

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Final Agenda
City of Fayetteville, Arkansas
City Council Meeting
April 7, 2009**

A meeting of the Fayetteville City Council will be held on April 7, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Fayetteville Bulldogs Congratulations Resolution: A resolution to congratulate the Fayetteville High School Men's and Women's Varsity Basketball Teams on perfect, undefeated, State Championship Seasons.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 65-09.

Mayor's Announcements, Proclamations and Recognitions:

1. Fayetteville Bulldogs Proclamation

Presentations, Reports and Discussion Items:

1. Botanical Gardens of the Ozarks Annual Report

A. Consent:

1. Approval of the March 17, 2009 City Council meeting minutes. **APPROVED.**

2. **Bid # 09-14 Rick Pershall Building Co.:** A resolution awarding Bid # 09-14 to Rick Pershall Building Co. in the amount of \$23,632.30 for replacement of the Solid Waste Transfer Station tipping floor; and approving a contingency in the amount of \$5,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 66-09.

3. **Bid # 09-21 Pollution Management, Inc.:** A resolution approving a construction contract with Pollution Management, Inc. in the amount of \$19,680.00 for removal of underground storage tanks at the Noland Wastewater Treatment Facility and approving a contingency in the amount of \$5,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 67-09.

4. **Garver Engineers, LLC Amendment No. 3:** A resolution approving Amendment No. 3 to the contract with Garver Engineers, LLC in an amount not to exceed \$253,588.00 for bidding and construction phase services for Mount Comfort Road Improvements Contract 2, from Alpine Avenue to Ruppel Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 68-09.

5. **Department of Homeland Security Assistance Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security 2009 Assistance to Firefighters Grant in the amount of \$200,000.00 for purchase of a Mobile Multi-Trainer System.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 69-09.

6. **U.S. Department of Justice's Bulletproof Vest Partnership Program:** A resolution approving a budget adjustment for the Fayetteville Police Department in the amount of \$7,339.00 to recognize grant revenue from the U.S. Department of Justice's Bulletproof Vest Partnership Program.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 70-09.

7. **Community Development Block Grant (CDBG):** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2009 in the estimated amount of \$635,930.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 71-09.

8. **Operations Management International (OMI) Amendment No. 16A:** A resolution approving Amendment Number 16A to the contract with Operations Management International (OMI) in the amount of \$61,819.73 for operational expenses incurred as a direct result of the January 2009 Ice Storm.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 72-09.

9. **Arkansas Department of Aeronautics:** A resolution authorizing the Fayetteville Executive Airport Staff to apply for and accept an amended 80/20 grant in the estimated amount of \$102,000.00 from the Arkansas Department of Aeronautics to fund the

Terminal Building HVAC Repair Project; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 73-09.

- 10. Cops Hiring Recovery Grant:** A resolution to approve the 2009 COPS Hiring Recovery Grant application.

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED IN NEW BUSINESS.

- 11. Bid # 09-30 Drake Field HVAC Controls Upgrade:** A resolution awarding Bid # 09-30 to Multi-Craft Contractors, Inc. in the amount of \$117,300.00 for Drake Field HVAC Controls Upgrade; approving a project contingency in the amount of \$12,336.00; and approving a budget adjustment in the amount of \$42,306.00. ***This resolution was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.***

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 74-09.

- 12. Solid Resources, Inc. Change Order No. 2:** A resolution approving Change Order No. 2 to the contract with Solid Resources, Inc. to increase the contract amount by \$269,521.00 for additional debris removal monitoring and oversight associated with the January 2009 Ice Storm; approving a contingency increase of \$40,428.00; and approving a budget adjustment in the amount of \$309,949.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 75-09.

- 13. DRC Emergency Services, LLC Change Order No. 2:** A resolution approving Change Order No. 2 to the contract with DRC Emergency Services, LLC in the amount of \$200,000.00 for additional debris removal associated with the January 2009 Ice Storm; approving a contingency increase of \$30,000.00; and approving a budget adjustment in the amount of \$230,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 76-09

B. Unfinished Business:

- 1. Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *(This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting. This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3,*

2009 City Council meeting.) This ordinance was Tabled at the March 3, 2009 City Council meeting to the March 17, 2009 City Council meeting.

This ordinance was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5230.

2. **Newspaper Publishing:** A resolution to limit on a trial basis newspaper publishing to primarily legally required items.

This resolution was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 77-09.

C. Public Hearing:

1. **A Public Hearing regarding the issuance of Series 2009 Water and Sewer Revenue Bonds in the approximate amount of \$8.5 million** – David Jurgens, Utilities Director

THERE WAS NO PUBLIC COMMENT FOR THIS PUBLIC HEARING.

2. **Tenant/Samples De-annexation:** An ordinance concurring with Farmington ordinance No. 2009-05, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

THIS ITEM WAS FOR PUBLIC HEARING ONLY.

3. **Westside Storage, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Westside Storage, Inc. needed for the Ruppel Road Project.

THIS ITEM WAS TABLED INDEFINITELY.

4. **Patrick J. Tobin – Ruppel Road Project Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust needed for the Ruppel Road Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 78-09.

5. **Patrick J. Tobin – Township Street Widening Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust needed for the Township Street Widening Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 79-09.

D. New Business:

The following Resolution was removed from the Consent Agenda for discussion:

1. **Cops Hiring Recovery Grant:** A resolution to approve the 2009 COPS Hiring Recovery Grant application.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 80-09.

2. **Fayette Junction Master Plan:** A resolution to adopt the Fayette Junction Master Plan vision document and Illustrative Master Plan.

THIS ITEM WAS TABLED TO THE APRIL 21, 2009 CITY COUNCIL MEETING.

3. **Animal Services Advisory Board:** A resolution establishing an Animal Services Advisory Board.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 81-09.

4. **RZN 09-3218 (Life Styles):** An ordinance rezoning that property described in rezoning petition RZN 09-3218, for approximately 1.27 acres, located north of the Sycamore Street and Saddlehorne Avenue intersection from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5231.

5. **ADM 09-3219 Amend Chapter 166:** An ordinance amending the Unified Development Code subsection 166.12: Structures Not Allowed Over Public Easements, to clarify what types of structures are permitted in easements, and to establish consistent guidelines for the installation of structures in easements.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

6. **Amend Chapter 33:** An ordinance to amend §33.001 City Organizational Chart of the Code of Fayetteville.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5232.

Agenda Additions: None

Announcements:

1. **City Council Tour: None**
2. **Chief of Staff Don Marr** gave a report on the ice storm debris clean up.

Adjournment: Meeting adjourned at 9:00 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or 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 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

City Council Meeting:

April 7, 2009

Adjourn: 9:00 PM

Subject:	Roll				
	Petty	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan	✓			

7-0

Subject:	Fayetteville Bulldogs Congratulations Resolution				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Lucas			
Passed 65-09	Petty	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan				

7-0

Subject:	Consent Cops Hiring Recovery Grant removed				
Motion To:		Approve			from
Motion By:		Cook			Consent
Seconded:		Lucas			and
Minutes Approved Passed 66-09 to 76-09	Petty	✓			placed
	Rhoads	absent			in
	Ferrell	✓			New
	Lucas	✓			Business
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Mayor Jordan				

Subject:	Amberwood Place Appeal				
Motion To:		<i>Amend to current plan</i>	<i>Pass</i>		
Motion By:		<i>Lucas</i>			
Seconded:		<i>Lewis</i>			
B. 1 Unfinished Business <i>Passed</i> <i>5230</i>	Petty	<i>✓</i>	<i>✓</i>		
	Rhoads	<i>Absent</i>	<i>Absent</i>		
	Ferrell	<i>✓</i>	<i>✓</i>		
	Lucas	<i>✓</i>	<i>✓</i>		
	Lewis	<i>✓</i>	<i>✓</i>		
	Gray	<i>✓</i>	<i>✓</i>		
	Thiel	<i>✓</i>	<i>✓</i>		
	Cook	<i>✓</i>	<i>✓</i>		
	Mayor Jordan				

7-0

7-0

Subject:	Newspaper Publishing				
Motion To:		<i>Amend to revisit in six (6) months</i>	<i>Approve</i>		
Motion By:		<i>Cook</i>	<i>No motion</i>		
Seconded:		<i>Petty</i>	<i>No Second</i>		
B. 2 Unfinished Business <i>Passed</i> <u><i>Revisit in 6 months</i></u>	Petty	<i>✓</i>	<i>✓</i>		
	Rhoads	<i>Absent</i>	<i>Absent</i>		
	Ferrell	<i>✓</i>	<i>✓</i>		
	Lucas	<i>✓</i>	<i>✓</i>		
	Lewis	<i>✓</i>	<i>✓</i>		
	Gray	<i>✓</i>	<i>✓</i>		
	Thiel	<i>✓</i>	<i>N</i>		
	Cook	<i>✓</i>	<i>✓</i>		
	Mayor Jordan				

77-09

7-0

6-1

Subject:	A Public Hearing regarding the issuance of Series 2009 Water and Sewer Revenue Bonds				
Motion To:					
Motion By:					
Seconded:					
C. 1 Public Hearing <i>Public Hearing Only</i>	Petty	<i>There was no Public Comment.</i>			
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Mayor Jordan				

Subject:	Tennant/Samples De-annexation				
Motion To:					
Motion By:					
Seconded:					
C. 2 Public Hearing <i>Public Hearing Only</i>	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Mayor Jordan				

Subject:		Westside Storage, Inc. Condemnation <i>A settlement was</i>			
Motion To:		<i>Table Indef</i>	<i>reached.</i>		
Motion By:		<i>Thiel</i>			
Seconded:		<i>Ferrell</i>			
C. 3 Public Hearing <i>This resolution was tabled Indefinitely</i>	Petty	✓			
	Rhoads	<i>Absent</i>			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan				

7-0

Subject:		Patrick J. Tobin – Ruppel Road Project Condemnation			
Motion To:		<i>Approve</i>			
Motion By:		<i>Thiel</i>			
Seconded:		<i>Lewis</i>			
C. 4 Public Hearing <i>Passed</i> 78-09	Petty	✓			
	Rhoads	<i>Absent</i>			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan				

7-0

Subject:		Patrick J. Tobin – Township Street Widening Condemnation			
Motion To:					
Motion By:			<i>Approve</i>		
Motion By:			<i>Thiel</i>		
Seconded:			<i>Lewis</i>		
C. 5 Public Hearing <i>passed</i> <i>79-09</i>	Petty		<i>✓</i>		
	Rhoads		<i>Absent</i>		
	Ferrell		<i>✓</i>		
	Lucas		<i>✓</i>		
	Lewis		<i>✓</i>		
	Gray		<i>✓</i>		
	Thiel		<i>✓</i>		
	Cook		<i>✓</i>		
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Mayor Jordan				

Subject:		Cops Hiring Recovery Grant			
Motion To:		Amend to add 2 officers only		Pass	
Motion By:		Ferrell		Thiel	
Seconded:		Lucas		Gray	
Removed from Consent <u>Passed</u> 80-09	Petty	✓		✓	
	Rhoads	Absent		Absent	
	Ferrell	✓		N	
	Lucas	✓		N	
	Lewis	N		✓	
	Gray	N		✓	
	Thiel	N		✓	
	Cook	N		✓	
Mayor Jordan					

3-4 failed

5-2

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Mayor Jordan				

Subject:		Fayette Junction Master Plan			
Motion To:		Amend to remove exhibits & add		Exhibit A Amend to the proposed changes	Table to next meeting
Motion By:		Thiel	new one master street	Lewis	Thiel
Seconded:		Lewis	amendments only.	Lucas	Ferrell
D. 1 New Business Amendments only passed	Petty	✓		✓	N
	Rhoads	Absent		Absent	Absent
	Ferrell	N		✓	✓
	Lucas	✓		✓	✓
	Lewis	✓		✓	N
	Gray	✓		✓	✓
	Thiel	✓		✓	✓
Tabled to 4-21-09	Cook	✓		✓	✓
	Mayor Jordan				

6-1

7-0

5-2

Subject:		Animal Services Advisory Board			
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Gray			
D. 2 New Business passed 81-09	Petty	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan				

7-0

Subject:		RZN 09-3218 (Life Styles)			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Lucas	Ferrell		
D. 3 New Business <i>Passed</i> 5231	Petty	✓	✓	✓	
	Rhoads	Absent	Absent	Absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Mayor Jordan				

7-0

7-0

7-0

Subject:		ADM 09-3219 Amend Chapter 166			
Motion To:		2nd Read			
Motion By:		Ferrell			
Seconded:		Thiel			
D. 4 New Business <i>Left on the Second Reading</i>	Petty	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Jordan				

7-0

Subject:		Amend Chapter 33			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Ferrell	Ferrell	
Seconded:			Thiel	Thiel	
D. 5 New Business <u>passed</u> 5232	Petty	✓	✓	✓	
	Rhoads	Absent	Absent	absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Mayor Jordan				

7-0

7-0

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
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Agenda Additions:

Announcements:

1. **City Council Tour:** None

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or 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 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

