

City of Fayetteville Staff Review Form

2019-0541

Legistar File ID

9/3/2019

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

Paul A. Becker

8/26/2019

Chief Financial Officer
Finance & Internal Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A Resolution approving the land sale agreement with the University of Arkansas System Division of Agriculture for the acquisition of the Lewis Fields Park Land of a portion of the 27.50 acres (to be determined by the lot split of equal value with the Fayetteville Public School District) for \$1,750,000, plus any associated closing costs; and approval of a Budget Adjustment.

Budget Impact:

4605.860.7510-5805.00	4605 - Park Projects 2019 Bonds																								
Account Number	Fund																								
46050.7510	Park Projects (2019 Bonds), Lewis Park Land Acquisition																								
Project Number	Project Title																								
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Budgeted Item?</td> <td style="width: 10%; text-align: center;">Yes</td> <td style="width: 30%; border-bottom: 1px solid black;">Current Budget</td> <td style="width: 30%; text-align: right;">\$ 11,153,726.00</td> </tr> <tr> <td></td> <td></td> <td style="border-bottom: 1px solid black;">Funds Obligated</td> <td style="text-align: right;">\$ 127,290.00</td> </tr> <tr> <td></td> <td></td> <td style="border-bottom: 1px solid black;">Current Balance</td> <td style="text-align: right; border: 1px solid black;">\$ 11,026,436.00</td> </tr> <tr> <td>Does item have a cost?</td> <td style="text-align: center;">Yes</td> <td style="border-bottom: 1px solid black;">Item Cost</td> <td style="text-align: right;">\$ 1,750,000.00</td> </tr> <tr> <td>Budget Adjustment Attached?</td> <td style="text-align: center;">Yes</td> <td style="border-bottom: 1px solid black;">Budget Adjustment</td> <td style="text-align: right;">\$ -</td> </tr> <tr> <td></td> <td></td> <td style="border-bottom: 1px solid black;">Remaining Budget</td> <td style="text-align: right; border: 1px solid black;">\$ 9,276,436.00</td> </tr> </table>	Budgeted Item?	Yes	Current Budget	\$ 11,153,726.00			Funds Obligated	\$ 127,290.00			Current Balance	\$ 11,026,436.00	Does item have a cost?	Yes	Item Cost	\$ 1,750,000.00	Budget Adjustment Attached?	Yes	Budget Adjustment	\$ -			Remaining Budget	\$ 9,276,436.00	
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V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF SEPTEMBER 3, 2019

TO: Mayor and City Council
FROM: Paul A. Becker, Chief Financial Officer
DATE: August 26, 2019

SUBJECT: A Resolution to Approve the Land Sale Agreement with the University of Arkansas System Division of Agriculture for the purchase of Lewis Fields Park Land

RECOMMENDATION:

Staff recommends the City Council approve the land sale agreement with the University of Arkansas System Division of Agriculture for the acquisition of the Lewis Fields Park Land of a portion of the 27.50 acres (to be determined by the lot split of equal value with the Fayetteville Public School District) for \$1,750,000, plus any associated closing costs.

BACKGROUND:

The Lewis Park Land is located east of Asbell Elementary School and has served the community as a soccer park since the City of Fayetteville began leasing the land from the university in 1993. The potential purchase of the Lewis Park Land was proposed during the City Council discussion of parks projects for the 2019 bond initiative, which was subsequently approved by Fayetteville voters in April.

DISCUSSION:

The City and the University of Arkansas System Division of Agriculture negotiated to purchase the land according to the attached land sale agreement. The City Attorney and Mayor have recommended it is best to present the Land Sale Agreement to the City Council for approval before the Agreement is submitted to the U of A Board of Trustees on September 12th, 2019.

BUDGET/STAFF IMPACT:

The budget for this project will be approved on the September 3rd, 2019 City Council meeting prior to this item. The attached Budget Adjustment will be moving \$1,775,000 (\$1,750,000 for the actual land purchase + \$25,000 to cover any closing costs) from the Parks Bond Project unallocated budget program. Any residual budget will revert back to the unallocated budget once all costs have concluded.

Attachments:

Budget Adjustment,
Real Estate Agreement (Offer and Acceptance)

Real Estate Agreement (Offer and Acceptance)

The Board of Trustees of the University of Arkansas, acting on behalf of the Division of Agriculture ("Seller"), makes the following offer to sell the property described herein to the City of Fayetteville, Arkansas ("City") and to Fayetteville School District Board No. 1 ("School District") (together, "Buyers"):

1. The University officer signing this offer is authorized to extend an offer to sell. However, only the Board of Trustees of the University of Arkansas holds the authority to convey real property. Accordingly, the Seller's obligation to sell the Property (as defined below) is conditioned upon approval of a resolution by the Board of Trustees of the University of Arkansas, confirming the Board's consent to conveyance of the Property and the terms of this agreement.
2. Subject to and on the terms and conditions set forth herein, Seller offers to sell, and the Buyers offers to purchase, the following described property situated in Washington County, Arkansas (the "Property"):

The North West quarter (NW 1/4) of the North East quarter (NE 1/4) of Section Eight (8), in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M. less twelve and one half (12.50) acres off the east side of said 40 acre tract, and also except that part of the said tract now taken up and used as public roads or highways, being twenty seven and one half (27.50) acres, more or less.
3. Prior to closing Buyers may obtain a land survey of the Property, at Buyers' sole expense, in order to establish a more precise description of the Property's boundaries.
4. The City and the School District intend to divide the Property into lots of approximately equal value to be used cooperatively and initially for public and school recreation purposes. All surveying work, and any necessary approvals, and all associated costs for any lot

splits, lot line adjustments or other subdivisions shall be the responsibility of the Buyers. The Seller will cooperate with Buyers, at no cost to Seller, in completion of the required surveying.

