



City of Farmington  
354 W. Main Street  
P.O. Box 150  
Farmington, AR 72730  
479-267-3865  
479-267-3805 (fax)

**CITY COUNCIL AGENDA -  
June 7, 2021**

A **SPECIAL** meeting of the Farmington City Council will be held on  
**Monday, June 7, 2021 at 6:00 p.m.**  
City Hall  
354 W. Main Street, Farmington, Arkansas.

1. Call to Order – Mayor Ernie Penn
2. Roll Call – City Clerk Kelly Penn
3. Pledge of Allegiance
4. Comments from Citizens – the Council will hear brief comments at this time from citizens. No action will be taken. All comments will be taken under advisement.

**NEW BUSINESS**

5. Presentation from Waste Management for the poly-cart for our residents.
6. Economic Development Project (Presented by Steve Clark from Fayetteville Chamber)



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## **Memo**

To: Farmington City Council  
Kelly Penn, City Clerk

From: Mayor Ernie L Penn

A handwritten signature in blue ink, appearing to read "Ernie Penn", is placed to the right of the "From:" line.

Re: Waste Management ---Poly Cart Presentation

Date: June 7, 2021

### **Recommendation**

City staff recommends approval of this request and recommends the City Council review this information and make a decision at the June 14<sup>th</sup> Council Meeting

### **Background**

Waste Management provides trash services to the City of Farmington. This contract includes residential collection of garbage and recycle materials and grass clippings. It also includes a discounted service price for Seniors which includes a yellow bag option.

The current contract expires as of August 2023. Waste Management has been our service provider for the past 20+ years.

### **Discussion**

Waste Management is offering to provide a 96 Gallon Poly-Cart to every resident at NO charge to the City or our residents. These carts will allow Waste Management to service the City with a truck with a side loading arm that will pick up the carts in a more safe and efficient manner. The Carts could be delivered to our residents as early as July. Waste Management and the City will provide a mailer to all of our residents explaining the process and change over to the new carts.

Seniors who are on the Yellow Bag program will remain on this program and will not have to have a cart.

Waste Management only requests that the current maturity date be extended to the year 2028 with all other terms of the contract remaining the same.

### **Budget Impact**

No Cost to the City or residents.



January 26, 2021

The Honorable Ernie Penn  
Mayor  
City of Farmington  
P. O. Box 150  
Farmington, AR 72730

Dear Mayor Penn:

Pursuant to the Solid Waste Service Agreement between Waste Management of Arkansas, Inc. (Waste Management) and the City of Farmington for residential collection, recycling, transfer and disposal services, Waste Management is entitled to an adjustment to reflect the change in the Consumer Price Index.

Our contract reads: Base rates charged by Contractor for services will remain fixed as set forth in this Article 6 and will not be adjusted for changes in the CPI (as hereafter defined), until September 1, 2019 and then continuing annually on each anniversary date of the Commencement Date of this Agreement. Base Rates for services shall be adjusted by the same percentage as the Consumer Price Index, US City Average for All Urban Consumers, Water, Sewer, Trash, Not Seasonally Adjusted, Base Period December 1983 = 100 (published by the United States Bureau of Labor Statistics, Consumer Price Index) (the "C.P.I.") shall have increased during the preceding twelve months of published indexes beginning January 1 and ending December 31. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the C.P.I., the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.

Contractor shall notify the City in writing prior to any implementation of any CPI rate adjustment allowed under this Contract. Such notification shall include the amount of the rate adjustment, documentation substantiating the CPI index published numbers, and the date the adjusted rate will take effect.

Effective January 1, 2021, based on a 3.2% upward fluctuation in the Consumer Price Index published by the United States Department of Labor Statistics, the following rates will apply:

| <u>SERVICE</u>          | <u>CURRENT</u>       | <u>NEW</u>           |
|-------------------------|----------------------|----------------------|
| Curbside Garbage        | \$ 9.61 per resident | \$ 9.92 per resident |
| Curbside Recycle        | \$ 4.08 per resident | \$ 4.21 per resident |
| Curbside Garbage Sr.    | \$ 7.42 per resident | \$ 7.66 per resident |
| Yellow Bags (Per Bag)   | \$ 1.05 per bag      | \$ 1.08 per bag      |
| Green Bags (Roll of 30) | \$ 48.59 per roll    | \$ 50.14 per roll    |

Enclosed with this letter is documentation from the United States Department of Labor, Bureau of Labor Statistics, reflecting the 3.2% fluctuation.

