City of Fayetteville Staff Review Form

2017-0624

Legistar File ID

11/21/2017

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

Connie Edmonston	10/27/2017	PARKS & RECREATION (520)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

Resolution for an early termination of a Joint Lease Agreement with the University of Arkansas for 27.5 acres on Lewis Avenue land and 10.02 acres on Razorback Road set for December 31, 2017.

Budget Impact:

n/a

Account Number

Fund

Project Number

Project Title

Budgeted Item?		Current Budget	$ -
		Funds Obligated	$ -
		Current Balance	$ -
Does item have a cost?		Item Cost	
Budget Adjustment Attached?		Budget Adjustment	
		Remaining Budget	$ -

V20140710

Previous Ordinance or Resolution # 66-93

Original Contract Number:

Approval Date:

Comments:

CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF NOVEMBER 21, 2017

TO: Mayor and City Council

THRU: Don, Marr, Chief of Staff

FROM: Connie Edmonston, Parks & Recreation Director

DATE: October 27, 2017

SUBJECT: Resolution for an early termination of December 31, 2017 for the Joint Lease Agreement with the University of Arkansas for use of 27.5 acres on Lewis Avenue for a soccer complex in exchange for the University of Arkansas' use of 10.02 acres on Razorback Road.

RECOMMENDATION:
Staff recommends approval of an early termination of December 31, 2017 for the Joint Lease Agreement with the University of Arkansas for use of 27.5 acres on Lewis Avenue for a soccer complex in exchange for the University of Arkansas' use of 10.02 acres on Razorback Road.

BACKGROUND:
The City of Fayetteville and the University of Arkansas entered into Resolution 66-93 with a Joint Lease Agreement on April 30, 1993. The City needed land to expand the soccer program that was being held at Asbell Elementary School fields. Across from these fields on Lewis Avenue, 27.5 acres sat vacant that were owned by the University of Arkansas. The City started discussions with the University to lease the Lewis Avenue property. The University expressed interest in utilizing 10.02 acres of vacant land owned by the City on Razorback Road for parking and other University purposes, in addition to their need for City fire suppression service at the University's Agricultural Experimental Station property which, at that time, was located outside the City limits. The City and University cooperatively worked together to help each other with their needs by developing a 25 year joint lease agreement. The City built the soccer complex in phases from 1994 to 1996 on the Lewis Avenue property consisting of 4 large fields, several smaller fields, concession stand with restrooms, and a parking lot. The land utilized for soccer on the Asbell School site terminated in June of 2010 when the Fayetteville Public Schools started building the tennis courts complex. Two additional large soccer fields were constructed and the City's soccer program was transferred to the Lewis Complex.

During the Parks and Recreation 10-Year Master Plan's public meetings, citizens requested for a regional park to play youth sports in one location including soccer, baseball and softball. Kessler Mountain was selected as the site for the Regional Park. Chambers Bank donated 200 acres for the sports park. The City and Walton Family Foundation purchased 360 additional acres on the west side of the sports park to preserve the mountainside for recreational

purposes. Kessler Mountain Regional Park was opened in August of 2016 with 1,600+ youth participating in the soccer program.

DISCUSSION:
The term of the 25 year lease agreement stated the lease would expire on June 30, 2018. The University and City have been in discussions about terminating the Joint Land Lease six months early due to the fact the City has completed the soccer fields at the Regional Park as planned, the University Agriculture Experiment Station is within the City limits and has fire protection, and the University is in agreement to end their lease of the Razorback Road property.

BUDGET/STAFF IMPACT:
Parks and Recreation will have savings in maintenance and utility costs due to the closing of the Lewis Soccer Complex.

Attachments:
Resolution 66-93
Joint Lease Agreement 1993

RESOLUTION NO. 66-93

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A JOINT LEASE AGREEMENT WITH THE UNIVERSITY OF ARKANSAS WHEREIN THE CITY LEASES TO THE UNIVERSITY LAND FOR PARKING AND OTHER PURPOSES IN EXCHANGE FOR THE UNIVERSITY LEASING LAND TO THE CITY FOR RECREATIONAL PURPOSES.