AGENDA REQUEST

FOR: COUNCIL MEETING OF APRIL 7, 2009

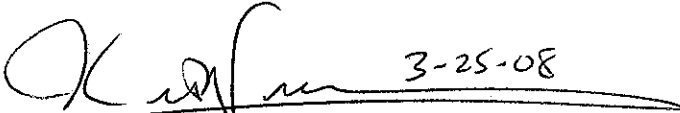
FROM:

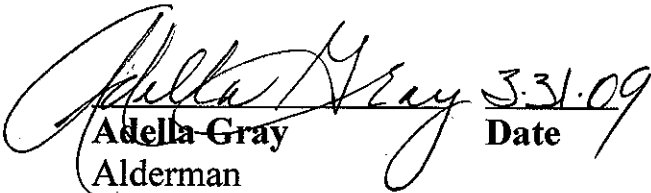
**Kit Williams, City Attorney; Alderman Adella Gray; Alderman Brenda Thiel;
Alderman Kyle B. Cook; Alderman Matthew Petty; Alderman Robert Rhoads,
Alderman Bobby Ferrell; Alderman Shirley Lucas; Alderman Sarah Lewis**

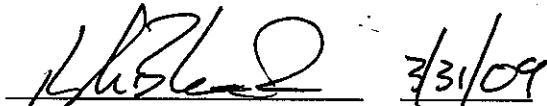
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

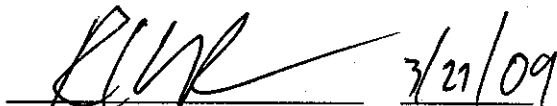
A Resolution To Congratulate The Fayetteville High School Men's And Women's Varsity Basketball Teams On Perfect, Undefeated, State Championship Seasons

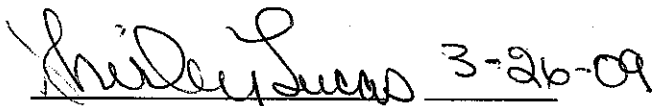
APPROVED FOR AGENDA:

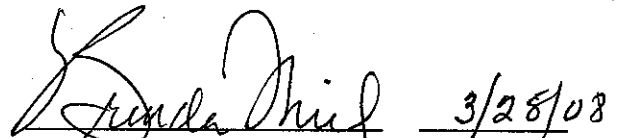

Kit Williams 3-25-08
City Attorney Date


Adella Gray 3-31-09
Alderman Date


Kyle B. Cook 3/31/09
Alderman Date

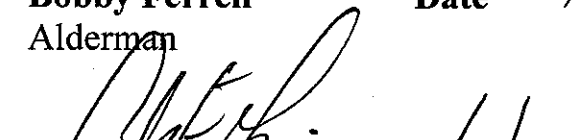

Robert Rhoads 3/21/09
Alderman Date


Shirley Lucas 3-26-09
Alderman Date


Brenda Thiel 3/28/08
Alderman Date


Matthew Petty 3-31-09
Alderman Date


Bobby Ferrell 3/31/09
Alderman Date


Sarah Lewis 3/31/09
Alderman Date

RESOLUTION NO. _____

**A RESOLUTION TO CONGRATULATE THE FAYETTEVILLE
HIGH SCHOOL MEN'S AND WOMEN'S VARSITY BASKETBALL
TEAMS ON PERFECT, UNDEFEATED, STATE CHAMPIONSHIP
SEASONS**

WHEREAS, for the first time in Arkansas history and probably in the history of the United States, in the highest division level of high school athletics, both the Fayetteville High School Men's and Women's Basketball Teams achieved perfect, undefeated, state championship seasons in the same year; and

WHEREAS, both the men's and women's Fayetteville Bulldog Basketball Teams were nationally ranked at the end of their hard fought and well-deserved state championships; and

WHEREAS, both the Fayetteville Bulldog Men's and Women's Basketball Teams had the Most Valuable Players in the state championships and All-State Players, but even more importantly achieved their undefeated seasons through gritty, inspired, unselfish, team-oriented efforts from starters and reserves alike.

**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 takes great pride and satisfaction in recognizing and congratulating the Fayetteville Bulldog Men's and Women's Basketball Teams for their perfect, undefeated, state championship seasons.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby thanks these Bulldogs for their exemplary performance both on and off the basketball court which brings great credit to themselves, their coaches, their parents, their school and their hometown.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Botanical Garden Society of the Ozarks Board of Directors, March 2009

Catherine W. Bass, Past President
Retired Broadcast Executive

Christine Bell, Secretary
Vice-President, Metropolitan National Bank

Bill Dollar, President
Financial Consultant

Walt Eilers, Vice President
Business & Fundraising Consultant

John Holland
Dentist and Plantsman

Rita Littrell
Director, Moore Center for Economic Education

Mina Marsh
Retired Educator/Conservationist

Martha McBride
Realtor, Crye-Leike Realtors

Gloria McIntosh
Fayetteville Parks and Recreation Staff

Phillip McKnight, Treasurer
Horticulturist

Paige Mulhollan, Volunteer Executive Director
Retired University Administrator

Marvin Shirley
Consultant and Retired Broadcast Executive

Ron Troutman
President, Boulder Construction

Kristina Young
Director, Better Homes and Gardens

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items OnlyG. Tabor
Submitted ByPatrol
DivisionPolice
Department

Action Required:

Approval of the 2009 COPS Hiring Recovery Grant application.

\$ 265,035.00
Cost of this request\$ 1,070,150.00
Category / Project BudgetCOPS Hiring Recovery Grant
Program Category / Project Name1010-2920-5120.00
Account Number\$ -
Funds Used to DateGrant
Program / Project Category Name09014-2009
Project Number\$ 1,070,150.00
Remaining BalanceGeneral
Fund NameBudgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:



Departmental Correspondence

To: Mayor Lioneld Jordan and Members of the City Council
From: Greg Tabor, Police Chief 
Date: March 31, 2009
Re: Approval of Application for 2009 COPS Hiring Recovery Grant

Background

The 2009 COPS Hiring Recovery Program (CHRP) is a competitive grant program that provides funding directly to law enforcement agencies to create and preserve jobs and to increase their community policing capacity and crime prevention efforts. This grant opportunity is a part of President Obama's Stimulus Package. There is no local matching requirement, but funding will be based on our current entry-level salaries and benefits for sworn officer positions plus annual step increases per our current pay plan policy. Any additional costs for positions hired under the CHRP grant beyond salaries and benefits must be paid for by the City. Also, at the conclusion of the three year federal funding, grantees must retain all sworn officer positions awarded under the CHRP grant for a minimum of twelve (12) months.

Discussion

The Fayetteville Police Department will utilize CHRP grant funding to hire five (5) new officers. These officers will be used to expand our patrol operations and school resource officer (SRO) program. Fayetteville Public Schools has previously requested two (2) additional SROs, but our staffing and budget levels have not allowed for these positions. Fayetteville Public Schools has agreed to pay approximately 75% of the fourth year retention expenses of the additional SRO positions.

With past budget reductions, increased workload, and military deployments, we have been perpetually short staffed. This grant funding will allow us to increase staffing levels and expand our partnership with Fayetteville Public Schools. The following shows the total costs for five new officers throughout the four year grant period and the sources of funding necessary to meet the requirements of this grant. As you can see, the cost to the City for five new officers is approximately 25% of the total cost or \$265,035.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE 2009 COPS HIRING
RECOVERY GRANT APPLICATION**

**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 2009 COPS Hiring Recovery Grant application for five new officers for the Fayetteville Police Department, and agrees to fund any officers approved under this grant during their fourth year of service.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

COPS Hiring Recovery Grant

Sources and Uses of Funds

2009-2013

Use of Funds	Year 1	Year 2	Year 3	Year 4	Total
Base Salary per Officer	\$ 33,307	\$ 35,029	\$ 36,754	\$ 38,476	\$ 143,566
Fringe Benefits per Officer					
Medicare	483	508	533	558	2,082
Health Insurance	218	218	218	218	872
Life Insurance	210	221	232	243	906
Vacation	1,922	2,021	2,120	2,220	8,283
Sick Leave	1,537	2,021	2,120	2,220	7,898
Retirement	5,236	5,507	5,778	6,048	22,569
Workers Comp	879	925	970	1,016	3,790
Holiday Pay	1,416	1,489	1,562	1,635	6,102
Professional Liability Insurance	297	297	297	297	1,188
Long Term Disability	235	247	259	259	1,000
Fringe Benefits per Officer	\$ 12,433	\$ 13,454	\$ 14,089	\$ 14,714	\$ 54,690
Total Salary & Fringe per Officer	\$ 45,740	\$ 48,483	\$ 50,843	\$ 53,190	\$ 198,256
Uniform, Equipment, & Training Per Officer					
Uniform	3,050	500	500	500	4,550
Bulletproof Vest	525	-	-	-	525
Portable Radio	3,465	50	50	50	3,615
Hand Gun w/ ammo	790	100	100	100	1,090
Taser w/ Cam	1,502	-	-	-	1,502
Academy Training - OT	3,167	-	-	-	3,167
Academy Training - Food	365	-	-	-	365
FTO Trainer	960	-	-	-	960
Total Equip & Training per Officer	\$ 13,824	\$ 650	\$ 650	\$ 650	\$ 15,774
Total Operating Costs per Officer	\$ 59,564	\$ 49,133	\$ 51,493	\$ 53,840	\$ 214,030
Revenue needed per Officer	Year 1	Year 2	Year 3	Year 4	Total Project
Cops Hiring Recovery Program Grant	45,740	48,482	50,844		145,066
City General Fund	13,824	650	650	53,840	68,964
Total Revenue	\$ 59,564	\$ 49,132	\$ 51,494	\$ 53,840	\$ 214,030
Total Expense for 5 Officers	\$ 297,820	\$ 245,665	\$ 257,465	\$ 269,200	\$ 1,070,150
Source of Funds					
COPS Hiring Recovery Program	228,700	242,415	254,215	-	725,330
General Fund	69,120	3,250	3,250	189,415	265,035
Fayetteville Public School	-	-	-	79,785	79,785
Total Sources	\$ 297,820	\$ 245,665	\$ 257,465	\$ 269,200	\$ 1,070,150

COPS Hiring Recovery Grant

Sources and Uses of Funds

2009-2013

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Total</u>
Use of Funds					
<i>Total Expense for 5 Officers</i>	<u>\$ 297,820</u>	<u>\$ 245,665</u>	<u>\$ 257,465</u>	<u>\$ 269,200</u>	<u>\$ 1,070,150</u>
Source of Funds					
COPS Hiring Recovery Program	228,700	242,415	254,215	-	725,330
<i>General Fund</i>	<i>69,120</i>	<i>3,250</i>	<i>3,250</i>	<i>189,415</i>	<i>265,035</i>
Fayetteville Public School	-	-	-	79,785	79,785
<i>Total Sources</i>	<u>\$ 297,820</u>	<u>\$ 245,665</u>	<u>\$ 257,465</u>	<u>\$ 269,200</u>	<u>\$ 1,070,150</u>

	Year 1	Year 2	Year 3	Year 4	Total
Use of Funds					
Total Use of Funds (5 Officers)	<u>\$ 297,820</u>	<u>\$ 245,665</u>	<u>\$ 257,465</u>	<u>\$ 269,200</u>	<u>\$ 1,070,150</u>
Source of Funds					
Grant Funds	228,700	242,415	254,215	-	725,330
General Fund	69,120	3,250	3,250	189,415	265,035
Fayetteville Public School*	<u>-</u>	<u>-</u>	<u>-</u>	<u>79,785*</u>	<u>79,785*</u>
Total Sources	<u>\$ 297,820</u>	<u>\$ 245,665</u>	<u>\$ 257,465</u>	<u>\$ 269,200</u>	<u>\$ 1,070,150</u>

* Fayetteville Public Schools portion of the source of funds is an estimate based upon officer assignment.

Recommendation

Staff recommends approval of the 2009 COPS Hiring Recovery Program application.

Budget Impact

When the grant is awarded the City Council will be asked to accept the grant and adopt the funding schedule as specified above.



Welcome to the COPS Hiring Recovery Program (CHRP) Application

Please note that all applications must be submitted online through the COPS website. This copy is for agencies to use as a reference only.

Please read the CHRP Application Guide carefully before completing the eligibility worksheet and starting your application.

Shaded areas in the SF-424 are either NA or pre-filled by the COPS Office for the online application.

CHRP Eligibility Worksheet

Please note that the answers to these questions will determine your eligibility for funding under this program. If you have any questions regarding your eligibility, a copy of this worksheet is available at <http://www.cops.usdoj.gov/chrp/eligibilityanony.aspx>. The COPS Office recommends that you review this information before moving forward with this worksheet. If you have questions regarding your eligibility after reviewing this information, please contact the COPS Office Response Center at 1.800.421.6770.

Note that if you are deemed ineligible at any point during your completion of the eligibility worksheet, the system will prevent you from accessing the remainder of the grant application.