Sincerely,

George Wheatley  
Waste Management

enc.

Cc: Melissa McCarville, City Business Manager  
Rachel McCool, WM Ops Specialist  
Stephanie Peterson, WM Contract Compliance  
Terri McPherson, WM Pricing Analyst  
Daniel Magruder, WM Area Pricing Director



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## **Memo**

To: Farmington City Council  
Kelly Penn, City Clerk

From: Mayor Ernie L Penn

A handwritten signature in blue ink, appearing to read "Ernie L Penn", is written over the printed name.

Re: Economic Development proposal with Heartland Advanced Medical Manufacturing Regional Cluster

Date: June 7, 2021

### **Recommendation**

City staff recommends approval of this request and recommends that the City Council review this information and listen to the proposal from Mr. Steve Clark, President of the Fayetteville Chamber of Commerce and make a decision at the June 14<sup>th</sup> Council meeting.

### **Background**

Mr. Steve Clark and Mr. Wayne Mays presented this economic development proposal to the Mayor, City Business Manager and City Attorney. After much discussion, we felt like this would be a great opportunity for our City to participate in a more regional economic development process to attract Medical Manufacturing to our area and have the opportunity to sell our City as a location for these potential businesses to locate.

### **Discussion**

Mr. Steve Clark will make a verbal presentation to the full council and allow for a question and answer session after his presentation.

A copy of the written proposal is included with this memo.

### **Budget Impact**

\$1000 fee payable monthly for a maximum of 3 years.

## Heartland Advanced Medical Manufacturing Regional Cluster

3/9/21

A non-profit, 501(c)(3) corporation, organized exclusively for scientific and educational purposes, specifically described as promoting education, leadership and community involvement projects in order to enhance the quality of life in the geographic region of the cluster, comprised of Washington County, Arkansas, and Adair and Cherokee Counties, Oklahoma (see attachment).

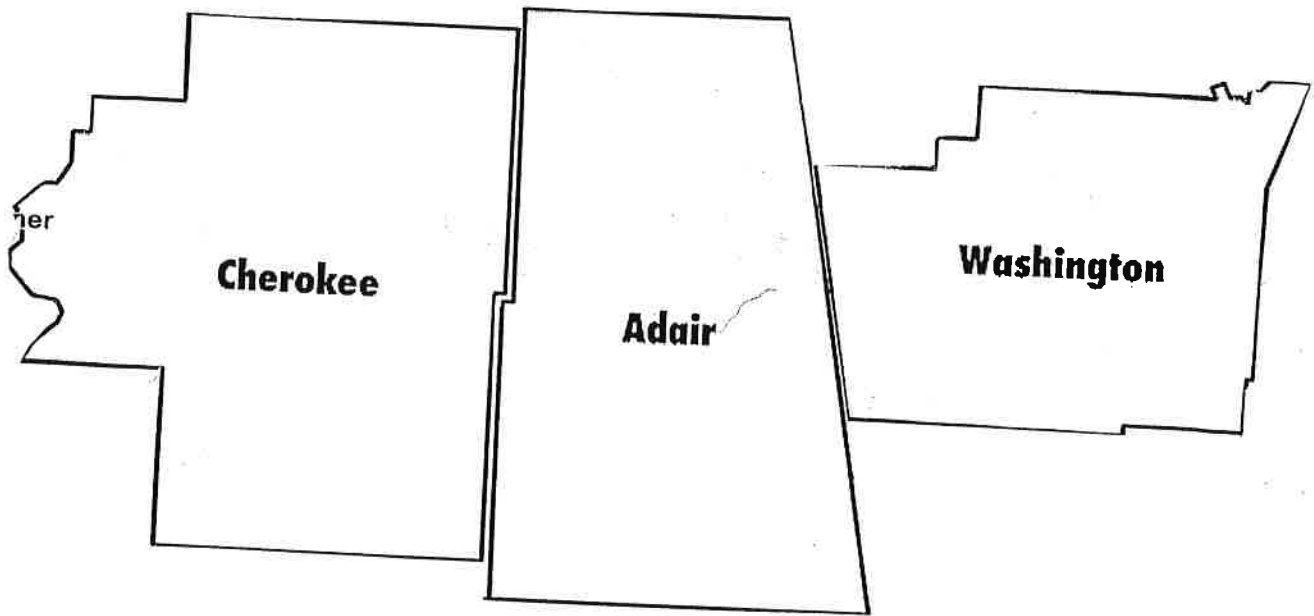
Principal office: 123 West Mountain Street, Fayetteville, AR.

