifications or amendments in scope, price or fees to this agreement shall not be allowed without a prior formal contract amendment approved by the City **in advance** of the change in scope, price or fees.
26. Freedom of Information Act: This Agreement is subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the subrecipient 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.
27. Jurisdiction: Venue to resolve any disputes shall be **Washington County, Arkansas** with **Arkansas law** applying to the case. This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas without regard to conflict of law principles.
28. Miscellaneous
- a. Notices: Any notice, request, consent or approval required or permitted to be given under this Agreement or pursuant to law shall be sufficient if in writing, and if and when sent by certified or registered mail, with postage prepaid, to City's address or to the Subrecipient's address as listed below.

CITY OF FAYETTEVILLE, AR

ATTN: Mayor Lioneld Jordan
113 W. Mountain
Fayetteville, AR 72701

SUBRECIPIENT

ATTN: NAME, TITLE
Address 1
Address 2

- b. Severability. If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.
- c. Survivability. The provisions of this Agreement which by their terms call for performance subsequent to the termination of this Agreement, shall so survive such termination, whether or not such provisions expressly state that they shall so survive.

- d. Construction. The headings and captions of this Agreement are provided for convenience only and are intended to have no effect in construing or interpreting this Agreement. The language in all parts of this Agreement shall be in all cases construed according to its fair meaning and not strictly for or against either party.
- e. Rights Cumulative. The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either party hereto (or by its successor), whether pursuant to this Agreement, to any other agreement, or to law, shall not preclude or waive its right to exercise any or all other rights and remedies.
- f. Assistance. The Subrecipient shall, during and after termination of services rendered, upon reasonable notice, furnish such information and proper assistance to the City as may reasonably be required by the City in connection with work performed by Subrecipient.
- g. Compliance with Law. The Parties mutually represent that throughout the term of this Agreement their respective performance under this Agreement shall be, and shall remain, in compliance with all applicable federal, state and local laws and regulations.

CITY OF FAYETTEVILLE, ARKANSAS

**SERVE NORTHWEST ARKANSAS, INC.
d/b/a New Beginnings NWA**

By: _____
Lioneld Jordan, Mayor

By: _____
Name, Title

Attest:

By: _____
Kara Paxton, City Clerk Treasurer

Date Signed: _____

Date Signed: _____



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

Resolution: 233-23

File Number: 2023-1176

ARPA RFP 23-12 RECIPIENT SELECTION (RESOLUTION):

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A SUBRECIPIENT AGREEMENT WITH SEVEN HILLS HOMELESS CENTER, PURSUANT TO RFP 23-12, IN THE AMOUNT OF \$1,630,000.00 FOR A PROJECT TO ADDRESS HOUSING INSTABILITY IN FAYETTEVILLE

WHEREAS, the City Council expressed interest in engaging vendors to collaborate on a plan to seek a comprehensive solution from concept to execution to address housing instability using the remaining \$1.63 million of the City's American Rescue Plan Act funds; and

WHEREAS, at the request of City Council, city staff utilized a competitive procurement approach seeking to engage vendors and experts to collaborate on designing and executing a leading-edge solution to this issue; and

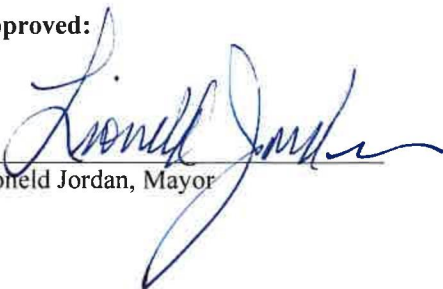
WHEREAS, on October 17, 2023, the City Council, sitting as the selection committee, selected the proposal of Seven Hills Homeless Center.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a subrecipient agreement with Seven Hills Homeless Center, pursuant to RFP 23-12, in the amount of \$1,630,000.00 for a project to address housing instability in Fayetteville. A copy of the Seven Hills Homeless Center proposal is attached to this Resolution.

PASSED and APPROVED on October 17, 2023

Approved:


Lionell Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer





MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU: Peter Nierengarten, Environmental Director

FROM: Brian Pugh, Waste Reduction Coordinator

DATE:

SUBJECT: **Approve a resolution authorizing the acceptance of a 2023 Boston Mountain Recycling Grant for \$9,000 for purchasing Compost Buckets for a pilot curbside food waste collection program and approve a budget adjustment to recognize the grant.**

RECOMMENDATION:

Approve a resolution authorizing the acceptance of a 2023 Boston Mountain Recycling Grant for \$9,000 for purchasing Compost Buckets for a pilot curbside food waste collection program and approve a budget adjustment to recognize the grant.

BACKGROUND:

The Arkansas Department of Environmental Quality receives money generated from landfill fees and distributes back to the regional solid waste districts to fund recycling grants. The Boston Mountain Solid Waste District issues recycling grants through approval of the Boston Mountain Solid Waste Board. The Boston Mountain Solid Waste District approved the pre applications at the October 2023 Board meeting. Boston Mountain is now ready to disburse funds.

DISCUSSION:

Recycling and Trash Collection staff developed a residential food waste collection program using 6 drop offs around Fayetteville in coordination with community partners. While drop off collection is available to residents the participation from a city-wide level is lagging. A pilot program to evaluate curbside collection of food waste is being planned to divert more food waste from trash collections. A third party, Ozark compost and Swap, LLC. Already has a franchise agreement with the City to collect food waste in Fayetteville. Staff would like to conduct a pilot using Ozark Composting as the collection partner to evaluate the service. Compost buckets are needed to allow Ozark Composting the ability to collect, wash, and return buckets to homes of participating in the pilot.

BUDGET/STAFF IMPACT:

The recycling grant award is not a matching grant, so no City funds are obligated with this request. The budget adjustment is attached to recognize the grant revenue and establish a capital project for the grant. Project 33053.2301 Compost Bins.

ATTACHMENTS: SRF (#3), BA (#4), BM 2023 Grant award (#5), BM Compost bin acceptance (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1444

Approve a resolution authorizing the acceptance of a 2023 Boston Mountain Recycling Grant for \$9,000 for purchasing Compost Buckets for a pilot curbside food waste collection program and approve a budget adjustment to recognize the grant.

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF A 2023 BOSTON MOUNTAIN RECYCLING GRANT IN THE AMOUNT OF \$9,000.00 FOR A PILOT CURBSIDE FOOD WASTE COLLECTION PROGRAM, 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 Boston Mountain Recycling Grant in the amount of \$9,000.00 to purchase compost buckets for a pilot curbside food waste collection program.

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 grant funds.

City of Fayetteville Staff Review Form

2023-1444

Item ID

12/19/2023

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

Brian Pugh

11/30/2023

RECYCLING/TRASH COLLECTION (750)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approve a resolution authorizing the acceptance of a 2023 Boston Mountain Recycling Grant for \$9,000 for purchasing Compost Buckets for a pilot curbside food waste collection program and approve a budget adjustment to recognize the grant.

Budget Impact:

5500.750.5080-5227.00

Containers - RTC

Account Number

Fund

33053.2301

RTC - Recycling Grant (ADEQ/Boston, Food Waste
Collections Buckets

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 10,296.00

Expenses (Actual+Encum)

\$ 9,756.00

Available Budget

\$ 540.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 9,000.00

Remaining Budget

\$ 9,540.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2023	RECYCLING/TRASH COLLECTION (750)	
	Requestor: Daryl Brigman	

Approve a resolution authorizing the acceptance of a 2023 Boston Mountain Solid Waste District Recycling Grant for \$9,000 for the purchase of Compost Buckets for a pilot curbside food waste collection program and approving a budget adjustment to accept the funds and allocate them into a capital project.

	COUNCIL DATE:	12/1/2023
	ITEM ID#:	2023-1444
	Holly Black	
	12/1/2023 11:07 AM	
	Budget Division	Date
	D - (City Council)	
TYPE:		
JOURNAL #:		
GLDATE:		
CHKD/POSTED:	/	
RESOLUTION/ORDINANCE		

[illegible]



October 30, 2023

RE: Boston Mountain Regional Solid Waste Management District 2023 Recycling Grant Award

Grantee: City of Fayetteville
Grant Number: FY23-04
Grant Name: Curbside composting
Amount Awarded: \$ 9,000

Congratulations! We are excited to notify you of your grant award.

This grant is administered by Boston Mountain Solid Waste Management District. Below are some details of the program:

- All grant funds must be spent within three years of date awarded.
- All grant funded projects must be started before you are eligible to apply for recycling grants in the next year grant round.

Grant Reimbursement Requirements

- A detailed invoice
- A warrant, check copy, and/or credit card receipt. Showing proof of payment.
- For equipment purchased: make, model, serial or VIN number, and physical address of where equipment will be housed.
- A picture of the item(s) purchased
- Reference Grant Number on all submittals.
- Can be submitted electronically or in paper form.

Grant Issues Requiring Board Approval

- Any changes in grants. (Grant Change Order)
- If you choose to trade, sell, or scrap equipment previously purchased with grants funds.

All forms related to the grant program are available online. [Bostonmountain.org](https://bostonmountain.org) → Resources → Grants

The District would like to thank you for all of the great grant applications and project proposals submitted this year. We have enclosed a copy of your final signed grant application. We look forward to working with you on your future solid waste management programs!

Sincerely,

Robyn Reed
Director
Boston Mountain Solid Waste District

Enclosure

City of Fayetteville Staff Review Form

2023-0787

Item ID

N/A

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

Brian Pugh

7/17/2023

RECYCLING/TRASH COLLECTION (750)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Mayor's signature on Application for a 2023 Boston Mountain Solid Waste District Recycling Grant for \$9,000 for the purchase of Compost Buckets for a pilot curbside food waste collection program

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:

07/18/2023

Original Contract Number:

Comments:



TO: Mayor Lioneld Jordan

THRU: Peter Nierengarten, Environmental Director

FROM: Brian Pugh, Waste Reduction Manager

DATE: July 17, 2023

SUBJECT: Mayor's signature on Application for a 2023 Boston Mountain Solid Waste District Recycling Grant for \$9,000 for the purchase of Compost Buckets for a pilot curbside food waste collection program

RECOMMENDATION:

Obtain Mayor's signature to authorize application for a 2023 Boston Mountain Solid Waste District Recycling Grant for \$9,000 for the purchase of Compost Buckets for a pilot curbside food waste collection program.

BACKGROUND:

Each year the Arkansas Department of Environmental Quality collects revenue derived from landfill fees to issue recycling grants through local Solid Waste Districts to help fund recycling programs. The City has benefited from these grants in the past. The Boston Mountain Solid Waste District is the entity responsible for administering the grant program and compiles the grant applications and submits them to their Grant Committee for review.

DISCUSSION:

Recycling and Trash Collection staff developed a residential food waste collection program using drop offs around Fayetteville in coordination with community partners. There are currently 6 drop offs available to residents to bring their food waste for composting. While drop off collection is available to residents the participation from a city wide level is lagging. A pilot program to evaluate curbside collection of food waste is being planned to divert more food waste from trash collections. A third party, Ozark Compost and Swap, LLC. already has a franchise agreement with the City to collect food waste in Fayetteville. Staff would like to conduct a pilot using Ozark Composting as the collection partner to evaluate the service. Compost buckets are needed to allow Ozark Composting the ability to collect, wash, and return buckets to homes participating in the pilot.

BUDGET/STAFF IMPACT:

The recycling grant awards are not matching grants, so no City funds are obligated with this request. Upon administration approval and award of the grant a budget adjustment will be requested to recognize the grant revenue and a capital project will be created.

Attachments:

2023 Boston Mountain Solid Waste District grant application.

Recycling Grant Application



Boston Mountain
SOLID WASTE DISTRICT

Grant Name: Compost Bins

Grant Number: FY2304

APPLICANT: CITY OF FAYETTEVILLE RECYCLING AND
TRASH COLLECTION

CONTACT: BRIAN PUGH

ADDRESS: 1560 S HAPPY HOLLOW RD

CITY: FAYETTEVILLE

COUNTY: WASHINGTON

ZIP CODE: 72701

PHONE: (479) 601-2050

E-MAIL: BPUGH@FAYETTEVILLE-AR.GOV

PROJECT TYPE (CATEGORY)	GRANT FUNDS REQUESTED	MATCHING FUNDS COMMITTED	TOTAL PROJECT COST
COMPOSTING	9,000	0	9,000

Select only one category

- Administrative
- Recycling Equipment
- Composting
- Planning
- Recycling Programs
- Education
- Transfer Station with Recycling
- Material Recovery Facility
- Waste Reduction Activities
- Electronics Recycling

1. Other than Recycling Grant funds, how are expenses for the continuation of this project to be funded (including maintenance, repairs, labor and operating expenses)?

The Recycling and Trash Collection operating budget with supplement funding for this pilot.

2. **Who will manage the finances of this grant and how may s/he be contacted?** (Who is responsible for maintaining records of income and expenses related to this grant?)

Brian Pugh will be responsible for maintaining records of income and expenses related to this grant. Brian Pugh can be contacted at bpugh@fayetteville-ar.gov 479-601-2050

Please provide as detailed information as possible about your proposed recycling grant project. The more information and detail you are able to provide the better understanding the reviewers will have of your project. For questions regarding eligible applicants and/or grant projects please refer to the Boston Mountain Solid Waste District: Recycling Grant Program Guidelines 2018.

*All items must be completed and returned to the Boston Mountain Solid Waste District (District) by the close of business **July 13, 2023**. Electronic or paper copies are acceptable.*

APPLICATION CHECKLIST:

- ☐ Representative attend pre-application meeting
- ☐ Complete Project Summary and Budget Narrative
- ☐ Completed grant application signed by authorizer representative
- ☐ Submitted to Boston Mountain Solid Waste District by July 13th

PROJECT DESCRIPTION & BUDGET

- *Limit to a two-page narrative.*
- *Include any dimensions for facilities, equipment brochures, drawings, pictures, etc.*
- *For construction projects (including building modifications, parking lots and fencing), please tell us who owns the property.*

Applicants should provide an overview of the proposed project, what will be purchased, the project's purpose and scope and the specific methods and technologies that will be incorporated to implement the project. The summary should include a timeline in narrative form for the major project implementation events including securing of permits and/or licenses, construction of facilities and completion of service contracts. Include the specific material or initiative being targeted and projected tons or capacity rating forecasted. How do you keep the public informed about the recycling, waste reduction and educational opportunities provided by your program? Applicants should demonstrate the financial and operational rationale for the requested funding and provide supporting information. State how the proposed project supports the strategic and educational goals of the District and State solid waste management plans.

Include a detailed budget.

NARRATIVE

University of Arkansas graduate students conducted an evaluation of the residential food waste collection program in Fayetteville. One suggestion to improve diversion from landfill was to contract a private hauler to provide residential curbside collection. Currently, Ozark Compost and Swap, LLC (OC) is the only private hauler for picking up food waste as a residential service and they are expanding their operations. OC uses a system that makes composting food scraps more appealing to the home owner by swapping a clean food waste collection bucket with the full food waste collection container being serviced. This system increases buy-in and provides clean buckets after service. OC uses software to track food waste collection and provide fresh bucket exchange. OC will also use QR codes to track contamination and the Recycling and Trash Collection staff will be responsible for educating the residents with contamination issues. We anticipate the program will use a three-strike rule to remove participants from the program if contamination issues continue. This project would purchase 960 buckets to run a pilot curbside food waste collection. The pilot would provide the operational and logistical information needed to evaluate expansion of services for curbside collection of food waste

Timeline:

Purchase of buckets would be completed upon grant award. The pilot would occur over a 12-month period and be evaluated for expansion.

What will be purchased:

Funds from the grant will be used to purchase the food waste collection buckets used by OC. Each bucket costs \$9 each and there is a minimum order of 960. The total purchase is anticipated to cost roughly \$9,500 so we are requesting \$9,000 in funding for this project and the rest will be covered from the Recycling and Trash Collection operating budget.

Project's purpose:

The project's purpose is to decrease the amount of food waste going to the landfill as well as facilitate long-term social change within our community to advance and normalize the concept of a circular economy in waste collections. The average food waste collected by OC in 2022 was approximately 13 pounds per pickup and with a pilot of 350 homes this would capture 236,000 pounds of food waste from going to the landfill. Using the daily food waste estimate information from the EPA, this pilot could divert a minimum of 127,400 pounds of food waste from the landfill in a year. Full participation from households with a family of four could divert 509,000 pounds of food waste from the landfill.

MINIMUM CONDITIONS OF RECYCLING GRANTS

GRANT RECIPIENTS AGREE TO:

- Comply with the guidelines and requirements of the *Boston Mountain Solid Waste District: Recycling Grant Program Guidelines*
- Actively develop a recycling program, as outlined in the grant application, and expend all grant funds in the three (3) years following the date of the grant award by the District.
- Actively seek to market or reuse the materials diverted under the recycling program from deposition in landfills in the period of three (3) years following the date of the grant award by the department.
- Start prior year grant project before July 27th, the date pre-applications for the next grant round are due to the department.
- Use facilities or equipment purchased with grant funds no less than 50 percent of the time on the purposes specified in the grant application.
- Ensure all applicable federal, state and local permits and licenses have been obtained.
- Use any interest earned on grant funds exclusively for recycling programs consistent with the District's Solid Waste Management Plan.
- Maintain an orderly accounting system to document that grant expenditures are made in accordance with project budget. This includes keeping copies of all bids, paid invoices, canceled checks, and other appropriate paperwork.
- Report for five years after receipt of grant funds or until all funds are expended, whichever is longer, as directed by statute and regulation.
- Conform to all state laws on the purchase, use or sale of equipment and facilities secured with grant funds.
- Seek competitive bids or requests for proposals (RFP) for purchase of equipment or services as required by state and local procurement laws.
- Receive written approval from the Board for any modifications to the grant, including requests for time extensions.
- Receive written consent from the Board and the department before selling, trading or transferring facilities or equipment.

The following items are not eligible for funding from recycling grants:

Taxes
Reimbursement of funds
Retroactive purchases

Legal fees
Licenses or permits

Vehicle registration
Utilities

ADMINISTRATIVE REQUIREMENTS

All grants are subject to audit. District personnel have the right of access to all records pertaining to grant-funded project or activity.

Grant application must include: answers to the Project Description questions and a complete Budget, as required. Incomplete grant applications will not be considered and may delay processing of grant funds.

THE BOSTON MOUNTAIN SOLID WASTE DISTRICT AGREES TO

Submit a list of all completed grant applications received by eligible applicants to the Boston Mountain Solid Waste District Grant Committee.

Publish a list of grants to be submitted to the Board with for public comment open for 30 days past publication. Copies of any comments received regarding the grant request shall be forwarded to the Board. If no comments are received, send an e-mail stating such at the end of the comment period.

Notify the Board in the event a recipient has not met conditions of the approved grant application.

Ensure that the project is compatible with the approved RSWMD plan on file with ADEQ or submit documentation demonstrating why a deviation is necessary.

Maintain copies of invoices, purchase orders, checks or other supporting documents for grant expenditures at the regional solid waste district office.

Compile annual reports as required.

SIGNATURE & CERTIFICATION

I certify that to the best of my knowledge, the information provided in this application and its attachments is correct and true. I understand and agree that if grant money is subsequently awarded as a result of this application, I will comply with all applicable statutory and regulatory provisions and with applicable terms, conditions, and procedures of the Recycling Grants program. I have read and agree to abide by the Minimum Conditions of Recycling Grants. I certify that all proposed activities will be carried out and that all grant money received will be utilized solely for the purposes for which it is intended unless written authorization is provided by the Regional Solid Waste Management District Board of Directors.

Mayor

Applicants Authorized Representative Signature & Title

07/18/2023

Date

THE ABOVE-REFERENCED GRANT IS HEREBY APPROVED.

BMSWD Director

BMSWD Board Chair

10/30/2023

Date

10/30/2023

Date

FOR DISTRICT USE ONLY:

DATE RECEIVED:

7/18/23

RECEIVED

BY:

PR

APPLICATION COMPLETE:	<u>yes</u>	COMMENTS	
IF NO, RETURNED TO:		DATE:	



MEETING OF DECEMBER 19, 2023

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

RECOMMENDATION:

Staff recommends approval of a budget adjustment to recognize and allocate the Animal Services donation revenue from January through November 29, 2023 in the amount of \$40,957.00.

BACKGROUND:

Animal Services would like to recognize donation revenue from citizens and businesses made from January through November 29, 2023. These funds are donated by our generous community to benefit the animals cared for by the Animal Services department of the city of Fayetteville. We appreciate their support.

DISCUSSION:

n/a

BUDGET/STAFF IMPACT:

Recognize and allocate animal services donations in the amount of \$40,957.00

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



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1445

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

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$40,957.00 REPRESENTING DONATION REVENUE TO THE ANIMAL SERVICES DIVISION

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$40,957.00 representing donation revenue to the Animal Services Division from January 1, 2023 through November 29, 2023.

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

City of Fayetteville Staff Review Form

2023-1445

Item ID

12/19/2023

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

Justine Lentz

12/1/2023

ANIMAL SERVICES (671)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approve a budget adjustment in the amount of \$40,957.00, representing donation revenue to Animal Services received from January 1 to November 29, 2023.

Budget Impact:

see attached detail

General Fund

Account Number

Fund

33048-1

Animal Services Donations

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 127,504.00

Expenses (Actual+Encum)

\$ 33,167.00

Available Budget

\$ 94,337.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 40,957.00

Remaining Budget

\$ 135,294.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments: Staff recommends approval of a budget adjustment in the amount of \$40,957

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year 2023	Division /Org2 ANIMAL SERVICES (671) Requestor: Justine Lentz	Adjustment Number
--------------------------------	--	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Recognizing and allocating donation revenue from citizens and businesses to Fayetteville Animal Services from January 1, 2023 to November 29, 2023 in the amount of \$40,957.00

RESOLUTION/ORDINANCE	COUNCIL DATE:	12/19/2023
	ITEM ID#:	2023-1445
	<i>Holly Black</i>	
	<i>11/30/2023 12:26 PM</i>	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/

TOTAL	40,957	40,957					v.20231113
Account Number	Increase / (Decrease)		Project.Sub#		AT	Account Name	
	Expense	Revenue	Project	Sub.Detl			
1010.671.2740-4809.00	-	40,957			RE	Donations	
1010.671.2740-5205.00	5,000	-	33048	1	EX	Dog Food And Supplies	
1010.671.2740-5203.00	3,000	-	33048	1	EX	Cleaning Supplies	
1010.671.2740-5210.00	10,000	-	33048	1	EX	Minor Equipment	
1010.671.2740-5315.00	2,000	-	33048	1	EX	Contract Services	
1010.671.2740-5342.01	5,000	-	33048	1	EX	Promotionals - Special projects	
1010.671.2740-5400.00	15,957	-	33048	1	EX	Building & Grounds - Maintenance	
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MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Yolanda Fields, Comm. Resources Dir./Equity Off.
DATE:
SUBJECT: **Approval of a Budget Adjustment for the Community Resources Department**

RECOMMENDATION:

Staff recommends approval of a budget adjustment to recognize and budget 2022 donations to Ranger's Pantry/ AniMeals in the amount of \$365, and 2023 donations to Ranger's Pantry/ AniMeals/ Hearth Program/ Help A Neighbor in the amount of \$8,987.00, totaling \$9,352.00.

BACKGROUND:

Community Resources would like to recognize donations from citizens and local businesses.

DISCUSSION:

The donations being recognized total \$9,352.00.

BUDGET/STAFF IMPACT:

Increase Community Outreach Projects by \$9,352.00.

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



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1446

Approval of a Budget Adjustment for the Community Resources Department

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$9,352.00 REPRESENTING DONATION REVENUE TO THE COMMUNITY RESOURCES DEPARTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$9,352.00 representing donation revenue to the Community Resources Department.

