

City of Fayetteville Item Review Form

2013-0244

Legistar File Number

1/7/2014

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

Sarah Wrede

Submitted By

Development Services

Department

Action Required:

An ordinance to waive competitive bidding and to enter into a Memorandum of Understanding with the Watershed Conservation Resource Center to establish a general framework for cooperation to seek funding and conduct stream restoration projects and to work together on nonpoint source related issues.

Does this item have a cost?  No

<u>\$0.00</u> Cost of this request	<u>\$0.00</u> Category or Project Budget	<u>n/a</u> Program or Project Name
<u>n/a</u> Account Number	<u>\$0.00</u> Funds Used to Date	<u>n/a</u> Program or Project Category
<u>n/a</u> Project Number	<u>\$0.00</u> Remaining Balance	<u>n/a</u> Fund Name

Budgeted Item?

Budget Adjustment Attached?  No

V20130812

Previous Ordinance or Resolution # \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Comments:

12-18-13 9:52 RCVD

*[Handwritten signature]*



*[Handwritten signature]* 12-19-13

Paul a. Buhner 12-19-2013

*[Handwritten signature]* 12-19-13

*[Handwritten signature]* 12/20/13



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THE CITY OF FAYETTEVILLE, ARKANSAS  
DEPARTMENT CORRESPONDENCE

## CITY COUNCIL AGENDA MEMO

Council Meeting of January 7, 2014

**To:** Mayor and City Council

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

**From:** Sarah Wrede, Staff Engineer

**Date:** December 18, 2013

**Subject:** An ordinance to waive competitive bidding and renew a Memorandum of Understanding with the Watershed Conservation Resource Center to continue a general framework for cooperation to seek funding and conduct stream restoration projects and to work together on nonpoint source related issues.

### PROPOSAL

The purpose of this Memorandum of Understanding (MOU) is to establish a general framework for cooperation between the Watershed Conservation Resource Center (WCRC) and the City of Fayetteville to 1) seek funding and conduct stream restoration projects to achieve the common goal of restoring unstable sections of streams to a morphologically stable form utilizing a natural channel design approach and 2) to work together on nonpoint source (NPS) related issues associated with reducing nutrients and improving riparian and other natural areas.

The WCRC is a nonprofit organization that strives to protect, conserve, and restore natural resources by utilizing the watershed approach, environmental outreach, and providing planning and technical assistance to landowners, communities, and government. The WCRC principals are regional experts and local leaders in implementing natural channel design-based stream restorations that meet multiple local and regional objectives relating to river channel instability, water quality, and ecological services. The WCRC and the City have successfully partnered to receive over \$2,300,000 in federal grants for water quality and other environmental improvements. WCRC has been instrumental in securing these funds due to their relationships with Federal grant agencies and their proven track record of successful stream restoration projects. This MOU will establish a continued partnership between the City and WCRC whereby the WCRC will actively seek grant funding for stream restoration projects in the City of Fayetteville, and will allow the City the opportunity to quickly take advantage of opportunities identified. The MOU is effective for a period of five years.

### RECOMMENDATION

Staff recommends approval of an ordinance to waive competitive bidding and to renew a Memorandum of Understanding with the Watershed Conservation Resource Center to continue a general framework for cooperation to seek funding and conduct stream restoration projects and to work together on nonpoint source related issues.

### BUDGET IMPACT

The proposed agreement will cause no budget impact. As tasks are identified, a Task Order, with associated fee, will be developed for approval by the Mayor and City Council.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A FIVE YEAR MEMORANDUM OF UNDERSTANDING WITH THE WATERSHED CONSERVATION RESOURCE CENTER TO JOINTLY SEEK FUNDING AND USE SUCH FUNDING TO DESIGN AND CONSTRUCT STREAM RESTORATION PROJECTS**

**WHEREAS**, the City of Fayetteville has long worked with the Watershed Conservation Resource Center (WCRC) and funded quality stream restoration projects successfully completed the Center; and

**WHEREAS**, the provisions of the attached Memorandum of Understanding meet the City of Fayetteville's need for continuing stream restoration projects at little or no cost to the City; and

**WHEREAS**, the Watershed Conservation Resource Center can efficiently and effectively provide this service at a significant savings to the citizens of Fayetteville.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a Memorandum of Understanding (marked as Exhibit "A" attached hereto and made a part hereof) between the City of Fayetteville, Arkansas and the Watershed Conservation Resource Center to jointly seek funding and use such funding to design and construct stream restoration projects and authorizes Mayor Jordan to sign such Memorandum.

**PASSED and APPROVED** this 7<sup>th</sup> day of January, 2014.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

## MEMORANDUM OF UNDERSTANDING

Between

Watershed Conservation Resource Center

And

City of Fayetteville

This Memorandum of Understanding (MOU) is entered into and executed on the date indicated below the signature block, by and between the Watershed Conservation Resource Center, hereinafter referred to as WCRC, and the CITY OF FAYETTEVILLE.

### A. PURPOSE

The purpose of this MOU is to establish a general framework for cooperation between the WCRC and the CITY OF FAYETTEVILLE to 1) seek funding and conduct stream restoration projects to achieve the common goal of restoring unstable sections of streams to a morphologically stable form utilizing a natural channel design approach and 2) to work together on nonpoint source (NPS) related issues associated with reducing nutrients and improving riparian and other natural areas. Innovative approaches will be used in designing and implementing stream restorations that will result in improved water quality of the City's watersheds and will address severe streambank erosion, while restoring aquatic and terrestrial habitat and maintaining a sustainable, natural hydrology. Such cooperation will serve the parties' mutual interest.