Organizational membership classes are: 1) Founding organizations (Fayetteville, AR Chamber Economic Development Authority and Tahlequah, OK Regional Development Authority); 2) Incorporated cities and federally-recognized nations in the AR and OK counties noted above; 3) Sustaining members- may be any organization which has as part of its mission the economic development of the region.

Objective: To develop, attract, and retain a professional Healthcare manufacturing presence in the NW Arkansas and NE Oklahoma region. Scope of industry to include pharma, bio-pharma, and medical devices (commonly known as "original equipment manufacturers"). This is consistent with the goal of developing the NWA region into one of the top 20 healthcare destinations in the world.

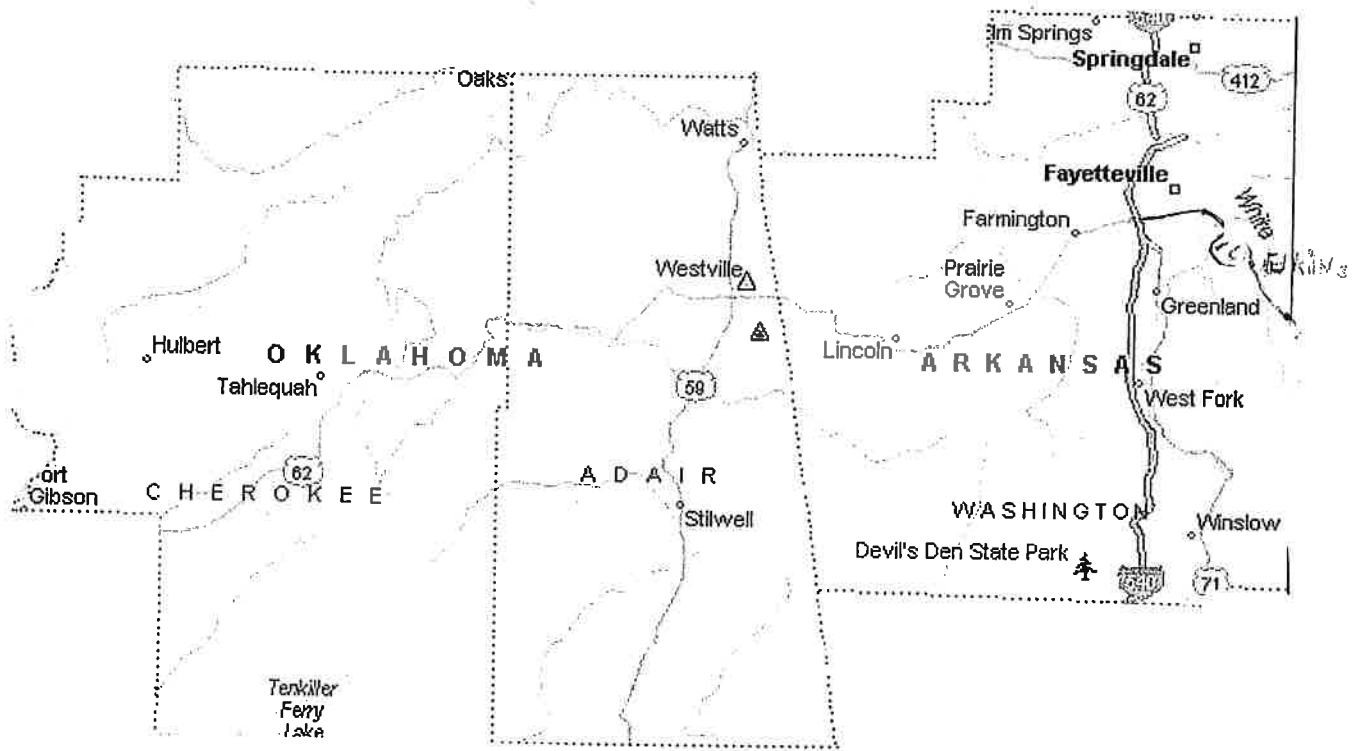
Heartland Advanced Medical Manufacturing Regional Cluster