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

City of Fayetteville Staff Review Form

2023-1446

Item ID

12/19/2023

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

Yolanda Fields

11/30/2023

COMMUNITY RESOURCES (642)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a budget adjustment to recognize and budget 2022 donations to Ranger's Pantry/AniMeals in the amount of \$365, and 2023 donations to Ranger's Pantry/ AniMeals/ Hearth Program/ Help A Neighbor in the amount of \$8,987.00, totaling \$9,352.00.

Budget Impact:

2180.642.4945-5390.01

CDBG

Account Number

Fund

32003.1

CDBG Donations

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 25,402.00

Expenses (Actual+Encum)

\$ 10,885.70

Available Budget

\$ 14,516.30

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 9,352.00

Remaining Budget

\$ 23,868.30

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2023	COMMUNITY RESOURCES (642)	
	Requestor: Yolanda Fields	

Staff recommends approval of a budget adjustment to recognize and budget 2022 donations to Ranger's Pantry/ AniMeals in the amount of \$365, and 2023 donations to Ranger's Pantry/ AniMeals/ Hearth Program/ Help A Neighbor in the amount of \$8,987.00, totaling \$9,352.00.

COUNCIL DATE:	12/19/2023
ITEM ID#:	2023-1446
Holly Black	
11/30/2023 2:55 PM	
Budget Division	Date
TYPE:	D - (City Council)
JOURNAL #:	
GLDATE:	
CHKD/POSTED:	/

[illegible]



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU: Brad Hardin, Fire Chief
FROM: Granville Wynn, Financial Analyst - Fire
DATE:
SUBJECT: A resolution to approve the purchase of uniform coats, pants, boots, shoes, hats, and related products, services, and solutions from Galls pursuant to the BuyBoard Cooperative Purchasing Contract #670-22, on an as-needed basis within approved budget through May 31, 2025, and any future renewal periods.

RECOMMENDATION:

Staff is requesting Council approval of a resolution to approve the purchase of uniform shirts, coats, pants, boots, shoes, hats, and related products, services, and solutions from Galls pursuant to the BuyBoard Cooperative Purchasing Contract #670-22, on an as-needed basis within approved budget through May 31, 2025, and any future renewal periods.

BACKGROUND:

The Fayetteville Fire Department has utilized Galls for multiple years. By utilizing this vendor, it will aid in continuity of service in receiving needed departmental uniforms and associated uniform products.

DISCUSSION:

Purchasing through the Cooperative Agreement will enable us to obtain needed uniforms and uniform equipment at a greatly reduced cost to the City.

BUDGET/STAFF IMPACT:

These purchases would occur within the approved Fire Department Budget and Work Program each year.

ATTACHMENTS: SRF (#3)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1298

A resolution to approve the purchase of uniform coats, pants, boots, shoes, hats, and related products, services, and solutions from Galls pursuant to the BuyBoard Cooperative Purchasing Contract #670-22, on an as-needed basis within approved budget through May 31, 2025, and any future renewal periods.

A RESOLUTION TO APPROVE THE PURCHASE OF UNIFORMS AND RELATED PRODUCTS, SERVICES, AND SOLUTIONS FROM GALLS, INC. ON AN AS-NEEDED BASIS THROUGH MAY 31, 2025, 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 uniform coats, pants, boots, shoes, hats, and related products, services, and solutions from Galls, Inc., pursuant to BuyBoard Cooperative Purchasing Contract 670-22, on an as-needed basis within approved budget through May 31, 2025, and any future renewal periods.

City of Fayetteville Staff Review Form

2023-1298

Item ID

12/19/2023

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Brad Hardin

11/15/2023

FIRE (300)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff is requesting Council approval of a resolution to approve the purchase of uniform shirts, coats, pants, boots, shoes, hats, and related products, services, and solutions from Galls pursuant to the BuyBoard Cooperative Purchasing Contract #670-22, on an as-needed basis within approved budget through May 31, 2025, and any future renewal periods.

Budget Impact:

1010.300.3020-5302.00

General

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 85,320.00

Expenses (Actual+Encum)

\$ 79,934.12

Available Budget

\$ 5,385.88

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 5,385.88

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



BuyBoard Current Vendors - Arkansas

Vendor	Address Line 1	City	State	ZIP	Effective	Expiration	Contract
Fuquay, Inc.(E)(I)(T)	4861 Old Hwy 81	New Braunfels	TX	78132	3/1/2021	2/29/2024	Cured in Place Pipe (CIPP) for Pipeline Rehabilitation 635-21
FurnitureLab(E)(I)(T)	103 W Weaver St	Carboro	NC	27510	4/1/2022	3/31/2025	Furniture for School, Office, Science, Library and Dormitory 667-22
Future Integrated Systems LLC(M)(E)(I)(T)	4443 Brookfield Corporate Drive, Suite 105	Chantilly	VA	20151	7/1/2022	6/30/2025	Temporary Personnel Staffing and Workforce Management Services 674-22
Gaggle.Net, Inc.(E)(I)(T)	5050 Quorum Drive, Suite 700	Dallas	TX	75452	1/1/2022	12/31/2024	Technology Equipment, Products, Services and Software 661-22
Gail's Flags & Golf Course Accessories, Inc. (M)(E)(I)(T)	2821 Carson Street	Fort Worth	TX	76117	6/1/2023	5/31/2026	Field and Turf Irrigation Products, Landscaping Products, and Specialty Conditioners/Soils 705-23
Galls, LLC(E)(I)(T)	1340 Russell Cave Rd.	Lexington	KY	40505	6/1/2022	5/31/2025	Uniforms and Accessories 670-22
Galls, LLC(E)(I)(T)	1340 Russell Cave Rd.	Lexington	KY	40505	4/1/2023	3/31/2026	Public Safety and Firehouse Supplies and Equipment 698-23
Game Day Rejuvenation(E)(I)(T)	PO Box 24	Wylie	TX	75098	4/1/2022	3/31/2025	Athletic, Physical Education, Gymnasium Supplies and Equipment and Heavy Duty Exercise Equipment and Related Accessories 665-22
GapVax, Inc.(E)(I)(T)	575 Central Avenue	Johnstown	PA	15902	12/1/2019	11/30/2023	Vehicles, Heavy Duty Trucks, Police Motorcycles, Parts, and Service Labor 601-19
GapVax, Inc.(E)(I)(T)	575 Central Avenue	Johnstown	PA	15902	10/1/2022	9/30/2025	Sewer Inspection and Cleaning Products 676-22
Gareth Stevens Publishing(E)(I)(T)	111 East 14th Street, Suite 249	New York	NY	10003	6/1/2023	5/31/2026	Library Books, Used Textbooks, and Other Books 702-23
Garnet Dynamics, Inc.(E)(I)(T)	7027 Twin Hills Avenue, Suite 200	Dallas	TX	75231	12/1/2021	11/30/2024	Building Maintenance, Repair, and Operations Supplies and Equipment 657-21
Garrett Book Company(E)(I)(T)	130 East 13th Street	Ada	OK	74820	6/1/2023	5/31/2026	Library Books, Used Textbooks, and Other Books 702-23
Gaston and Sheehan Auctioneers(E)	1420 FM 685	Pflugerville	TX	78660	9/1/2023	8/31/2026	Auction Services 708-23
Gateway Printing & Office Supply, Inc.(E)(I)(T)	14803 Bulverde Road	San Antonio	TX	78247	12/1/2021	11/30/2024	Office Supplies and Equipment 656-21

(M) - MWBE (E) - EDGAR Received (D) - Designated Dealer (I) - No Israel Boycott (T) - No Foreign Terrorist Orgs



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU: Brad Hardin, Fire Chief

FROM: Granville Wynn, Financial Analyst - Fire

DATE:

SUBJECT: Requesting Council approval of a resolution to approve the purchase of bunker gear coats, pants, boots, and related products, services, and solutions from LION Manufacturing through NAFECO pursuant to the Sourcewell Cooperative Purchasing Contract 032620-LIO, on an as-needed basis within approved budget through May 7, 2024, and any future renewal periods

RECOMMENDATION:

Staff is requesting Council approval of a resolution to approve the purchase of bunker gear coats, pants, boots, and related products, services, and solutions from LION Manufacturing through NAFECO pursuant to the Sourcewell Cooperative Purchasing Contract 032620-LIO, on an as-needed basis within approved budget through May 7, 2024, and any future renewal periods.

BACKGROUND:

The Fayetteville Fire Department has utilized Lion Manufacturing through NAFECO for Bunker Gear Equipment and Supplies through the Cooperative Purchasing Agreement over the past couple of years. Bunker gear consists of the protective clothing worn by firefighters to shield them from heat and abrasive debris during fire suppression and emergency response activities.

DISCUSSION:

Purchasing through the Cooperative Agreement will enable us to obtain needed gear at a greatly reduced cost to the City.

BUDGET/STAFF IMPACT:

These purchases would occur within the approved Fire Department Budget and Work Program each year.

ATTACHMENTS: SRF (#3)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1297

Requesting Council approval of a resolution to approve the purchase of bunker gear coats, pants, boots, and related products, services, and solutions from LION Manufacturing through NAFECO pursuant to the Sourcewell Cooperative Purchasing Contract 032620-LIO, on an as-needed basis within approved budget through May 7, 2024, and any future renewal periods

A RESOLUTION TO APPROVE THE PURCHASE OF BUNKER GEAR AND RELATED PRODUCTS, SERVICES, AND SOLUTIONS FROM LION MANUFACTURING THROUGH NAFECO ON AN AS-NEEDED BASIS, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING CONTRACT, THROUGH MAY 7, 2024 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 bunker gear coats, pants, boots, and related products, services, and solutions from Lion Manufacturing through NAFECO, pursuant to Sourcewell Cooperative Purchasing Contract 032620-LIO, on an as-needed basis within approved budget through May 7, 2024, and any future renewal periods.

City of Fayetteville Staff Review Form

2023-1297

Item ID

12/19/2023

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Brad Hardin

11/15/2023

FIRE (300)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff is requesting Council approval of a resolution to approve the purchase of bunker gear coats, pants, boots, and related products, services, and solutions from LION Manufacturing through NAFECO pursuant to the Sourcewell Cooperative Purchasing Contract 032620-LIO, on an as-needed basis within approved budget through May 7, 2024, and any future renewal periods.

Budget Impact:

1010.300.3020-5302.01

General

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 304,909.00

Expenses (Actual+Encum)

\$ 265,298.67

Available Budget

\$ 39,610.33

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 39,610.33

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

LION First Responder

Firefighting PPE

#032620-LIO

Maturity Date: 5/7/2024

Products & Services



Products & Services

Sourcewell contract 032620-LIO gives access to the following types of goods and services:

- Turnout gear
- Helmets
- Gloves
- Boots
- Hoods
- CBRN
- StationWear
- RescueWear
- PPE maintenance
- Fire training
- First Responder training products

Buy Sourcewell



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU:
FROM: Mike Reynolds, Police Chief
DATE:
SUBJECT: 2023 Police Department Donations

RECOMMENDATION:

Staff recommends approval of a resolution and budget adjustment in the amount of \$1,028 for the acceptance of various donations received by the Fayetteville Police Department.

BACKGROUND:

Periodically, businesses, organizations and/or citizens will make monetary donations to the Police Department.

DISCUSSION:

The Police Department has received donations totaling \$1,028 in support of various activities. The following individuals, businesses, and organizations made donations to the general police and employee recognition projects: Stephanie Chaney - \$413, Victoria Crance - \$165, Arvest Bank - \$100, and Sigma Nu Fraternity - \$350. All donations were deposited into the City's General Fund and are tracked through the City's Project Accounting System. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

BUDGET/STAFF IMPACT:

The budget impact will consist of an increase in expense budgets equal to the Police Department Donations received. There is no impact on staffing related to this agenda item.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5), Project Inquiry - 1 (#6), Project Inquiry - 2 (#7)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1440

2023 Police Department Donations

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,028.00 REPRESENTING DONATION REVENUE TO THE FAYETTEVILLE POLICE DEPARTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$1,028.00 representing donation revenue to the Fayetteville Police Department.

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

City of Fayetteville Staff Review Form

2023-1440

Item ID

12/19/2023

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

Mike Reynolds

11/30/2023

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a resolution and budget adjustment in the amount of \$1,028 for the acceptance of various donations received by the Fayetteville Police Department.

Budget Impact:

1010.200.2920-various

General

Account Number

Fund

33044-1,6

Police Donations

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 35,393.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 35,393.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 1,028.00

Remaining Budget

\$ 36,421.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2023	POLICE (200)	
	Requestor: Willie Newman	

Recognize and establish revenue and expense budgets for police donations received throughout fiscal year 2023.

COUNCIL DATE:	12/19/2023
ITEM ID#:	2023-1440
Holly Black	
12/1/2023 10:26 AM	
Budget Division	Date
TYPE:	D - (City Council)
JOURNAL #:	
GLDATE:	
CHKD/POSTED:	/

[illegible]



CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF DECEMBER 19, 2023

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

A handwritten signature in black ink that reads "Mike Reynolds".

DATE: November 30, 2023

SUBJECT: 2023 Police Department Donations

RECOMMENDATION:

Staff recommends approval of a resolution and budget adjustment in the amount of \$1,028 for the acceptance of various donations received by the Fayetteville Police Department.

BACKGROUND:

Periodically, businesses, organizations and/or citizens will make monetary donations to the Police Department.

DISCUSSION:

The Police Department has received donations totaling \$1,028 in support of various activities. The following individuals, businesses, and organizations made donations to the general police and employee recognition projects: Stephanie Chaney - \$413, Victoria Crance - \$165, Arvest Bank - \$100, and Sigma Nu Fraternity - \$350. All donations were deposited into the City's General Fund and are tracked through the City's Project Accounting System. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

BUDGET/STAFF IMPACT:

The budget impact will consist of an increase in expense budgets equal to the Police Department Donations received. There is no impact on staffing related to this agenda item.

Attachments:

Budget Adjustment
Project Accounting Reports

Project Inquiry - 1 - Police Department Donations

Project

Status

Active

Go Reset

23005 - Lake Fayetteville Contractual Services

24004 - Old PD Firing Range

31604 - Police - 4th DTF Byrne Grant

31605 - Police - 4th DTF State Drug Fund Grant

31607 - Police STEP Grant

\$ 32005 - Police - FY20 COVID 19 Emergency Supplemental Funding

32104 - Police Community Police Development Grant

32203 - Police - Officer Stipend (Act 224)

32204 - Police - COPS Hiring Program Grant

32205 - Police - Law Enf Mental Health & Wellness (LEMHWA) Grant

32209 - Police - Dept of Public Safety Equipment Grant

32210 - Police - PSN Grant - State (1010)

32229 - Police - DTF PSN Grant - State (2930)

33043 - DTF Law Enforcement State Forfeitures

33044 - Police Department Donations

\$ 1 - Police Department Donations

\$ 2 - US Conference of Mayors

\$ 6 - Employee Recognition

\$ 8 - Police Memorial

33045 - Police Law Enforcement State Forfeitures

33046 - Police Law Enforcement Fed Forfeitures

37042 - Police Bulletproof Vests Partnership

38070 - Police High Intensity Drug Trafficking

39022 - Police JAG Local Solicitation

39024 - Police IRS/Treasury Forfeitures

40901 - Outside Agencies Funding

41002 - Personnel Services Contra

42300 - IMPACT FUND (2300) FEE REVENUES

42930 - Drug Fund General Fund Expense (Uniformed Personnel)

45120 - Bond Project Engineering Contra Passthrough

46090 - Police Projects (2019 Bonds)

52201 - Energy Loan (Solar Array) - A&P Commission

57039 - Transfers Between Funds (Non-Project)

60000 - GovDeals

General

Budget to Actual

Summary

33044.1 - Police Department Donations, Police Department Donations

Budget Method Fiscal Year Basis Status Active

Expenses

Original Budget	\$0.00
Budget Amendments - Posted	\$4,750.00
Budget Amendments - Unposted	\$0.00
Total Budget	\$4,750.00
Actual	\$4,750.00 100.00% ☐
Encumbrances	\$0.00 0.00% ☐
Unposted Transactions	\$0.00 0.00% ☐
Available Budget	\$0.00 0.00% ☐

Revenue

Original Budget	\$0.00
Budget Amendments - Posted	\$4,750.00
Budget Amendments - Unposted	\$0.00
Total Budget	\$4,750.00
Actual	\$5,178.00 109.01% ☐
Unposted Transactions	\$0.00 0.00% ☐
Available Budget	-\$428.00 -9.01% ☐

Net Difference

Surplus/Deficit - Budget	\$0.00
Surplus/Deficit - Actual	\$428.00

Expenses & Revenue Graphs Show/Hide

Project Budget Analysis - Expenses

Project Budget Analysis - Revenue

Unposted Activity

General

Contracts

Project Inquiry - 6 - Employee Recognition

Project

Status

Active

Go Reset

- 31607 - Police STEP Grant
- 32005 - Police - FY20 COVID 19 Emergency Supplemental Funding
- 32104 - Police Community Police Development Grant
- 32203 - Police - Officer Stipend (Act 224)
- 32204 - Police - COPS Hiring Program Grant
- 32205 - Police - Law Enf Mental Health & Wellness (LEMHWA) Grant
- 32209 - Police - Dept of Public Safety Equipment Grant
- 32210 - Police - PSN Grant - State (1010)
- 32229 - Police - DTF PSN Grant - State (2930)
- 33043 - DTF Law Enforcement State Forfeitures
- 33044 - Police Department Donations
 - 1 - Police Department Donations
 - 2 - US Conference of Mayors
 - 6 - Employee Recognition
 - 8 - Police Memorial
- 33045 - Police Law Enforcement State Forfeitures
- 33046 - Police Law Enforcement Fed Forfeitures
- 37042 - Police Bulletproof Vests Partnership
- 38070 - Police High Intensity Drug Trafficking
- 39022 - Police JAG Local Solicitation
- 39024 - Police IRS/Treasury Forfeitures
- 40901 - Outside Agencies Funding
- 41002 - Personnel Services Contra
- 42300 - IMPACT FUND (2300) FEE REVENUES
- 42930 - Drug Fund General Fund Expense (Uniformed Personnel)
- 45120 - Bond Project Engineering Contra Passthrough
- 46090 - Police Projects (2019 Bonds)
- 52201 - Energy Loan (Solar Array) - A&P Commission
- 57039 - Transfers Between Funds (Non-Project)
- 60000 - GovDeals
- 65120 - Engineering Contra Timesheet Projects (Non-Bond)
- BDRPT - BUDGET REPORTING
- PABUD - Project Accounting Budget Adjustments
- PCBUD - Position Control Budget Adjustments

General

Budget to Actual

Summary

33044.6 - Police Department Donations, Employee Recognition

Budget Method

Fiscal Year Basis

Status

Active

Expenses				Revenue				Net Difference	
Original Budget	\$0.00			Original Budget	\$0.00				
Budget Amendments - Posted	\$6,389.00			Budget Amendments - Posted	\$0.00				
Budget Amendments - Unposted	\$0.00			Budget Amendments - Unposted	\$0.00				
Total Budget	\$6,389.00			Total Budget	\$0.00			Surplus/Deficit - Budget	-\$6,389.00
Actual	\$1,000.00	15.65%	☐	Actual	\$600.00	0.00%	☐	Surplus/Deficit - Actual	-\$400.00
Encumbrances	\$0.00	0.00%	☐						
Unposted Transactions	\$5,389.00	84.35%	☐	Unposted Transactions	\$0.00	0.00%	☐		
Available Budget	\$0.00	0.00%	☐	Available Budget	-\$600.00	0.00%	☐		

Expenses & Revenue Graphs Show/Hide

Project Budget Analysis - Expenses

Project Budget Analysis - Revenue

Unposted Activity

General

Contracts



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council
THRU:
FROM: Mike Reynolds, Police Chief
DATE:
SUBJECT: Budget Adjustment for Federal and State Forfeitures

RECOMMENDATION:

Staff recommends the approval of a resolution and a budget adjustment in the amount of \$41,340 to reconcile federal and state forfeitures received through October 31, 2023.

BACKGROUND:

The Fayetteville Police Department receives forfeitures because of civil proceedings concerning cash or property seized during a criminal investigation. By policy of prosecution, civil proceedings of seized cash or property are adjudicated separate from the criminal case associated with seized assets, and civil proceedings of seizures follow conviction of criminal charges unless a failure to appear or failure to answer occurs.

Forfeitures received in the past are a direct result from the efforts of the officers we assign to the 4th Judicial District Drug Task Force (4th DTF), the local office of the Federal Drug Enforcement Administration (DEA), and the Financial Crimes Task Force of the Internal Revenue Service. By statute, federal and state forfeitures are to be spent for law enforcement purposes only and tracked within our project accounting system. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

DISCUSSION:

Funds within this budget adjustment consist of federal forfeitures from the Department of Justice and state asset forfeiture funds resulting from civil proceedings of the DEA and 4th DTF. The requested budget adjustment consists of the following forfeitures: Department of Justice forfeitures in the amount of \$6,310; State asset forfeitures for law enforcement purposes in the amount of \$25,453; and State asset forfeitures for drug enforcement purposes in the amount of \$9,577. All funds received through asset forfeitures have restricted use for law enforcement purposes only.

BUDGET/STAFF IMPACT:

The expense budget will increase equal to the revenue received. There is no staffing impact related to this budget adjustment.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5), Project Inquiry 33043-1 (#6), Project Inquiry 33045-1 (#7), Project Inquiry 33046-1 (#8)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1442

Budget Adjustment for Federal and State Forfeitures

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$41,340.00 RECOGNIZING REVENUE ASSOCIATED WITH FEDERAL AND STATE LAW ENFORCEMENT FORFEITURES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$41,340.00 recognizing revenue associated with federal and state law enforcement forfeitures received from January 1, 2023 through October 31, 2023.

City of Fayetteville Staff Review Form

2023-1442

Item ID

12/19/2023

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

Mike Reynolds

11/30/2023

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of a resolution and a budget adjustment in the amount of \$41,340 to reconcile federal and state forfeitures received through October 31, 2023.

Budget Impact:

Various

General / Drug Enforcement

Account Number

Fund

33043-1 / 33045-1 / 33046-1

Police and DTF Forfeitures

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 558,533.00

Expenses (Actual+Encum)

\$ 86,286.65

Available Budget

\$ 472,246.35

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 41,340.00

Remaining Budget

\$ 513,586.35

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2023	POLICE (200)	
	Requestor: Willie Newman	

Reconcile and establish revenue and expense budgets for state and federal forfeitures received through October 31, 2023.

	COUNCIL DATE:	12/19/2023
	ITEM ID#:	2023-1442
	Holly Black	
	12/1/2023 10:16 AM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

Page 331 of 445



MEETING OF DECEMBER 19, 2023

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

A handwritten signature in black ink that reads "Mike Reynolds".

DATE: November 30, 2023

SUBJECT: Budget Adjustment for Federal and State Forfeitures

RECOMMENDATION:

Staff recommends the approval of a resolution and a budget adjustment in the amount of \$41,340 to reconcile federal and state forfeitures received through October 31, 2023.