1. Is your law enforcement agency a start-up agency?

Start-up agencies are not eligible for funding under this program. If you select YES, the system will prevent you from completing the rest of the grant application.

(Yes—ineligible)

(No—move to 2)

2. Is your agency applying for this grant as part of a consortium of agencies?

Agencies applying for funds as a consortium are not eligible for funding under this program. However, agencies within that consortium are encouraged to apply individually. If you select YES, the system will prevent you from completing the rest of the grant application.

(Yes—ineligible)

(No—move to 3)

3. Is your agency a tribal law enforcement agency?

(Yes- move to 3a)

(No – move to 4)

3a. Is your agency a Federally Recognized Tribe?

Only Federally Recognized Tribes are eligible to apply for funding under this grant program. If you select NO, the system will prevent you from completing the rest of the grant application.

(Yes – move to 4) (No – ineligible)

4. Is your agency applying for funds under this grant to contract for law enforcement services?

(Yes—move to 4a) (No—move to 5)

4a. Is your agency a Federally Recognized Tribe applying for funds under this grant to contract with the Bureau of Indian Affairs (BIA) for law enforcement services?

Only Federally Recognized Tribes that either have their own established law enforcement agency or plan to use the grant funds to pay for contract services with the BIA are eligible to apply for funding under this grant program. If you select NO, the system will prevent you from completing the rest of the grant application.

(Yes—Move to 5)

(No—ineligible)

5. Does the law enforcement agency have primary law enforcement authority for the population served?

Only agencies that have primary law enforcement authority are eligible to apply for funding under this grant program. An agency with primary law enforcement authority is defined as the first responder to calls for service, and has ultimate and final responsibility for the prevention, detection, and/or investigation of crime within its jurisdiction. If you select NO, the system will prevent you from completing the rest of the grant application.

(Yes—move to 6)

(No—ineligible)

6. Is your law enforcement agency a type other than a local, state, or tribal agency (e.g., Transit, School, University/College, Public Housing, Natural Resources, Parks, etc.)?

(Yes—move on to 6a)

(No—move on to 7)

6a. Does your agency have legislation that authorizes sworn law enforcement officers with full arrest authority and full police powers?

Agencies that do not have legislation that authorizes sworn law enforcement officers with full arrest authority and full police powers are not eligible for funding under this grant program. If you select NO, the system will prevent you from completing the rest of the grant application.

(Yes—move on 7)

(No—ineligible)

7. Has your agency planned to retain all position(s) awarded under this grant program for at least 12 months following the conclusion of 36 months of grant funding?

Agencies that do not plan to retain all position(s) awarded under CHRP for at least 12 months are not eligible for funding under this grant program. If you select NO, the system will prevent you from completing the rest of the grant application.

(Yes—questionnaire complete)

(No—ineligible)

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: ☐ Preapplication ☒ Application ☐ Changed/Corrected Application		
*2. Type of Application * If Revision, select appropriate letter(s) ☒ New ☐ Continuation *Other (Specify) _____ ☐ Revision		
3. Date Received: 3-24-2009		4. Applicant Identifier: AR07201
5a. Federal Entity Identifier:		*5b. Federal Award Identifier:
State Use Only:		
6. Date Received by State:		7. State Application Identifier:
8. APPLICANT INFORMATION:		
*a. Legal Name: Fayetteville, City of		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 71-6018462		*c. Organizational DUNS: 075657742
d. Address: *Street 1: 113 W Mountain St Street 2: _____ *City: Fayetteville County: Washington *State: Arkansas Province: _____ *Country: United States *Zip / Postal Code: 72701		
e. Organizational Unit:		
Department Name: Fayetteville Police Department		Division Name: Patrol
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: _____ *First Name: Judy Middle Name: _____ *Last Name: Cohea Suffix: _____		
Title: Project Manager		
Organizational Affiliation: Fayetteville Police Department		
*Telephone Number: 479-587-3581		Fax Number: 479-587-3570
*Email: jcohea@ci.fayetteville.ar.us		

Application for Federal Assistance SF-424		Version 02
*9. Type of Applicant 1: Select Applicant Type: Type of Applicant 2: Select Applicant Type: Type of Applicant 3: Select Applicant Type: *Other (Specify)		
*10 Name of Federal Agency:		Office of Community Oriented Policing Services
11. Catalog of Federal Domestic Assistance Number: <u>16.710</u> CFDA Title: <u>Public Safety Partnership and Community Policing Grants</u>		
*12 Funding Opportunity Number: <u>COPS-CHRP-2009-1</u> *Title: <u>CHRP</u>		
13. Competition Identification Number: Title: <u>COPS Hiring Recovery Program</u>		
14. Areas Affected by Project (Cities, Counties, States, etc.): City of Fayetteville, Arkansas		
*15. Descriptive Title of Applicant's Project: 2009 COPS Hiring Grant		

Application for Federal Assistance SF-424		Version 02
16. Congressional Districts Of:		
*a. Applicant: <u>AR-003</u>	*b. Program/Project: <u>AR-003</u>	
17. Proposed Project:		
*a. Start Date: <u>07/01/2009</u>	*b. End Date: <u>06/30/2013</u>	
18. Estimated Funding (\$):		
*a. Federal	<u>725,330</u>	
*b. Applicant	<u> </u>	
*c. State	<u> </u>	
*d. Local	<u> </u>	
*e. Other	<u> </u>	
*f. Program Income	<u> </u>	
*g. TOTAL	<u>725,330</u>	
*19. Is Application Subject to Review By State Under Executive Order 12372 Process?		
☒ a. This application was made available to the State under the Executive Order 12372 Process for review on _____ ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review. ☐ c. Program is not covered by E. O. 12372		
*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)		
☐ Yes ☒ No		
21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001) By clicking this box and typing my name below, I also certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owner's Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government. ☒ ** I AGREE ** The certifications and assurances as well as grant terms and conditions can be found at the end of the application.		
Authorized Representative:		
Prefix: <u>Mayor</u>	*First Name: <u>Lioneld</u>	
Middle Name: <u> </u>		
*Last Name: <u>Jordan</u>		
Suffix: <u> </u>		
*Title: <u>Mayor</u>		
*Telephone Number: <u>479-575-8331</u>	Fax Number: <u>479-575-8257</u>	

* Email: mayor@ci.fayetteville.ar.us	
*Signature (Typed Name) of Authorized Representative:	*Date Signed:

OMB Number: 4040-0004
Expiration Date: 01/31/2009

***Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

OMB Number: 1103-0098
Expiration Date: 09/30/2009

COPS Hiring Recovery Program (CHRP) Application

COPS Application Attachment to SF-424

The COPS Hiring Recovery Program (CHRP) is a competitive grant program that provides funding directly to law enforcement agencies having primary law enforcement authority to create and preserve jobs and to increase their community policing capacity and crime-prevention efforts. CHRP funding is available to hire full-time career law enforcement officers. There is no local matching requirement, but grant funding will be based on your agency's current entry-level salaries and benefits for sworn officer positions. Any additional costs for higher salaries and benefits for positions hired under the CHRP grant must be paid for by the grantee agency.

In preparing your agency's grant application, please be advised that grantees are prohibited from reducing state, local, or tribal funding for sworn officer positions *as a direct result of* applying for and/or receiving this CHRP grant. Instead, this program is intended to supplement the amount of state, local, or tribal funding that your agency would otherwise be able to budget for sworn officer positions.

In addition, at the conclusion of federal funding, grantees must retain all sworn officer positions awarded under the CHRP grant. The retained CHRP-funded positions should be added to your agency's law enforcement budget with state and/or local funds, over and above the number of locally-funded sworn officer positions that would have existed in the absence of the grant.

To the extent possible, all data should come from a publicly verifiable source, and documentation may be requested by the COPS Office. This information will be used to evaluate your jurisdiction's need for federal assistance to address its public safety needs and to preserve and create jobs.

SECTION 1: EXECUTIVE INFORMATION

Note: Listing individuals without ultimate programmatic and financial authority for the grant could delay the review of your application, or remove your application from consideration.

A. Applicant ORI Number: A R 0 7 2 0 1

B. Applicant DUNS Number: 0 7 5 6 5 7 7 4 2

A Data Universal Numbering System (DUNS) number is required. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. For more information about how to obtain a DUNS number, please refer to the How to Apply section of the COPS Application Guide.

C. Central Contractor Registration (CCR)

All applicants are required to maintain current registrations in the Central Contractor Registration (CCR) database. The CCR database is the repository for standard information about federal financial assistance applicants, recipients, and sub-recipients. For more information about how to register with the CCR, please refer to the How to Apply section of the COPS Application Guide. Please note that applicants must update or renew their CCR at least once per year to maintain an active status.

Does your agency have an active registration with the Central Contractor Registry?

☒ **Yes** ☐ **No**

If no, will your agency agree to have an active registration with the Central Contractor Registry before any COPS grant funding is awarded? **Yes** **No**

D. GNIS ID: 2 4 0 3 6 0 1

Please enter your Geographic Names Information System (GNIS) Identification Number.

This is a unique ID assigned to all geographic entities by the U.S. Geological Survey. To look up your GNIS Feature ID, please go to the website: <http://geonames.usgs.gov/domestic/index.html>. For more information about how to obtain a GNIS number, please refer to the How to Apply section of the CHRP Application Guide.

E. Law Enforcement Executive/Program Official Information:

For Law Enforcement Agencies: Enter the law enforcement executive's name and contact information. This is the highest ranking law enforcement official within your jurisdiction (e.g., Chief of Police, Sheriff, or equivalent).

Title: Chief of Police

First Name: Greg

MI:

Last Name: Tabor

Suffix:

Agency Name:

Street Address 1: 100-a W. Rock St.

Street Address 2:

City: Fayetteville

State: AR

Zip Code: 72701

Telephone: 479-587-3500 Fax: 479-587-3522

E-mail: gtabor@ci.fayetteville.ar.us

Type of Agency: Police

F. Government Executive/Financial Official Information:

For Government Agencies: Enter the government executive's name and contact information. This is the highest ranking official within your jurisdiction (e.g., Mayor, City Administrator, Tribal Chairman, or equivalent).

Title: Mayor

First Name: Lioneid

MI:

Last Name: Jordan

Suffix:

Agency Name: City of Fayetteville, AR

Street Address 1: 113 W. Mountain St.

Street Address 2:

City: Fayetteville

State: AR

Zip Code: 72701

Telephone: 479-575-8331 Fax: 479-575-8257

E-mail: mayor@ci.fayetteville.ar.us

Type of Government Entity: Municipality

SECTION 2: GENERAL AGENCY INFORMATION

A. General Applicant Information

1. Cognizant Federal Agency: Department of Justice

Enter your jurisdiction's Cognizant Federal Agency. A Cognizant Federal Agency, generally, is the federal agency from which your jurisdiction receives the most federal funding. Your Cognizant Federal Agency also may have been previously designated by the Office of Management and Budget.

2. Fiscal Year: 01/01/2009 to 12/31/2009 (mo/day/yr) *Enter your jurisdiction's fiscal year.*
3. Jurisdictional population as of the 2000 U.S. Census: 58,047
- ☐ Check here if the jurisdictional population is not represented by U.S. Census figures (e.g., colleges, special agencies, school police departments, etc.). *(If checked, skip Question 4 and go to Question 5)*
4. Enter the total jurisdictional population as of the 2007 Census Estimate. The Census Estimate can be looked up in the American FactFinder at <http://FactFinder.census.gov>. 69,000
5. If the jurisdictional population is not represented by U.S. Census figures, please indicate the size of the population in 2007: N/A
- Please indicate the source of this estimate: _____
- (Question 5 is N/A unless the checkbox in #3 above is checked)*
6. Do officers have primary law enforcement authority for this entire jurisdictional population? [An agency with primary law enforcement authority is defined as the first responder to calls for service, and has ultimate and final responsibility for the prevention, detection, and/or investigation of crime within its jurisdiction.]
- YES X NO _____
- (If yes, skip to section B below)*
- a) If NO, what is the actual population for which your department has primary law enforcement authority? For example, your service population may be the 2007 Census Estimate minus the population of the incorporated towns and cities that have their own police departments within your geographic boundaries. _____

B. Law Enforcement Agency Information

1. Enter the Current Fiscal Year Budgeted Sworn Force Strength:

Full-time: 120 Part-time: 0

The budgeted number of sworn officer positions is the number of sworn positions your agency has funded within its budget, including state, Bureau of Indian Affairs, and locally-funded vacancies. Do not include unfunded vacancies or unpaid/reserve officers.

2. Enter the Actual Sworn Force Strength as of the Date of This Application:

Full-time: 120 Part-time: 0

The actual number of sworn officer positions is the actual number of sworn positions employed by your agency as of the date of this application. Do not include funded but currently vacant positions or unpaid positions.