Geographical footprint



# Heartland Advanced Medical Manufacturing Regional Cluster

## U. S. Highway 62 corridor

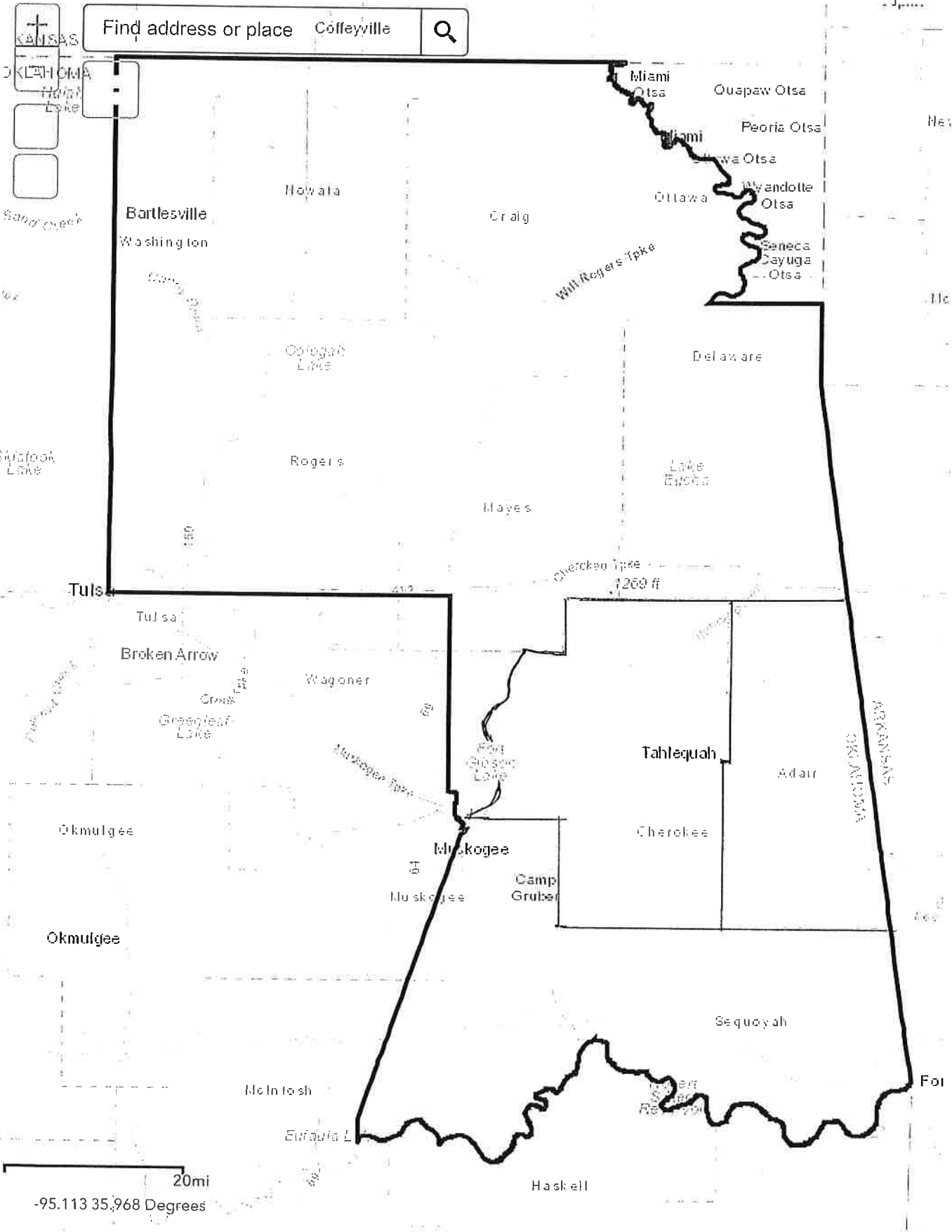




# Cherokee Nation

Overlap with Cherokee Nation

Find address or place Coffeyville



20mi  
-95.113 35.968 Degrees



**ARTICLES OF INCORPORATION  
OF  
Heartland Advanced Medical Manufacturing Regional Cluster**

I, the undersigned, in order to form a nonprofit corporation under the laws of the State of Arkansas, particularly the Arkansas Nonprofit Corporation Act of 1993, Chapter 33 of Title 4 of the Arkansas Code Annotated of 1987, do hereby certify as follows:

FIRST: The name of this Corporation shall be Heartland Advanced Medical Manufacturing Regional Cluster(the "Corporation").

SECOND: This Corporation is a public benefit corporation.

THIRD: The period of existence of this Corporation shall be perpetual.

FOURTH: This Corporation is organized as a nonprofit corporation exclusively for **scientific and educational purposes** described in Section 501(c)(3) of the Internal Revenue Code which are more specifically described as promoting education, leadership and community involvement projects in order to enhance the quality of life in the geographic region of the cluster, comprised of Washington County, AR and Adair and Cherokee Counties, OK.