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

Section 1. That the Mayor and City Clerk are hereby authorized to execute a joint lease agreement with the University of Arkansas wherein the City leases to the University land for parking and other purposes in exchange for the University leasing land to the City for recreational purposes. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 29th day of June, 1993.

APPROVED:

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:

By: Sherry L. Thomas
Sherry L. Thomas, City Clerk

FILED FOR RECORD

'93 AUG 2 PM 12 58

WASHINGTON CO AR

A. HOLLINGER

JOINT LEASE AGREEMENT

THIS JOINT LEASE AGREEMENT is entered into between the City of Fayetteville, Arkansas ("the City"), a municipal corporation, and the Board of Trustees of the University of Arkansas ("the University"), a public institution of higher education of the State of Arkansas.

WHEREAS, the University owns certain agricultural land located on Mt. Comfort Road in the City of Fayetteville which is not presently needed for University purposes and which the City desires to lease for the purpose of establishing recreational fields for outdoor team sports such as soccer, baseball, and softball, and for other sports or recreational purposes and parking lots; and

WHEREAS, the City owns certain vacant land near the south entrance to the University of Arkansas, Fayetteville, campus, which is not presently needed for City purposes and which the University desires to lease for parking and other University purposes; and

WHEREAS, the University is desirous of having City fire suppression service for the University's Agricultural Experiment Station property which is adjacent to the City limits, which the City is willing to provide; and

WHEREAS, it is in the best interest of the public for the City and the University to lease their respective properties to the other;

NOW THEREFORE, in consideration of the mutual promises of the parties contained herein, the best interest of the public, and other good and valuable consideration, the parties agree as follows:

1. The University hereby leases to the City the following described property situated in Washington County, Arkansas:

> The Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Eight (8) in Township Sixteen (16) North, Range Thirty (30) West of the 5th Principal Meridian, less twelve and one-half (12½) acres of equal width off of the East side of said 40 acre tract; and less and except easements of record, containing twenty-seven and one half (27½) acres more or less, all in Washington County, Arkansas.

2. The City hereby leases to the University the following described property situated in Washington County, Arkansas:

93 43090

A tract of land situated in the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section Twenty (20) Township Sixteen (16) North, Range Thirty (30) West of the 5th Principal Meridian, being more particularly described as follows, to-wit: Beginning at a point which is 1318.36 feet West and 266.5 feet South 0 degrees 07 minutes West of the Northeast corner of the above described quarter quarter, thence East over the centerline of an existing well 823.36 feet, thence South 0 degrees 07 minutes West 264.52 feet, thence West 823.36 feet, thence North 0 degrees 07 minutes East 264.52 feet to the point of beginning and containing 5.0 acres, more or less.

and

A tract of land situated in the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section Twenty (20) Township Sixteen (16) North, Range Thirty (30) West of the 5th Principal Meridian, being more particularly described as follows, to-wit: Beginning at a point which is 12.11 feet Southof the Northwest corner of said forty, said point is also 10.0 feet North of the centerline of the St. Louis - San Francisco Railroad, thence North 83 degrees 0 minutes East, paralleling said railroad centerline 10,0 feet to the North, 99.40 feet to the North line of said Northeast Quarter of the Northeast Quarter, thence East, along said forty line, 725.0 feet, thence South 266.5 feet, thence West 823.66 feet to the West line of said Northeast Quarter of the Northeast quarter, thence North, along said forty line, 254.38 feet, to the point of beginning. Containing 5.02 acres, more or less.

3. The City agrees to provide fire suppression service to the University's Agricultural Experiment Station located adjacent to the City limits at no cost to the University, under the same terms and conditions as fire suppression service is provided to those under contract service.

4. Neither party may construct any permanent structure on the leased premises without the prior written approval of the lessor. Any such permanent structure shall become a permanent fixture to the land, and become the property of the party/lessor at the end of the lease term, unless otherwise agreed to in writing prior to construction of the structure.

5. Each party agrees to indemnify and hold the other and its officers, officials, employees, and agents harmless from any and all liability, including attorney's fees, for claims, expenses, loss or damage to persons or property, including environmental degradation, resulting from the negligence of the party; provided however, neither party waives its tort immunity hereby; and provided further, that all claims against the University shall be brought in the Arkansas State Claims Commission. Should either party maintain a

comprehensive general liability insurance policy insuring the described property or properties, the other party shall be named as an additional insured to the extent of its interest in the property.