BACKGROUND:

The Fayetteville Police Department receives forfeitures because of civil proceedings concerning cash or property seized during a criminal investigation. By policy of prosecution, civil proceedings of seized cash or property are adjudicated separate from the criminal case associated with seized assets, and civil proceedings of seizures follow conviction of criminal charges unless a failure to appear or failure to answer occurs. Forfeitures received in the past are a direct result from the efforts of the officers we assign to the 4th Judicial District Drug Task Force (4th DTF), the local office of the Federal Drug Enforcement Administration (DEA), and the Financial Crimes Task Force of the Internal Revenue Service. By statute, federal and state forfeitures are to be spent for law enforcement purposes only and tracked within our project accounting system. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

DISCUSSION:

Funds within this budget adjustment consist of federal forfeitures from the Department of Justice and state asset forfeiture funds resulting from civil proceedings of the DEA and 4th DTF. The requested budget adjustment consists of the following forfeitures: Department of Justice forfeitures in the amount of \$6,310; State asset forfeitures for law enforcement purposes in the amount of \$25,453; and State asset forfeitures for drug enforcement purposes in the amount of \$9,577. All funds received through asset forfeitures have restricted use for law enforcement purposes only.

BUDGET/STAFF IMPACT:

The expense budget will increase equal to the revenue received. There is no staffing impact related to this budget adjustment.

Attachments:

Budget Adjustment
Project Transaction Report

Project Inquiry - 1 - DTF Law Enforcement State Forfeitures

Project

Status

Active

Go Reset

 32210 - Police - PSN Grant - State (1010)

 32229 - Police - DTF PSN Grant - State (2930)

 33043 - DTF Law Enforcement State Forfeitures

\$ 1 - DTF Law Enforcement State Forfeitures

 33044 - Police Department Donations

\$ 1 - Police Department Donations

\$ 2 - US Conference of Mayors

\$ 6 - Employee Recognition

\$ 8 - Police Memorial

 33045 - Police Law Enforcement State Forfeitures

\$ 1 - PD Law Enforcement State Forfeitures

\$ 2018 - 2018 Training

 7900 - Police HQ Building

\$ 8040 - Construction

\$ 8802 - Equipment & Furnishings

 33046 - Police Law Enforcement Fed Forfeitures

 37042 - Police Bulletproof Vests Partnership

 38070 - Police High Intensity Drug Trafficking

 39022 - Police JAG Local Solicitation

 39024 - Police IRS/Treasury Forfeitures

 40901 - Outside Agencies Funding

 41002 - Personnel Services Contra

 42300 - IMPACT FUND (2300) FEE REVENUES

 42930 - Drug Fund General Fund Expense (Uniformed Personnel)

 45120 - Bond Project Engineering Contra Passthrough

 46090 - Police Projects (2019 Bonds)

 52201 - Energy Loan (Solar Array) - A&P Commission

 57039 - Transfers Between Funds (Non-Project)

 60000 - GovDeals

 65120 - Engineering Contra Timesheet Projects (Non-Bond)

 BDRPT - BUDGET REPORTING

 PABUD - Project Accounting Budget Adjustments

 PCBUD - Position Control Budget Adjustments



General

Budget to Actual

Summary   

33043.1 - DTF Law Enforcement State Forfeitures, DTF Law Enforcement State Forfeitures

Budget Method

Fiscal Year Basis

Status

Active

Expenses				Revenue				Net Difference	
	Original Budget	\$0.00			Original Budget	\$0.00			
	Budget Amendments - Posted	\$111,472.00			Budget Amendments - Posted	\$111,472.00			
	Budget Amendments - Unposted	\$0.00			Budget Amendments - Unposted	\$0.00			
	Total Budget	\$111,472.00			Total Budget	\$111,472.00	Surplus/Deficit - Budget	\$0.00	
	Actual	\$14,092.54	12.64%	☐	Actual	\$9,576.38	8.59%	☐	
	Encumbrances	\$0.00	0.00%	☐			Surplus/Deficit - Actual	-\$4,516.16	
	Unposted Transactions	\$0.00	0.00%	☐	Unposted Transactions	\$0.00	0.00%	☐	
	Available Budget	\$97,379.46	87.36%	☐	Available Budget	\$101,895.62	91.41%	☐	

Expenses & Revenue Graphs Show/Hide

Project Budget Analysis - Expenses



Project Budget Analysis - Revenue



Unposted Activity

General

Contracts

Project Inquiry - 1 - PD Law Enforcement State Forfeitures

Project

Status

Active

Go

Reset

32203 - Police - Officer Stupen (ACT 224)

32204 - Police - COPS Hiring Program Grant

32205 - Police - Law Enf Mental Health & Wellness (LEMHWA) Grant

32209 - Police - Dept of Public Safety Equipment Grant

32210 - Police - PSN Grant - State (1010)

32229 - Police - DTF PSN Grant - State (2930)

33043 - DTF Law Enforcement State Forfeitures

33044 - Police Department Donations

1 - Police Department Donations

2 - US Conference of Mayors

6 - Employee Recognition

8 - Police Memorial

33045 - Police Law Enforcement State Forfeitures

1 - PD Law Enforcement State Forfeitures

2018 - 2018 Training

7900 - Police HQ Building

33046 - Police Law Enforcement Fed Forfeitures

37042 - Police Bulletproof Vests Partnership

38070 - Police High Intensity Drug Trafficking

39022 - Police JAG Local Solicitation

39024 - Police IRS/Treasury Forfeitures

40901 - Outside Agencies Funding

41002 - Personnel Services Contra

42300 - IMPACT FUND (2300) FEE REVENUES

42930 - Drug Fund General Fund Expense (Uniformed Personnel)

45120 - Bond Project Engineering Contra Passthrough

46090 - Police Projects (2019 Bonds)

52201 - Energy Loan (Solar Array) - A&P Commission

57039 - Transfers Between Funds (Non-Project)

60000 - GovDeals

65120 - Engineering Contra Timesheet Projects (Non-Bond)

BDRPT - BUDGET REPORTING

PABUD - Project Accounting Budget Adjustments

PCBUD - Position Control Budget Adjustments

General

Budget to Actual

Summary

33045.1 - Police Law Enforcement State Forfeitures, PD Law Enforcement State Forfeitures

Budget Method

Fiscal Year Basis

Status

Active

Expenses				Revenue				Net Difference	
	Original Budget	\$0.00			Original Budget	\$0.00			
	Budget Amendments - Posted	\$117,303.00			Budget Amendments - Posted	\$3,927.00			
	Budget Amendments - Unposted	\$0.00			Budget Amendments - Unposted	\$0.00			
	Total Budget	\$117,303.00			Total Budget	\$3,927.00		Surplus/Deficit - Budget -\$113,376.00	
	Actual	\$42,890.61	36.56%	☐	Actual	\$25,452.92	648.15%	☐ Surplus/Deficit - Actual -\$17,437.69	
	Encumbrances	\$6,650.00	5.67%	☐					
	Unposted Transactions	\$653.50	0.56%	☐	Unposted Transactions	\$0.00	0.00%	☐	
	Available Budget	\$67,108.89	57.21%	☐	Available Budget	-\$21,525.92	-548.15%	☐	

Expenses & Revenue Graphs Show/Hide

Project Budget Analysis - Expenses



Project Budget Analysis - Revenue

Unposted Activity

General

Contracts

Project Inquiry - 33046 - Police Law Enforcement Fed Forfeitures

Project

Status

Active

Go Reset

-  32204 - Police - COPS Hiring Program Grant
-  32205 - Police - Law Enf Mental Health & Wellness (LEMHWA) Grant
-  32209 - Police - Dept of Public Safety Equipment Grant
-  32210 - Police - PSN Grant - State (1010)
-  32229 - Police - DTF PSN Grant - State (2930)
-  33043 - DTF Law Enforcement State Forfeitures
-  33044 - Police Department Donations
 -  1 - Police Department Donations
 -  2 - US Conference of Mayors
 -  6 - Employee Recognition
 -  8 - Police Memorial
-  33045 - Police Law Enforcement State Forfeitures
 -  1 - PD Law Enforcement State Forfeitures
 -  2018 - 2018 Training
 -  7900 - Police HQ Building
 -  8040 - Construction
 -  8802 - Equipment & Furnishings
-  33046 - Police Law Enforcement Fed Forfeitures
 -  1 - PD Law Enforcement Federal Forfeitures
 -  7900 - Police HQ Building
-  37042 - Police Bulletproof Vests Partnership
-  38070 - Police High Intensity Drug Trafficking
-  39022 - Police JAG Local Solicitation
-  39024 - Police IRS/Treasury Forfeitures
-  40901 - Outside Agencies Funding
-  41002 - Personnel Services Contra
-  42300 - IMPACT FUND (2300) FEE REVENUES
-  42930 - Drug Fund General Fund Expense (Uniformed Personnel)
-  45120 - Bond Project Engineering Contra Passthrough
-  46090 - Police Projects (2019 Bonds)
-  52201 - Energy Loan (Solar Array) - A&P Commission
-  57039 - Transfers Between Funds (Non-Project)
-  60000 - GovDeals
-  65120 - Engineering Contra Timesheet Projects (Non-Bond)

General **Budget to Actual**

Summary   

Budget Method

Fiscal Year Basis

Status

Active

Expenses				Revenue				Net Difference	
	Original Budget	\$0.00			Original Budget	\$0.00			
	Budget Amendments - Posted	\$329,758.00			Budget Amendments - Posted	\$0.00			
	Budget Amendments - Unposted	\$0.00			Budget Amendments - Unposted	\$0.00			
	Total Budget	\$329,758.00			Total Budget	\$0.00		Surplus/Deficit - Budget	
								-\$329,758.00	
	Actual	\$22,000.00	6.67%	☐	Actual	\$6,309.22	0.00%	☐	
	Encumbrances	\$0.00	0.00%	☐				Surplus/Deficit - Actual	
	Unposted Transactions	\$0.00	0.00%	☐	Unposted Transactions	\$0.00	0.00%	☐	
	Available Budget	\$307,758.00	93.33%	☐	Available Budget	-\$6,309.22	0.00%	☐	

Expenses & Revenue Graphs Show/Hide

Project Budget Analysis - Expenses

Project Budget Analysis - Revenue

Unposted Activity

General

Contracts



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1473

Council Member Scott Berna recommends a resolution to request that the United States Postal Service maintain all current mail processing operations in Fayetteville.

A RESOLUTION TO REQUEST THAT THE UNITED STATES POSTAL SERVICE MAINTAIN ALL CURRENT MAIL PROCESSING OPERATIONS IN FAYETTEVILLE

WHEREAS, the United States Postal Service recently announced it is considering moving some important mail processing operations out of Fayetteville and relocating them to Oklahoma City; and

WHEREAS, such a potential move would cause the loss of many permanent, good paying jobs from Fayetteville's highly efficient mail processing facility; and

WHEREAS, the United States Postal System's proposed removal of some mail processing operations from Fayetteville is supposedly to establish "new or reimagined facilities" in Oklahoma City, but its hope that this would result in more efficient and better service for our postal service needs is speculative at best and more likely to cause slower and less efficient postal service for Northwest Arkansas; and

WHEREAS, with our increasing economic, industrial and technology growth, the University of Arkansas and its research and technology incubator, the world's largest retailer and its many national suppliers, Northwest Arkansas as long one of the fastest growing regions in the country needs more, not less, mail and parcel processing capacity; and

WHEREAS, Fayetteville is advantageously located closer than Oklahoma City to Kansas City, Springfield, St. Louis, Memphis, Little Rock, Fort Smith and areas between Fayetteville and those cities.

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 respectfully requests that the United States Postal Service reconsider and reject its proposal to move any mail processing operations or personnel out of Fayetteville.



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

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

CC: **Susan Norton, Chief of Staff**

FROM: **Kit Williams, City Attorney**

DATE: **December 5, 2023**

RE: **U.S. Postal Service proposed transfer of some of the operations and employee positions from the Northwest Arkansas Processing and Distribution Center in Fayetteville to Oklahoma City**

In a surprise move, the U.S. Postal Service announced its plan to evaluate moving some of the mail processing operations and employee positions from the Northwest Arkansas Processing and Distribution Center located in Fayetteville to Oklahoma City. Their move can only damage or delay postal operations that have been accomplished in Fayetteville to an out of state distribution center over 220 miles away. Fayetteville would also lose an unannounced number of quality, well paid, permanent jobs so the U.S.P.S. can try to establish "new or reimagined facilities... and networks."

It is difficult to know whether this U.S. Postal Service plan can produce any beneficial effects on efficiency of mail service nationwide. It is clear, however, that Northwest Arkansas will not benefit and will likely see less efficient and speedy delivery of letters and parcels in our area if this proposal is approved.

Council Member Scott Berna has therefore decided to sponsor this Resolution so that the City of Fayetteville can express its concerns and opposition to moving good jobs, equipment and operations out of state.

AGENDA REQUEST FORM

FOR: Council Meeting of December 19, 2023

FROM: Council Member Scott Berna

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO REQUEST THAT THE UNITED STATES POSTAL SERVICE
MAINTAIN ALL CURRENT MAIL PROCESSING OPERATIONS IN FAYETTEVILLE

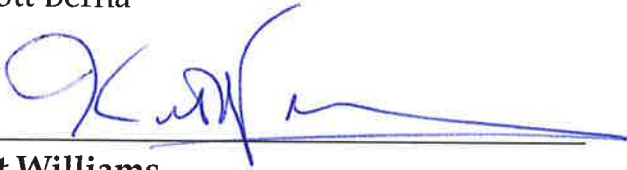
APPROVED FOR AGENDA:



City Council Member
Scott Berna

12-5-2023

Date



Kit Williams
Fayetteville City Attorney
Approved as to form

12-5-23

Date



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Teresa Turk

DATE:

SUBJECT: Resolution to waive appeal fees for Lisa Valentine's appeal of grading permit GRD-2023-0031 to the Planning Commission

RECOMMENDATION:

Council Member Teresa Turk is sponsoring a resolution to waive appeal fees for Lisa Valentine's appeal of grading permit GRD-2023-0031 to the Planning Commission.

BACKGROUND:

DISCUSSION:

§159.01(A) of the *Unified Development Code* authorizes a City Council member to “present a resolution to the City Council to waive or reduce development permit fees (to) ... serve the public interest ... or be beneficial to the city as a whole.”

BUDGET/STAFF IMPACT:

This resolution will waive the \$100 appeal fee prescribed by the Unified Development Code for grading permit appeals.

ATTACHMENTS: Agenda Request - Turk - Waive Grading Appeal Fees (#3)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1513

Resolution to waive appeal fees for Lisa Valentine's appeal of grading permit GRD-2023-0031 to the Planning Commission

A RESOLUTION TO WAIVE APPEAL FEES FOR LISA VALENTINE'S APPEAL OF GRADING PERMIT GRD-2023-0031 TO THE PLANNING COMMISSION

WHEREAS, §159.01(A) of the *Unified Development Code* authorizes a City Council member to "present a resolution to the City Council to waive or reduce development permit fees (to) ... serve the public interest ... or be beneficial to the city as a whole."

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 determines that waiving the appeal fee set by § 159.01(B)(4) for Lisa Valentine's appeal of grading permit GRD-2023-0031 to the Planning Commission is in the public interest and beneficial to Fayetteville as a whole.

AGENDA REQUEST FORM

FOR: Council Meeting of December 19, 2023

FROM: Council Member Teresa Turk

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO WAIVE APPEAL FEES FOR LISA VALENTINE'S APPEAL OF
GRADING PERMIT GRD-2023-0031 TO THE PLANNING COMMISSION

APPROVED FOR AGENDA:

Approved by email

City Council Member Teresa Turk

12/12/23

Date

Blake Pennington

Sr. Asst. City Attorney Blake Pennington
Approved as to form

12/12/23

Date

RESOLUTION NO. _____

A RESOLUTION TO WAIVE APPEAL FEES FOR LISA VALENTINE’S APPEAL OF GRADING PERMIT GRD-2023-0031 TO THE PLANNING COMMISSION

WHEREAS, §159.01(A) of the *Unified Development Code* authorizes a City Council member to “present a resolution to the City Council to waive or reduce development permit fees (to) ... serve the public interest ... or be beneficial to the city as a whole.”

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 determines that waiving the appeal fee set by § 159.01(B)(4) for Lisa Valentine’s appeal of grading permit GRD-2023-0031 to the Planning Commission is in the public interest and beneficial to Fayetteville as a whole.

PASSED and **APPROVED** this 19th day of December, 2023.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Mike Reynolds, Police Chief

DATE:

SUBJECT: **2024 Public Safety Equipment Grant Award for Fourth Judicial District Drug Task Force**

RECOMMENDATION:

Staff recommends approval of the non-matching 2024 Public Safety Equipment Grant (PSEG) award from the Arkansas Department of Public Safety (DPS) for the Fourth Judicial District Drug Task Force (DTF) in the amount of \$40,365.58 and a budget adjustment for the purchase a TruNarc Handheld Narcotics Analyzer.

BACKGROUND:

The DTF completed an application for this grant in August, 2023. The DPS PSEG funding supports the improvement and delivery of best police practices through increasing access to state-of-the-art safety equipment, training, or accreditation to improve trust between law enforcement and the persons in the communities in which they serve in the State of Arkansas. With this funding, the DPS supports projects that allows for the identification and expansion of promising police practices through the utilization of safety equipment that follows best police practices.

DISCUSSION:

The use of illicit narcotics and opioids continues to skyrocket. Emerging lethal drugs like fentanyl and xylazine threaten public safety. To save lives and protect the investigating law enforcement officers, controlled and deadly substances need to be identified quickly, safely and accurately. Traditional methods of preliminary field identification require exposure as the law enforcement officer manipulates the potentially deadly substance. As such, the DTF investigators are not field testing suspected fentanyl, merely relying upon their training and experience to identify the substances before the substances are sent to a crime laboratory for forensic examination. The TruNarc Narcotics Analyzer provides a safer in-the-field identification method by reducing the exposure of the law enforcement officer to the substance. Once equipped with this technology, DTF investigators will be able to safely identify controlled substances and strengthen the evidence in their criminal cases.

BUDGET/STAFF IMPACT:

There are no matching funds associated with this grant. A budget adjustment in the amount of \$40,366 will establish revenue and expenditure budgets within the City's project accounting system. There is no impact on staffing.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5), 4th Judicial District Drug Task Force-24PSEG-APPROVED-

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

Budget (#6), 4th Judicial District Drug Task Force-DPS FY24 PSEG MOU (#7)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1437

2024 Public Safety Equipment Grant Award for Fourth Judicial District Drug Task Force

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A NON-MATCHING PUBLIC SAFETY EQUIPMENT GRANT FROM THE ARKANSAS DEPARTMENT OF PUBLIC SAFETY IN THE AMOUNT OF \$40,365.58 FOR THE FOURTH JUDICIAL DISTRICT DRUG TASK FORCE TO PURCHASE A HANDHELD NARCOTICS ANALYZER, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the Drug Task Force completed an application for a grant to purchase a TruNarc Handheld Narcotics Analyzer in August 2023 and received notice in November that the grant had been awarded.

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 accept a non-matching Public Safety Equipment grant from the Arkansas Department of Public Safety in the amount of \$40,365.58 for the Fourth Judicial District Drug Task Force to purchase a TruNarc Handheld Narcotics Analyzer, and to execute any documents necessary to receive the funds.

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

2023-1437

Item ID

12/19/2023

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

Mike Reynolds

12/1/2023

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of the non-matching 2024 Public Safety Equipment Grant (PSEG) award from the Arkansas Department of Public Safety (DPS) for the Fourth Judicial District Drug Task Force (DTF) in the amount of \$40,365.58 and a budget adjustment for the purchase a TruNarc Handheld Narcotics Analyzer.

Budget Impact:

2930.200.2960-various

Drug Enforcement

Account Number

Fund

32209-2301

Police - DTF Public Safety Equipment 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

\$ 40,366.00

Remaining Budget

\$ 40,366.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024 (BY)	POLICE (200)	
	Requestor: T Tannehill	

Establish a revenue and expense budget for tracking the FY2024 Public Safety Equipment Grant for the Fourth Judicial District Drug Task Force.

	COUNCIL DATE:	12/19/2023
	ITEM ID#:	2023-1437
	Holly Black	
	12/1/2023 10:22 AM	
	Budget Division	Date
	D - (City Council)	
TYPE:		
JOURNAL #:		
GLDATE:		
CHKD/POSTED:	/	
RESOLUTION/ORDINANCE		

[illegible]



MEETING OF DECEMBER 19, 2023

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

A handwritten signature in black ink, appearing to read "Mike Reynolds".

DATE: December 1, 2023

SUBJECT: 2024 Public Safety Equipment Grant Award for Fourth Judicial District Drug Task Force

RECOMMENDATION:

Staff recommends approval of the non-matching 2024 Public Safety Equipment Grant (PSEG) award from the Arkansas Department of Public Safety (DPS) for the Fourth Judicial District Drug Task Force (DTF) in the amount of \$40,365.58 and a budget adjustment for the purchase a TruNarc Handheld Narcotics Analyzer.

BACKGROUND:

The DTF completed an application for this grant in August, 2023. The DPS PSEG funding supports the improvement and delivery of best police practices through increasing access to state-of-the-art safety equipment, training, or accreditation to improve trust between law enforcement and the persons in the communities in which they serve in the State of Arkansas. With this funding, the DPS supports projects that allows for the identification and expansion of promising police practices through the utilization of safety equipment that follows best police practices.

DISCUSSION:

The use of illicit narcotics and opioids continues to skyrocket. Emerging lethal drugs like fentanyl and xylazine threaten public safety. To save lives and protect the investigating law enforcement officers, controlled and deadly substances need to be identified quickly, safely and accurately. Traditional methods of preliminary field identification require exposure as the law enforcement officer manipulates the potentially deadly substance. As such, the DTF investigators are not field testing suspected fentanyl, merely relying upon their training and experience to identify the substances before the substances are sent to a crime laboratory for forensic examination. The TruNarc Narcotics Analyzer provides a safer in-the-field identification method by reducing the exposure of the law enforcement officer to the substance. Once equipped with this technology, DTF investigators will be able to safely identify controlled substances and strengthen the evidence in their criminal cases.

BUDGET/STAFF IMPACT:

There are no matching funds associated with this grant. A budget adjustment in the amount of \$40,366 will establish revenue and expenditure budgets within the City's project accounting system. There is no impact on staffing.

Attachments:

Budget Adjustment

Arkansas Public Safety Equipment Grant Award documents



COL. MIKE A. HAGAR
Secretary

State of Arkansas
Governor Sarah Huckabee Sanders

**DEPARTMENT OF PUBLIC SAFETY
RESEARCH AND PLANNING DIVISION**

1 State Police Plaza Drive
Little Rock, Arkansas 72209
Office: (501) 618-8235



DR. MARY HUGHES
Director

**ARKANSAS PUBLIC SAFETY EQUIPMENT GRANT AWARD
APPROVED BUDGET**

Award Number: 24PSEG004

4th Judicial District Drug Task Force
1800 N. Stephen Carr Memorial Blvd
Fayetteville, AR 72704

CATEGORY 14: NECESSARY EQUIPMENT \$36,779.57
(TruNarc Handheld Narcotics Analyzer, Training, Warranty, etc.)

TAX: \$3,586.01

TOTAL AWARD: \$40,365.58

- ❖ The following items will NOT be considered for funding and your awarded funds must not be used for these items:
- Salaries, overtime, fringe benefits related to salaries
 - Any Specialty Court
 - Real Estate
 - Vessel or Aircraft
 - Vehicles
 - Firearms
 - Construction Projects
 - Buy Money

Congratulations on your 2024 DPS Public Safety Equipment Grant Program Award. We look forward to working with your agency to continue to improve community trust within the State of Arkansas. Please feel free to contact us by email at dps.rpgrants@dps.arkansas.gov or phone at (501) 618-8235 if you have any questions.