SECTION 3: CHRP PROGRAM REQUEST

Your agency may apply for COPS funds to use on or after the official grant award start date to hire new, additional officer positions (including filling existing unfunded vacancies) or rehire officers who have already been laid off, or are currently scheduled to be laid off on a future date, as a result of state, local or tribal budget reductions. Please base your application request on your agency's current anticipated needs for funding in these primary categories. Please also be mindful of the initial three-year grant period and your agency's ability to fill and retain the officer positions awarded, while following your agency's established hiring policies and procedures.

As described in detail in the CHRP Application Guide, it is imperative that applicants understand that the COPS statute nonsupplanting requirement mandates that CHRP funds may be used only to supplement (increase) a grantee's law enforcement budget for sworn officer positions and may not supplant (replace) state, local, or tribal funds that a grantee otherwise would have spent on officer positions if it had not received a CHRP award. This means that if your agency plans to:

- (a) Hire new officer positions (including filling existing officer vacancies that are no longer funded in your agency's budget): It must hire these additional positions on or after the official grant award start date, above its current budgeted (funded) level of sworn officer positions, and otherwise comply with the nonsupplanting requirement as described in detail in the CHRP Application Guide and Grant Owner's Manual;
- (b) Rehire officers who have *already been laid off* (at the time of application) as a result of state, local, or tribal budget cuts: It must rehire the officers on or after the official grant award start date, maintain documentation showing the date(s) that the positions were laid off and rehired, and otherwise comply with the nonsupplanting requirement as described in detail in the CHRP Application Guide and Grant Owner's Manual;
- (c) Rehire officers who are (at the time of application) *currently scheduled to be laid off on a future date as a result of state, local, or tribal budget cuts*: It must continue to fund the officers with its own funds from the grant award start date until the date of the scheduled lay-off (for example, if the CHRP award start date is September 1 and the lay-off is scheduled for November 1, then the CHRP funds may not be used to fund the officers until November 1, the date of the scheduled lay-off), identify the number and date(s) of the scheduled lay-off(s) in this application [see below], maintain documentation showing the date(s) and reason(s) for the lay-off, and otherwise comply with the nonsupplanting requirement as described in detail in the CHRP Application Guide and Grant Owner's Manual. [Please note that as long as your agency can document the date that the lay-off(s) would occur if the CHRP funds were not available, it may transfer the officers to the CHRP funding on or immediately after the date of the lay-off without formally completing the administrative steps associated with a lay-off for each individual officer.]

Documentation that may be used to prove that scheduled lay-offs are occurring for local economic reasons that are unrelated to the availability of CHRP grant funds may include (but are not limited to) council or departmental meeting minutes, memoranda, notices, or orders discussing the lay-offs; notices provided to the individual officers regarding the date(s) of the lay-offs; and/or budget documents ordering departmental and/or jurisdiction-wide budget cuts. These records must be maintained with your agency's CHRP grant records during the grant period and for three years following the official closeout of the CHRP grant in the event of an audit, monitoring, or other evaluation of your grant compliance. The following tips are designed to help

comply with the program and financial requirements associated with the administration of your grant. <http://www.cops.usdoj.gov/Default.asp?Item=2116>

When completing the questions below, please base your responses on your agency's current (at the time of application) needs for funding in the three hiring categories (new hires, rehires of previously laid off officers, and rehiring officers who are scheduled to be laid off on a specific future date). CHRP grant awards will be made for officer positions requested in each of these three categories and recipients of CHRP awards are required to use awarded funds for the specific categories awarded.

During the review of your agency's application, if the COPS Office reduces the number of positions you requested in the application, the COPS Office may contact you to obtain a new number of officer positions requested in each category.

How many CHRP sworn officer positions is your agency requesting (total)? 5

How many of the positions will be:

- (a) To hire new, additional officer positions (including to fill existing vacancies that are no longer funded in your agency's budget)? 5
- (b) To rehire officers who have already been laid off (at the time of application) as a result of state, local, or tribal budget reductions? 0
- (c) To rehire officers who are (at the time of application) currently scheduled to be laid off on a specific future date as a result of state, local, or tribal budget reductions?
0 (# Positions)
_____ Date of the scheduled lay-off for these officers

If your agency has planned multiple future lay-off dates, please use the additional space below:

_____ (# Positions)
_____ Date of the scheduled lay-off for these officers

_____ (# Positions)
_____ Date of the scheduled lay-off for these officers

Special Reminder for Rehired Officers:

The CHRP program awards funding based on your agency's *entry-level* salary and benefits package. Any additional (higher than entry-level) salary and benefits expenses for rehired officers must be paid by your agency.

Certification Regarding Scheduled Lay-Offs:

If your agency plans to use CHRP funds to rehire officers who are currently scheduled to be laid off on a future date (under category c above), please certify (by checking the appropriate boxes) to the following:

Certification:

- ☐ My agency has and will maintain documentation showing the date(s) of the scheduled lay-off(s) and demonstrating that the scheduled lay-off(s) is/are occurring for fiscal

reasons that are unrelated to the availability or receipt of CHRP grant funds (as described above).

☐ My agency will use its own funds to continue funding these officers until the scheduled date(s) of the lay-off(s) and will use CHRP funds to rehire these officers only on or after the scheduled date of the lay-off(s).

☐ My agency recognizes that the CHRP program provides funding based on our entry-level salary and benefits package and that any additional costs for rehired officers beyond entry-level are our responsibility to pay with other sources of funding.

If an applicant receives an award, and after receiving the awards needs to change the hiring categories, it must request a post-award grant modification to change the categories of hiring and receive prior approval before spending CHRP funding by calling the COPS Office Response Center at 1-800-421-6770.

The American Recovery and Reinvestment Act (Recovery Act) requires grantees to report their financial and programmatic progress within 10 days after the end of each calendar quarter. The Recovery Act reporting requirements are in addition to quarterly financial status report and quarterly programmatic progress report requirements. The COPS Office plans to request information from grantees consistent with Section 1512 of the Recovery Act, including collecting information on the number of new jobs created and the number of jobs preserved using CHRP funding. Awarded agencies will be required to submit information in a timely manner as a condition of the award. The COPS Office is then required to post data from grantee reports to Recovery.gov. Please be advised that the submission of programmatic and financial reports on a timely basis is a significant condition of the CHRP grant and a violation of the grant requirement may result in termination of grant funding or other remedies.

In order to aid in compliance with the reporting requirements, awarded agencies should be prepared to track and report CHRP funding separately from other funding sources (including other COPS and federal grants) to ensure accurate financial and programmatic reporting on a timely basis. Your agency should ensure that you have financial internal controls in place to monitor the use of CHRP funding and ensure that its use is consistent with grant terms and conditions. Good practices in this area would include written accounting practices, an accounting system that tracks all drawdowns and grant expenditures, and the ability to track when each CHRP position funded is filled or vacant (including if the position was for a new hire or a re-hire).

SECTION 4: NEED FOR FEDERAL ASSISTANCE

1) Enter your law enforcement agency's total operating budget for the current AND previous two fiscal years.

CURRENT FISCAL YEAR (2009) \$ 13,039,087

PREVIOUS FISCAL YEAR (2008) \$ 13,179,547

PREVIOUS FISCAL YEAR (2007) \$ 12,011,417

2) Enter the total jurisdictional (city, county, state, tribal) operating budget for the current AND previous two fiscal years.

CURRENT FISCAL YEAR (2009) \$ 35,801,900

PREVIOUS FISCAL YEAR (2008) \$ 35,023,000

PREVIOUS FISCAL YEAR (2007) \$ 34,302,200

3) Enter the total jurisdictional (city, county, state, tribal) locally generated revenues for the current AND previous two fiscal years. *Locally generated revenues may include locally generated property taxes, sales taxes and other taxes and revenue sources (for example, transportation taxes, transient lodging taxes, licensing fees, other non-property taxes and franchise taxes).*

CURRENT FISCAL YEAR (2009) \$ 35,800,000

PREVIOUS FISCAL YEAR (2008) \$ 35,023,000

PREVIOUS FISCAL YEAR (2007) \$ 33,884,775

4) Enter the total jurisdictional (city, county, state, tribal) general fund balance for the current and previous two fiscal years.

CURRENT FISCAL YEAR (2009) \$ 11,544,372

PREVIOUS FISCAL YEAR (2008) \$ 11,014,148

PREVIOUS FISCAL YEAR (2007) \$ 12,034,206

5) Since January 1, 2008, what percentages of the following employees in your jurisdiction (city, county, state, tribal) have been reduced through lay-offs:

Civilian Law Enforcement Agency Personnel	<u>0</u> %
Sworn Law Enforcement Agency Personnel	<u>0</u> %
Other Government Agency Personnel	<u>0</u> %

6) Since January 1, 2008, what percentages of the following employees in your jurisdiction (city, county, state, tribal) have been reduced through furloughs that have lasted or are scheduled to last a minimum of forty hours over the course of a fiscal year:

Civilian Law Enforcement Agency Personnel	<u>0</u> %
Sworn Law Enforcement Agency Personnel	<u>0</u> %
Other Government Agency Personnel	<u>0</u> %

7) Since January 1, 2008 what percentages of the following employees in your jurisdiction (city, county, state, tribal) have been reduced due to official policies that limit your jurisdiction's ability to fill vacancies (i.e., hiring freezes):

Civilian Law Enforcement Agency Personnel	<u>1.12</u> %
Sworn Law Enforcement Agency Personnel	<u>0</u> %
Other Government Agency Personnel	<u>0</u> %

8) The U.S. Census Bureau American Community Survey (ACS) provides multi-year poverty rate estimates for communities. For jurisdictions with a Census population greater than 20,000, please go to the U.S. Census Bureau's American FactFinder (<http://FactFinder.census.gov>) to determine the percent of families in poverty in your jurisdiction based on the 2005-2007 ACS. For jurisdictions below 20,000 in population or not represented in the U.S. Census, please select the nearest best match for your jurisdiction (for example, the county in which your jurisdiction is located). Please see the CHRP Application Guide for additional information and help in using the American FactFinder.

Percent of families in poverty 12.1 %

9) The Bureau of Labor Statistics' Local Area Unemployment Statistics (LAUS) program provides monthly estimates of unemployment for communities. Please go to the Bureau of Labor Statistics' LAUS website: (www.bls.gov/lau/data.htm) to find detailed instructions for looking up your local area's unemployment rate. As with the previous question, it may be necessary to select the nearest best match to your jurisdiction (for example, a city of fewer than 25,000 people may report their county level rate). Please see the CHRP Application Guide for additional information and help in using the LAUS data.

Percentage unemployed for January 2009 5.7 %

Percentage unemployed for January 2008 4.5 %

10) Indicate your jurisdiction's estimated residential property foreclosure rate for calendar year 2008. This rate should be calculated as the total number of new default and auction foreclosure filings and new bank-owned foreclosures (REOs) in 2008 divided by the total number of residential households.

 %

☒ Check here if the information necessary to calculate this rate is unavailable.

11) Indicate if your jurisdiction has experienced any of the following events since January 1, 2008:

 Military base closure or realignment.

☒ A declaration of natural or other major disaster or emergency has been made pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. (42 U.S.C. 5121 et seq.)

 A declaration as an economically or financially distressed area by the state in which the applicant is located.

_____ Downgrading of the applicant's bond rating by a major rating agency.

_____ Has filed for or been declared bankrupt by a court of law.

_____ Has been placed in receivership or its functional equivalent by the state or federal government.

System Note: They can select multiple items above.

12) Indicate if, since January 1, 2008, your jurisdiction has experienced an unplanned, non-recurring, capital outlay or unanticipated loss of revenue that has had a significant negative impact on your jurisdiction's fiscal health.

Yes _____ No X

12a) If YES, please express the cost of this event as a percentage of your total current operating budget _____ % and please describe the event (please limit to 350 characters):

13) Using UCR crime definitions enter the actual number of incidents reported to your jurisdiction in calendar year 2008 for the following crime types:

Criminal Homicide: 1
Forcible Rape: 44
Robbery: 44
Aggravated Assault: 201
Burglary: 573
Larceny (except motor vehicle theft): 2,164
Motor Vehicle Theft: 111

*Note: If your agency currently reports to NIBRS, or does not report crime incident totals at all, please ensure that your data is converted to UCR Summary Data style. Please see the CHRP Application Guide or the FBI's UCR Handbook (www.fbi.gov/ucr/handbook/ucrhandbook04.pdf) for more information.

SECTION 5: LAW ENFORCEMENT & COMMUNITY POLICING STRATEGY

Proposed Community Policing Plan

COPS grants must be used to initiate or enhance community policing activities. Please complete the following questions to describe the types of community policing activities that will result from CHRP funding. You may find more detailed information about community policing at the COPS Office web site <http://www.cops.usdoj.gov/Default.asp?Item=36>.

Community Partnerships

Community partnerships are on-going collaborative relationships between the law enforcement agency and the individuals and organizations they serve to both develop solutions to problems and increase trust in the police.