6. The properties which are the subject of this Agreement are exempt from *ad valorem* taxation and other assessments. In the event taxes or other assessments are assessed against a party/lessor as a result of the use of the property by the party/lessee, the party/lessor shall notify the party/lessee of such assessments. Should the party/lessor decide to contest the assessment, the party/lessee shall assist the party/lessor in the legal proceedings and shall be responsible for payment of all costs incurred by the party/lessor in such proceedings; provided however, neither party shall be responsible for reimbursing the costs or salary of the staff of the City Attorney or General Counsel for time expended in contesting the assessment. In the event the property is found to be subject to taxation or assessments, the party/lessee shall reimburse the party/lessor for such taxes or assessments, interest and/or penalties at least thirty (30) days prior to the deadline for payment of such taxes or assessments.

7. At the end of the term of this Agreement or any extension thereto, the parties agree to surrender possession of the leased premises to the other party, including all permanent fixtures, without demand.

8. This Agreement shall have a term of approximately Twenty-Five (25) years, beginning on the date last approved by the governing bodies of the City and the University, and ending on June 30, 2018.

9. This Agreement may be renewed and extended for additional terms of years upon the mutual agreement of the parties.

IN WITNESS WHEREOF, the parties set their hands by their respective duly authorized representatives.

CITY OF FAYETTEVILLE:

Approved by Resolution adopted by the Fayetteville City Council on the 29th day of June, 1993.

Fred Hanna

FRED HANNA, MAYOR

ATTEST: Sherry L. Thomas

CITY CLERK

93 43092

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS:

Approved by Resolution adopted by the Board of Trustees of the University of Arkansas on the 30th day of April, 1993.

H.L. HEMBREE, CHAIRMAN

ATTEST: Carl Whillock
CARL WHILLOCK, SECRETARY

ACKNOWLEDGEMENT

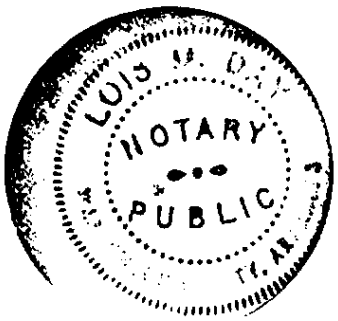
STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

On this 29th day of July, 1993, before me, a Notary Public, duly commissioned and acting in and for the State and County aforesaid, personally appeared FRED HANNA and SHERRY THOMAS, to me well known, who stated that they were the Mayor and Clerk, respectively of the City of Fayetteville, Arkansas, and have been authorized by lawful resolution of the Fayetteville City Council to execute contracts on behalf of the City of Fayetteville, Arkansas, and that they acknowledged that they had executed the foregoing Joint Lease Agreement for the consideration, uses and purposes stated therein.

IN WITNESS WHEREOF, I hereunto set my hand and seal this 29th day of July, 1993.

Lois M. Day
Notary Public

My commission expires: 10-8-2002



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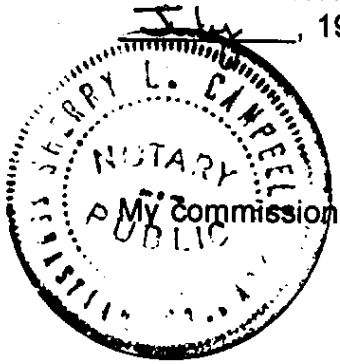
ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF SEBASTIAN)

On this 23rd day of July, 1993, before me, a Notary Public, duly commissioned and acting in and for the State and County aforesaid, personally appeared H. L. HEMBREE, to me well known, who stated that he was the Chairman of the Board of Trustees of the University of Arkansas, and had been authorized by lawful resolution of the Board of Trustees of the University of Arkansas to execute contracts on behalf of the University of Arkansas, and that he acknowledged that he had executed the foregoing Joint Lease Agreement for the consideration, uses and purposes stated therein.

IN WITNESS WHEREOF, I hereunto set my hand and seal this 23rd day of July, 1993.