COL. MIKE A. HAGAR
Secretary

State of Arkansas
Governor Sarah Huckabee Sanders

DEPARTMENT OF PUBLIC SAFETY

1 State Police Plaza Drive
Little Rock, Arkansas 72209
Office: (501) 618-8235

MEMORANDUM OF UNDERSTANDING

In accordance with Act 786 of 2021 the Arkansas Department of Public Safety is responsible for awarding funding from the Public Safety Equipment Grant Fund. Pursuant to the foregoing authority, the Arkansas Department of Public Safety has established the Public Safety Equipment Grant Fund Committee to award funding to applicants who, in the Committee's judgment, best facilitate improving trust between Arkansas law enforcement officers and the communities they serve.

The purpose of this memorandum of understanding is to outline the requirements for applicants that receive grant funding under the DPS Public Safety Equipment Grant Program.

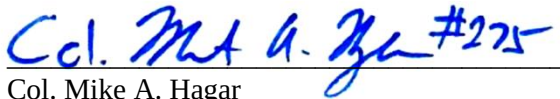
Based on the above, the Arkansas Department of Public Safety ("DPS") and the
(4th Judicial District Drug Task Force) ("Agency") agree as follows:

1. The Agency will maintain records and receipts for items purchased with the grant funds and will furnish copies of all receipts to DPS quarterly by the end of the month (March, June, September, and December) following the expenditure.
2. Any modification or changes exceeding 10% to the Agency's approved budget must be authorized by the DPS Committee before expenditures for the changes can be made. Any awarded funds not expended during the period set out in the preceding paragraph and in accordance with the budget or approved changes shall be refunded to DPS by 4:30 p.m. December 31, 2024.
3. The awarded funds are subject to audit by DPS and/or the Department of Legislative Audit. Misuse of these funds will result in the Agency being required to reimburse DPS for the funds awarded. Any false, fictitious, or fraudulent statements or claims may result in criminal, civil, or administrative penalties and may prohibit administrations from receiving future awards. (U.S. Code, Title 18, Section 1001)
4. Agencies will be required to complete any surveys related to the implementation and success of the program.
5. The following items will NOT be considered for funding and any funds awarded should not be used for these items:
 - Salaries, over time, fringe benefits related to salaries
 - Any Specialty Court
 - Real Estate
 - Vessel or Aircraft
 - Vehicles
 - Firearms
 - Construction Projects
 - Buy Money

6. DPS will terminate this agreement and require repayment of any grant funding in the event of fraud, misuse, or expenditures not related to the approved project.

This MOU is in effect from December 1, 2023 through December 31, 2024 and will remain in full force and effect for the duration of the agreement period, not to exceed one year, unless otherwise terminated by DPS.

SIGNATURES



Col. Mike A. Hagar
Secretary
Arkansas Department of Public Safety

Date: 11/22/2023

Mike Reynolds, Chief
Authorized Representative
4th Judicial District Drug Task Force

Date: _____



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director
Paul Becker, Chief Financial Officer
Susan Norton, Chief of Staff

FROM: Chris McNamara, Sustainability Project Manager

DATE:

SUBJECT: Solar Services Agreement with Entegritty Energy Partners

RECOMMENDATION:

Staff recommends approval of the Solar Services Agreement with Entegritty Energy Partners. The contract initiates construction of a 3.77 MW solar array that will offset 6,538,454 kWh of the City's annual electricity consumption from Southwestern Electric Power Company and produce \$7million in savings over the 25yr contract.

BACKGROUND:

The City of Fayetteville adopted the Energy Action Plan in January of 2018. This plan was created to build a policy, program, and project framework that would initiate actions leading to an increasingly sustainable natural resource and energy efficient community. A major goal of the action plan is to achieve 100% local government clean energy by 2030.

In 2019 the City entered into a solar services agreement to build 5MW solar arrays with battery storage at each of the two City wastewater treatment plants. The combined 10MW wastewater treatment plant solar energy projects brought the City governments' clean energy consumption up from 16% to over 72% and is projected to save over \$6 million dollars during the 20-year life of the project.

In 2022 the City entered into an Energy Savings Performance Contract with Johnson Controls Inc. that audited facilities energy use and identified energy efficiency improvements. These facility improvement projects began in Fall 2022 and will result in a 27% reduction in energy consumption.

Act 278 passed by the 94th General Assembly in 2023 has overhauled the net metering policy in Arkansas. To take advantage of the current net metering with 1:1 rate structure and the grandfathering term, any renewable energy projects that are under development will have to meet the utility interconnection agreement deadline of Sept 30, 2024.

The City issued an RFP for solar array development on 7/9/2023 received three responses, interviewed two candidates and selected Entegritty Energy Partners on 9/28/2023. Since selection Entegritty has been reviewing the City's SWEPCO bills and account rate structures to design an appropriately sized solar

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

array that will produce the highest savings for the City.

DISCUSSION:

The proposed Solar Services Agreement between the City of Fayetteville and Entegriy Energy Partners will establish a 25yr contract to purchase all energy produced from the solar array at an initial price of \$0.057/kWh that escalates 1% annually. A 1% annual escalation is under the average 2.5% annual cost increase for electricity purchased from SWEPCO. This 1% annual escalation will produce a balanced savings profile across the contract term. The contract can be extended two times for an additional 10 years.

Entegriy will provide periodic bill and rate review during the contract to continue to optimize the highest savings across the City's 250+ SWEPCO accounts. Electricity produced from the solar array will offset SWEPCO accounts in descending order starting with those accounts that produce highest savings first and proceed to next highest savings until all solar production is utilized.

Approval of this agreement is time sensitive as the project must meet the Sept 30, 2024 deadline for interconnection approval from SWEPCO. Swift approval by City Council will ensure that project continues to have plenty of time for development to meet the deadline. However, the City has negotiated in the contract that at any time prior to the submission of the interconnection application, the City may terminate this agreement, provided that City pay provider for any direct costs incurred as of the date of termination in connection with the development of the project. This safety measure ensures that if the deadline is not met the City can exit the agreement and cancel the project.

Solar array size is currently 3.77MW but can be changed until the design is submitted to SWEPCO. If City staff and Entegriy identify additional opportunities for savings that adjust array size then a change order will be submitted to the Mayor for approval.

The City has the option to purchase the array and take over ownership on either of the seventh (7th), fourteenth (14th), or twenty-first (21st) anniversary of the Commercial Operation Date.

BUDGET/STAFF IMPACT:

Project does not have a cost for development. The City agrees to pay a \$/kWh for all solar energy produced. These solar energy credits will be applied to City accounts with SWEPCO to offset billed consumption. Solar credits will be applied to accounts producing the most savings and proceed until all credits are used.

Before commercial operation date, Entegriy will provide a list of accounts to offset. City staff will determine which funds will pay for solar energy costs based on offset accounts.

ATTACHMENTS: SRF (#3), Solar Services Agreement Signed (#4), Solar Services Agreement_Signed - UPDATED (#5)

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113 W. Mountain Street
Fayetteville, AR 72701

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City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1458

Solar Services Agreement with Entegrity Energy Partners

A RESOLUTION TO APPROVE A 25 YEAR SOLAR SERVICES AGREEMENT WITH ENTEGRITY ENERGY PARTNERS, LLC THAT IS ANTICIPATED TO OFFSET 6,538,454 KWH OF THE CITY'S ANNUAL ELECTRICITY CONSUMPTION FROM SOUTHWESTERN ELECTRIC POWER COMPANY AND PRODUCE AN ESTIMATED \$7 MILLION IN SAVINGS OVER THE LIFE OF THE CONTRACT

WHEREAS, the City adopted the Energy Action Plan in January of 2018 that was created to build a policy, program, and project framework that would initiate actions leading to an increasingly sustainable natural resource and energy efficient community; and

WHEREAS, the City adopted the Energy Action Plan in January of 2018 that was created to build a policy, program, and project framework that would initiate actions leading to an increasingly sustainable natural resource and energy efficient community; and

WHEREAS, a major goal of the action plan is to achieve 100% local government clean energy by the year 2030; and

WHEREAS, in 2019, the City entered into a solar services agreement to build 5MW solar arrays with battery storage at each of the two City wastewater treatment plants; and

WHEREAS, in 2022, the City entered into an Energy Savings Performance Contract with Johnson Controls Inc. to audit city facility energy use and identify energy efficiency improvements; and

WHEREAS, the City issued a request for proposals for a new solar array development on July 9, 2023, and the City's selection committee selected Entegrity Energy Partners for the project; and

WHEREAS, Act 278 passed by the 94th General Assembly in 2023 has overhauled the net metering policy in Arkansas and the project must meet the September 30, 2024 deadline for interconnection approval from SWEPCO.

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 25 year Solar Services Agreement with Entegrity Energy Partners, LLC that is anticipated to offset 6,538,454 kWh of the City's annual electricity consumption from Southwestern Electric Power

Company and produce an estimated \$7 million in savings over the life of the contract.

City of Fayetteville Staff Review Form

2023-1458

Item ID

12/19/2023

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

Chris McNamara

12/1/2023

SUSTAINABILITY/RESILIENCE (631)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of the Solar Services Agreement with Entegrity Energy Partners. The contract initiates construction of a 3.77 MW solar array that will offset 6,538,454 kWh of the City's annual electricity consumption from Southwestern Electric Power Company and produce \$7million in savings over the 25yr contract.

Budget Impact:

xxxx.xxx.xxxx-5310.10

Multiple

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,706,942.00

Expenses (Actual+Encum)

\$ 1,184,830.59

Available Budget

\$ 522,111.41

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 522,111.41

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

SOLAR SERVICES AGREEMENT

between

Entegrity Energy Partners, LLC
as Provider

and

City of Fayetteville
as Buyer

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SOLAR SERVICES AGREEMENT

THIS SOLAR SERVICES AGREEMENT ("**Agreement**") is made and entered into on as of _____, ____ (the "**Effective Date**"), by and between Entegrity Energy Partners, LLC ("**Provider**"), and City of Fayetteville ("**Buyer**").

WITNESSETH:

WHEREAS, Provider controls (whether by lease, ownership, option or otherwise) that certain real property located in the State of Arkansas, as more particularly described in Exhibit B attached hereto (the "**Site**"), and Buyer and Provider desire for the development, design, construction, operation and maintenance by Provider of one or more solar powered electric generating project on the Site to be owned by Provider and for Buyer to purchase from Provider, at a fixed rate, the electric energy produced by the Project;

WHEREAS, Provider desires to sell to Buyer the electric energy produced by such facilities at a fixed rate and Buyer desires to purchase from Provider the electric energy produced by such facilities; and

WHEREAS, Provider and Buyer now desire to enter into this Agreement to memorialize their agreements regarding such solar alternative energy facilities and electric energy.

NOW, THEREFORE, in consideration of the premises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Provider and Buyer hereby agree as follows:

1. **Definitions.** The following capitalized terms shall have the meanings set forth below as used in this Agreement:

(a) The term "**Affiliate**" means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(b) The term "**Agreement**" means this Solar Services Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

(c) The term "**Applicable Law**" means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes an approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

(d) The term “Billing Meter” means the revenue grade meter(s) of Provider located at the Site to measure the output of the Project at the Point of Delivery as identified in Exhibit C.

(e) The term “Business Day” means a day other than Saturday, Sunday, or other day on which commercial banks in Little Rock, Arkansas are authorized or required by law to be closed.

(f) The term “Buyer” has the meaning assigned to it in the introductory paragraph hereof.

(g) The term “Change in Law” means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

(h) The term “Commercial Operation Date” means the date, which shall be specified by Provider to Buyer pursuant to Section 3, when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Electric Utility.

(i) The term “Confidential Information” means information of a confidential or proprietary nature. Provider shall notify Buyer in writing of any information that Provider contends may provide an advantage to competitors if disclosed. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party. Notwithstanding the term defined above, the Parties acknowledge that the Buyer is or may become subject to the disclosure requirements of the Arkansas Freedom of Information Act (“FOIA”). The parties acknowledge and agree that Provider believes that Exhibits A, C, and D may contain confidential information, trade secrets, and/or competitive information exempt from disclosure obligations under “FOIA”. Buyer agrees to promptly notify Provider of any receipt of a request for information under FOIA or any other similar disclosure law, related to the Project or this Agreement.

(j) The term “Dispute” means a controversy or claim arising out of or relating to this Agreement.

(k) The term “Electric Utility” means Southwestern Electric Power Company and its successors and assigns.

(l) The term “Environmental Attributes” means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes.

(m) The term “Event of Non-Appropriation” shall have the meaning set forth in Section 5(g) hereof.

(n) The term “Fair Market Value” means the price that would be paid in an arm’s length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

(o) The term “Financing Party” means a Project Lessee or Lender or tax equity investor admitted as a direct or indirect member of Provider.

(p) The term “Fiscal Year” shall mean the fiscal year of Buyer, which Buyer represents and warrants is January 1 to December 31.

(q) The term “Force Majeure Event” means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) extraordinary wind storms, hail, tornados, hurricanes, floods, lightning strikes, and earthquakes; (ii) explosions or fires arising from lightning strikes or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance and unrelated to any defect in materials or equipment of Provider; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, pandemic, official actions of any Governmental Authority, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Neither changes in prices for Usable Electricity nor changes in available solar energy resulting from cloud cover or other natural events constitute Force Majeure Events.

(r) The term “Governmental Authority” means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government with authority over the parties to this Agreement or this transaction.

- (s) The term “Initial Period” has the meaning provided in Section 2.
- (t) The term “Installer” means the Provider or any person or entity designated by Provider to install a Project on a Site.
- (u) The term “Land Registry” means the office where real estate records for a Site are customarily filed.
- (v) The term “Lender” means persons providing construction or permanent financing to Provider in connection with installation of the Project.
- (w) The term “Liens” has the meaning provided in Section 7(c).
- (x) The term “Losses” means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all attorney’s fees and other costs and expenses incurred in defending any such claims or matters).
- (y) The term “Operations Period” has the meaning provided in Section 2.
- (z) The term “Operations Year” means a twelve (12) month period beginning at 12:00 am on an anniversary of the Commercial Operation Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Operations Year shall begin on the Commercial Operation Date.
- (aa) The term “Party” means either Buyer or Provider, as the context shall indicate, and “Parties” means both Buyer and Provider.
- (bb) The term “Point of Delivery” has the meaning set forth in Section 4(a).
- (cc) The term “Project” means an integrated system for the generation of Usable Electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Sites in accordance with this Agreement, and includes equipment and cabling required to connect to the Point of Delivery.
- (dd) The term “Project Lessee” means, if applicable, any Person to whom Provider transferred or leased a Project.
- (ee) The term “Provider” has the meaning assigned to it in the introductory paragraph hereof, and all permitted successors and assigns.
- (ff) The term “Relocation Event” means the relocation of a Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

(gg) The term “Renewable Energy Certificate” or “REC” means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project.

(hh) The term “Site” means the real property upon which the Project is developed.

(ii) The term “Solar Services” means the services Provider provides to Buyer hereunder.

(jj) The term “Tax Attributes” means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of a Project or the output generated by a Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation.)

(kk) The term “Term” shall have the meaning provided in Section 2 hereof.

(ll) The term “Usable Electricity” means alternating current electrical energy meeting the specifications described in Exhibit C, as measured by the Billing Meter at the Point of Delivery.

2. Term.

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, “Term” shall mean all of the Initial Period and the Operations Period, unless the Provider or Buyer terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement.

(b) Initial Period. The Initial Period will begin on the Effective Date and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 3.

(c) Operations Period. If applicable, the Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the 25th anniversary of the Commercial Operation Date unless earlier terminated in accordance with this Agreement; provided, however the Operations Period will automatically renew for two (2) additional five (5) consecutive year periods immediately following the Operations Period unless Buyer or Provider shall provide written notice to the other Party of its intention not to extend the Agreement at least one hundred eighty (180) days prior to the end of the Operations Period or any applicable automatic five (5) year extension period, as the case may be.

3. Planning, Installation and Operation of Project.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to identify and assess the suitability of each Site for the Project to be located on such Site and shall act diligently in conducting such assessment. The assessment shall

include the right to inspect the physical condition of the Site; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Electric Utility; to make any applications to the appropriate Public Service Commission or other agencies for receipt of payments for the Project; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; to execute a binding lease or close on an option or purchase of the Site, as applicable; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project.

(b) Termination of Agreement during the Initial Period. At any time during the Initial Period, Provider shall have the right to cease development of the Project on a Site and unilaterally terminate this Agreement, for any reason, including but not limited to material increases in Provider's costs to provide the Solar Services. If Provider gives Buyer notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement. At any time prior to the submission of the interconnection application and the payment associated therewith to the Electrical Utility, Buyer may terminate this Agreement, provided that Buyer pay Provider for any direct costs incurred as of the date of termination in connection with the development of the Project. If Buyer gives Provider notice of such determination and makes the associated payment set forth above, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) the Buyer shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement.

If material increases in Provider's costs to provide the Solar Services are the reason for Provider's termination of this Agreement during the Initial Period, Provider shall propose an Amendment to this Agreement for Buyer's consideration prior to exercising its right to terminate during the Initial Period. Such Amendment shall set forth (i) the reasons Provider's costs to provide the Solar Services have materially increased during the Initial Period, (ii) the extent Provider's costs to provide the Solar Services have materially increased during the Initial Period, and (iii) Provider's proposed adjustment to the Usable Electricity Purchase Rate schedule in Exhibit A to reflect such material changes in Provider's costs. Such Amendment shall be delivered by written notice pursuant to Section 22.

If Provider proposes an Amendment pursuant to this Section, Provider and Buyer may negotiate an adjustment in the Usable Electricity Purchase Rate to reflect any material increases in Provider's costs to provide the Solar Services, and in the event Buyer and Provider are unable to agree upon a reasonable adjustment within thirty (30) days after Provider has delivered a proposed Amendment to Buyer in accordance with this Section, either Party may terminate the Agreement. If either Party gives notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to

the delivery of the notice; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. Provided that either party does not terminate this Agreement pursuant to this Section 3, Provider will use commercially reasonable efforts to commence installing the Project on the applicable Site within one hundred eighty (180) days of the Provider obtaining necessary approvals of the Project from the Electric Utility and any Governmental Authority.

(i) As of the Effective Date, Provider anticipates that each Project shall consist of the components and shall have the designs attributed to such Project in Exhibit C attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of each Project, including the selection of the components in the Project, in its reasonable discretion.

(d) Contractors. Provider shall use licensed contractors to perform the work of installing, operating, and maintaining the Project. Provider shall be responsible for the conduct of Installers and Provider's subcontractors, and Buyer shall have no contractual relationship with Installers or Provider's subcontractors in connection with the work on the Project.

(e) Status Reports. Provider shall give Buyer regular updates, on a reasonable schedule requested by Buyer, on the progress of installation of the Project and shall notify Buyer of when Provider will commence testing of a Project. Buyer shall have the right to have its representatives present during the construction and testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that a Project meets the requirements of the Electric Utility and the Arkansas Public Service Commission, has been installed in accordance with all Applicable Laws, has successfully completed all performance tests, and is capable of producing Usable Electricity on a continuous basis, Provider shall notify Buyer that installation of the Project is complete and shall specify the Commercial Operation Date for such Project, which may be immediately upon delivery of such notice to Buyer. All Usable Electricity produced by a Project prior to the Commercial Operation Date shall be delivered to Buyer at the Point of Delivery after appropriate safety testing and Buyer shall pay for all such Usable Electricity at the rate applicable to the first Operations Year.

(f) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain a Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed at times so as to minimize disruption of the Project during peak sunlight times, to the extent reasonably possible.

(g) System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Buyer advance notice of the shutdown as may be reasonable under the circumstances. Provider shall have no obligation to reimburse Buyer for costs of purchasing Usable Electricity that would have been produced by the Project but for such shutdown. Provider shall not schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Utility, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

4. Sale of Electric Energy.

(a) Sale of Usable Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Buyer and Buyer shall buy from Provider all Usable Electricity produced by the Project, whether or not Buyer is able to use all such Usable Electricity. The Point of Delivery of the Usable Electricity shall be as indicated in Exhibit C. Title to and risk of loss with respect to the Usable Electricity shall transfer from Provider to Buyer at the Point of Delivery.

(b) Delivery of Usable Electricity. The Usable Electricity from the Project shall be delivered from Provider to Buyer at the Point of Delivery per the specifications set forth in Exhibit C and otherwise in compliance with all requirements of the Electric Utility.

(c) Limits on Obligation to Deliver. Provider does not warrant or guarantee the amount of electric energy to be produced by the limits on Project for any hourly, daily, monthly, annual or other period. Provider is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Buyer's electric requirements, other than the obligations under this Agreement. At the time of this Agreement, Provider is not subject to rate review by governmental authorities.

(d) Meter Testing. Provider shall install one or more Billing Meter(s) at the Site, as Provider deems appropriate, to measure the output of the Project at the Point of Delivery. Provider shall provide Buyer with reasonable access to the metered energy output data collected by Provider. Provider shall install an Interval Data Recorder (IDR) with industry standard telemetry at each Project. Provider shall conduct tests of the Billing Meter(s) at such times as it deems appropriate in accordance with industry standards, but not less than once in any two-year period. Buyer shall pay for any independent testing of the Billing Meter(s) in excess of such minimum testing schedule that Buyer deems necessary, except if, after such testing, the Billing Meter is shown to be in error in Provider's favor by more than two percent (2%), Provider shall pay for the cost of such test and shall make corresponding adjustments to the records of the amount of electrical energy provided by the Project delivered based on the period that is half-way in between the date of this testing and the last testing date of the Billing Meter. If there is an error of less than or equal to two percent (2%) no billing adjustments will be made. In the event there is an error of greater than two percent (2%), Provider shall adjust the next invoice to be provided to Buyer under Section 5(b) hereof, to either charge the Buyer additional amounts for energy produced over the stated Billing Meter amount during the applicable period at the applicable rate or provide Buyer a credit against future billing for energy produced under the stated Billing Meter amount during the applicable period,

provided, however, that any deficiencies or credits not theretofore applied or satisfied at the expiration or earlier termination of the Operations Period shall be settled in cash.

5. Payment and Billing; Limits on Buyer Obligations; Event of Non-Appropriation

(a) Rates. Buyer shall pay Provider for Usable Electricity produced by each Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Buyer shall pay for the Usable Electricity produced by each Project quarterly in arrears, promptly after the end of each quarter from the start of operational production. Provider shall provide Buyer with an invoice setting forth the quantity of Usable Electricity produced by the Project in such quarter, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service;; or (iv) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement) and with a hard copy to follow, addressed as follows:

City of Fayetteville
113 West Mountain Street
Fayetteville, AR, 72701

(d) Payment. Buyer shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider or by Direct Deposit of funds into Provider's bank account or by check if electronic transfer or direct deposit are not available. Provider shall designate the account in the invoice or in a written notice delivered to Buyer.

(f) Disputed Invoices. If Buyer objects to all or a portion of an invoice, Buyer shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Buyer does not object prior to the date payment of any invoice is due, Buyer shall be obligated to pay the full amount of such invoices but Buyer may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Buyer may not object to any invoice more than twelve (12) months after the date on which such invoice is rendered.

(g) Payment Limitations. If, during the term of this Agreement including any extensions, Buyer is bound or deemed bound by the provisions of any State of Arkansas laws concerning the sufficiency of Buyer appropriations and the legal ability of Buyer to enter into binding contracts and agreements with annual obligations in excess of annual Buyer appropriations ("**Appropriation Bound**") the provisions of Sections 5(f)-(j) of the Agreement shall control. If

Buyer is Appropriation Bound, Provider and Buyer hereby expressly acknowledge and agree that the obligation of Buyer to pay invoices for Usable Electricity in any Fiscal Year under this Agreement or otherwise would be legally binding to the extent of amounts appropriated for and legally available to Buyer for such purposes during such Fiscal Year. The parties hereto acknowledge that all payments made by Buyer under this Agreement will constitute currently budgeted expenditures. The parties hereto acknowledge that all payments made by Buyer under this Agreement will not constitute a general obligation debt, an indebtedness, or a multiple-Fiscal Year direct or indirect debt or other financial obligation of Buyer within the meaning of any constitutional or statutory provision or limitation. Buyer represents to Provider, and the parties hereto acknowledge that, Buyer is Appropriation Bound.