My agency:

- P1) Regularly distributes relevant crime and disorder information to community members.
- a) does not currently do, and has no plans to implement under this grant
 - b) does not currently do, and plans to initiate under this grant
 - ☒ c) currently does, and plans to continue doing under this grant
 - d) currently does, and plans to expand/enhance under this grant
- P2) Routinely seeks input from the community to identify and prioritize neighborhood problems (e.g., through regularly scheduled community meetings, annual community surveys, etc.).
- a) does not currently do, and has no plans to implement under this grant
 - b) does not currently do, and plans to initiate under this grant
 - ☒ c) currently does, and plans to continue doing under this grant
 - d) currently does, and plans to expand/enhance under this grant
- P3) Regularly collaborates with other local government agencies that deliver public services.
- a) does not currently do, and has no plans to implement under this grant
 - b) does not currently do, and plans to initiate under this grant
 - c) currently does, and plans to continue doing under this grant
 - ☒ d) currently does, and plans to expand/enhance under this grant
- P4) Regularly collaborates with non-profit organizations and/or community groups.
- a) does not currently do, and has no plans to implement under this grant
 - b) does not currently do, and plans to initiate under this grant
 - c) currently does, and plans to continue doing under this grant
 - ☒ d) currently does, and plans to expand/enhance under this grant
- P5) Regularly collaborates with local businesses.
- a) does not currently do, and has no plans to implement under this grant
 - b) does not currently do, and plans to initiate under this grant
 - ☒ c) currently does, and plans to continue doing under this grant
 - d) currently does, and plans to expand/enhance under this grant
- P6) Regularly collaborates with informal neighborhood groups and resident associations.
- a) does not currently do, and has no plans to implement under this grant

- b) does not currently do, and plans to initiate under this grant
- c) currently does, and plans to continue doing under this grant
- ☒ d) currently does, and plans to expand/enhance under this grant

Problem Solving

Problem solving is an analytical process for systematically 1) identifying and prioritizing problems, 2) analyzing problems, 3) responding to problems, and 4) evaluating problem solving initiatives. Problem solving involves an agency-wide commitment to go beyond traditional police responses to crime to proactively address a multitude of problems that adversely affect quality of life.

My agency:

PS1) Routinely incorporates problem-solving principles into patrol work.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

PS2) Identifies and prioritizes crime and disorder problems through the routine examination of patterns and trends involving repeat victims, offenders, and locations.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

PS3) Routinely explores the underlying factors and conditions that contribute to crime and disorder problems.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- c) currently does, and plans to continue doing under this grant
- ☒ d) currently does, and plans to expand/enhance under this grant

PS4) Systematically tailors responses to crime and disorder problems to address their underlying conditions.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

PS5) Regularly conducts assessments to determine the effectiveness of responses to crime and disorder problems.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

Organizational Transformation

Organizational transformation is the alignment of organizational management, structure, personnel and information systems to support community partnerships and proactive problem-solving efforts.

My agency:

OC1) Incorporates community policing principles into the agency's mission statement and strategic plan.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

OC2) Practices community policing as an agency-wide effort involving all staff (i.e. not solely housed in a specialized unit).

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

OC3) Incorporates problem-solving and partnership activities into personnel performance evaluations.

- a) does not currently do, and has no plans to implement under this grant
- b) does not currently do, and plans to initiate under this grant
- ☒ c) currently does, and plans to continue doing under this grant
- d) currently does, and plans to expand/enhance under this grant

Community Policing Plan Narrative (please limit to 2,000 characters)

Please describe your agency's implementation plan for this program (if awarded), with specific reference to each of the following elements of community policing: (a) community partnerships and support, including consultation with community groups, private agencies, and/or other public agencies; (b) related governmental and community initiatives that complement your agency's proposed use of CHRP funding; and (c) organizational transformation – how your agency will use these funds, if awarded, to reorient its mission to community policing or enhance its involvement in and commitment to community policing. This narrative will not be scored for selection purposes but serves, along with the previous questions, as your agency's community policing plan. Your organization may be audited or monitored to ensure that it is initiating or enhancing community policing in accordance with this plan. The COPS Office may also use this information to understand the needs of the field, and potentially provide for training, technical assistance, problem solving and community policing implementation tools.

If your organization receives this CHRP grant funding, these responses will be considered as your organization's community policing plan. We understand that your community policing needs may change during the life of your CHRP grant (if awarded), and minor changes to this plan may be made without prior approval of the COPS Office. We also recognize that this plan may incorporate a broad range of possible community policing strategies and activities, and that your agency may implement particular community policing strategies from the plan on an as-needed basis throughout the life of the grant. If your agency's community policing plan changes significantly, however, you must submit those changes in writing to the COPS Office for approval. Changes are "significant" if they deviate from the range of possible community policing activities identified and approved in this original community policing plan submitted with your application.

--

We plan to continue and enhance our School Resource Officer program as well as several Community Policing programs we already participate in. Currently we have two SRO's assigned to the Community Policing Division and both are currently stationed at the high school and assist with the other twelve public schools, 8,425 total students, not including two private schools.

The community policing division and SRO's currently participates in programs such as, Youth Citizens Police academy, Adult Citizens academy, Crime Free Multi-Housing, Gang Resistance Education and Training(GREAT), Tag Team graffiti removal, Neighborhood Watch program, Neighborhood Association program, Kid's Print ID program, Alert Lockdown Inform Counter Evacuate Training (ALICE) for public schools, Underage Drinking enforcement program and SMART Team, which is comprised of several city agencies that work to provide a multi-discipline approach to solve problems.

If awarded the grant, the addition of the five officer's will allow the department to expand and enhance services already offered as well as add additional SRO's at two local Junior high schools where we have seen an increase in calls for service involving violence, thefts, drug activity and potential gang activity. Our partnership with the Fayetteville Public schools will be enhanced and will be able to expand educational resources to other schools in the district and as well as expand our community services.

CP1) To what extent is there community support in your jurisdiction for implementing the proposed grant activities?

- a) Minimal support
- b) Moderate support
- ☒ c) High level of support

CP2) If awarded, to what extent will the grant activities impact the other components of the criminal justice system in your jurisdiction?

- a) Potentially increased burden
- b) No change in burden
- ☒ c) Potentially decreased burden

SECTION 6: CONTINUATION OF PROJECT AFTER FEDERAL FUNDING ENDS

Applicants must plan to retain all sworn officer positions awarded under the CHRP grant for a minimum of 12 months at the conclusion of 36 months of federal funding for each position. The retained CHRP-funded positions should be added to your agency's law enforcement budget with state and/or local funds at the end of grant funding, over and above the number of locally-funded sworn officer positions that would have existed in the absence of the grant. At the time of grant application, applicants must affirm that they plan to retain the positions and identify the planned source(s) of retention funding. We understand that your agency's source(s) of retention funding may change during the life of the grant. Your agency should maintain proper documentation of any changes in the event of an audit, monitoring

or other evaluation of your grant compliance. Please refer to the frequently asked questions on retention which can be found here <http://www.cops.usdoj.gov/Default.asp?Item=2115>.

Has your agency planned to retain all additional sworn officer positions under this grant for a minimum of 12 months at the conclusion of 36 months of federal funding for each position? YES ☒ NO ☐

(If YES, move on to next question)

(If NO, "Agencies that do not plan to retain all the positions awarded under this grant are ineligible to receive CHRP funding")

Please identify the source(s) of funding that your agency plans to utilize to cover the costs of retention from the drop-down box listed below:

☒ -General funds

-Raise bond/tax issue

-Asset forfeiture funds

-Private sources/donations

-Fundraising efforts

-Other (Please provide a brief description of the source(s) of funding not to exceed 75 words.)

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OMB Number: 1103-0097
Expiration Date: 09/30/2009

Section 7: Budget Detail Worksheets

Instructions:

This worksheet will assist your agency in reporting your agency's current **entry-level** salary and benefits costs and identifying your agency's total three-year salary and benefits request per officer position. Please list the current entry-level base salary and fringe benefits **rounded to the nearest whole dollar** for one full-time sworn officer position within your agency. **Do not include employee contributions.**

Please complete the budget worksheet(s) based on your agency's current annual first year entry-level salary and benefit package for your locally-funded officer positions. Please be advised that CHRP funding must only pay for entry-level salaries and benefits. Any additional costs incurred for higher than entry-level salaries and benefits for officers hired under the CHRP grant will be your agency's responsibility.

Note: Part-time positions will not be funded.

Please refer to the CHRP Application Guide for additional information.

A. SWORN OFFICER POSITIONS

No Sworn Officer Positions Requested ☐

Instructions: Please complete the questions below based on your agency's current first year entry-level salary and benefits package for your locally-funded officers. [You will be asked to project Year 2 and Year 3 increases below.]

Part 1: Full-Time Sworn Officer Information

A . Current First Year Entry-Level Base Salary for One Sworn Officer Position \$ 33,307 .00

Please calculate the fringe benefit costs below based on the first year entry-level benefits for one sworn officer position.

B . FRINGE BENEFITS: COST: % OF BASE: ADDITIONAL INFORMATION:

Social Security \$.00 % **Exempt:** ☒ **Fixed Rate:** ☐
Cannot exceed 6.2% of Total Base Salary. If less than 6.2%, exempt, or fixed rate, provide an explanation in "Sworn Officer Position Budget Summary."

Medicare \$ 483 .00 1.45 % **Exempt:** ☐ **Fixed Rate:** ☐
Cannot exceed 1.45% of Total Base Salary. If less than 1.45%, exempt, or fixed rate, provide an explanation in the "Sworn Officer Position Budget Summary."

Health Insurance \$ 218 .00 % **Family Plan:** ☐ **Fixed Rate:** ☒

Life Insurance \$ 210 .00 %

Vacation \$ 1,922 .00 % **Number of Hours Annually:** 120

Sick Leave \$ 1,537 .00 % **Number of Hours Annually:** 96

Retirement \$ 5,236 .00 % **Fixed Rate:** ☐

Worker's Compensation \$ 879 .00 % **Exempt:** ☐ **Fixed Rate:** ☐

Unemployment Insurance \$.00 % **Exempt:** ☒ **Fixed Rate:** ☐

Other \$ 1,416.00 % **Describe:** Holiday Pay

Other \$ 297 .00 % **Describe:** Professional Liability Insurance

Other \$ 235 .00 % **Describe:** Long Term Disability

Total Current First Year Entry-Level Benefits for One Sworn Officer Position = \$ 12,433

C . Total Year 1 Salary \$	+ Total Year 1 Benefits = \$	45,740
<i>Part A</i>	<i>Part B</i>	

Based on the current first year entry-level salary and benefits package, please project Year 2 and Year 3 increases and use these figures to calculate the full three-year salary and benefits amounts per sworn officer position that you are requesting through the CHRP grant (for a detailed example of these calculations, please see the CHRP Application Guide).

Your agency must maintain records documenting how it calculated its Year 2 and Year 3 projections (and, accordingly, its total three-year salary and benefits amounts per officer position) in its CHRP grant records throughout the grant period and for three years following the official closeout of the COPS grant in the event of an audit, monitoring, or other evaluation of your grant compliance.

Year 2

Total Year 2 entry-level *salary* for one sworn officer position: 35,029

Total Year 2 entry-level *benefits* for one sworn officer position: 13,454

Year 3

Total Year 3 entry-level *salary* for one sworn officer position: 36,754

Total Year 3 entry-level *benefits* for one sworn officer position: 14,089

Total Three -Year Salary for one officer position: 105,090 **X Number of Sworn Positions Requested** 5 **=** 525,450 **Total Three -Year Salary Project Cost**
(calculated by the system)

Total Three- Year Benefits for one officer position: 39,976 **X Number of Sworn Positions Requested** 5 **=** 199,880 **Total Three -Year Benefits Project Cost**
(calculated by the system)

Total Three -Year Salary and Benefits for one Officer Position: 145,066 **X**
Number of Sworn Positions Requested 5 **=** 725,330 **Total**
Project Cost
(calculated by the system)

Part 2: Full-Time Sworn Officer Information

After completing Part 1 of this budget worksheet, answer the following questions. Be sure to answer EVERY question. Missing or erroneous information could delay the review of your agency's request.

1. If your agency's second and/or third-year costs for salaries and/or fringe benefits increase after the first year, check the reason(s) why in the space below:

- ☐ Cost of living adjustment (COLA) ☒ Step raises ☐ Change in benefit costs
☐ Other - please explain briefly:

2. If an explanation is required for any of the following categories, please provide in the space below:

- 1) Social Security: _____
2) Medicare: _____

BUDGET SUMMARY

Budget Category	Category Total	Line #
A. Sworn Officer Positions	\$ 725,330 .00	1
Total Project Amount:	\$ 725,330 .00	
Total Federal Share Amount:	\$ 725,330 .00	
Contact Information for Budget Questions Please provide contact information of the financial official that the COPS Office may contact with questions related to your budget submission. Authorized Official's Typed Name: First Name Judy Last Name Cohea Title Fiscal Officer Phone 479-587-3581 Email jcohea@ci.fayetteville.ar.us		

ORI# _____

Standard Application Forms

SECTION 8: ASSURANCES

Several provisions of federal law and policy apply to all grant programs. The Office of Community Oriented Policing Services needs to secure your assurance that the applicant will comply with these provisions. If you would like further information about any of these assurances, please contact your state's COPS Grant Program Specialist at (800) 421-6770.