Sherry L. Campbell
Notary Public

My commission expires: 1/27/95

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF PULASKI)

On this 29th day of July, 1993, before me, a Notary Public, duly commissioned and acting in and for the State and County aforesaid, personally appeared CARL WHILLOCK, to me well known, who stated that he was the Secretary of the Board of Trustees of the University of Arkansas, and had been authorized by lawful resolution of the Board of Trustees of the University of Arkansas to execute contracts on behalf of the University of Arkansas, and that he acknowledged that he had executed the foregoing Joint Lease Agreement for the consideration, uses and purposes stated therein.

IN WITNESS WHEREOF, I hereunto set my hand and seal this 29th day of July, 1993.

Notary Public

My commission expires: April 1, 1994

93 43095

I, **Alma Kollmeyer**, Circuit Clerk and **Ex-officio Recorder** for Washington Count **Arkansas, do hereby** certify that this in**strument was** filed for record in my office **as indicated hereon** and the same is n**duly recorded** with the acknowledgeme**and certificate** thereon in Record Book a**Page as** indicated thereon.

IN WITNESS WHEREOF, I have hereunt**set my hand** and affixed the seal of said **Court on the date** indicated hereon.

Alma Kollmeyer
Circuit Clerk and
Ex-officio Recorder

by _____

93 43035

UNIVERSITY OF ARKANSAS

OFFICE OF THE GENERAL COUNSEL

421 Administration Building
Fayetteville, Arkansas 72701

Telephone (501) 575-5401
FAX (501) 575-5046

August 27, 1993

Ms. Sherry L. Thomas, Clerk
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

Re: Joint Lease Agreement between City of Fayetteville and Board of Trustees of the University of Arkansas

Dear Ms. Thomas:

Enclosed is a copy of the Joint Lease Agreement between the City of Fayetteville and the Board of Trustees of the University of Arkansas which has been filed and recorded by the Washington County Circuit Clerk. The University has submitted the agreement to State Building Services for approval as required. I will send a copy showing SBS's approval to you when it returns copies to the University.

Please call me if you have any questions.

Sincerely,

Ginger P. Crisp
Associate General Counsel

am
Enclosure

RECEIVED
JUL 06 1993

UNIVERSITY OF ARKANSAS

OFFICE OF THE GENERAL COUNSEL

421 Administration Building
Fayetteville, Arkansas 72701

Telephone (501) 575-5401
FAX (501) 575-5046

July 2, 1993

Ms. LaGayle McCarty
Fayetteville Assistant City Attorney
113 W. Mountain Street
Fayetteville, Arkansas 72701

Re: Joint Lease Agreement Between the City of Fayetteville and the University of Arkansas

Dear Ms. McCarty:

Enclosed are two originals of the Joint Lease Agreement between the City of Fayetteville and the Board of Trustees of the University of Arkansas which was approved by the Board of Trustees at their April 30, 1993, Board meeting, and the Fayetteville City Council on June 29, 1993. Since Jerry Rose is on vacation, Ginger Crisp asked me to send the originals of the Lease Agreement to you to obtain the Mayor and City Clerk's signatures. After they have been signed, would you please return them to me and I will obtain the signatures of the appropriate University Trustees and return a fully signed original to you.

Thank you for your assistance.

Sincerely,

Ann Mourney
Legal Assistant

am
Enclosures

cc: Mr. Fred H. Harrison, General Counsel
Ms. Earlene Baker, Assistant to the Vice Chancellor for Finance and Administration, UAF

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

SHERRY L. THOMAS, CITY CLERK

July 19, 1993

Ms. Ginger Crisp
Office of the General Counsel
University of Arkansas
421 Administration Building
Fayetteville, AR 72701

Dear Ms. Crisp:

Enclosed are two originals of the Joint Lease Agreement between the City of Fayetteville and the Board of Trustees of the University of Arkansas which was approved by the City Council on June 29, 1993. The agreements have been executed by both the Mayor and myself. After they have been signed by the U of A Trustees, please return one of the copies to this office.

Thanks your for your help.

Sincerely,

Sherry L. Thomas

Sherry L. Thomas
City Clerk

Enclosures

113 WEST MOUNTAIN 72701 501 575-8323