5. At closing the Buyers will pay to Seller the cash sum of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) for the Property. Buyers will pay 2/3 of the closing agent's fee, and Seller will pay 1/3 of the closing agent's fee. Buyers will pay the recording fee for the general warranty deed. Buyers will pay the cost of any revenue stamps. Buyers' counsel will prepare the general warranty deed and any other closing documents required by Buyers at closing. Seller hereby authorizes the closing agent to have prepared any release deeds, affidavits or other documents required to be executed by Seller at closing.

6. Conveyance shall be made to Buyers, or as directed by Buyers, by general warranty deed, subject to restrictions and easements which, in the Buyers' judgment, do not materially affect the merchantability of the Property or the Buyers' intended use of the Property. Pursuant to Ark. Code Ann. § 22-6-113, Seller shall retain a one-half (1/2) ownership interest in and to all the oil, gas, and other minerals in or under the Property. Seller shall also execute at closing an affidavit stating in substance that the Property is not subject to adverse possession claims and that no work or materials have been performed on the Property within one hundred and thirty (130) days of closing for which a lien might be asserted. Possession of the Property shall be delivered to Buyers at closing, free of any tenancies or other third party possessory rights.

3. Seller shall furnish Buyers, at Seller's cost, an owner's title insurance policy in the amount of the purchase price, reflecting merchantable title and issued on terms and conditions satisfactory to Buyers' attorneys. If objections are made to Seller's title, Seller shall have a reasonable time, not to exceed thirty (30) days from the date of Buyers' written notification of such objections, to cure such defects to Buyers' satisfaction. If such defects are not cured within

thirty (30) days. the Buyers may terminate this agreement or may, at their election, take title subject to any such defects.

4. Prior to closing Buyers may inspect the Property for environmental hazards and may obtain at their cost a Phase I environmental report performed by a licensed engineer or firm selected by Buyers. If the inspection or report discloses environmental hazards requiring remediation, Buyers will have the right to terminate this agreement on written notice to Seller unless Seller elects to pay the cost of remediation or to reduce the purchase price by the cost of remediation.

5. No general taxes are currently owed on the Property, as Seller is immune from ad valorem taxation. Any general taxes and special assessments incurred on the Property as of the closing date and thereafter shall be the responsibility of the Buyers.

6. Buyers represent to Seller that Buyers have full power and authority to execute this real estate agreement. Seller represents that it has full power and authority to convey the Property and that there are no options, rights of first refusal or contracts, written or oral, for the sale of the Property or which otherwise would affect Seller's obligations hereunder. Seller further represents that the individual signing on its behalf is authorized to sign this agreement.

7. Seller represents to Buyers that the Property is presently leased to the City. Seller and the City agree that, if not sooner terminated, such lease shall terminate at the date and time of the closing of the sale of the Property pursuant to this agreement.

8. The closing date shall be at a time and place established by Buyers and is estimated to occur within sixty (60) days following the date the Board of Trustees of the University of Arkansas approves a resolution confirming this agreement. The parties may extend the closing

date beyond such time if necessary to complete title requirements, inspections, review or approvals. Possession shall be delivered to Buyers upon closing.

9. All structures, improvements, fixtures and attached equipment, if any, are included in the purchase price.

10. Buyers will inspect the Property prior to closing and are not relying upon any warranties, representations or statements of Seller, if any, as to the age or condition of the improvements, other than those specified in this agreement.

11. Each party covenants that no broker has been involved in this real estate agreement and that no commission is or will be owed on the sale of the Property.

12. This real estate agreement contains the entire agreement of the parties and may not be changed, modified or amended except by a written instrument signed by both parties.

13. There are no agreements or representations, written or oral, with respect to the subject matter of this agreement which are not contained herein.

14. Seller shall provide to Buyer any disclosure required by Governor's Executive Order 98-04.

15. Notices required by this agreement shall be in writing, and shall be delivered via mail, personal delivery, or email, to the following:

If to the City of Fayetteville:

City of Fayetteville
Attn: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701

If to the Fayetteville School District:

Fayetteville School District No. 1
Superintendent's Office
1000 West Bulldog Boulevard
Fayetteville, AR 72701

If to the Seller:

University of Arkansas Division of
Agriculture
Attn: Dr. J.F. Meullenet
DTAS 215
1371 Altheimer Drive
Fayetteville, Arkansas 72704

With a copy to:

Office of General Counsel
University of Arkansas System
2404 North University
Little Rock, AR 72207

16. For purposes of executing this agreement, a scanned or facsimile signature shall be as effective as an actual signature.

17. All understandings and agreements heretofore existing between or among the parties are merged into this agreement that alone fully and completely expresses their agreement. This agreement may be changed only in writing signed by all of the parties hereto and shall apply to and bind the successors and assigns of all of the parties hereto.

18. This agreement may be executed in two or more counterparts, each of which shall be deemed an original.

City of Fayetteville, Arkansas

Fayetteville School District No 1

By: _____
Lionel Jordan, Mayor

By: _____

Date: _____

Date: _____

The Board of Trustees of the University of
Arkansas, acting on behalf of the University of
Arkansas Division of Agriculture

By: _____
Dr. Mark J. Cochran, Vice President,
Division of Agriculture

Date: _____