FIFTH: The Corporation shall have and exercise all powers, privileges and rights conferred on corporations by the laws of the State of Arkansas and all powers and rights incidental to carrying out the purposes for which this Corporation is formed, except such as are inconsistent with the express provisions of the Act under which this Corporation is incorporated, and the enumeration of the foregoing purposes shall not be held to limit or restrict in any manner the general powers conferred on this Corporation by the laws of the State of Arkansas.

SIXTH: Notwithstanding any other provision of these Articles, the following restrictions and limitations shall apply to comply with the requirements imposed by Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue law (hereinafter the "Code"):

(a) No part of the net earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation, or to any other interested individual; provided, however, that reasonable compensation may be paid for services rendered to or for the Corporation effecting one or more of its purposes.

(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation and the Corporation shall not

participate or intervene (including the publishing or distribution of statements) in any political campaign on behalf of (or in opposition to) any candidate for public office.

(c) The Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or by a corporation contribution to which are deductible under Section 170(c)(2) of the Code.

SEVENTH: Because this Corporation is organized as a charitable corporation with perpetual existence, the Incorporator does not anticipate the dissolution of the Corporation. However, if the Corporation should ever be dissolved pursuant to Section 4-33-1401, *et seq.*, of the Arkansas Code of 1987 Annotated, then upon the dissolution of the Corporation the Board of Directors shall, after paying or making provision for the payment of all liabilities of the Corporation, dispose of all assets of the Corporation exclusively and equally to such other Oklahoma and Arkansas organizations which are organized and operated exclusively for **scientific and educational purposes** and which shall at the time qualify as an organization or organizations exempt under Section 501(c)(3) of the Code, and any articles of dissolution adopted by the Corporation shall so provide. Any of such assets not so disposed of shall be disposed of by the Circuit Court of the county in which the principal office of the Corporation is located, exclusively and equally to such Oklahoma and Arkansas organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

EIGHTH: The principal office or place of business of this Corporation shall be located at 123 West Mountain, Fayetteville, Arkansas 72701.

NINTH: The name and address of the registered agent of this Corporation is Steve Clark, 123 West Mountain, Fayetteville, Arkansas 72701.

TENTH: The Corporation shall not have or issue shares of stock and no dividends shall be paid, and no part of the income of the Corporation shall be distributed to its members, directors or officers.

ELEVENTH: The membership of the corporation shall consist of three classes:

1. Founding members (Fayetteville Chamber Economic Development Authority and the Tahlequah Regional Development Authority). Founding members shall contribute cash or in-kind \$1,000 per month and shall be entitled to two votes in matters before the Board of Directors.
2. Incorporated cities and any federally recognized nation in the AR and OK counties specified in Fourth section of these Articles. These members shall be invited by the

FAYETTEVILLE,  
AR

Board of Directors with a unanimous vote, shall have (1) vote in Board meetings, and contribute dues of \$1,000 per month. Each of these members shall have available at least 5 acres of buildable land suitable for location of manufacturing facilities. Invitations must be accepted in writing within 120 days of the offered invitation; if accepted, membership takes effect immediately. If declined, the city may re-apply for membership after a 1 year waiting period, and dues will be set at \$2,000 per month.

3. Sustaining members may be any organization which has as a part of its mission the economic development of the region; sustaining members may attend and contribute to board meetings and serve on committees, but do not have a vote. Categories of Sustaining Members will be: A) Benefactors, who contribute \$250 - \$2,500 annually to the corporation; B) Partners, who contribute \$2,500 - \$5000 annually to the corporation; and C) Executive, who contribute \$10,000 or more annually to the corporation.

TWELFTH: The business of the Corporation shall be conducted by the Board of Directors. The number of the directors of the Corporation shall be not less than three (3) nor more than eleven (11). Each director's term of office shall be one (1) year. The Board of Directors shall have the responsibility for direction of the affairs of this Corporation and shall meet as soon as practicable after the adoption of these Articles of Incorporation for the purposes of electing officers, adopting Bylaws and taking such other action as may be necessary to perfect the organization of the Corporation. Thereafter, Bylaws may be amended and officers elected as provided in the Bvlaws. The initial directors shall be as follows:

|  | <u>Terms</u> |
|--|--------------|
| 1. President of FCEDA, 21 West Mountain, Fayetteville, Arkansas 72701              | 1 year       |
| 2. President of TRDA, 123 East Delaware, Tahlequah, Oklahoma 74464                 | 1 year       |
| 3. Board Chair, Fayetteville Chamber, Fayetteville, Arkansas 72701                 | 1 year       |
| 4. Tahlequah Regional Development Authority Board Designee,<br>Tahlequah, OK 74464 | 1 year       |

5. Mayor,  
Farmingston, AR  
1 year

THIRTEENTH: The name and address of the Incorporator of this Corporation is Rebecca Hurst, 5100 W. JB Hunt Dr., Suite 900, Rogers, Arkansas 72758.