By the applicant's authorized representative's signature, the applicant assures that it will comply with all legal and administrative requirements that govern the applicant for acceptance and use of federal grant funds. In particular, the applicant assures us that:

1. It has been legally and officially authorized by the appropriate governing body (for example, mayor or city council) to apply for this grant and that the persons signing the application and these assurances on its behalf are authorized to do so and to act on its behalf with respect to any issues that may arise during processing of this application.

2. It will comply with the provisions of federal law, which limit certain political activities of grantee employees whose principal employment is in connection with an activity financed in whole or in part with this grant. These restrictions are set forth in 5 U.S.C. § 1501, et seq.

3. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, if applicable.

4. It will establish safeguards, if it has not done so already, to prohibit employees from using their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

5. It will give the Department of Justice or the Comptroller General access to and the right to examine records and documents related to the grant.

6. It will comply with all requirements imposed by the Department of Justice as a condition or administrative requirement of the grant, including but not limited to: the requirements of 28 CFR Part 66 and 28 CFR Part 70 (governing administrative requirements for grants and cooperative agreements); 2 CFR Part 225 (OMB Circular A-87), 2 CFR 220 (OMB Circular A-21), 2 CFR Part 230 (OMB Circular A-1 22) and 48 CFR Part 31.000, et seq. (FAR 31.2) (governing cost principles); OMB Circular A-1 33 (governing audits) and other applicable OMB circulars; the applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; 28 CFR Part 38.1; the current edition of the COPS Grant Monitoring Standards and Guidelines; the applicable COPS Grant Owners Manuals; and with all other applicable program requirements, laws, orders, regulations, or circulars.

7. If applicable, it will, to the extent practicable and consistent with applicable law, seek, recruit and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions in the agency.

8. It will not, on the ground of race, color, religion, national origin, gender, disability or age, unlawfully exclude any person from participation in, deny the benefits of or employment to any person, or subject any person to discrimination in connection with any programs or activities funded in whole or in part with federal funds. These civil rights requirements are found in the non-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789d); Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); Title II, Subtitle A of the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101, et seq.); the Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.); and

Department of Justice Non-Discrimination Regulations contained in Title 28, Parts 35 and 42 (subparts C, D, E and G) of the Code of Federal Regulations.

A. In the event that any court or administrative agency makes a finding of discrimination on grounds of race, color, religion, national origin, gender, disability or age against the applicant after a due process hearing, it agrees to forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs, 810 7th Street, NW, Washington, D.C. 20531.

B. If your organization has received an award for \$500,000 or more and has 50 or more employees, then it has to prepare an EEOP and submit it to the Office for Civil Rights ("OCR"), Office of Justice Programs, 810 7th Street, N.W., Washington, DC 20531, for review within 60 days of the notification of the award. If your organization received an award between \$25,000 and \$500,000 and has 50 or more employees, your organization still has to prepare an EEOP, but it does not have to submit the EEOP to OCR for review. Instead, your organization has to maintain the EEOP on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. If your organization received an award for less than \$25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEOP requirement. However, your organization must complete Section A of the Certification Form and return it to OCR.

9. Pursuant to Department of Justice guidelines (June 18, 2002 Federal Register (Volume 67, Number 117, pages 41455-41472)), under Title VI of the Civil Rights Act of 1964, it will ensure meaningful access to its programs and activities by persons with limited English proficiency.

10. It will ensure that any facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify us if advised by the EPA that a facility to be used in this grant is under consideration for such listing by the EPA.

11. If the applicant's state has established a review and comment procedure under Executive Order 12372 and has selected this program for review, it has made this application available for review by the state Single Point of Contact.

12. It will submit all surveys, interview protocols, and other information collections to the COPS Office for submission to the Office of Management and Budget for clearance under the Paperwork Reduction Act of 1995 if required.

13. It will comply with the Human Subjects Research Risk Protections requirements of 28 CFR Part 46 if any part of the funded project contains non-exempt research or statistical activities which involve human subjects and also with 28 CFR Part 22, requiring the safeguarding of individually identifiable information collected from research participants.

ORI# _____

Standard Application Forms

14. Pursuant to Executive Order 13043, it will enforce on-the-job seat belt policies and programs for employees when operating agency-owned, rented or personally-owned vehicles.

15. It will not use COPS funds to supplant (replace) state, local, or Bureau of Indian Affairs funds that otherwise would be made available for the purposes of this grant, as applicable.

16. If the awarded grant contains a retention requirement, it will retain the increased officer staffing level and/or the increased officer redeployment level, as applicable, with state or local funds for a minimum of 12 months following expiration of the grant period.

17. It will not use any federal funding directly or indirectly to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law ratification, policy or appropriation whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy or appropriation as set forth in the Anti-Lobby Act, 18 U.S.C. 1913.

18. In the event that a portion of grant reimbursements are seized to pay off delinquent federal debts through the Treasury Offset Program or other debt collection process, it agrees to increase the non-federal share (or, if the awarded grant does not contain a cost sharing requirement, contribute a non-federal share) equal to the amount seized in order to fully implement the grant project.

False statements or claims made in connection with COPS grants (including cooperative agreements) may result in fines, imprisonment, disbarment from participating in federal grants or contracts, and/or any other remedy available by law.

I certify that the assurances provided are true and accurate to the best of my knowledge.

Elections or other selections of new officials will not relieve the grantee entity of its obligations under this grant.

By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owner's Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Typed Name of Law Enforcement Executive
(or Official with Programmatic Authority, as applicable)

Date

By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owner's Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Typed Name of Government Executive
(or Official with Financial Authority, as applicable)

Date

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SECTION 9: CERTIFICATIONS

Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements Coordination with Affected Agencies.

Although the Department of Justice has made every effort to simplify the application process, other provisions of federal law require us to seek your agency's certification regarding certain matters. Applicants should read the regulations cited below and the instructions for certification included in the regulations to understand the requirements and whether they apply to a particular applicant. Signing this form complies with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," 2 CFR Part 2867, "Government-Wide Debarment and Suspension (Nonprocurement)," 28 CFR Part 83 Government-Wide Requirements for Drug-Free Workplace (Grants)," and the coordination requirements of the Public Safety Partnership and Community Policing Act of 1994. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered grant.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment or modification of any federal grant or cooperative agreement;

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. Debarment, Suspension and Other Responsibility Matters (Direct Recipient)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 2 CFR Part 2867, for prospective participants in primary covered transactions, as defined at 2 CFR Part 2867, Section 2867.437 -

A. The applicant certifies that it and its principals:

(i) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency;

(ii) Have not within a three-year period preceding this application 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) or private agreement or transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion or receiving stolen property, making false claims, or obstruction of justice, or commission of any offense indicating a lack of business

integrity or business honesty that seriously and directly affects your present responsibility.

(iii) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (A)(ii) of this certification; and

(iv) Have not within a three-year period preceding this application had one or more public transactions (federal, state or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 83, for grantees, as defined at 28 CFR Part 83, Sections 83 and 83.510 -

A. The applicant certifies that it will, or will continue to, provide a drug-free workplace by:

(i) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(ii) Establishing an on-going drug-free awareness program to inform employees about -

(a) The dangers of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation and employee assistance programs; and

(d) The penalties that may be imposed upon employees for drug-abuse violations occurring in the workplace;

(iii) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (i);

(iv) Notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will -

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

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(v) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (iv)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: COPS Office, 1100 Vermont Ave., NW, Washington, D.C. 20530. Notice shall include the identification number(s) of each affected grant.

(vi) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted -

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency;

(vii) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v) and (vi).

Grantee Agency Name and Address: _____

Grantee IRS/ Vendor Number: _____

False statements or claims made in connection with COPS grants (including cooperative agreements) may result in fines, imprisonment, disbarment from participating in federal grants or contracts, and/or any other remedy available by law.

I certify that the assurances provided are true and accurate to the best of my knowledge.

Elections or other selections of new officials will not relieve the grantee entity of its obligations under this grant.

By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owner's Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Typed Name of Law Enforcement Executive
(or Official with Programmatic Authority, as applicable)

Date

By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owner's Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Typed Name of Government Executive
(or Official with Financial Authority, as applicable)

Date

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of performance (street address, city, county, state, zip code)

_____ Check ☐ if
there are workplaces on file that are not identified here. 4.
Coordination

The Public Safety Partnership and Community Policing Act of 1994 requires applicants to certify that there has been appropriate coordination with all agencies that may be affected by the applicant's grant proposal if approved. Affected agencies may include, among others, the Office of the United States Attorney, state or local prosecutors, or correctional agencies. The applicant certifies that there has been appropriate coordination with all affected agencies.

SECTION 10: Disclosure of Lobbying Activities

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District number, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFPD E-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting registrant identified in item 4 to influence the covered Federal action.

(b) Enter the full name(s) of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352.

Not Applicable ☒

1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: _____ a. bid/offer/application b. initial award c. post-award	3. Report Type: _____ a. initial filing b. material change <i>For Material Change Only:</i> Year: _____ Quarter: _____ Date of last report: _____
4. Name and Address of Reporting Entity: Prime - Subawardee Tier _____, if known: Congressional District (number), if known: _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District (number), if known: _____	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):	10. b. Individuals Performing Services (including address if different from No.1 0a) (last name, first name, MI):	
11. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Typed Name: _____	
	Print Name: _____	
	Title: _____	
	Telephone No.: _____ Date: _____	
Federal Use Only:	Authorized for Local Reproduction, Standard Form - LLL	

SECTION 11: CERTIFICATION OF REVIEW AND REPRESENTATION OF COMPLIANCE WITH REQUIREMENTS

The signatures of the Law Enforcement Executive/Program Official and Government Executive/Financial Official, and any applicable program partners on the Certification of Review and Representation of Compliance with Requirements:

- 1) Assures the COPS Office that the applicant will comply with all legal, administrative, and programmatic requirements that govern the applicant for acceptance and use of federal funds as outlined in the applicable COPS Application Guide; AND
- 2) Attests to the accuracy of the information submitted with this application (including the Budget Detail Worksheets).

The signatures on this application must be made by the actual executives named on this application unless there is an officially documented authorization for a delegated signature. If your jurisdiction has such an official document, it must be attached to this application. Applications with missing, incomplete, or inaccurate signatories or responses may not be considered for funding.

Signatures shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered grant.

Please be advised that a hold may be placed on this application if it is deemed that the applicant agency is not in compliance with federal civil rights laws, and/or is not cooperating with an ongoing federal civil rights investigation, and/or is not cooperating with a COPS Office compliance investigation concerning a current grant award.

Person Submitting this Application

☒ By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owners Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Please type your name here in place of your signature:

Law Enforcement Executive Chief Greg Tabor

☒ By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree, if awarded, to abide by all of the applicable grant compliance terms and conditions as outlined in the COPS Application Guide, the COPS Grant Owners Manual, assurances, certifications and all other applicable program regulations, laws, orders, or circulars. In addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Please type your name here in place of your signature:

Government Executive Mayor Lioneld Jordan

☒ By clicking this box and typing my name below, I certify that I have been legally and officially authorized by the appropriate governing body to submit this application and act on behalf of the grant applicant entity. I certify that I have read, understand, and agree to be bound by all of the applicable grant compliance terms and conditions as defined in the COPS Application Guide, the COPS Grant Owners Manual, assurances, certifications and all other applicable program regulations, laws, orders or decrees in addition, I certify that the information provided on this form and any attached forms is true and accurate to the best of my knowledge. I understand that false statements or claims made in connection with COPS programs may result in fines, imprisonment, debarment from participating in federal grants, cooperative agreements, or contracts, and/or any other remedy available by law to the federal government.

Please type your name here in place of your signature.

"COPS ONLINE NOTE: The only electronic signature submitted online with this application will be the individual registered with the user name and password that was entered during the COPS Online login process. However, the signatures of both the Law Enforcement Executive/Program Official and the Government Executive/Financial Official, as well as any applicable program partners' signatures, are **REQUIRED** for Sections 8, 9 and 11 of this application. Original, signed hard copies of the Certification of Review and Representation of Compliance with Requirements, Assurances and Certifications must be kept in the agency's files and furnished upon request."

☒ By clicking this box, I have read and understand this requirement.

Warning: Once you submit your application you will be unable to change any of your application information. Please ensure that you have reviewed all of your information before submitting your application to the COPS Office.

Paperwork Reduction Act Notice

The public reporting burden for this collection of information is estimated to be up to two hour per response, depending upon the COPS program being applied for, which includes time for reviewing instructions. Send comments regarding this burden estimate or any other aspects of the collection of this information, including suggestions for reducing this burden, to the Office of Community Oriented Policing Services, U.S. Department of Justice, 1100 Vermont Avenue, N.W., Washington, DC 20530; and to the Public Use Reports Project, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

You are not required to respond to this collection of information unless it displays a valid OMB control number. The OMB control number for this application is 1103-0098 and the expiration date is 05/31/2011.