(h) Event of Non-Appropriation. If Buyer is Appropriation Bound, if by the first day of any Fiscal Year Buyer has failed for any reason to obtain an appropriation of sufficient legally available amounts to be used by Buyer to pay invoices for Usable Electricity that will be due hereunder for and during the next ensuing Fiscal Year, then an Event of Non-Appropriation shall be deemed to have occurred on the first calendar day thereafter (an “**Event of Non-Appropriation**”). However, the parties hereto hereby agree that no Event of Non-Appropriation shall be deemed to have occurred if the foregoing failure set forth in this subsection (g) is cured on or before the thirty-first (31st) day of such Fiscal Year in which such Event of Non-Appropriation shall be deemed to have occurred by the enactment of an appropriation providing sufficient legally available amounts to Buyer, or Buyer otherwise making sufficient money available, to pay invoices for Usable Electricity that will be due hereunder for and during the next ensuing Fiscal Year.

(i) Present Expectation. If Buyer becomes Appropriation Bound, it is the present expectation of Buyer that the applicable budgetary entity, within the limits of available funds and revenues, will make an appropriation of a sufficient amount to fund Buyer’s obligations hereunder during each Fiscal Year of the Term; provided, however, this expectation of Buyer shall not be binding upon any future applicable budgetary entity in any future Fiscal Year, except to the extent of any previously appropriated funds. Buyer shall use reasonable good faith efforts to have funds properly budgeted in the general operating expense section of the budget (and not a specific line item), appropriated, allotted, or otherwise made available for this Agreement (including obtaining legislative and other authorizations for use of such funds) and to satisfy such conditions in a timely manner.

(j) Notice of Event of Non-Appropriation. In the case of an Event of Non-Appropriation, Buyer shall promptly give notice of such Event of Non-appropriation (the “**NAE Notice**”). Notwithstanding the occurrence of any Event of Non-Appropriation or the delivery of the NAE Notice, Buyer will not interrupt or impair the delivery of Usable Electricity or jeopardize Provider’s sale, transfer or other monetization of Environmental Attributes, RECs or Tax Attributes. Following receipt by Provider of an NAE Notice, Provider, in its sole discretion, (i) may terminate this Agreement, or (ii) may continue to operate the Project and deliver the Usable Electricity to a third party or utility company without payment by Buyer therefore during the applicable Fiscal Year (and each Fiscal Year thereafter until an appropriation is made). Under the circumstances of (ii), other than with respect to the obligation to make payment for energy delivered, all obligations of Buyer under this Agreement shall remain in full force and effect. Should Buyer receive an appropriation for this Agreement during the continuation of the Event of Non-

Appropriation, before termination under option (i) has been exercised, Buyer shall pay such monies to Provider as to make Provider whole for any amounts due and owing under this Agreement to the extent appropriated, and upon payment such Event of Non-Appropriation shall be nullified.

(k) Within thirty (30) days of Provider's receipt of the NAE Notice, Provider shall give notice to Buyer of Provider's election among options (i) and (ii) under subsection (i) above. If Provider does not provide notice to Buyer of Provider's election under this subsection (j) within such period, Provider shall be deemed to have elected option (ii) under subsection (i) above, provided that, if Provider elects or is deemed to have elected option (ii) it may subsequently change its election at any time upon prior written notice to Purchaser.

6. Supplemental Power, Net Metering and RECs.

(a) Back-up and Supplemental Usable Electricity. Except as otherwise provided herein, throughout the Term, Buyer shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project. Provider shall have no obligation to obtain or pay for such supplemental or back-up Usable Electricity.

(b) Net Metering & Utility Credits. At any time that electric production from the Project is greater than Buyer's requirements at such time, Buyer shall nevertheless pay Provider for all the Usable Electricity produced by the Project at the rates and in the manner provided in this Agreement. Buyer shall be entitled to receive, to the extent permitted by Applicable Law, any credits or payments due from the Electric Utility as a result of net metering from the Project, except during an Event of Non-Appropriation. Upon Buyer's written request and not to exceed twice per year, Provider or its duly authorized contractor shall provide reasonable assistance to Buyer in reviewing the applicable bills, credits and payments received from the Electric Utility.

(c) Interconnection. Provider shall be responsible for arranging the interconnection of the Project with Buyer's distribution system in a manner that includes bi-directional or "net metering" if applicable. It is further understood that all cost associated with establishing the interconnection between the Project and the electric utility pursuant to Net-Metering Rule 3.01 are solely the responsibility of the Provider.

(d) Solar Program Incentives. Provider shall receive all payments and benefits available under any incentive/benefits solar program. Buyer shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments/benefits, including designating Provider as the customer for purposes thereof or assigning payments/benefits therefrom to Provider. If Buyer receives any payments under any such incentive/benefits solar program or other programs in respect of the Project, it shall promptly pay them over to Provider. Buyer's obligation to make any payments to Provider under this paragraph (d) is limited to any payments actually received by Buyer.

(e) Ownership of Tax Attributes. Provider shall be the owner of any Tax Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Buyer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Buyer is deemed to be the

owner of any such Tax Attributes, Buyer shall assign the same (or the proceeds thereof) to Provider. If Buyer receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(f) Environmental Attributes. Buyer shall be the owner of any Environmental Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Environmental Attributes to any person.

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Buyer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Buyer is deemed to be the owner or provider of such capacity or services, then Buyer shall assign the same to Provider. If Buyer receives any payments in respect of capacity or such services then Buyer shall promptly pay them over to Provider.

(h) Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's obligations or performance under this Agreement.

(i) Grid charges. Buyer shall be responsible for paying any grid charge authorized pursuant to Ark. Code Ann. §23-18-607 or any other Applicable Law.

7. Permits and Ownership of Project.

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) System Ownership. Except as provided in Section 8, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. Buyer disclaims any right, title and interest in and to the Project. The Project is personal property and shall not attach to or be deemed a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code as in effect in the state of the Site. Buyer and/or Provider shall make any necessary filings to disclaim the Project as a fixture of the Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by Governmental Authorities for taxes (collectively referred to as "Liens" and each, individually, a "Lien") on or with respect to the interests of the other in the Project.

8. Purchase Option

(a) Purchase Option. Buyer shall have the right to purchase the Project and Provider's rights in the Site from Provider upon the terms set forth in this Section 8(a) (the "**Purchase Option**") on either of the seventh (7th), fourteenth (14th), or twenty-first (21st) anniversary of the Commercial Operation Date ("**Purchase Option Period(s)**") by providing to Provider written notice of Buyer's election to purchase the Project and Provider's rights in the Site (the "**Purchase Option Notice**") no later than the date which is twelve (12) months prior to the respective Purchase Option Period (the "**Purchase Option Notice Deadline**"). If the Purchase Option is elected by Buyer timely sending to Provider the Purchase Option Notice prior to the Purchase Option Notice Deadline, the closing shall occur (i) within the three (3) month period immediately following the respective Purchase Option Period or a time and date mutually agreeable to Buyer and Provider (the "**Purchase Option Closing Date**"). The purchase price to be paid to Provider by Buyer for the Project and Provider's rights in the Site on the Purchase Option Closing Date shall be the greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) the purchase price for the Project and Provider's rights in the Site on the respective Purchase Option Period as set forth on Exhibit D hereto (the "**Purchase Option Purchase Price**"). Within one hundred twenty (120) days of Provider's receipt of the Purchase Option Notice, Provider shall give Buyer an appraisal of the Fair Market Value of the Project and Provider's rights in the Site as of the date of the sale. Buyer may, but is not obligated to, accept such appraisal. If Buyer does not accept such appraisal within fifteen (15) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If the parties are unable to reach agreement within twenty (20) days of the Buyer's receipt of the appraisal from Provider, the Parties will be deemed to enter into a dispute for purposes of Section 21 and shall follow the procedures in Section 21 for resolution of the dispute. Notwithstanding the foregoing, in the event that Provider enters into a tax equity investment financing transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project and Provider's rights in the Site in this Agreement shall be undertaken by a mutually acceptable nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and Provider's rights in the Site and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such tax equity investment financing transaction. Buyer shall be responsible for all appraisal fees.

(b) Transfer of Ownership. Upon Buyer's notice that it elects to exercise the option set forth in Section 8(a) above, Provider shall prepare and deliver to Buyer a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the Purchase Option Purchase Price, Provider shall deliver, or cause to be delivered, to Buyer a bill of sale conveying the Project to Buyer and an assignment or lease/easement or special warranty deed, as applicable, with respect to Provider's rights in the Site. Such bill of sale, assignment of lease/easement, and/or special warranty deed shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Buyer.

(c) Operation & Maintenance After Sale. Prior to the effective date of Buyer's purchase of the Project and Provider's rights in the Site under Section 8(a), Buyer and Provider shall discuss

entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Buyer's purchase of the Project and Provider's rights in the Site. However, neither Party shall be under an obligation to enter into such an agreement.

(d) No Survival of Purchase Option. The options for Buyer to purchase the Project and Provider's rights in the Site under Section 8(a) shall not survive the termination of this Agreement.

9. Shutdowns.

(a) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 3(g), Provider may shutdown any or all Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on the Site may interfere with the safe operation of a Project. Provider shall give Buyer notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider shall use commercially reasonable efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. In the event of such a shutdown, unless the shutdown was caused by the act or omission of Buyer or any party under Buyer's control, Buyer shall not be required to pay Provider any amounts for Usable Electricity that Buyer would have purchased but for the shutdown.

(b) System Disruptions. In the event that any act or omission of Buyer, Buyer's employees, Affiliates, or agents results in a disruption or outage in a Project's production, then, in either case, Buyer shall reimburse Provider for all costs and expenses incurred by Provider to repair the Project or restore such Project's production to normal operating condition and Buyer will pay Provider an amount equal to the sum of (A) payments that Buyer would have made to Provider hereunder for Usable Electricity that would have been produced by the Project following such outage or disruption; (B) revenues that Provider would have received with respect to the Project under any incentives/benefits solar program and any other assistance program with respect to electric energy that would have been produced following such outage or disruption; and (C) revenues from Environmental Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following such outage or disruption. Determination of the amount of electric energy that would have been produced following such outage or disruption shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Buyer mutually agree to an alternative methodology.

10. Taxes.

(a) Income Taxes. Provider shall be responsible income taxes associated with payments from Buyer to Provider for Usable Electricity from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Buyer shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the

sale of electric energy by Provider to Buyer. Buyer shall timely report, make filings for, and pay any and all such taxes assessed directly against it and shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Personal Property Taxes. Provider shall be responsible for all personal property taxes for personal property which comprises a part of the Project and which is owned by Provider.

(d) Real Property Taxes. Buyer shall not be responsible for real property taxes for any real property which comprises a part of the Project and which is not owned by Buyer.

(e) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment is bonded or otherwise secured in accordance with Applicable Law.

(f) Payment of Delinquent Taxes. In the event either Party fails to pay any taxes that may become a lien upon the other Party's property, such Party may pay such amounts and in such event shall be entitled to recover such paid amount from the other Party, together with interest thereon at the rate of one percent (1%) per month, compounded monthly, but not to exceed the maximum amount of seventeen percent (17%) per annum.

(g) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 10 shall be paid within twenty (20) days of receiving an invoice therefor from the Party who paid the taxes.

11. Reserved.

12. Cooperation

The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

During the Term, Buyer shall deliver to Provider: (i) its annual audited financial statements within 180 days after the end of each Fiscal Year, (ii) its annual budget for the succeeding Fiscal Year promptly following approval thereof, (iii) proof of appropriation of funds for payments due hereunder with its annual budget, and (iv) such other financial statements and information relating to the ability of Buyer to satisfy its obligations under this Agreement as may be reasonably requested by Provider from time to time.

13. Press Releases and Confidentiality.

(a) Press Releases. The Parties acknowledge that they each desire to publicize information about this Agreement and the Project. The Parties therefore agree that each may make independent press releases about entering into this Agreement, the size and location of the Project, production values of the Project, the estimated savings (including, but not limited to, financial and environmental attributes) as a result of the Project, the costs incurred by the City related to the Project, material aspects including, but not limited to, component descriptions and locations, and the identity of the other Party, with the prior written consent of the other Party, which consent will not be unreasonably withheld. However, the terms of this Agreement and information about the Project other than that described above constitutes Confidential Information, as defined below, and is subject to the remaining provisions of this Section 13. Both Parties have exclusive control over the content or their respective websites. Any press release will be reviewed by both Parties within 3 business days. If no changes have been requested after 3 business days for review either Party may issue the press release. Both Parties will review and agree to all media announcement and marketing publications before release. Nothing herein shall prevent Buyer from complying with its obligations under the Freedom of Information Act.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 13(c), each Party agrees that, (i) without the consent of the other Party, it shall not disclose any Confidential Information received from the other Party to any other person and (ii) it shall use any Confidential Information received from the other Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing any incentives/benefits applicable to the Project which Provider elects to participate in or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing. Notwithstanding the foregoing provision, the Parties acknowledge that the Buyer is subject to the disclosure requirements of the Arkansas Freedom of Information Act and the confidentiality of the Family Educational Rights and Privacy Act.

(c) Permissible Disclosures. Buyer may publicly publish this Agreement and its exhibits and schedules in the event Buyer determines, in its sole discretion, that disclosure is required by any agreement to which Buyer is a party, or by applicable law or the rules of any public or private regulatory body. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if a receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange or regulatory body, to disclose any Confidential Information provided by the disclosing Party, the receiving Party shall notify the disclosing Party prior to making any disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party.

(d) Buyer acknowledges that Provider is an independent contractor and the Buyer has no ownership or control over Provider, a private entity. Provider has not agreed to act as a custodian of public records for the Buyer subject to the provisions of the Arkansas Freedom of Information

Act, Ark. Code Ann. §25-19-101, et seq. Buyer further acknowledges and agrees that certain documents and information provided to Buyer pursuant to the terms and conditions of this Agreement may place Provider and Buyer at a competitive disadvantage if the information is disclosed by Buyer. In the event Buyer receives a request for disclosure pursuant to subpoena or other means, Buyer shall promptly provide notice of such request to Provider, and shall notify Provider of any records Buyer deems it is required under law to disclose, in order to give Provider the opportunity to seek an Attorney General Opinion or court order to prevent the disclosure.

(e) Provider shall provide the Buyer with access to a Project monitoring application which will allow the Buyer to access the Project information for purposes of Buyer displaying and communicating the Project information to the public. The system monitoring application shall be updated at least daily.

14. Representations and Warranties.

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of the Effective Date, that:

(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of incorporation or formation, as applicable, and of the state in which the Sites are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (1) its organizational documents; (2) any agreement or other obligation by which it is bound; and/or (3) any law or regulation.

(iii) Enforceability. (1) Except as contemplated under Section 3(a), all actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (2) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (3) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Buyer Representations. In addition to the representations and warranties in Section 14(a), Buyer hereby represents and warrants to Provider, as of the Effective Date, that:

(i) Authorization. The execution and delivery of this Agreement by Buyer and the performance of its obligations hereunder have been duly authorized by all necessary official action. This Agreement is a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

(ii) Financial Information. The financial information Buyer has provided to Provider presents fairly in all material respects the financial condition and results of operations of Buyer.

(c) Provider Representations. In addition to the representations and warranties in Section 14(a), Provider hereby represents and warrants to Buyer that:

(i) Before commencing performance of this Agreement Provider shall have become licensed or otherwise permitted to do business in the State of Arkansas and shall have provided proof and documentation of all required insurance and bonds pursuant to this Agreement.

(ii) Provider shall make available, upon reasonable request, documents relating to its performance under this Agreement, including contracts and subcontracts it shall enter into;

(iii) Provider shall use contractors and subcontractors who are qualified, licensed and bonded in this State to perform the work so subcontracted pursuant to the terms hereof;

(iv) Provider has all requisite authority to the use of proprietary property, both tangible and intangible, contemplated by this Agreement;

(v) The execution and delivery of this Agreement by Provider and the performance of its obligations hereunder have been duly authorized by all necessary official action. This Agreement is a legal, valid and binding obligation of Provider enforceable against Provider in accordance with its terms; and

(vi) If requested by Buyer, the financial information Provider has provided to Buyer presents fairly in all material respects the financial condition and results of operations of Provider.

15. Force Majeure.

(a) Excuse for Force Majeure Event. Except as provided in Section 15(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement if and to the extent that such delay or failure is caused by the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the

cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event that destroys all or a substantial portion of a Site, Provider shall elect, within ninety (90) days of such event, whether it will restore the Site, which restoration will be at the sole expense of Provider. If Provider does not elect to restore the Site, then this Agreement will terminate. If Provider does elect to restore the Site, Provider shall provide notice of such election to Buyer, and thereafter following receipt of all necessary permits and approvals shall diligently restore the Site at its sole expense. In the event of termination of this Agreement pursuant to this Section 15(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement. Notwithstanding anything to the contrary in this Agreement, Provider shall restore the Site if a Force Majeure Event occurs during the first seven (7) years of the Operation Period.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Agreement, if nonperformance that is the result of a Force Majeure Event continues beyond a continuous period of two hundred and seventy (270) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days' notice to the other; provided, however, that Provider's restoration of the Site under Section 15(c) shall not be subject to the foregoing termination provision if during such 270-day period Provider has begun restoration of the Site and is proceeding diligently, using commercially reasonable efforts, to complete such restoration without unreasonable delay. In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or Site, and the confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

16. Provider Default and Buyer Remedies.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("**Provider Events of Default**") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 14 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Buyer identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of a Project, Provider abandons installation of the Project for thirty (30) consecutive days and fails to resume installation within thirty (30) days after receipt of notice from Buyer stating

that, in Buyer's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to deliver Usable Electricity for a period of ninety (90) consecutive days, which failure is not due to equipment failure, damage to the Project that can be remedied during such ninety (90) day period through the exercise or ordinary diligence, act of governmental authority, exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 15(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Buyer stating that, in Buyer's reasonable determination, Provider has ceased operation of the Project; provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented by circumstances beyond its control from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 15(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due; or (B) sixty (60) days if the failure involves an obligation other than payment, after receipt of notice from Buyer identifying the failure.

(v) Prohibited Acts. Provider takes any material action forbidden by this Agreement.

(vi) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution. Prior to any event of Provider insolvency occurring after the fifth anniversary of the Commercial Operation Date for a Project, Provider shall offer to sell the Project at Fair Market Value to Buyer, unless prohibited by law.

(b) Financing Party Opportunity to Cure; Buyer Remedies. Upon an Event of Default by Provider, provided that Buyer complies with its obligations under Section 18 and Financing Party does not cure such Event of Default by Provider, Buyer may terminate this Agreement, seek to recover damages for costs of replacement Usable Electricity for the Project, and pursue other remedies available at law or equity.

17. Buyer Default and Provider Remedies.

(a) Buyer Events of Default. Buyer shall be in default of this Agreement if any of the following (“**Buyer Events of Default**”) shall occur:

(i) Misrepresentation. Any representation or warranty by Buyer under Section 14 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Buyer intentionally obstructs commencement of installation of any Project or fails to take any actions necessary for the interconnection of any Project, or fails to take Usable Electricity produced by any Project (except in the case of Excuse for Force Majeure Event), and fails to correct such action within its own power to do so within fifteen (15) days.

(iii) Payment Failure. Buyer fails to make any payment due under the terms of this Agreement and fails to make such payment within thirty (30) days after the date when due.

(iv) Obligation Failure. Buyer fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 15(b) (relating to Force Majeure Events), and such failure is not cured within sixty (60) days if the failure involves an obligation other than payment, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Buyer (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Buyer in an involuntary case under bankruptcy law or seeking to dissolve Buyer under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon an Event of Default by Buyer, Provider may remove any components of the Project located on a Site and/or pursue any and all other remedies available at law or in equity.

18. Collateral Assignment; Financing Provisions.

(a) Financing Arrangements. To the extent permitted by law, Provider may pledge, grant security interests, assign, or otherwise encumber its interests in the Site, Project and this Agreement to any persons providing financing for the Project. Buyer acknowledges that Provider

will obtain construction financing for the Project from one or more third parties and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Buyer acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement, in whole or in part, and a first security interest in the Project, including the Site. In order to facilitate such financing, and with respect to any lender or lessor, as applicable, Buyer agrees as follows:

(i) Consent to Collateral Assignment. Buyer hereby consents to both of the sale or lease of the Project to a Financing Party and the collateral assignment to the Financing Party of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Financing Party, as owner or lessee of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Buyer hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Buyer of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Buyer shall enter into a new agreement with Financing Party or its assignee(s) having the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. If Financing Party provides Buyer with notice of its interest and with a notice address, Buyer will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within the periods for cure provided for in this Agreement.; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section 18(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third-Party Beneficiary. Buyer agrees and acknowledges that Financing Party is a third-party beneficiary of the provisions of this Section 18.

(c) Entry to Consent to Assignment. Buyer agrees to execute any consents to assignment, payment direction letters, or acknowledgements as may be reasonably requested by Provider and/or Financing Party in connection with such financing of or sale of any or all of the Project.

(d) Regardless of assignment, Provider, Provider's Affiliate, or a contractor thereof that is an experienced manager in the renewable energy industry of at least 25 MW of renewable energy assets will continue to operate and maintain the Project. For the avoidance of doubt, Integrity Energy Partners LLC and/or an Affiliate thereof shall qualify as an experienced manager hereunder.

19. Change in Law.

If there is any Change in Law subsequent to the Effective Date that results in a direct and material change in Provider's costs to provide the Solar Services or Buyer's ability to obtain, or a material reduction in, any net metering credit or payment from the Electric Utility, Provider or Buyer shall promptly submit to the other party a written notice setting forth (i) the citation of the Change in Law, (ii) the manner in which such change materially increases Provider's costs to

provide the Solar Services or Buyer's ability to receive, or the material reduction in, the net metering credit or payment, and (iii) Provider's or Buyer's proposed adjustment to the kWh rates to reflect such material changes in Provider's costs or Buyer's ability to receive, or the material reduction in, the net metering credit or payment. Provider and Buyer agree to negotiate in good faith a commercially reasonable adjustment in the kWh rate to reflect the associated costs or values impacted by the Change in Law, and in the event Buyer and Provider are unable to agree upon a reasonable adjustment within thirty (30) days after written notice in accordance with this Section, such Dispute shall be resolved in accordance with Section 21 hereof.

20. Limitations on Damages, Liability, and Remedies; Disclaimer.

(a) EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY NOR ITS DIRECTORS, OFFICERS, SHAREHOLDERS, PARTNERS, MEMBERS, AGENTS AND EMPLOYEES SUBCONTRACTORS OR SUPPLIERS SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST REVENUES (OTHER THAN AMOUNTS PAYABLE UNDER THIS AGREEMENT), LOST PROFITS, LOST BUSINESS OPPORTUNITY OR ANY BUSINESS INTERRUPTION), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EVEN IF ADVISED OF SUCH. THE PARTIES AGREE THAT (I) IN THE EVENT THAT PROVIDER OR ITS INVESTORS LOSE OR ARE REQUIRED TO RECAPTURE ANY TAX ATTRIBUTES OR OTHER TAX BENEFITS AS A RESULT OF A BREACH OF THIS AGREEMENT BY BUYER, SUCH RECAPTURED AMOUNT SHALL BE DEEMED TO BE DIRECT AND NOT INDIRECT OR CONSEQUENTIAL DAMAGES, AND (II) IN THE EVENT THAT PROVIDER IS RETAINING THE ENVIRONMENTAL ATTRIBUTES PRODUCED BY THE PROJECT, AND A BREACH OF THIS AGREEMENT BY BUYER CAUSES PROVIDER TO LOSE THE BENEFIT OF SALES OF SUCH ENVIRONMENTAL ATTRIBUTES TO THIRD PARTIES, THE AMOUNT OF SUCH LOST SALES SHALL BE DIRECT AND NOT INDIRECT OR CONSEQUENTIAL DAMAGES.