FOURTEENTH: These Articles may be amended by the Board of Directors of this Corporation. Unless notice is waived, the Corporation shall provide seven (7) days' written notice of any meeting of the Board of Directors at which an amendment is to be voted upon. The notice must state that a purpose of the meeting is to consider a proposed amendment to the Articles, and the notice must contain or be accompanied by a copy or summary of the amendment or state the general

nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Rebecca Hurst, Incorporator

**BYLAWS** **( D R A F T - 2/23//21)**  
**OF**  
**Heartland Advanced Medical Manufacturing Regional Cluster**

**ARTICLE I. OFFICES**

The principal office of the Corporation in the State of Arkansas shall be located in the City of Fayetteville, County of Washington. The Corporation may have such other offices, either within or without the State of Arkansas, as the Board of Directors may designate or as the business of the Corporation may require from time to time.

**ARTICLE II. BOARD OF DIRECTORS**

SECTION 1. General Powers. The affairs, activities and operation of the Corporation shall be managed by its Board of Directors.

SECTION 2. Number, Tenure and Qualifications. The number of Directors of the Corporation shall be at least three (3), consisting of, at a minimum, a Chairman, Chairman Elect, and one additional Director. The Directors shall be elected by the Board of Directors at its annual meeting. Each Director shall hold office for a term of one (1) year. Directors may serve one (1) or more subsequent terms by re-election. Except as otherwise provided in the Articles of Incorporation, each position on the Board of Directors shall be held for a period of one (1) year, with the intent that the Chairman Elect shall progressively rotate through the positions of Chairman, then Past Chairman, and that the Chairman would rotate to the position of Past Chairman. Unless otherwise provided in the Articles of Incorporation, nothing in these Bylaws shall be construed to prohibit any Director from serving in any position on the Board of Directors more than once, so long as the total term(s) of service shall not exceed the time limits set forth in the Articles of Incorporation and these Bylaws.

SECTION 3. Regular Meetings. An annual meeting of the Board of Directors shall be held at a time and place established by resolution of the Board, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the election of Directors shall not be held on the day designated herein for any such meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Directors as soon thereafter as conveniently may be held. The time and place of additional regular meetings may be fixed by resolution of the Board. If the day fixed for a regular meeting shall be a legal holiday in the State of Arkansas, such meeting shall be held on the next succeeding business day.

SECTION 4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of any Director or the President. The person or persons authorized to call special meetings of the Board of Directors may, after seeking input on a convenient location for a majority of Directors, fix the place for holding any special meeting of the Board of Directors called by such person or persons.

SECTION 5. Notice. Notice of any special meeting shall be given at least two (2) days previously thereto by written notice delivered personally or mailed to each Director at his or her business address, by e-mail or by facsimile transmission. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by e-mail or facsimile transmission, such notice shall be deemed to be delivered when the e-mail or facsimile transmission is transmitted by the sender to the Director's e-mail address or facsimile number of record. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

SECTION 6. Quorum. A majority of the number of Directors specified in Section 2 of this Article II shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

SECTION 7. Manner of Acting. The affirmative vote of a majority of the Directors present at a meeting when a quorum is present shall be the act of the Board of Directors.

SECTION 8. Action Without A Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if the action is taken by all members of the Board. The action must be evidenced by one or more written consents describing the action taken, signed by each Director, and included in the minutes filed with the corporate records reflecting the action taken. Any action taken under this Section 8 shall be effective when the last Director has signed the consent, unless the consent specifies a different effective date, which effective date shall control. A consent delivered by facsimile transmission shall constitute a valid signed consent. A consent signed under this Section 8 has the effect of a meeting vote and may be described as such in any document.

SECTION 9. Telephonic Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of such Board or committee by

means of conference telephone, zoom, or similar communications equipment by means of which all persons participating in the meeting can simultaneously hear each other, and participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

SECTION 10. Removal of Directors. A Director may be removed with or without cause by the vote of a majority of the Directors present at a meeting which is called for the purpose of removing a Director and for which the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of a Director.