### B. STATEMENT OF MUTUAL INTERESTS AND BENEFITS

The WCRC is a nonprofit organization that strives to protect, conserve, and restore natural resources by utilizing the watershed approach, conducting environmental outreach, and providing planning and technical assistance to landowners, communities, and government. The WCRC principals are regional experts and local leaders in implementing natural channel design-based stream restorations that meet multiple local and regional objectives relating to river channel instability, water quality, and ecological services. This MOU is of benefit to the CITY OF FAYETTEVILLE because these activities will help to meet the objectives of the City's Nutrient Reduction Plan and will lead to both aquatic and terrestrial habitat restoration, improved water quality in the form of both phosphorus and sediment reductions, reduced streambank erosion, and improve aesthetics of local streams and rivers. This effort will also help to promote the use of alternatives to traditional channel modifications in both urbanizing and rural areas.

The WCRC and the CITY OF FAYETTEVILLE partnered and have obtained several grants for restoring streams within the City and surrounding areas and for assessing streams for stability and contaminant reduction. These projects have brought over \$2,300,000 to the City for water quality and other environmental improvements and have helped to create local partnerships and outreach opportunities in the areas of river restoration, riparian enhancement, and watershed planning. Four stream and streambank restoration projects have been implemented that have resulted in over 4000 tons of sediment and 3,700 lbs of total phosphorus reductions, annually from streambank erosion, restored both aquatic and terrestrial habitat, protected City

infrastructure, and improved aesthetics of City Parks and other properties. The WCRC currently has three active projects with the City and other partners to conduct more river restoration and assess urban streams and riparian areas to identify priority sites in need of restoration. In addition, the WCRC continues to monitor and maintain the four implemented stream restoration sites.

#### C. FEES AND PAYMENTS

No fee is associated with this MOU. As projects are identified by the City, a Task Order establishing the scope, fee, and payment terms for the project will be developed. The basis of this fee and justification for the fee shall be contained in an Appendix attached to each Task Order. Adjustment of the fee may be made should WCRC establish and the CITY OF FAYETTEVILLE agree that there has been, or is to be, a significant change in scope, complexity or character of the services to be performed; or if the CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment.

In consideration of the above premises, the parties agree as follows:

#### D. THE WCRC:

1. Shall seek funding opportunities for stream restoration projects and other projects related to reduction of non-point source pollution.
2. Upon approval of specific Task Orders by the Mayor or City Council, as required by the City's procurement requirements, shall provide the services detailed in each Task Order. Said tasks may include:
  - a. Identification of stream reaches that could benefit from stream restoration and prioritize, in streams within the City limits.
  - b. Estimation of phosphorous reduction that would be realized for each priority stream restoration project.
  - c. Assistance in developing grant applications for identified stream restorations and other non-point source pollution assessment projects.
  - d. Assistance to the CITY OF FAYETTEVILLE in addressing other NPS related issues.
3. Shall accomplish other specific tasks as detailed in each Task Order

#### E. THE CITY OF FAYETTEVILLE:

1. Shall coordinate all activities within the City of Fayetteville Divisions and Departments and between the CITY OF FAYETTEVILLE and the WCRC.
2. Shall assist with project activities and tasks.
3. Shall provide review and input into the final restoration designs.
4. Shall oversee activities and coordinate staff needed for implementation of the restoration designs.
5. Shall provide documentation of all project activities and associated matching funds.
6. Recognizes that their participation in stream restoration and NPS projects acquired is an integral component in carrying out a successful project that will result in improved water quality and habitat restoration.
7. Shall accomplish other specific tasks as detailed in each Task Order.

F. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. FREEDOM OF INFORMATION ACT (FOIA). CITY OF FAYETTEVILLE contract 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 WCRC 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. Any information furnished to the WCRC under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

2. MODIFICATION. Modifications within the scope of the instrument shall be made by mutual consent of the parties. Changes, modifications, or amendments in scope (other than as specifically established in this MOU), price or fees to this agreement shall not be allowed without a prior formal contract amendment approved by the Mayor and/or the City Council in advance of the change in scope, cost or fees.

3. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the WCRC or the CITY OF FAYETTEVILLE from participating in similar activities with other public or private agencies, organizations, and individuals.

4. COMMENCEMENT/EXPIRATION DATE. The instrument is executed as of the date of the last signature and is effective for five years.

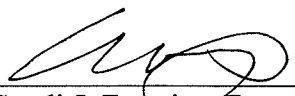
5. PRINCIPAL CONTACT. The principal contacts for this instrument are:

Sandi Formica, Executive Director  
Watershed Conservation Resource Center  
380 West Rock Street  
Fayetteville, AR 72701  
Office Phone: 479-444-1916  
Cell Phone: 501-352-5252  
Office Fax: 928-396-2546  
E-mail: [formica@watershedconservation.org](mailto:formica@watershedconservation.org)

Chris Brown, P.E., City Engineer  
City of Fayetteville  
113 W. Mountain  
Fayetteville, AR 72701  
Phone: 479-575-8206  
Fax: 479-575-8202  
E-mail: [cbrown@ci.fayetteville.ar.us](mailto:cbrown@ci.fayetteville.ar.us)

Sarah Wrede, E.I., Staff Engineer  
City of Fayetteville  
Phone: 479-575-8206  
E-mail: [swrede@ci.fayetteville.ar.us](mailto:swrede@ci.fayetteville.ar.us)

6. NONDISCRIMINATION. During the performance of this agreement, all parties will abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of age, race, color, religion, sex, national origin, or disability.

  
\_\_\_\_\_  
Sandi J. Formica, Executive Director  
Watershed Conservation Resource Center

F.S.F.

\_\_\_\_\_  
12/18/13  
Date

\_\_\_\_\_  
Lioneld Jordan, Mayor  
City of Fayetteville

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sondra E. Smith, City Clerk/Treasurer  
City of Fayetteville

\_\_\_\_\_  
Date