March 31, 2009

Mr. Ray Boudreaux
Airport Department
City of Fayetteville
4500 S. School Ave., Suite F
Fayetteville, AR 72701

Re: Drake Field HVAC Controls Upgrade
Fayetteville Municipal Airport,

Dear Mr. Boudreaux:

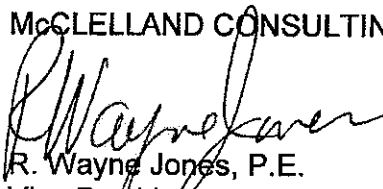
Bids were received on the above referenced project on Tuesday March 31, 2009, with three Contractors submitting a bid for this project. The low bidder is Multi-Craft Contractors, Inc., of Springdale, Arkansas, in the amount of \$ 117,300.00 for the Base Bid amount. A copy of the certified Bid Tabulation is enclosed. The Engineer's estimate of the Construction Cost is also attached and was in the amount of \$ 120,000.00. The Bid amount is below the estimated project construction cost.

We recommend the City accept the low bid submitted by Multi-Craft Contractors, Inc., for the Base Bid in the amount of \$ 117,300.00.

If there are any questions regarding the bids or this recommendation, please contact us.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.


R. Wayne Jones, P.E.
Vice President

Enclosures: Bid Tabulation

Cc: Shane Lanning

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #09-30 TO MULTI-CRAFT CONTRACTORS, INC. IN THE AMOUNT OF \$117,300.00 FOR DRAKE FIELD HVAC CONTROLS UPGRADE; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$12,336.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$42,306.00.

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 #09-30 to Multi-Craft Contractors, Inc. in the amount of \$117,300.00 for Drake Field HVAC Controls Upgrade.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a project contingency in the amount of \$12,336.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$42,306.00.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

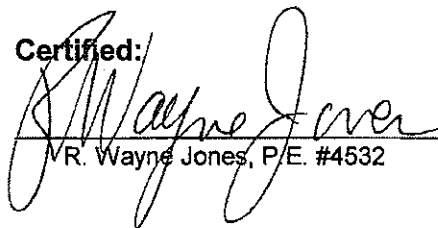
By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

BID TABULATION
DRAKE FIELD HVAC CONTROLS UPGRADE
FAYETTEVILLE MUNICIPAL AIRPORT
CITY OF FAYETTEVILLE
MARCH 31, 2009, 10:00 A.M.
BID NO. 09-30
MCE PROJECT # FY082156

CONTRACTOR	Total Base Bid 09-30	DEDUCTIVE ALT. NO. 1	DEDUCTIVE ALT. NO. 2	DEDUCTIVE ALT. NO. 3
Multi-Craft Contractors, Inc.	\$ 117,300.00	\$ 5,400.00	\$ 2,700.00	N/A
Powers of Arkansas	\$ 179,997.00	\$ 4,000.00	\$ 12,108.00	\$ 7,500.00
Johnson Controls	\$ 212,218.00	\$ 3,500.00	\$ 16,724.00	\$ 2,600.00

Engineer's Estimate \$ 120,000.00

Certified:  3-31-09
 R. Wayne Jones, P.E. #4532 Date



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8220

INVITATION TO BID

INVITATION TO BID: BID 09-30, Drake Field HVAC Controls Upgrade Re-Bid
DEADLINE: *Tuesday, March 31, 2009 at 10:00 AM, CST* – Room 306
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Andrea Foren, CPPB, aforen@ci.fayetteville.ar.us, 479.575.8220
DATE OF ISSUE AND ADVERTISEMENT: March 16, 2009 & March 23, 2009

INVITATION TO BID **BID 09-30, Drake Field HVAC Controls Upgrade Re-Bid**

No late bids will be accepted. Bids shall be submitted in sealed envelopes labeled "Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid" with the name and address of the bidder.

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.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Manager.

Name of Firm: Multi-Craft Contractors, Inc.

Contact Person: Michael Jones

Title: Project Manager

E-Mail: info@multi-craft.net

Phone: 479-751-4330

Business Address: P.O. Box 1760

City: Springdale

State: AR

Zip: 72765-1760

Signature: Michael Jones

Date: March 31, 2009

City of Fayetteville
Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid

REVISED Bid Pricing Form (must be completed for your bid to be accepted)

*NAME OF COMPANY: Multi-Craft Contractors, Inc.

*CONTACT NAME: Michael Jones *TITLE: Project Manager

*BUSINESS ADDRESS: P.O. Box 1760

*E-MAIL ADDRESS: info@multi-craft.net

*CITY: Springdale *STATE: AR *ZIP: 72765-1760

*PHONE: 479-751-4330 FAX: 479-751-4399

*E-MAIL ADDRESS: info@multi-craft.net

*TOTAL TURN-KEY BID AMOUNT BASED ON BID 09-30: \$ 117,300.00

Deductive Alternate #1: 5,400.00

Deductive Alternate #2: 2,700.00

Deductive Alternate #3: N/A P.C. will be provided

*Total number of working days estimated to complete project: 40

Can you meet the requirement of a 4 hour required response time for service calls? Yes

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on. *Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.* If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein. Unsigned bids will be rejected. Items marked * are mandatory for consideration.

Michael Jones

*AUTHORIZED BY (PRINTED NAME)

Michael Jones

*AUTHORIZED SIGNATURE

Project Manager

*TITLE

3 / 31 / 2009

*DATE

All bids must be submitted no later than **10:00 a.m., Central Standard on or before March 31, 2009** to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope. **Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid.**

CITY OF FAYETTEVILLE
INVITATION TO BID
Bid 09-30, Drake Field HVAC Controls Upgrade RE-BID

The City of Fayetteville is accepting bids from properly licensed professionals to bid on the upgrade of the HVAC equipment, located at the City of Fayetteville Airport Division, 4500 S. School Avenue, Fayetteville, Arkansas 72701. Any questions concerning the bidding process should be addressed to Andrea Foren, City of Fayetteville, Purchasing Agent, at aforen@ci.fayetteville.ar.us or by calling (479)575-8220.

Bids must be submitted in a sealed envelope or package labeled "Bid 09-30, Drake Field HVAC Controls Upgrade". All bids must be received on or before **March 31, 2009 at 10:00 AM**, Central Standard Time to the City of Fayetteville, Room 306, 113 W. Mountain, Fayetteville, Arkansas 72701.

There will be a **non-mandatory pre-bid meeting on Monday, March 23, 2009 at 3:00 PM** at the project site, Drake Field, 4500 S. School Avenue, Fayetteville, AR 72701. All interested parties are strongly encouraged to attend.

Bidding documents must be obtained at one of the following locations:

Southern Reprographics	Northwest Arkansas Planning Room
2905 N Point Circle	103-A Apple Blossom Road
Fayetteville, AR 72704	Lowell, AR 72745
Phone: (479) 582-4022	Phone: (479) 750-7704

Each bid must be accompanied by a certified check or bid bond, in an amount not less than five (5) percent of the amount bid.

An Arkansas Contractors License is required for any bid exceeding \$20,000.00.

A one hundred percent (100%) performance and payment bond is required with a contract awarded amount of \$20,000.00 or more.

Bidders shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the Project is located.

"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."

CITY OF FAYETTEVILLE, ARKANSAS
By: Andrea Foren, CPPB, Purchasing Agent

City of Fayetteville
Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid
General Bid Information and Requirements

1. All bids shall be submitted in a sealed envelope, labeled "Bid 09-30, Drake Field HVAC Controls Upgrade" and must be submitted on forms acquired by the vendor from the City of Fayetteville or Northwest Arkansas Plan Room.
2. Bids with missing pages or missing any requested attachment will be deemed incomplete.
3. The item bid and the bid number shall be stated on the face of the sealed bid envelope and any mailing packaging that is sent.
4. Bids received after the date and time set for receiving bids will not be considered.
5. The City reserves the right to accept or reject any or all bids, waive informalities in the bidding and make a bid award deemed to be in the best interest of the City.
6. The bid price shall remain good and firm until project is completed. Payment to the vendor by the City will be made within 30 days following delivery and acceptance in accordance with these specifications and the City's Purchase Order to the vendor. Faster payment is offered through acceptance of Visa.
7. All products and services delivered shall comply with applicable standards of quality.
8. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Pricing Form.
9. Prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the completion of the project being bid.
10. Failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages or other appropriate sanctions.
11. Copy of any warranties shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.
12. 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.
13. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
14. 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 of bid.
15. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request.
16. Bids must be received by mail or hand delivery in the **Purchasing Office, Attention: Andrea Foren, Room 306, 113 W. Mountain St. Fayetteville, AR 72701**, on or before the time of closing listed on the

face of the bid.

17. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (479) 575-8220 to insure receipt of their bid documents prior to opening time and date listed on the bid form.
18. Bidder must conform to the requirements listed below and include appropriate evidence for each. Proof of appropriate insurance must be provided before work begins and is not required for bid opening.
 - a. Workers Compensation as required by Arkansas State Statutes
 - b. Bidder shall have general liability insurance as required at a minimum of \$500,000.00
 - c. A bid bond of five percent (5%) must be submitted with all bids. A cashier's check for five percent (5%) of the amount bid will also be acceptable as a replacement to a bid bond. In the event a cashier's check is submitted AND that vendor is awarded the bid, the bid bond will not be returned until the City of Fayetteville has a valid one hundred (100) percent performance bond.
19. A one hundred percent (100%) performance bond is required after the project has been approved by City Council. Work shall not begin until the City of Fayetteville has a valid 100% performance bond. Bidder is responsible for filling a copy of the 100% performance bond with the Washington County Clerks Office.
20. Contractor will be required to work with the project manager on a timeline for completion that will allow the City to best meet heating and air issues. **The contractor is responsible for notifying the project manager of any date and time any existing unit(s) will be inoperable.**
21. Any discrepancy between the specifications and plans should be brought to attention immediately, in writing, to Andrea Foren at aforen@ci.fayetteville.ar.us.
22. 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 and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. Contractor shall be responsible for obtaining approved parts at no additional cost to the City of Fayetteville.
23. Price bid shall include first year of warranty, including but not limited to parts and labor, at no additional cost to the City of Fayetteville.
24. Attachment A, which contains specifications & drawings, is included in this bid packet.
25. **NOTE: Any uncertainties shall be brought to the attention to Andrea Foren immediately via telephone (479.575.8220) or e-mail (aforen@ci.fayetteville.ar.us). It is the intent and goal of the City of Fayetteville Purchasing Division to provide bid packets that provide a clear and accurate understanding of the scope of work to be completed. We encourage you to ask questions to enable all bidders to be on equal bidding terms & documents.**

City of Fayetteville
Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid
Statement of Disclosure (submit with bid)

**ATTENTION: This form must be completed and returned in
order for your bid to be eligible for consideration.**

DISCLOSURE STATEMENT:

Bidder 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. Your 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:**

 X 1.) NO KNOWN RELATIONSHIP EXISTS

 2.) RELATIONSHIP EXISTS (Please explain)

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID:

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Michael Jones

Printed Name

Michael Jones
Signature

March 31, 2009

Date

Bid 09-30, Addendum 1



Date: Tuesday, March 24, 2009

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid

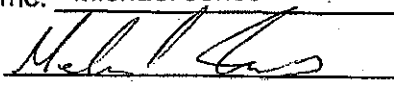
This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

- **Bid 09-30, has the following modifications and clarifications:**

- 1) The following attachments are hereby made a part of the contract documents Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid.

Acknowledge Addendum #1:

Printed Name: Michael Jones

Signature: 

Title: Project Mgr Date: 3/31/09

Company: Multi-Craft Contractors, Inc.

Bid 09-30, Addendum 2



Date: Wednesday, March 25, 2009

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

• **Bid 09-30, has the following modifications and clarifications:**

- 1) **Please see the updated bid form on page 2. This bid form must be submitted with your bid. Do not use the bid form included with the original bid packet.**
- 2) Five percent (5%) bid bond shall be based off of the "Total Turn-key Bid Amount".
- 3) Deductive alternates shall be listed as the amount to remove from the "Total Turn-Key Bid Amount".
- 4) Bid evaluation shall be based on "Total Turn-Key Bid Amount" unless all bids exceed 25% above the amount of funds certified for the project. In the event all bids exceed this amount, deductive alternates shall be taken in numerical order.
 - a. *For example, if all bids exceed the amount certified plus 25%, the City would evaluate all bids figured by the "Total Turn-Key Bid Amount" less "Deductive Alternate 1". The same process will be used through Deductive Alternate 3 until at least one (1) bid falls within the 25% added to the certification of funds.*
- 5) **Deductive Alternate #1 shall be defined as:** The cost to remove the work for replacing the existing supply air dampers at air handling units AC-1, AC-2 and AC-3. In lieu of replacing these dampers the existing dampers may be reused and new actuators installed for control. These dampers are shown in details A, B and C on sheet M2.2.
- 6) **Deductive Alternate #2 shall be defined as:** cost to remove all work related to Test, Adjust and Balance (TAB) of existing air and hydronic systems. This shall include all work noted in specification section 15951, "Testing, Adjusting and Balancing".
- 7) **Deductive Alternate #3 shall be defined as:** the cost to remove the operator workstation (control PC, color monitor, mouse & keyboard) and all associated color graphics from the base bid price. The operator workstation is noted in paragraphs 1.4A and 2.3A of specification section 15900, and is specified in paragraph 2.3C1 and 2.3C2 of the same section. This color graphics are noted in paragraphs 2.3D1 thru 5 of section 15900.