SECTION 11. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office or until the selection, nomination and confirmation of a successor Director in accordance with Article II, Section 2, whichever occurs first. Any directorship to be filled by reason of an increase in the number of Directors may be filled by election by the Board of Directors for a term of office continuing only until the next election by the Directors.

### ARTICLE III. OFFICERS

SECTION 1. Number. The officers of the Corporation may be a Chair, and Chairman Elect, each of whom shall be elected by the Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors.

SECTION 2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Directors at the annual meeting of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until the officer's death, resignation, or removal in the manner hereinafter provided.

SECTION 3. Removal. Any officer or agent may be removed by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby.

SECTION 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 5. Chair. The Chair may be a Director and shall be the principal executive officer of the Corporation, subject to the control of the Board of Directors, shall in general

supervise and control all of the business and affairs of the Corporation. The Chair may sign, with any other proper officer of the Corporation thereunto authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed, and the Chair shall in general perform all duties as may be prescribed by the Board of Directors from time to time.

SECTION 6. Chair-Elect. In the absence of the Chair or in event of the Chair's death, inability or refusal to act, the Chair-Elect shall perform the duties of the Chair, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair. The Chair-Elect shall perform such other duties as from time to time may be assigned by the Chair or by the Board of Directors.

SECTION 7. Funds. An audit of funds shall be conducted on a regular basis.

#### ARTICLE IV. COMMITTEES

SECTION 1. Establishment. The Board of Directors from time to time may establish, instruct, and discharge one or more committees of the Board. A committee may be established either as a standing committee or as an ad hoc committee for a special purpose. Each committee established by the Board of Directors shall consist of two (2) or more Directors each of whom shall serve at the pleasure of the Board of Directors. The creation of each committee and the appointment of members shall be approved by the Board of Directors acting in any manner permitted under Article II of these Bylaws.

SECTION 2. Powers. The Board of Directors may delegate such of its powers as it deems necessary to such committees as it may from time to time establish; provided, however, that a committee of the Board may not (a) authorize distributions; (b) approve the dissolution, merger or the sale, pledge or transfer of all or substantially all of the Corporation's assets; (c) elect, appoint or remove Directors or fill vacancies on the Board or any of its committees; or (d) adopt, amend or repeal the Articles or Bylaws. Any committee may exercise such of the Board's authority as the committee is granted by the Board of Directors, subject to the restrictions contained in the Articles of Incorporation or these Bylaws.



SECTION 3. Meetings and Action. The provisions of Article II of these Bylaws shall apply to govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of each committee and its members. Pursuant to those provisions, the chair of each committee shall fix the time and place of its meetings, shall provide for the recording of minutes of committee meetings, and shall promptly report the committee's actions and recommendations to the Board of Directors. If the committee chair is unable or otherwise fails to perform those duties, the Chairman of the Board of Directors may take such actions as are necessary to ensure that the committee's responsibilities are fulfilled, including without limitation the replacement of the committee chair.

SECTION 4. Executive Committee. There shall be a standing committee to be known as the Executive Committee. The members of the committee shall consist of two (2) representatives of each of the founders and one (1) other director, with a maximum of five (5) appointed by the Board of Directors of the Corporation. The Executive Committee may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation as allowed under the Arkansas Nonprofit Corporation Act of 1993. The Executive Committee shall maintain regular minutes of its proceedings and report the same to the Board of Directors at each regular meeting of the Board.

## **ARTICLE V. INDEMNIFICATION OF DIRECTORS AND OFFICERS**

SECTION 1. Mandatory Indemnification. In accordance with Ark. Code Ann. §§ 4-33-852 and 4-33-856, the Corporation shall indemnify any Director or officer and his or her estate or personal representative who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which the Director or officer is a party by virtue of his or her status as a Director or officer of the Corporation.

SECTION 2. Permissible Indemnification. Pursuant to Ark. Code Ann. § 4-33-851, and except as provided in Section 3 below, the Corporation may indemnify a Director or officer made a party to a proceeding by virtue of his or her status as a Director or officer, against liability incurred in the proceeding if the following conditions are met: (a) the Director or officer conducted himself or herself in good faith; (b) with respect to conduct in his or her official capacity, the Director or officer had reason to believe that his or her conduct was in the best interests of the Corporation; and (c) in cases of conduct not in his or her official capacity, the Director or officer had reason to believe that his or her conduct was at least not opposed to the best interests of the Corporation.