(b) PROVIDER'S AGGREGATE LIABILITY UNDER THIS AGREEMENT ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT CANNOT EXCEED THE TOTAL PAYMENTS ACTUALLY MADE BY BUYER UNDER THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 20(B) WILL APPLY WHETHER SUCH LIABILITY OR CLAIM ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE.

(c) TO THE EXTENT THAT THIS AGREEMENT SETS FORTH SPECIFIC REMEDIES FOR ANY CLAIM OR LIABILITY, SUCH REMEDIES ARE THE AFFECTED PARTY'S SOLE AND EXCLUSIVE REMEDIES FOR SUCH CLAIM OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

(d) EXCEPT AS EXPRESSLY SET FORTH HEREIN, NO WARRANTY WITH RESPECT TO THE PROJECT OR THE PERFORMANCE OF PROVIDER'S OBLIGATIONS HEREUNDER, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS, OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, APPLIES UNDER THIS AGREEMENT.

(e) NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO ALTER, LIMIT, OR OTHERWISE COMPROMISE THAT TORT IMMUNITY AFFORDED THE CITY OF FAYETTEVILLE UNDER THE CONSTITUTION AND STATUTES OF THE STATE OF ARKANSAS.

21. Dispute Resolution.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a “**Dispute**”) within thirty (30) days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Mediation. If, after such negotiation in accordance with Section 21(a), the Dispute remains unresolved, either Party may request that a non-binding mediation take place. In such mediation, representatives of the Parties with authority to resolve the dispute shall meet for at least three (3) hours with a mediator whom they choose together. If the Parties are unable to agree on a mediator, then either Party is hereby empowered to request the American Arbitration Association to appoint a mediator. The mediator’s fee and expenses shall be paid one-half by each Party.

(c) Forum. The parties agree that all claims, demands or actions for loss, expense, damage, liability or other relief, either at law or in equity, arising out of or related to this Agreement must be brought before a court in Washington County, Arkansas having jurisdiction over such matter.

22. Notices.

Delivery of Notices. All notices or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Buyer:

City of Fayetteville
113 West Mountain Street
Fayetteville, AR, 72701

If to Provider:

Entegrity Energy Partners, LLC

1403 East 6th Street
Little Rock, AR 72202

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

23. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to its choice of law provisions, and applicable federal law. Any legal action or proceeding arising out of or relating to this Agreement must be conducted exclusively within the State of Arkansas and in no other jurisdiction.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words “hereto”, “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word “person” shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word “including” shall be deemed to be followed by the words “without limitation”. In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Buyer, Provider (i) may assign, in whole or in part, its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this

Agreement in whole or in part as collateral, in accordance with Section 18. For purposes of this Section 23(e), assign, sell, transfer, or convey does not include any sale of all or substantially all of the assets of Provider or any merger of Provider with another person, whether or not Provider is the surviving entity from such merger, or any other change in control of Provider, provided any such surviving entity assumes all obligations of Provider, as appropriate, under this Agreement. Buyer agrees to execute any consents to assignment or acknowledgements as may be reasonably requested by Provider in connection with an assignment of this Agreement.

(f) Provider Put Option. Buyer and Provider hereby expressly acknowledge and agree that Provider shall have the option to put the purchase of one or more Projects located on a Site to Buyer at the end of the Term for a purchase price which is equivalent to the Fair Market Value of the Project at such time.

(g) **THIS AGREEMENT IS NOT A LEASE – THIS AGREEMENT CONSTITUTES A SERVICE CONTRACT.** THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS NOT A LEASE AND THIS AGREEMENT SHALL NOT BE CONSTRUED AS A LEASE. THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE AND FURTHER COVENANT, WARRANT, AND REPRESENT TO EACH OTHER THAT NEITHER PARTY WILL TAKE ANY ACTION WHATSOEVER TO TREAT OR CONSTRUE THIS AGREEMENT AS A LEASE. THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS AN AGREEMENT TO SELL ELECTRIC ENERGY GENERATED FROM AN ALTERNATIVE ENERGY FACILITY AND THIS AGREEMENT SHALL BE DEEMED A SERVICE CONTRACT PURSUANT TO 26 U.S.C. SECTION 7701(e)(3)(A). THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE AND FURTHER COVENANT, WARRANT, AND REPRESENT TO EACH OTHER THAT EACH PARTY WILL TAKE ANY AND ALL ACTIONS NECESSARY TO INSURE THAT THIS AGREEMENT IS TREATED AND CONSTRUED AS A SERVICE CONTRACT SATISFYING THE REQUIREMENTS OF SERVICE CONTRACTS PURSUANT TO 26 U.S.C. SECTION 7701(e)(3)(A). THE PARTIES HERETO HEREBY FURTHER EXPRESSLY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS INTENDED TO FULLY COMPLY WITH ACT 464 OF THE 2019 REGULAR SESSION OF THE 92ND GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, EXPRESSLY INCLUDING, BUT NOT LIMITED TO, A.C.A SECTION 23-18-603(7)(C).

(h) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

(i) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(Signatures contained on following page.)

(Signature Page to Solar Services Agreement)

EXECUTED AND EFFECTIVE as of the Effective Date.

BUYER:

CITY OF FAYETTEVILLE

By: _____

Name: _____

Title: _____

PROVIDER:

ENTEGRITY ENERGY PARTNERS, LLC

By:  _____
Michael Parker (Dec 1, 2023 09:45 CST)

Name: Michael Parker

Title: President

EXHIBIT A
CONFIDENTIAL

USABLE ELECTRICITY PURCHASE RATE

Year	Solar Electric Rate (\$/kWh)
1	\$0.0570
2	\$0.0576
3	\$0.0581
4	\$0.0587
5	\$0.0593
6	\$0.0599
7	\$0.0605
8	\$0.0611
9	\$0.0617
10	\$0.0623
11	\$0.0630
12	\$0.0636
13	\$0.0642
14	\$0.0649
15	\$0.0655
16	\$0.0662
17	\$0.0668
18	\$0.0675
19	\$0.0682
20	\$0.0689
21	\$0.0696
22	\$0.0702
23	\$0.0709
24	\$0.0717
25	\$0.0724

EXHIBIT B

DESCRIPTION OF SITE

General Description:

A portion of parcel [REDACTED] in [REDACTED] County, Arkansas. Final legal description to be determined by survey.

EXHIBIT C
CONFIDENTIAL

DESCRIPTION OF PROJECT

Project Description:

Point of Delivery

Solar Modules:

Solar Racking System:

Inverters:

Billing Meter:

Facility Capacity (DC):

Facility Capacity (AC):

Estimated Year-1 Production:

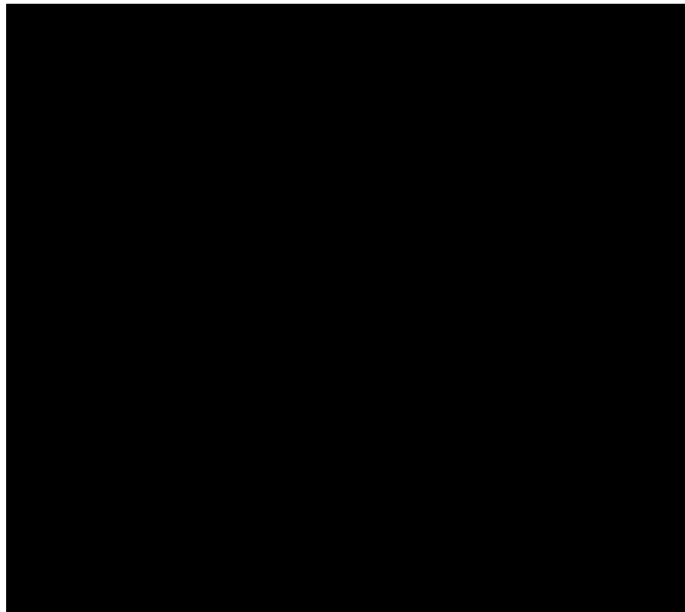


EXHIBIT D
CONFIDENTIAL

PURCHASE OPTION PURCHASE PRICE SCHEDULE

Seventh (7th) Anniversary of Commercial Operation Date: The greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) [REDACTED]

Fourteenth (14th) Anniversary of Commercial Operation Date: The greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) [REDACTED]

Twenty-First (21st) Anniversary of Commercial Operation Date: The greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) [REDACTED]

SOLAR SERVICES AGREEMENT

between

Entegrity Energy Partners, LLC
as Provider

and

City of Fayetteville
as Buyer

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SOLAR SERVICES AGREEMENT

THIS SOLAR SERVICES AGREEMENT (“**Agreement**”) is made and entered into on as of _____, ____ (the “**Effective Date**”), by and between Entegrity Energy Partners, LLC (“**Provider**”), and City of Fayetteville (“**Buyer**”).

WITNESSETH:

WHEREAS, Provider controls (whether by lease, ownership, option or otherwise) that certain real property located in the State of Arkansas, as more particularly described in Exhibit B attached hereto (the “**Site**”), and Buyer and Provider desire for the development, design, construction, operation and maintenance by Provider of one or more solar powered electric generating project on the Site to be owned by Provider and for Buyer to purchase from Provider, at a fixed rate, the electric energy produced by the Project;

WHEREAS, Provider desires to sell to Buyer the electric energy produced by such facilities at a fixed rate and Buyer desires to purchase from Provider the electric energy produced by such facilities; and

WHEREAS, Provider and Buyer now desire to enter into this Agreement to memorialize their agreements regarding such solar alternative energy facilities and electric energy.

NOW, THEREFORE, in consideration of the premises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Provider and Buyer hereby agree as follows:

1. Definitions. The following capitalized terms shall have the meanings set forth below as used in this Agreement:

(a) The term “Affiliate” means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(b) The term “Agreement” means this Solar Services Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

(c) The term “Applicable Law” means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes an approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

(d) The term "Billing Meter" means the revenue grade meter(s) of Provider located at the Site to measure the output of the Project at the Point of Delivery as identified in Exhibit C.

(e) The term "Business Day" means a day other than Saturday, Sunday, or other day on which commercial banks in Little Rock, Arkansas are authorized or required by law to be closed.

(f) The term "Buyer" has the meaning assigned to it in the introductory paragraph hereof.

(g) The term "Change in Law" means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

(h) The term "Commercial Operation Date" means the date, which shall be specified by Provider to Buyer pursuant to Section 3, when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Electric Utility.

(i) The term "Confidential Information" means information of a confidential or proprietary nature. Provider shall notify Buyer in writing of any information that Provider contends may provide an advantage to competitors if disclosed. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party. Notwithstanding the term defined above, the Parties acknowledge that the Buyer is or may become subject to the disclosure requirements of the Arkansas Freedom of Information Act ("FOIA"). The parties acknowledge and agree that Provider believes that Exhibits A, C, and D may contain confidential information, trade secrets, and/or competitive information exempt from disclosure obligations under "FOIA". Buyer agrees to promptly notify Provider of any receipt of a request for information under FOIA or any other similar disclosure law, related to the Project or this Agreement.

(j) The term "Dispute" means a controversy or claim arising out of or relating to this Agreement.

(k) The term "Electric Utility" means Southwestern Electric Power Company and its successors and assigns.

(l) The term “Environmental Attributes” means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes.

(m) The term “Event of Non-Appropriation” shall have the meaning set forth in Section 5(g) hereof.

(n) The term “Fair Market Value” means the price that would be paid in an arm’s length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

(o) The term “Financing Party” means a Project Lessee or Lender or tax equity investor admitted as a direct or indirect member of Provider.

(p) The term “Fiscal Year” shall mean the fiscal year of Buyer, which Buyer represents and warrants is January 1 to December 31.

(q) The term “Force Majeure Event” means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) extraordinary wind storms, hail, tornados, hurricanes, floods, lightning strikes, and earthquakes; (ii) explosions or fires arising from lightning strikes or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance and unrelated to any defect in materials or equipment of Provider; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, pandemic, official actions of any Governmental Authority, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Neither changes in prices for Usable Electricity nor changes in available solar energy resulting from cloud cover or other natural events constitute Force Majeure Events.

(r) The term “Governmental Authority” means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government with authority over the parties to this Agreement or this transaction.

- (s) The term “Initial Period” has the meaning provided in Section 2.
- (t) The term “Installer” means the Provider or any person or entity designated by Provider to install a Project on a Site.
- (u) The term “Land Registry” means the office where real estate records for a Site are customarily filed.
- (v) The term “Lender” means persons providing construction or permanent financing to Provider in connection with installation of the Project.
- (w) The term “Liens” has the meaning provided in Section 7(c).
- (x) The term “Losses” means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all attorney’s fees and other costs and expenses incurred in defending any such claims or matters).
- (y) The term “Operations Period” has the meaning provided in Section 2.
- (z) The term “Operations Year” means a twelve (12) month period beginning at 12:00 am on an anniversary of the Commercial Operation Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Operations Year shall begin on the Commercial Operation Date.
- (aa) The term “Party” means either Buyer or Provider, as the context shall indicate, and “Parties” means both Buyer and Provider.
- (bb) The term “Point of Delivery” has the meaning set forth in Section 4(a).
- (cc) The term “Project” means an integrated system for the generation of Usable Electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Sites in accordance with this Agreement, and includes equipment and cabling required to connect to the Point of Delivery.
- (dd) The term “Project Lessee” means, if applicable, any Person to whom Provider transferred or leased a Project.
- (ee) The term “Provider” has the meaning assigned to it in the introductory paragraph hereof, and all permitted successors and assigns.
- (ff) The term “Relocation Event” means the relocation of a Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

(gg) The term “Renewable Energy Certificate” or “REC” means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project.

(hh) The term “Site” means the real property upon which the Project is developed.

(ii) The term “Solar Services” means the services Provider provides to Buyer hereunder.

(jj) The term “Tax Attributes” means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of a Project or the output generated by a Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation.)

(kk) The term “Term” shall have the meaning provided in Section 2 hereof.

(ll) The term “Usable Electricity” means alternating current electrical energy meeting the specifications described in Exhibit C, as measured by the Billing Meter at the Point of Delivery.

2. Term.

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, “Term” shall mean all of the Initial Period and the Operations Period, unless the Provider or Buyer terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement.

(b) Initial Period. The Initial Period will begin on the Effective Date and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 3.

(c) Operations Period. If applicable, the Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the 25th anniversary of the Commercial Operation Date unless earlier terminated in accordance with this Agreement; provided, however the Operations Period will automatically renew for two (2) additional five (5) consecutive year periods immediately following the Operations Period unless Buyer or Provider shall provide written notice to the other Party of its intention not to extend the Agreement at least one hundred eighty (180) days prior to the end of the Operations Period or any applicable automatic five (5) year extension period, as the case may be.

3. Planning, Installation and Operation of Project.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to identify and assess the suitability of each Site for the Project to be located on such Site and shall act diligently in conducting such assessment. The assessment shall

include the right to inspect the physical condition of the Site; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Electric Utility; to make any applications to the appropriate Public Service Commission or other agencies for receipt of payments for the Project; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; to execute a binding lease or close on an option or purchase of the Site, as applicable; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project.

(b) Termination of Agreement during the Initial Period. At any time during the Initial Period, Provider shall have the right to cease development of the Project on a Site and unilaterally terminate this Agreement, for any reason, including but not limited to material increases in Provider's costs to provide the Solar Services. If Provider gives Buyer notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement. At any time prior to the submission of the interconnection application and the payment associated therewith to the Electrical Utility, Buyer may terminate this Agreement, provided that Buyer pay Provider for any direct costs incurred as of the date of termination in connection with the development of the Project. If Buyer gives Provider notice of such determination and makes the associated payment set forth above, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) the Buyer shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement.

If material increases in Provider's costs to provide the Solar Services are the reason for Provider's termination of this Agreement during the Initial Period, Provider shall propose an Amendment to this Agreement for Buyer's consideration prior to exercising its right to terminate during the Initial Period. Such Amendment shall set forth (i) the reasons Provider's costs to provide the Solar Services have materially increased during the Initial Period, (ii) the extent Provider's costs to provide the Solar Services have materially increased during the Initial Period, and (iii) Provider's proposed adjustment to the Usable Electricity Purchase Rate schedule in Exhibit A to reflect such material changes in Provider's costs. Such Amendment shall be delivered by written notice pursuant to Section 22.

If Provider proposes an Amendment pursuant to this Section, Provider and Buyer may negotiate an adjustment in the Usable Electricity Purchase Rate to reflect any material increases in Provider's costs to provide the Solar Services, and in the event Buyer and Provider are unable to agree upon a reasonable adjustment within thirty (30) days after Provider has delivered a proposed Amendment to Buyer in accordance with this Section, either Party may terminate the Agreement. If either Party gives notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to

the delivery of the notice; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. Provided that either party does not terminate this Agreement pursuant to this Section 3, Provider will use commercially reasonable efforts to commence installing the Project on the applicable Site within one hundred eighty (180) days of the Provider obtaining necessary approvals of the Project from the Electric Utility and any Governmental Authority.

(i) As of the Effective Date, Provider anticipates that each Project shall consist of the components and shall have the designs attributed to such Project in Exhibit C attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of each Project, including the selection of the components in the Project, in its reasonable discretion.

(d) Contractors. Provider shall use licensed contractors to perform the work of installing, operating, and maintaining the Project. Provider shall be responsible for the conduct of Installers and Provider's subcontractors, and Buyer shall have no contractual relationship with Installers or Provider's subcontractors in connection with the work on the Project.

(e) Status Reports. Provider shall give Buyer regular updates, on a reasonable schedule requested by Buyer, on the progress of installation of the Project and shall notify Buyer of when Provider will commence testing of a Project. Buyer shall have the right to have its representatives present during the construction and testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that a Project meets the requirements of the Electric Utility and the Arkansas Public Service Commission, has been installed in accordance with all Applicable Laws, has successfully completed all performance tests, and is capable of producing Usable Electricity on a continuous basis, Provider shall notify Buyer that installation of the Project is complete and shall specify the Commercial Operation Date for such Project, which may be immediately upon delivery of such notice to Buyer. All Usable Electricity produced by a Project prior to the Commercial Operation Date shall be delivered to Buyer at the Point of Delivery after appropriate safety testing and Buyer shall pay for all such Usable Electricity at the rate applicable to the first Operations Year.

(f) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain a Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed at times so as to minimize disruption of the Project during peak sunlight times, to the extent reasonably possible.

(g) System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Buyer advance notice of the shutdown as may be reasonable under the circumstances. Provider shall have no obligation to reimburse Buyer for costs of purchasing Usable Electricity that would have been produced by the Project but for such shutdown. Provider shall not schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Utility, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

4. Sale of Electric Energy.

(a) Sale of Usable Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Buyer and Buyer shall buy from Provider all Usable Electricity produced by the Project. The Point of Delivery of the Usable Electricity shall be as indicated in Exhibit C. Title to and risk of loss with respect to the Usable Electricity shall transfer from Provider to Buyer at the Point of Delivery.

(b) Delivery of Usable Electricity. The Usable Electricity from the Project shall be delivered from Provider to Buyer at the Point of Delivery per the specifications set forth in Exhibit C and otherwise in compliance with all requirements of the Electric Utility.

(c) Limits on Obligation to Deliver. Provider does not warrant or guarantee the amount of electric energy to be produced by the limits on Project for any hourly, daily, monthly, annual or other period. Provider is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Buyer's electric requirements, other than the obligations under this Agreement. At the time of this Agreement, Provider is not subject to rate review by governmental authorities.

(d) Meter Testing. Provider shall install one or more Billing Meter(s) at the Site, as Provider deems appropriate, to measure the output of the Project at the Point of Delivery. Provider shall provide Buyer with reasonable access to the metered energy output data collected by Provider. Provider shall install an Interval Data Recorder (IDR) with industry standard telemetry at each Project. Provider shall conduct tests of the Billing Meter(s) at such times as it deems appropriate in accordance with industry standards, but not less than once in any two-year period. Buyer shall pay for any independent testing of the Billing Meter(s) in excess of such minimum testing schedule that Buyer deems necessary, except if, after such testing, the Billing Meter is shown to be in error in Provider's favor by more than two percent (2%), Provider shall pay for the cost of such test and shall make corresponding adjustments to the records of the amount of electrical energy provided by the Project delivered based on the period that is half-way in between the date of this testing and the last testing date of the Billing Meter. If there is an error of less than or equal to two percent (2%) no billing adjustments will be made. In the event there is an error of greater than two percent (2%), Provider shall adjust the next invoice to be provided to Buyer under Section 5(b) hereof, to either charge the Buyer additional amounts for energy produced over the stated Billing Meter amount during the applicable period at the applicable rate or provide Buyer a credit against future billing for energy produced under the stated Billing Meter amount during the applicable period,

provided, however, that any deficiencies or credits not theretofore applied or satisfied at the expiration or earlier termination of the Operations Period shall be settled in cash.

5. Payment and Billing; Limits on Buyer Obligations; Event of Non-Appropriation

(a) Rates. Buyer shall pay Provider for Usable Electricity produced by each Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Buyer shall pay for the Usable Electricity produced by each Project quarterly in arrears, promptly after the end of each quarter from the start of operational production. Provider shall provide Buyer with an invoice setting forth the quantity of Usable Electricity produced by the Project in such quarter, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service;; or (iv) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement) and with a hard copy to follow, addressed as follows:

City of Fayetteville
113 West Mountain Street
Fayetteville, AR, 72701

(d) Payment. Buyer shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider or by Direct Deposit of funds into Provider's bank account or by check if electronic transfer or direct deposit are not available. Provider shall designate the account in the invoice or in a written notice delivered to Buyer.

(f) Disputed Invoices. If Buyer objects to all or a portion of an invoice, Buyer shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Buyer does not object prior to the date payment of any invoice is due, Buyer shall be obligated to pay the full amount of such invoices but Buyer may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Buyer may not object to any invoice more than twelve (12) months after the date on which such invoice is rendered.

(g) Payment Limitations. If, during the term of this Agreement including any extensions, Buyer is bound or deemed bound by the provisions of any State of Arkansas laws concerning the sufficiency of Buyer appropriations and the legal ability of Buyer to enter into binding contracts and agreements with annual obligations in excess of annual Buyer appropriations ("Appropriation Bound") the provisions of Sections 5(f)-(j) of the Agreement shall control. If

Buyer is Appropriation Bound, Provider and Buyer hereby expressly acknowledge and agree that the obligation of Buyer to pay invoices for Usable Electricity in any Fiscal Year under this Agreement or otherwise would be legally binding to the extent of amounts appropriated for and legally available to Buyer for such purposes during such Fiscal Year. The parties hereto acknowledge that all payments made by Buyer under this Agreement will constitute currently budgeted expenditures. The parties hereto acknowledge that all payments made by Buyer under this Agreement will not constitute a general obligation debt, an indebtedness, or a multiple-Fiscal Year direct or indirect debt or other financial obligation of Buyer within the meaning of any constitutional or statutory provision or limitation. Buyer represents to Provider, and the parties hereto acknowledge that, Buyer is Appropriation Bound.