SECTION 3. Prohibition of Indemnification in Certain Cases. The Corporation shall not indemnify a Director or officer in connection with any proceeding by or in the right of the Corporation in which the Director or officer was adjudged liable to the Corporation, or in connection with any other proceeding charging improper personal benefit to the Director or officer, whether or not involving action in his or her official capacity, in which the Director or officer was adjudged liable on the basis that personal benefit was improperly received by the Director or officer.

SECTION 4. Procedure for Authorizing Indemnification of Directors. Before the Corporation may indemnify any Director pursuant to Section 2 above, a determination must be made that indemnification of a Director is permissible because the Director has met the standards of conduct set forth in Section 2 of this Article V. The Board of Directors shall make that determination by a majority vote of a quorum consisting of Directors who are not at the time parties to the proceeding; provided, however, that if such a quorum cannot be obtained, then the determination shall be made either by a committee designated by the Board of Directors or by special legal counsel in accordance with Ark. Code Ann. § 4-33-855(b)(2) and (3). Furthermore, the Corporation may not indemnify a Director until twenty (20) days after the effective date of the written notice of the proposed indemnification to the Attorney General of the State of Arkansas. The Corporation may pay for or reimburse the reasonable expenses incurred by a Director or officer who is a party to a proceeding in advance of final disposition of the proceeding upon authorization made in accordance with Ark. Code Ann. § 4-33-855 and upon satisfaction of all the conditions prescribed in Ark. Code Ann. § 4-33-853.

SECTION 5. Insurance. The Corporation may purchase and maintain insurance on behalf of its Directors and officers to insure against liabilities asserted against or incurred by the Corporation's Directors and officers in that capacity or arising from their status as Directors and officers, whether or not the Corporation would have the power to indemnify them against the same liability under the preceding sections of this Article V.

SECTION 6. Definitions. The following definitions apply to the indemnification provisions of this Article V:

(a) Proceeding. "Proceeding" means any threatened, pending or completed civil action, suit or proceeding, whether judicial, administrative, or investigative, and whether formal or informal.

(b) Liability. "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding.

(c) Expenses. Indemnification against expenses which is mandated or permitted under this Article V is limited to reasonable expenses, including attorneys' fees, incurred in connection with a proceeding.

(d) Ark. Code Ann. All citations in these Bylaws to "Ark. Code Ann." shall refer to the Arkansas Code of 1987 Annotated, as amended from time to time by the Arkansas Legislature.

## **ARTICLE VI. CONTRACTS, LOANS, CHECKS AND DEPOSITS**

SECTION 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

SECTION 2. Loans. No loans shall be made by the Corporation to its Directors or officers. Any Directors who vote for or assent to the making of a loan to a Director or officer, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Corporation for the amount of such loan until repayment thereof in accordance with the provisions of the Arkansas Nonprofit Corporation Act of 1993. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

SECTION 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

SECTION 4. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

## **ARTICLE VII. FISCAL YEAR**

The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

## **ARTICLE VIII. DIVIDENDS PROHIBITED**

The Corporation shall not have or issue shares of stock, and no dividend shall be paid and no part of the income of the Corporation shall be distributed to its Directors or officers. The Corporation may pay compensation in a reasonable amount to its Directors or officers for services rendered, and may reimburse its Directors, officers and employees for expenses incurred in attending to their authorized duties; provided, however, that such expenses shall be evidenced by receipt or other proper document.

#### **ARTICLE IX. AMENDMENTS**

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board of Directors at any regular or special meeting of the Board of Directors; provided, however, that unless the amendments are unanimously adopted by action without a meeting pursuant to Section 8 of Article II hereof or unless notice is waived, the Corporation shall provide seven (7) days' written notice to the Directors that the amendment will be voted upon at the meeting, and the notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment of the Bylaws, and the notice shall also contain or be accompanied by a copy or a summary of the amendment or state the general nature of the amendment. Any amendment must be approved by a 2/3 majority of the Directors in office at the time the amendment is adopted.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

**CERTIFICATE**

I, the undersigned, hereby state and certify that the foregoing is a true, correct and conformed copy of the Bylaws of Heartland Advanced Medical Manufacturing Regional Cluster duly adopted by the Board of Directors of said organization effective as of the \_\_\_\_ day of \_\_\_\_\_, 2021, and that the same have not been altered, modified, amended or repealed in any respect and remain in full force and effect on this date.

\_\_\_\_\_  
Secretary