(h) Event of Non-Appropriation. If Buyer is Appropriation Bound, if by the first day of any Fiscal Year Buyer has failed for any reason to obtain an appropriation of sufficient legally available amounts to be used by Buyer to pay invoices for Usable Electricity that will be due hereunder for and during the next ensuing Fiscal Year, then an Event of Non-Appropriation shall be deemed to have occurred on the first calendar day thereafter (an “**Event of Non-Appropriation**”). However, the parties hereto hereby agree that no Event of Non-Appropriation shall be deemed to have occurred if the foregoing failure set forth in this subsection (g) is cured on or before the thirty-first (31st) day of such Fiscal Year in which such Event of Non-Appropriation shall be deemed to have occurred by the enactment of an appropriation providing sufficient legally available amounts to Buyer, or Buyer otherwise making sufficient money available, to pay invoices for Usable Electricity that will be due hereunder for and during the next ensuing Fiscal Year.

(i) Present Expectation. If Buyer becomes Appropriation Bound, it is the present expectation of Buyer that the applicable budgetary entity, within the limits of available funds and revenues, will make an appropriation of a sufficient amount to fund Buyer’s obligations hereunder during each Fiscal Year of the Term; provided, however, this expectation of Buyer shall not be binding upon any future applicable budgetary entity in any future Fiscal Year, except to the extent of any previously appropriated funds. Buyer shall use reasonable good faith efforts to have funds properly budgeted in the general operating expense section of the budget (and not a specific line item), appropriated, allotted, or otherwise made available for this Agreement (including obtaining legislative and other authorizations for use of such funds) and to satisfy such conditions in a timely manner.

(j) Notice of Event of Non-Appropriation. In the case of an Event of Non-Appropriation, Buyer shall promptly give notice of such Event of Non-appropriation (the “**NAE Notice**”). Notwithstanding the occurrence of any Event of Non-Appropriation or the delivery of the NAE Notice, Buyer will not interrupt or impair the delivery of Usable Electricity or jeopardize Provider’s sale, transfer or other monetization of Environmental Attributes, RECs or Tax Attributes. Following receipt by Provider of an NAE Notice, Provider, in its sole discretion, (i) may terminate this Agreement, or (ii) may continue to operate the Project and deliver the Usable Electricity to a third party or utility company without payment by Buyer therefore during the applicable Fiscal Year (and each Fiscal Year thereafter until an appropriation is made). Under the circumstances of (ii), other than with respect to the obligation to make payment for energy delivered, all obligations of Buyer under this Agreement shall remain in full force and effect. Should Buyer receive an appropriation for this Agreement during the continuation of the Event of Non-

Appropriation, before termination under option (i) has been exercised, Buyer shall pay such monies to Provider as to make Provider whole for any amounts due and owing under this Agreement to the extent appropriated, and upon payment such Event of Non-Appropriation shall be nullified.

(k) Within thirty (30) days of Provider's receipt of the NAE Notice, Provider shall give notice to Buyer of Provider's election among options (i) and (ii) under subsection (i) above. If Provider does not provide notice to Buyer of Provider's election under this subsection (j) within such period, Provider shall be deemed to have elected option (ii) under subsection (i) above, provided that, if Provider elects or is deemed to have elected option (ii) it may subsequently change its election at any time upon prior written notice to Purchaser.

6. Supplemental Power, Net Metering and RECs.

(a) Back-up and Supplemental Usable Electricity. Except as otherwise provided herein, throughout the Term, Buyer shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project. Provider shall have no obligation to obtain or pay for such supplemental or back-up Usable Electricity.

(b) Net Metering & Utility Credits. At any time that electric production from the Project is greater than Buyer's requirements at such time, Buyer shall nevertheless pay Provider for all the Usable Electricity produced by the Project at the rates and in the manner provided in this Agreement. Buyer shall be entitled to receive, to the extent permitted by Applicable Law, any credits or payments due from the Electric Utility as a result of net metering from the Project, except during an Event of Non-Appropriation. Upon Buyer's written request and not to exceed twice per year, Provider or its duly authorized contractor shall provide reasonable assistance to Buyer in reviewing the applicable bills, credits and payments received from the Electric Utility.

(c) Interconnection. Provider shall be responsible for arranging the interconnection of the Project with Buyer's distribution system in a manner that includes bi-directional or "net metering" if applicable. It is further understood that all cost associated with establishing the interconnection between the Project and the electric utility pursuant to Net-Metering Rule 3.01 are solely the responsibility of the Provider.

(d) Solar Program Incentives. Provider shall receive all payments and benefits available under any incentive/benefits solar program. Buyer shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments/benefits, including designating Provider as the customer for purposes thereof or assigning payments/benefits therefrom to Provider. If Buyer receives any payments under any such incentive/benefits solar program or other programs in respect of the Project, it shall promptly pay them over to Provider. Buyer's obligation to make any payments to Provider under this paragraph (d) is limited to any payments actually received by Buyer.

(e) Ownership of Tax Attributes. Provider shall be the owner of any Tax Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Buyer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Buyer is deemed to be the

owner of any such Tax Attributes, Buyer shall assign the same (or the proceeds thereof) to Provider. If Buyer receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(f) Environmental Attributes. Buyer shall be the owner of any Environmental Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Environmental Attributes to any person.

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Buyer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Buyer is deemed to be the owner or provider of such capacity or services, then Buyer shall assign the same to Provider. If Buyer receives any payments in respect of capacity or such services then Buyer shall promptly pay them over to Provider.

(h) Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's obligations or performance under this Agreement.

(i) Grid charges. Buyer shall be responsible for paying any grid charge authorized pursuant to Ark. Code Ann. §23-18-607 or any other Applicable Law.

7. Permits and Ownership of Project.

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) System Ownership. Except as provided in Section 8, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. Buyer disclaims any right, title and interest in and to the Project. The Project is personal property and shall not attach to or be deemed a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code as in effect in the state of the Site. Buyer and/or Provider shall make any necessary filings to disclaim the Project as a fixture of the Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by Governmental Authorities for taxes (collectively referred to as "**Liens**" and each, individually, a "**Lien**") on or with respect to the interests of the other in the Project.

8. Purchase Option

(a) Purchase Option. Buyer shall have the right to purchase the Project and Provider's rights in the Site from Provider upon the terms set forth in this Section 8(a) (the "**Purchase Option**") on either of the seventh (7th), fourteenth (14th), or twenty-first (21st) anniversary of the Commercial Operation Date ("**Purchase Option Period(s)**") by providing to Provider written notice of Buyer's election to purchase the Project and Provider's rights in the Site (the "**Purchase Option Notice**") no later than the date which is twelve (12) months prior to the respective Purchase Option Period (the "**Purchase Option Notice Deadline**"). If the Purchase Option is elected by Buyer timely sending to Provider the Purchase Option Notice prior to the Purchase Option Notice Deadline, the closing shall occur (i) within the three (3) month period immediately following the respective Purchase Option Period or a time and date mutually agreeable to Buyer and Provider (the "**Purchase Option Closing Date**"). The purchase price to be paid to Provider by Buyer for the Project and Provider's rights in the Site on the Purchase Option Closing Date shall be the greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) the purchase price for the Project and Provider's rights in the Site on the respective Purchase Option Period as set forth on Exhibit D hereto (the "**Purchase Option Purchase Price**"). Within one hundred twenty (120) days of Provider's receipt of the Purchase Option Notice, Provider shall give Buyer an appraisal of the Fair Market Value of the Project and Provider's rights in the Site as of the date of the sale. Buyer may, but is not obligated to, accept such appraisal. If Buyer does not accept such appraisal within fifteen (15) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If the parties are unable to reach agreement within twenty (20) days of the Buyer's receipt of the appraisal from Provider, the Parties will be deemed to enter into a dispute for purposes of Section 21 and shall follow the procedures in Section 21 for resolution of the dispute. Notwithstanding the foregoing, in the event that Provider enters into a tax equity investment financing transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project and Provider's rights in the Site in this Agreement shall be undertaken by a mutually acceptable nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and Provider's rights in the Site and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such tax equity investment financing transaction. Buyer shall be responsible for all appraisal fees.

(b) Transfer of Ownership. Upon Buyer's notice that it elects to exercise the option set forth in Section 8(a) above, Provider shall prepare and deliver to Buyer a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the Purchase Option Purchase Price, Provider shall deliver, or cause to be delivered, to Buyer a bill of sale conveying the Project to Buyer and an assignment or lease/easement or special warranty deed, as applicable, with respect to Provider's rights in the Site. Such bill of sale, assignment of lease/easement, and/or special warranty deed shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Buyer.

(c) Operation & Maintenance After Sale. Prior to the effective date of Buyer's purchase of the Project and Provider's rights in the Site under Section 8(a), Buyer and Provider shall discuss

entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Buyer's purchase of the Project and Provider's rights in the Site. However, neither Party shall be under an obligation to enter into such an agreement.

(d) No Survival of Purchase Option. The options for Buyer to purchase the Project and Provider's rights in the Site under Section 8(a) shall not survive the termination of this Agreement.

9. Shutdowns.

(a) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 3(g), Provider may shutdown any or all Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on the Site may interfere with the safe operation of a Project. Provider shall give Buyer notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider shall use commercially reasonable efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. In the event of such a shutdown, unless the shutdown was caused by the act or omission of Buyer or any party under Buyer's control, Buyer shall not be required to pay Provider any amounts for Usable Electricity that Buyer would have purchased but for the shutdown.

(b) System Disruptions. In the event that any act or omission of Buyer, Buyer's employees, Affiliates, or agents results in a disruption or outage in a Project's production, then, in either case, Buyer shall reimburse Provider for all costs and expenses incurred by Provider to repair the Project or restore such Project's production to normal operating condition and Buyer will pay Provider an amount equal to the sum of (A) payments that Buyer would have made to Provider hereunder for Usable Electricity that would have been produced by the Project following such outage or disruption; (B) revenues that Provider would have received with respect to the Project under any incentives/benefits solar program and any other assistance program with respect to electric energy that would have been produced following such outage or disruption; and (C) revenues from Environmental Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following such outage or disruption. Determination of the amount of electric energy that would have been produced following such outage or disruption shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Buyer mutually agree to an alternative methodology.

10. Taxes.

(a) Income Taxes. Provider shall be responsible income taxes associated with payments from Buyer to Provider for Usable Electricity from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Buyer shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the

sale of electric energy by Provider to Buyer. Buyer shall timely report, make filings for, and pay any and all such taxes assessed directly against it and shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Personal Property Taxes. Provider shall be responsible for all personal property taxes for personal property which comprises a part of the Project and which is owned by Provider.

(d) Real Property Taxes. Buyer shall not be responsible for real property taxes for any real property which comprises a part of the Project and which is not owned by Buyer.

(e) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment is bonded or otherwise secured in accordance with Applicable Law.

(f) Payment of Delinquent Taxes. In the event either Party fails to pay any taxes that may become a lien upon the other Party's property, such Party may pay such amounts and in such event shall be entitled to recover such paid amount from the other Party, together with interest thereon at the rate of one percent (1%) per month, compounded monthly, but not to exceed the maximum amount of seventeen percent (17%) per annum.

(g) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 10 shall be paid within twenty (20) days of receiving an invoice therefor from the Party who paid the taxes.

11. Reserved.

12. Cooperation

The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

During the Term, Buyer shall deliver to Provider: (i) its annual audited financial statements within 180 days after the end of each Fiscal Year, (ii) its annual budget for the succeeding Fiscal Year promptly following approval thereof, (iii) proof of appropriation of funds for payments due hereunder with its annual budget, and (iv) such other financial statements and information relating to the ability of Buyer to satisfy its obligations under this Agreement as may be reasonably requested by Provider from time to time.

13. Press Releases and Confidentiality.

(a) Press Releases. The Parties acknowledge that they each desire to publicize information about this Agreement and the Project. The Parties therefore agree that each may make independent press releases about entering into this Agreement, the size and location of the Project, production values of the Project, the estimated savings (including, but not limited to, financial and environmental attributes) as a result of the Project, the costs incurred by the City related to the Project, material aspects including, but not limited to, component descriptions and locations, and the identity of the other Party, with the prior written consent of the other Party, which consent will not be unreasonably withheld. However, the terms of this Agreement and information about the Project other than that described above constitutes Confidential Information, as defined below, and is subject to the remaining provisions of this Section 13. Both Parties have exclusive control over the content or their respective websites. Any press release will be reviewed by both Parties within 3 business days. If no changes have been requested after 3 business days for review either Party may issue the press release. Both Parties will review and agree to all media announcement and marketing publications before release. Nothing herein shall prevent Buyer from complying with its obligations under the Freedom of Information Act.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 13(c), each Party agrees that, (i) without the consent of the other Party, it shall not disclose any Confidential Information received from the other Party to any other person and (ii) it shall use any Confidential Information received from the other Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing any incentives/benefits applicable to the Project which Provider elects to participate in or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing. Notwithstanding the foregoing provision, the Parties acknowledge that the Buyer is subject to the disclosure requirements of the Arkansas Freedom of Information Act and the confidentiality of the Family Educational Rights and Privacy Act.

(c) Permissible Disclosures. Buyer may publicly publish this Agreement and its exhibits and schedules in the event Buyer determines, in its sole discretion, that disclosure is required by any agreement to which Buyer is a party, or by applicable law or the rules of any public or private regulatory body. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if a receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange or regulatory body, to disclose any Confidential Information provided by the disclosing Party, the receiving Party shall notify the disclosing Party prior to making any disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party.

(d) Buyer acknowledges that Provider is an independent contractor and the Buyer has no ownership or control over Provider, a private entity. Provider has not agreed to act as a custodian of public records for the Buyer subject to the provisions of the Arkansas Freedom of Information

Act, Ark. Code Ann. §25-19-101, et seq. Buyer further acknowledges and agrees that certain documents and information provided to Buyer pursuant to the terms and conditions of this Agreement may place Provider and Buyer at a competitive disadvantage if the information is disclosed by Buyer. In the event Buyer receives a request for disclosure pursuant to subpoena or other means, Buyer shall promptly provide notice of such request to Provider, and shall notify Provider of any records Buyer deems it is required under law to disclose, in order to give Provider the opportunity to seek an Attorney General Opinion or court order to prevent the disclosure.

(e) Provider shall provide the Buyer with access to a Project monitoring application which will allow the Buyer to access the Project information for purposes of Buyer displaying and communicating the Project information to the public. The system monitoring application shall be updated at least daily.

14. Representations and Warranties.

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of the Effective Date, that:

(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of incorporation or formation, as applicable, and of the state in which the Sites are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (1) its organizational documents; (2) any agreement or other obligation by which it is bound; and/or (3) any law or regulation.

(iii) Enforceability. (1) Except as contemplated under Section 3(a), all actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (2) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (3) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Buyer Representations. In addition to the representations and warranties in Section 14(a), Buyer hereby represents and warrants to Provider, as of the Effective Date, that:

(i) Authorization. The execution and delivery of this Agreement by Buyer and the performance of its obligations hereunder have been duly authorized by all necessary official action. This Agreement is a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

(ii) Financial Information. The financial information Buyer has provided to Provider presents fairly in all material respects the financial condition and results of operations of Buyer.

(c) Provider Representations. In addition to the representations and warranties in Section 14(a), Provider hereby represents and warrants to Buyer that:

(i) Before commencing performance of this Agreement Provider shall have become licensed or otherwise permitted to do business in the State of Arkansas and shall have provided proof and documentation of all required insurance and bonds pursuant to this Agreement.

(ii) Provider shall make available, upon reasonable request, documents relating to its performance under this Agreement, including contracts and subcontracts it shall enter into;

(iii) Provider shall use contractors and subcontractors who are qualified, licensed and bonded in this State to perform the work so subcontracted pursuant to the terms hereof;

(iv) Provider has all requisite authority to the use of proprietary property, both tangible and intangible, contemplated by this Agreement;

(v) The execution and delivery of this Agreement by Provider and the performance of its obligations hereunder have been duly authorized by all necessary official action. This Agreement is a legal, valid and binding obligation of Provider enforceable against Provider in accordance with its terms; and

(vi) If requested by Buyer, the financial information Provider has provided to Buyer presents fairly in all material respects the financial condition and results of operations of Provider.

15. Force Majeure.

(a) Excuse for Force Majeure Event. Except as provided in Section 15(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement if and to the extent that such delay or failure is caused by the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the

cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event that destroys all or a substantial portion of a Site, Provider shall elect, within ninety (90) days of such event, whether it will restore the Site, which restoration will be at the sole expense of Provider. If Provider does not elect to restore the Site, then this Agreement will terminate. If Provider does elect to restore the Site, Provider shall provide notice of such election to Buyer, and thereafter following receipt of all necessary permits and approvals shall diligently restore the Site at its sole expense. In the event of termination of this Agreement pursuant to this Section 15(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 13, and the dispute resolution provisions of Section 21 hereof shall continue to apply notwithstanding the termination of this Agreement. Notwithstanding anything to the contrary in this Agreement, Provider shall restore the Site if a Force Majeure Event occurs during the first seven (7) years of the Operation Period.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Agreement, if nonperformance that is the result of a Force Majeure Event continues beyond a continuous period of two hundred and seventy (270) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days' notice to the other; provided, however, that Provider's restoration of the Site under Section 15(c) shall not be subject to the foregoing termination provision if during such 270-day period Provider has begun restoration of the Site and is proceeding diligently, using commercially reasonable efforts, to complete such restoration without unreasonable delay. In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or Site, and the confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

16. Provider Default and Buyer Remedies.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("**Provider Events of Default**") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 14 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Buyer identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of a Project, Provider abandons installation of the Project for thirty (30) consecutive days and fails to resume installation within thirty (30) days after receipt of notice from Buyer stating

that, in Buyer's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to deliver Usable Electricity for a period of ninety (90) consecutive days, which failure is not due to equipment failure, damage to the Project that can be remedied during such ninety (90) day period through the exercise or ordinary diligence, act of governmental authority, exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 15(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Buyer stating that, in Buyer's reasonable determination, Provider has ceased operation of the Project; provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented by circumstances beyond its control from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 15(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due; or (B) sixty (60) days if the failure involves an obligation other than payment, after receipt of notice from Buyer identifying the failure.

(v) Prohibited Acts. Provider takes any material action forbidden by this Agreement.

(vi) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution. Prior to any event of Provider insolvency occurring after the fifth anniversary of the Commercial Operation Date for a Project, Provider shall offer to sell the Project at Fair Market Value to Buyer, unless prohibited by law.

(b) Financing Party Opportunity to Cure; Buyer Remedies. Upon an Event of Default by Provider, provided that Buyer complies with its obligations under Section 18 and Financing Party does not cure such Event of Default by Provider, Buyer may terminate this Agreement, seek to recover damages for costs of replacement Usable Electricity for the Project, and pursue other remedies available at law or equity.

17. Buyer Default and Provider Remedies.

(a) Buyer Events of Default. Buyer shall be in default of this Agreement if any of the following (“**Buyer Events of Default**”) shall occur:

(i) Misrepresentation. Any representation or warranty by Buyer under Section 14 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Buyer intentionally obstructs commencement of installation of any Project or fails to take any actions necessary for the interconnection of any Project, or fails to take Usable Electricity produced by any Project (except in the case of Excuse for Force Majeure Event), and fails to correct such action within its own power to do so within fifteen (15) days.

(iii) Payment Failure. Buyer fails to make any payment due under the terms of this Agreement and fails to make such payment within thirty (30) days after the date when due.

(iv) Obligation Failure. Buyer fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 15(b) (relating to Force Majeure Events), and such failure is not cured within sixty (60) days if the failure involves an obligation other than payment, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Buyer (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Buyer in an involuntary case under bankruptcy law or seeking to dissolve Buyer under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon an Event of Default by Buyer, Provider may remove any components of the Project located on a Site and/or pursue any and all other remedies available at law or in equity.

18. Collateral Assignment, Financing Provisions.

(a) Financing Arrangements. To the extent permitted by law, Provider may pledge, grant security interests, assign, or otherwise encumber its interests in the Site, Project and this Agreement to any persons providing financing for the Project. Buyer acknowledges that Provider

will obtain construction financing for the Project from one or more third parties and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Buyer acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement, in whole or in part, and a first security interest in the Project, including the Site. In order to facilitate such financing, and with respect to any lender or lessor, as applicable, Buyer agrees as follows:

(i) Consent to Collateral Assignment. Buyer hereby consents to both of the sale or lease of the Project to a Financing Party and the collateral assignment to the Financing Party of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Financing Party, as owner or lessee of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Buyer hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Buyer of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Buyer shall enter into a new agreement with Financing Party or its assignee(s) having the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. If Financing Party provides Buyer with notice of its interest and with a notice address, Buyer will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within the periods for cure provided for in this Agreement.; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section 18(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third-Party Beneficiary. Buyer agrees and acknowledges that Financing Party is a third-party beneficiary of the provisions of this Section 18.

(c) Entry to Consent to Assignment. Buyer agrees to execute any consents to assignment, payment direction letters, or acknowledgements as may be reasonably requested by Provider and/or Financing Party in connection with such financing of or sale of any or all of the Project.

(d) Regardless of assignment, Provider, Provider's Affiliate, or a contractor thereof that is an experienced manager in the renewable energy industry of at least 25 MW of renewable energy assets will continue to operate and maintain the Project. For the avoidance of doubt, Integrity Energy Partners LLC and/or an Affiliate thereof shall qualify as an experienced manager hereunder.

19. Change in Law.

If there is any Change in Law subsequent to the Effective Date that results in a direct and material change in Provider's costs to provide the Solar Services or Buyer's ability to obtain, or a material reduction in, any net metering credit or payment from the Electric Utility, Provider or Buyer shall promptly submit to the other party a written notice setting forth (i) the citation of the Change in Law, (ii) the manner in which such change materially increases Provider's costs to

provide the Solar Services or Buyer's ability to receive, or the material reduction in, the net metering credit or payment, and (iii) Provider's or Buyer's proposed adjustment to the kWh rates to reflect such material changes in Provider's costs or Buyer's ability to receive, or the material reduction in, the net metering credit or payment. Provider and Buyer agree to negotiate in good faith a commercially reasonable adjustment in the kWh rate to reflect the associated costs or values impacted by the Change in Law, and in the event Buyer and Provider are unable to agree upon a reasonable adjustment within thirty (30) days after written notice in accordance with this Section, such Dispute shall be resolved in accordance with Section 21 hereof.

20. Limitations on Damages, Liability, and Remedies; Disclaimer.

(a) EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY NOR ITS DIRECTORS, OFFICERS, SHAREHOLDERS, PARTNERS, MEMBERS, AGENTS AND EMPLOYEES SUBCONTRACTORS OR SUPPLIERS SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST REVENUES (OTHER THAN AMOUNTS PAYABLE UNDER THIS AGREEMENT), LOST PROFITS, LOST BUSINESS OPPORTUNITY OR ANY BUSINESS INTERRUPTION), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EVEN IF ADVISED OF SUCH. THE PARTIES AGREE THAT (1) IN THE EVENT THAT PROVIDER OR ITS INVESTORS LOSE OR ARE REQUIRED TO RECAPTURE ANY TAX ATTRIBUTES OR OTHER TAX BENEFITS AS A RESULT OF A BREACH OF THIS AGREEMENT BY BUYER, SUCH RECAPTURED AMOUNT SHALL BE DEEMED TO BE DIRECT AND NOT INDIRECT OR CONSEQUENTIAL DAMAGES, AND (II) IN THE EVENT THAT PROVIDER IS RETAINING THE ENVIRONMENTAL ATTRIBUTES PRODUCED BY THE PROJECT, AND A BREACH OF THIS AGREEMENT BY BUYER CAUSES PROVIDER TO LOSE THE BENEFIT OF SALES OF SUCH ENVIRONMENTAL ATTRIBUTES TO THIRD PARTIES, THE AMOUNT OF SUCH LOST SALES SHALL BE DIRECT AND NOT INDIRECT OR CONSEQUENTIAL DAMAGES.

(b) PROVIDER'S AGGREGATE LIABILITY UNDER THIS AGREEMENT ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT CANNOT EXCEED THE TOTAL PAYMENTS ACTUALLY MADE BY BUYER UNDER THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 20(B) WILL APPLY WHETHER SUCH LIABILITY OR CLAIM ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE.

(c) TO THE EXTENT THAT THIS AGREEMENT SETS FORTH SPECIFIC REMEDIES FOR ANY CLAIM OR LIABILITY, SUCH REMEDIES ARE THE AFFECTED PARTY'S SOLE AND EXCLUSIVE REMEDIES FOR SUCH CLAIM OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

(d) EXCEPT AS EXPRESSLY SET FORTH HEREIN, NO WARRANTY WITH RESPECT TO THE PROJECT OR THE PERFORMANCE OF PROVIDER'S OBLIGATIONS HEREUNDER, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS, OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, APPLIES UNDER THIS AGREEMENT.

(e) NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO ALTER, LIMIT, OR OTHERWISE COMPROMISE THAT TORT IMMUNITY AFFORDED THE CITY OF FAYETTEVILLE UNDER THE CONSTITUTION AND STATUTES OF THE STATE OF ARKANSAS.

21. Dispute Resolution.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a “**Dispute**”) within thirty (30) days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Mediation. If, after such negotiation in accordance with Section 21(a), the Dispute remains unresolved, either Party may request that a non-binding mediation take place. In such mediation, representatives of the Parties with authority to resolve the dispute shall meet for at least three (3) hours with a mediator whom they choose together. If the Parties are unable to agree on a mediator, then either Party is hereby empowered to request the American Arbitration Association to appoint a mediator. The mediator’s fee and expenses shall be paid one-half by each Party.

(c) Forum. The parties agree that all claims, demands or actions for loss, expense, damage, liability or other relief, either at law or in equity, arising out of or related to this Agreement must be brought before a court in Washington County, Arkansas having jurisdiction over such matter.

22. Notices.

Delivery of Notices. All notices or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Buyer:

City of Fayetteville
113 West Mountain Street
Fayetteville, AR, 72701

If to Provider:

Entegrity Energy Partners, LLC

1403 East 6th Street
Little Rock, AR 72202

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

23. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to its choice of law provisions, and applicable federal law. Any legal action or proceeding arising out of or relating to this Agreement must be conducted exclusively within the State of Arkansas and in no other jurisdiction.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words “hereto”, “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word “person” shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word “including” shall be deemed to be followed by the words “without limitation”. In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any non-material part of this Agreement is held to be unenforceable, the rest of the Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Buyer, Provider (i) may assign, in whole or in part, its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this

Agreement in whole or in part as collateral, in accordance with Section 18. For purposes of this Section 23(e), assign, sell, transfer, or convey does not include any sale of all or substantially all of the assets of Provider or any merger of Provider with another person, whether or not Provider is the surviving entity from such merger, or any other change in control of Provider, provided any such surviving entity assumes all obligations of Provider, as appropriate, under this Agreement. Buyer agrees to execute any consents to assignment or acknowledgements as may be reasonably requested by Provider in connection with an assignment of this Agreement.

(f) Provider Put Option. Buyer and Provider hereby expressly acknowledge and agree that Provider shall have the option to put the purchase of one or more Projects located on a Site to Buyer at the end of the Term for a purchase price which is equivalent to the Fair Market Value of the Project at such time.

(g) **THIS AGREEMENT IS NOT A LEASE - THIS AGREEMENT CONSTITUTES A SERVICE CONTRACT.** THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS NOT A LEASE AND THIS AGREEMENT SHALL NOT BE CONSTRUED AS A LEASE. THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE AND FURTHER COVENANT, WARRANT, AND REPRESENT TO EACH OTHER THAT NEITHER PARTY WILL TAKE ANY ACTION WHATSOEVER TO TREAT OR CONSTRUE THIS AGREEMENT AS A LEASE. THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS AN AGREEMENT TO SELL ELECTRIC ENERGY GENERATED FROM AN ALTERNATIVE ENERGY FACILITY AND THIS AGREEMENT SHALL BE DEEMED A SERVICE CONTRACT PURSUANT TO 26 U.S.C. SECTION 7701(e)(3)(A). THE PARTIES HERETO HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE AND FURTHER COVENANT, WARRANT, AND REPRESENT TO EACH OTHER THAT EACH PARTY WILL TAKE ANY AND ALL ACTIONS NECESSARY TO INSURE THAT THIS AGREEMENT IS TREATED AND CONSTRUED AS A SERVICE CONTRACT SATISFYING THE REQUIREMENTS OF SERVICE CONTRACTS PURSUANT TO 26 U.S.C. SECTION 7701(e)(3)(A). THE PARTIES HERETO HEREBY FURTHER EXPRESSLY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS INTENDED TO FULLY COMPLY WITH ACT 464 OF THE 2019 REGULAR SESSION OF THE 92ND GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, EXPRESSLY INCLUDING, BUT NOT LIMITED TO, A.C.A SECTION 23-18-603(7)(C).

(h) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

(i) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(Signatures contained on following page.)

(Signature Page to Solar Services Agreement)

EXECUTED AND EFFECTIVE as of the Effective Date.

BUYER:

CITY OF FAYETTEVILLE

By: _____
Name: _____
Title: _____

PROVIDER:

ENTEGRITY ENERGY PARTNERS, LLC

By: Michael Parker
Michael Parker (Dec 18, 2023 12:19 CST)
Name: Michael Parker
Title: President

EXHIBIT A
CONFIDENTIAL

USABLE ELECTRICITY PURCHASE RATE

Year	Solar Electric Rate (\$/kWh)
1	\$0.0570
2	\$0.0576
3	\$0.0581
4	\$0.0587
5	\$0.0593
6	\$0.0599
7	\$0.0605
8	\$0.0611
9	\$0.0617
10	\$0.0623
11	\$0.0630
12	\$0.0636
13	\$0.0642
14	\$0.0649
15	\$0.0655
16	\$0.0662
17	\$0.0668
18	\$0.0675
19	\$0.0682
20	\$0.0689
21	\$0.0696
22	\$0.0702
23	\$0.0709
24	\$0.0717
25	\$0.0724

EXHIBIT B

DESCRIPTION OF SITE

General Description:

A portion of parcel [REDACTED] in [REDACTED] County, Arkansas. Final legal description to be determined by survey.

EXHIBIT C
CONFIDENTIAL

DESCRIPTION OF PROJECT

Project Description:

Point of Delivery

[REDACTED]

Solar Modules:

[REDACTED]

Solar Racking System:

[REDACTED]

Inverters:

[REDACTED]

Billing Meter:

[REDACTED]

Facility Capacity (DC):

[REDACTED]

Facility Capacity (AC):

[REDACTED]

Estimated Year-1 Production:

[REDACTED]

EXHIBIT D
CONFIDENTIAL

PURCHASE OPTION PURCHASE PRICE SCHEDULE

Seventh (7th) Anniversary of Commercial Operation Date: The greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) [REDACTED];

Fourteenth (14th) Anniversary of Commercial Operation Date: The greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) [REDACTED];

Twenty-First (21st) Anniversary of Commercial Operation Date: The greater of (i) Fair Market Value of the Project and Provider's rights in the Site and (ii) [REDACTED].



MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

DATE:

SUBJECT: **RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397): Submitted by REED LYNCH for property located at 1272 N. 59TH AVE in WARD 4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE.**

RECOMMENDATION:

The Planning Commission recommends approval of a request to rezone the subject property to RMF-6, Residential Multi-Family, Six Units per Acre, as described and shown in the attached Exhibits 'A' and 'B'.

Staff reviewed and recommended approval of the applicant's initial request to rezone the property to RI-12, Residential Intermediate, 12 Units Per Acre, but had not prepared a recommendation for a revised request to RMF-6, Residential Multi-Family, Six Units per Acre. Staff has since made an evaluation, which is included below, and recommends in favor.

BACKGROUND:

The subject property is located in west Fayetteville on the east side of N. 59th Ave., about an eighth of a mile north of the street's intersection with W. Wedington Dr. The property also has direct frontage onto W. Luna St. to the east and totals 0.80 acres. The parcel is developed with a 1,576 square foot single-family structure built in 1961 per Washington County records. Following annexation in to Fayetteville in 2006, the property received its zoning designation of R-A, Residential-Agricultural.

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RMF-6, Residential Multi-family, Six Units per Acre.

Public Comment: Prior to the November 13, 2023 Planning Commission meeting, staff received one phone call from a neighbor inquiring about potential development but no comments specifically in support or opposition to the request. At the first public hearing, two neighbors spoke in opposition to the project, citing concerns about compatibility with the rural nature of the neighborhood, narrow streets and increased traffic, parking, potential building heights, and impact on existing trees. After being tabled, no public comment was offered at the November 27, 2023 meeting.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

Land Use Compatibility: On the balance of considerations, staff found the proposed rezoning from R-A to RI-12 to be somewhat compatible with the surrounding area. With the requested change to RMF-6, staff finds the request is similarly compatible for the following reasons. The intent of the RMF-6 zoning district is "designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas." The subject property is located between large, agricultural properties to the south and west and smaller residential properties to the east and north. The parcel currently has a non-conforming lot width and area within the R-A zoning as this district requires lot widths of 200 feet with lot areas of 2 acres. RMF-6 parcels are required to maintain a variable minimum width of 50, 90, or 100 feet with lot area requirements ranging from 2,500 square feet to 3 acres dependent on use. Single-, two-, three-, and four-family dwellings are permitted by right in the RMF-6 zoning district.

While multifamily dwellings are also permitted by right in RMF-6, staff notes that based on the subject property's size, the maximum number of permitted dwellings on the parcel would be four. Staff finds that the requested rezoning is not likely to result in development that is incompatible with the immediate surroundings since the RMF-6 district limits building heights to the same three stories as adjacent RSF-4 properties and the subject property's size makes it unlikely to be developed to the full density permitted by ordinance. Staff additionally finds that rezoning to an urban form-based district could allow for the development of additional housing while potentially providing increased connectivity given the parcel's street frontage to both the east and west. Further, staff finds the requested rezoning to be compatible since the size and location of the subject parcel appear to be aligned with the spirit and intent of the RMF-6 zoning district, and will allow a nonconforming lot to be brought into conformity.

Land Use Plan Analysis: Staff found 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. With the requested change to RMF-6, staff finds the request is similarly compatible for the following reasons. A rezoning to RMF-6 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and form-based requirements while encouraging increased east to west connectivity. Though the property has a relatively low infill score of 5, staff finds the proposed rezoning's low entitlements to be appropriate given its context, the potential to bring the property in to zoning conformance, and limiting development that may be out of scale with the surrounding neighborhood. While a similar rezoning on a larger property could potentially allow development that is inconsistent with the surrounding neighborhood, staff finds that the requested rezoning could allow for the creation of missing middle housing that compliments City Plan 2040 Goal 1: We Will Make Appropriate Infill and Revitalization our Highest Priority, Goal 4: We Will Grow a Livable Transportation Network, and Goal 6: We Will Create Opportunities for Attainable Housing.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 5 for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response
- Near Sewer Main (8-inch main, Luna St.)
- Near Water Main (8-inch main, Luna St.)
- Near City Park (Bundrick Park, Harmony Pointe Park)
- Near Paved Trail (Wedington Side Path Trail)

DISCUSSION:

At the November 27, 2023, Planning Commission meeting, a vote of 7-1-0 forwarded the request to City Council with a recommendation of approval for RMF-6, Residential Multifamily, Six Units per Acre. The item was previously heard at the November 13, 2023 Planning Commission meeting before being tabled to the

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

November 27, 2023 meeting. The applicant verbally requested that the Commission consider a zoning designation of RMF-6, Residential Multifamily, Six Units per Acre rather than RI-12, Residential Intermediate, Twelve Units per Acre, as noted in the report. At the meeting, staff verbally compared allowable uses and noted that although Use Unit 26: Multifamily Dwellings is permitted by right within RMF-6, the property does not have sufficient lot area, being approximately 34,000-square feet, to permit this use, which requires a minimum of 35,000-square feet. Staff further described development standards between the RMF-6 and RI-12 districts.

Commissioner Payne made the motion to forward and Commissioner Brink seconded. Commissioners voting in favor cited the reduced density, a needed transition area between high- and low-density areas, the likelihood of compatible development due to the small size of the parcel, and lack of public comment on the revised request as reasons for their approval. Commissioner Garlock cited the low infill score and minimal support for City 2040 goals as a reason for his denial vote. No members of the public spoke during the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-1434

RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397):
Submitted by REED LYNCH for property located at 1272 N. 59TH AVE in WARD 4. The
property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80
acres. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI-FAMILY, SIX
UNITS PER ACRE.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-027 FOR APPROXIMATELY 0.80 ACRES LOCATED AT 1272 NORTH 59TH AVENUE IN WARD 4 FROM R-A, RESIDENTIAL-AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, SIX 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 RMF-6, Residential Multi-Family, Six 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

2023-1434

Item ID

12/19/2023

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

Jonathan Curth

12/1/2023

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397): Submitted by REED LYNCH for property located at 1272 N. 59TH AVE in WARD 4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

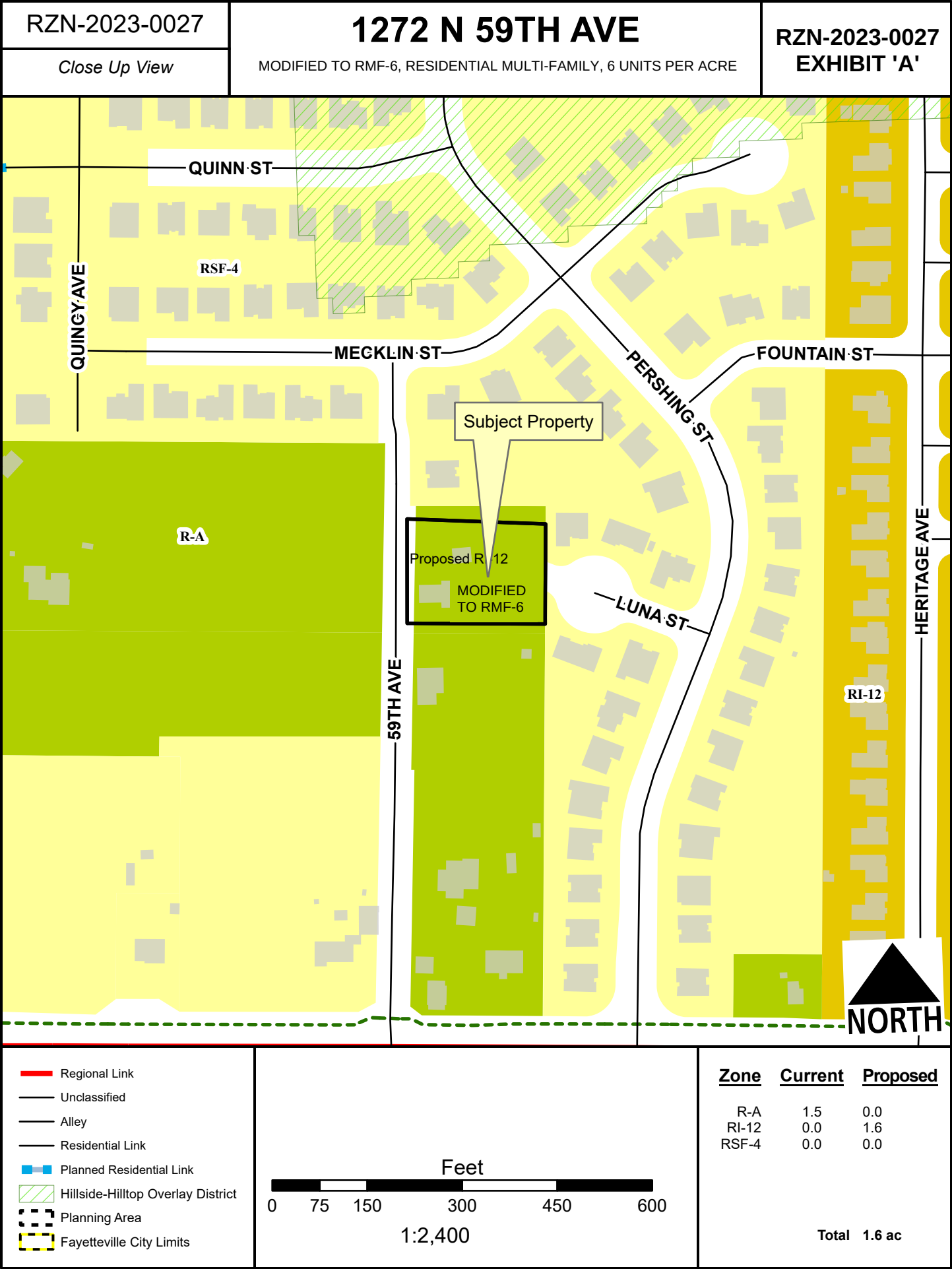
Previous Ordinance or Resolution #

Change Order Number:

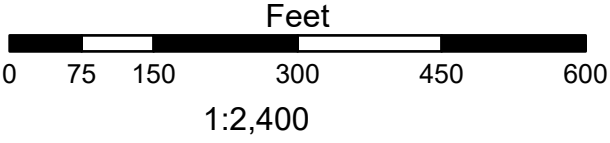
Approval Date:

Original Contract Number:

Comments:



- Regional Link
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



Zone	Current	Proposed
R-A	1.5	0.0
RI-12	0.0	1.6
RSF-4	0.0	0.0
Total		1.6 ac

RZN-2023-0027
EXHIBIT 'B'

59th Street legal description

ANNEXED TO CITY OF FAYETTEVILLE FOR 2006 & FOLLOWING YEARS PER CC2006-5 PT SW NW 0.82 AC FURTHER DESCRIBED FROM 2004-32330 AS: Part of the SW 1/4 of the NW 1/4 of Section 11, Township 16 North, Range 31 West, Washington County, Arkansas, described as follows, to-wit: Commencing at the Southeast Corner of said 40 acre tract; thence South 89°54'11" West along the South line of said 40 acre tract 440.00 feet; thence North 00°20'42" East 681.00 feet to the Point of Beginning; thence South 89°54'11" West 220.00 feet; thence North 00°20'42" East 165.14 feet to a point in the line with an existing fence; thence South 88°22'05" East along said fence 220.04 feet; thence South 00°20'42" West 158.50 feet to the Point of Beginning.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: November 27, 2023 **Updated with results from 11/27/2023 PC Meeting**

SUBJECT: **RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397):** Submitted by REED LYNCH for property located at 1272 N. 59TH AVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0027** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0027** to City Council with a recommendation of approval."*

NOVEMBER 13, 2023 PLANNING COMMISSION MEETING

This item was tabled at the November 13, 2023 Planning commission meeting on the applicant's request. No change has been made to the requested rezoning in the interim.

BACKGROUND:

The subject property is located in west Fayetteville on the east side of N. 59th Ave about an eighth of a mile north of the street's intersection with W. Wedington Dr. The property also has direct frontage onto W. Luna St. to the east and totals 0.80 acres. The parcel is developed with a 1,576 square foot single-family structure built in 1961 per Washington County records. The parcel is zoned R-A, Residential-Agricultural, which it received 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-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	R-A, Residential-Agricultural
East	Single-Family Residential	Public Right-of-Way (W. Luna St.) RSF-4, Residential Single-Family, Four Units per Acre
West	Agricultural / Single-Family Residential	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RI-12, Residential Intermediate, Twelve Units per Acre.

Public Comment: Prior to the November 13 planning commission meeting, staff received one phone call from a neighbor inquiring about potential development but no comments specifically in support or opposition to the request. At the public hearing, two neighbors spoke in opposition to the project, citing concerns about compatibility with the rural nature of the neighborhood, narrow streets and increased traffic, parking, potential building heights, and impact on existing trees.

INFRASTRUCTURE:

Streets: The subject property has frontage along N. 59th Ave, a partially improved Residential Link street with asphalt paving and open ditches, and it has frontage along W. Luna St., a fully improved Residential Link street with asphalt paving, curb, gutter, and sidewalk. 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 eight-inch water main is present on the east side of the subject property.

Sewer: Public sanitary sewer is available to the subject property. An existing eight-inch sewer main is present on the east side of 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. Ruppel Rd., protects this site. The property is located approximately 1.9 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. 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 RI-12, Residential Intermediate, Twelve 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 of 5 for this site with a weighted score of 4.5. The following elements of the matrix contribute to the score:

- Adequate Fire Response
- Near Sewer Main (8-inch main, Luna St.)
- Near Water Main (8-inch main, Luna St.)
- Near City Park (Bundrick Park, Harmony Pointe Park)
- Near Paved Trail (Wedington Side Path Trail)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:*** On the balance of considerations, staff finds the proposed rezoning from R-A to RI-12 to be somewhat compatible with the surrounding area. The intent of the RI-12 zoning district is to provide development potential between low density and medium density with less impact than medium density development, and to encourage the development of areas with existing public facilities with a greater variety of housing values. The parcel in question currently has non-conforming lot width and area within the R-A zoning district, and is located between large, agricultural properties to the south and west, and smaller residential properties to the east and north. Single-, two-, three-, and four-family dwellings are permitted by right in the RI-12 zoning district. All lots are required to maintain a variable minimum width of 50 or 90 feet with variable lot area requirements ranging from 5,000 square feet to 10,890 square feet dependent on use. The R-A district requires lot widths of 200 feet with lot areas of 2 acres. While rezoning a single parcel to RI-12 seems like a significant upzoning inconsistent with the lot widths and areas of the immediately surrounding zoning districts, a large neighborhood of RI-12 has been developed less than 1/8 of a mile to the east and staff finds that rezoning to an urban form based district could allow for the development of additional housing while potentially providing increased connectivity given the parcel's street connectivity to both the east and west. Staff finds the requested rezoning to be compatible since the size and location of the subject parcel appear to be better aligned with the spirit and intent of the RI-12 zoning district, and since the rezoning would allow a nonconforming lot 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 small and unlikely to be able to be developed to the full density permitted by ordinance.

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 RI-12 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and form-based requirements while encouraging increased connectivity by promoting sufficient density to allow for the connection of

W. Luna St. to N. 59th Ave. While a similar rezoning on a larger property could potentially allow development that is out of sync with the surrounding neighborhood, staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority, 4: We Will Grow a Livable Transportation Network, and 6: We Will Create Opportunities for Attainable Housing. Though the property has a relatively low infill score of 5, staff finds the requested rezoning to be relatively appropriate since it would bring the parcel 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 RI-12 is somewhat justified since it contains one parcel that does 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 RI-12 has the potential to increase traffic at this location when considering that RI-12 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 the potential connection to two streets.

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. 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-2023-0027 to City

Council with a recommendation of approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>November 27, 2023</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Payne		with a recommendation of approval for RMF-6 zoning.	
Second: Brink			
Vote: 7-1-0 (Garlock opposed)			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
 - §161.11 District RI-12, Residential Intermediate – Twelve (12) 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)

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12
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(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) and four (4) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21; Ord. No. 6658, §2(Exh. A), 5-2-23)

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."

Scion Investments, LLC
522 Goose Creek Rd
Farmington, AR 72730

November 8, 2023

Dear Tenant,

This letter is regarding the zoning change for 1272 59th Avenue. I plan on developing a couple of multifamily properties that will look very similar to the surrounding homes. I do not plan on developing properties that take away from the aesthetics of the neighborhood or that will negatively impact the value of the homes.

Sincerely,

Reed Lynch

870-584-7908