Acknowledge Addendum #2:	
Printed Name:	Michael Jones
Signature:	
Title:	Project Mgr.
Date:	3/31/09
Company: Multi-Craft Contractors, Inc.	

BID BOND TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Hartford, Connecticut 06183

KNOWN ALL BY THESE PRESENTS, That we, MULTI-CRAFT CONTRACTORS, INC., as Principal, and Travelers Casualty and Surety Company of America, as Surety, are held and firmly bound unto CITY OF FAYETTEVILLE, as Obligee, in the sum of FIVE PERCENT Dollars (\$5%) for the payment of which we bind ourselves, and our successors and assigns, jointly and severally, as provided herein.

WHEREAS, Principal has submitted or is about to submit a bid to the Obligee on a contract for Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid ("Project").

NOW, THEREFORE, the condition of this bond is that if Obligee accepts Principal's bid, and Principal enters into a contract with Obligee in conformance with the terms of the bid and provides such bond or bonds as may be specified in the bidding or contract documents, then this obligation shall be void; otherwise Principal and Surety will pay to Obligee the difference between the amount of Principal's bid and the amount for which Obligee shall in good faith contract with another person or entity to perform the work covered by Principal's bid, but in no event shall Surety's and Principal's liability exceed the penal sum of this bond.

Signed this 31st day of March, 2008.

MULTI-CRAFT CONTRACTORS, INC.

(Principal)

By: _____

James L. Luther
VICE PRESIDENT

Travelers Casualty and Surety Company of America

By: _____

Marilyn White
Marilyn White, Attorney-in-Fact

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 217535

Certificate No. 001069465

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Danna Carol Freeman, Darby Barton, Bill Brookshire, Warren T. Baldwin Jr., and Marilyn White

of the City of Fayetteville, State of Arkansas, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 7th day of August, 2006

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: George W. Thompson
George W. Thompson, Senior Vice President

On this the 7th day of August, 2006, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed 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 hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2011.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

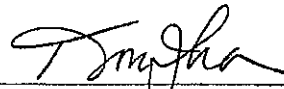
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which 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 31st day of March, 2009.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER


Kori M. Johanson, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.stpaultravelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

City of Fayetteville
Bid 09-30, Drake Field HVAC Controls Upgrade Re-Bid
Contract

This contract executed this ____ day of _____, 2009, between the City of Fayetteville, Arkansas, and **Multi-Craft Contractors, Inc.** In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Multi-Craft Contractors, Inc.** 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 09-30 as stated in **Multi-Craft Contractors, Inc.** bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 09-30, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay **\$117,300** based on their bid proposal in an amount not to exceed **\$117,300**. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and **Multi-Craft Contractors, Inc.** consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 09-30 with the specifications and conditions typed thereon.
 - B. **Multi-Craft Contractors, Inc.** bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and **Multi-Craft Contractors, Inc.** and may be modified only by a duly executed written instrument signed by the City of Fayetteville and **Multi-Craft Contractors, Inc.**
5. **Multi-Craft Contractors, Inc.** shall not assign its duties under the terms of this agreement.
6. **Multi-Craft Contractors, Inc.** 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 **Multi-Craft Contractors, Inc.** 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.
7. **Multi-Craft Contractors, Inc.** shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries 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, **Multi-Craft Contractors, Inc.** 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.

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.
\$1,000,000 for each accident.

Property Damage Liability

\$1,000,000 aggregate.

Premiums for all insurance and the bond required herein shall be paid by **Multi-Craft Contractors, Inc.**

8. **Multi-Craft Contractors, Inc.** to furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or **Multi-Craft Contractors, Inc.** with 10 days written notice.
10. 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.
11. 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.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2009.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

LIONELD JORDAN, Mayor

Attest:

Sondra Smith, City Clerk

MULTI-CRAFT CONTRACTORS, INC.
CONTRACTOR
BY Rick Barrows
NAME AND TITLE

RICK BARROWS, PRESIDENT

ATTEST: COMPANY SECRETARY

James P. Hester

P.O. Box 1760 SPRINGDALE AR
BUSINESS ADDRESS

72745-1760

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 11
Bid # 09-30 Drake Field
HVAC Controls Upgrade

Page 17 of 18

Budget Year 2009	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 4/5/2009	Adjustment Number
----------------------------	--	-----------------------------------	-------------------

Project or Item Added/Increased: \$42,306 in the Building Maintenance account	Project or Item Deleted/Reduced: None. To recognize \$31,768 in AR Dept of Aeronautics grant funding. None. To use \$10,538 of the Airport's fund balance.
--	--

Justification of this Increase: Will add an additional amount to the project budget for repairs and modifications to the Airport Terminal HVAC control system. The additional budget is needed because the project had to be rebid due to higher than expected bids in the first round that exceeded that Certified Funds amount, and a 10% project contingency amount is added.	Justification of this Decrease: The AR Dept. of Aeronautics will provide and 80% cost reimbursement on the project up to \$102,000. 20% local match is required on the project.
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Building & grounds maint	5550	3960	5400	00	42,306	08074	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State grants	5550	0955	6805	00	31,768	08074	1
Use of fund balance	5550	0955	4999	99	10,538	08074	1

Approval Signatures

Requested By

Date

Budget Manager

Date

Department Director

Date

Finance & Internal Services Director

Date

Mayor

Date

Budget Office Use Only

Type:

A

B

C

D

E

Posted to General Ledger

Initial

Date

Posted to Project Accounting

Initial

Date

Entered in Category Log

Initial

Date

Added at
Agenda Session
3/31/09City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items OnlyTerry Gulley
Submitted ByTransportation
DivisionTransportation Services
Department

Action Required:

Approval of Change Order #2 to Contract Number 2076 with Solid Resources, Inc. to increase the contract amount by \$269,521.00 for a total contract amount \$809,697.00, approval to increase the contingency amount by \$40,428.00 and approval of a budget adjustment in the amount of \$309,949.00.

\$ 309,949.00
Cost of this request

\$ 4,000,000.00
Category / Project Budget

ICE FEMA (2009 Ice Storm Reimb)
Program Category / Project Name

4270.9280.5314.00
Account Number

\$ 2,903,401.54
Funds Used to Date

Ice Storm 2009
Program / Project Category Name

09010 / 0901
Project Number

\$ 1,096,598.46
Remaining Balance

Replacement & Disaster Recovery
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Terry J. Gulley
Department Director

3-31-09
Date

Previous Ordinance or Resolution # 46-09

D. J. Whit
City Attorney

3/31/09
Date

Original Contract Date: 2/18/2009

Original Contract Number: 2076

Paula A. Becker
Finance and Internal Services Director

3-31-09
Date

Received in City
Clerk's Office

ENTERED
3-31-09

USA

Don Man
Chief of Staff

3/31/09
Date

Received in
Mayor's Office

ENTERED
3/31/09

Scott Jordan
Mayor

3/31/09
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council
Mayor Lioneld Jordan

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Services Director

Date: April 7, 2009

Subject: Approval of Change Order #2 to Contract Number 2076 with Solid Resources, Inc. to increase the contract amount by \$269,521.00 and increase the contingency amount by \$40,428.00.

RECOMMENDATION

Staff recommends Approval of Change Order #2 to Contract Number 2076 with Solid Resources, Inc. to increase the contract amount by \$269,521.00 for a total contract amount \$809,697.00, approval to increase the contingency amount by \$40,428.00 for a total contingency amount of \$40,428.00, and approval of a budget adjustment in the amount of \$309,949.00.

BACKGROUND

Contract Number 2076 provides for the FEMA required monitoring and oversight of the contractors who have been conducting the actual debris removal throughout the City of Fayetteville. The debris monitors act as the quality control/quality assurance inspectors who validate every load of debris at the point of pick up as well as every load delivered to the debris disposal site.

DISCUSSION

The storm debris removal and storm debris removal monitoring contracts were based on an estimated total of 419,922 cubic yards of storm debris. As of March 23, 2009, Solid Resources, Inc. reported that DRC Emergency Services had removed a total of 403,413 cubic yards. An additional 100,000 cubic yards of remaining storm debris is estimated to require removal.

Uncertainty in the scope of the ice storm debris removal operation at the time that it was necessary to begin required the use of estimates prepared to the best ability of City staff. The estimates were developed using a combination of aerial photo information calibrated with actual removal rates based on what City crews actually removed in several areas. As actual storm debris quantities exceed the original estimate, a Change Order to increase the total contract amount will be necessary to complete monitoring necessary for the removal of all remaining storm debris.

BUDGET IMPACT

Solid Resources, Inc. projects that an additional \$269,521.00 will be required, in addition to the approved contingency amount, to provide the monitoring required to complete the removal of all remaining debris. Staff requests an additional \$40,428.00 to increase contingency. Approval of the attached budget adjustment will allocate the necessary amount from the City's Replacement & Disaster Recovery Fund. Costs associated with ice storm debris removal monitoring services will be largely offset by reimbursements from FEMA and the State of Arkansas.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER NO. 2 TO THE CONTRACT WITH SOLID RESOURCES, INC. TO INCREASE THE CONTRACT AMOUNT BY \$269,521.00 FOR ADDITIONAL DEBRIS REMOVAL MONITORING AND OVERSIGHT ASSOCIATED WITH THE JANUARY 2009 ICE STORM; APPROVING A CONTINGENCY INCREASE OF \$40,428.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$309,949.00.

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 approves Change Order No. 2 to the contract with Solid Resources, Inc. to increase the contract amount by \$269,521.00 for additional debris removal monitoring and oversight associated with the January 2009 Ice Storm. A copy of the Change Order, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contingency increase of \$40,428.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$309,949.00.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



CONTRACT CHANGE ORDER		Change Order No.	Page	of
		2	1	2
		City Contract #	Schedule	
		2076		
		City Resolution #	Date	
		46-09	3/26/2009	
City Project No.: 09010.0901 ANRC Project No.: N/A				
Project Name: Debris Removal Monitoring Services Location: Fayetteville, AR				
Owner: City of Fayetteville Contractor: Solid Resources Inc.				
Address: 113 W Mountain Fayetteville, AR 72701 Address: 2201 Cantu Ct, Ste 119 Sarasota, FL 34232				
THE FOLLOWING CHANGES ARE HEREBY AMENDED INTO THE CONTRACT PLANS AND SPECIFICATIONS:				
ITEM #	DESCRIPTION	DECREASE	INCREASE	
6.1.1	Storm Debris Monitoring Services		\$269,521	
TOTAL DECREASE AMOUNT		\$0.00		
TOTAL INCREASE AMOUNT			\$269,521.00	
NET CHANGE ORDER			\$269,521.00	
<u>CHANGE TO CONTRACT AMOUNT:</u>		<u>TOTAL AMOUNT</u>	<u>ENGINEERS FINAL ELIGIBLE AMOUNT</u>	
Original Contract Amount		\$483,690.00	\$483,690.00	
Total Previous Change Order(s)		\$96,914.00	\$96,914.00	
Net Amount This Change Order		\$269,521.00	\$269,521.00	
TOTAL CONTRACT AMOUNT TO DATE		\$850,125.00	\$850,125.00	
<u>CHANGE TO CONTRACT COMPLETION DATE:</u>				
Original Completion Date _____				
Previous Adjusted Completion Date _____				
(Increase)(Decrease) This Change Order _____ Calendar Days				
<u>NEW CONTRACT COMPLETION DATE:</u> _____				
RECOMMENDED: _____				
Signature Title Date				
ACCEPTED: <u>Solid Resources, Inc.</u>				
Contractor				
BY: <u>James C. King</u>				
Signature				
Vice President				
3/30/09				
Date				
APPROVED: CITY OF FAYETTEVILLE				
Owner				
BY: _____				
Signature				
Title				
Date				
BY: _____				
Signature				
Title				
Date				

Cost Breakdown for Change Order

Item	Description	Unit	Unit Cost	Quantities			Adjusted Contract Amount
				Original	Adjusted	Adjust +/-	
1	Project Manager	HR	\$65.00	330.00	665.00	335.00	\$21,775.00
2	Field Supervisor	HR	\$60.00	1080.00	2200.00	1120.00	\$67,200.00
3	Fixed Site Monitor	HR	\$34.00	2160.00	2400.00	240.00	\$8,160.00
4	Field Monitor	HR	\$34.00	9000.00	16200.00	7200.00	\$244,800.00
5	Clerical	HR	\$25.00	720.00	1700.00	980.00	\$24,500.00
6						0.00	\$0.00
7						0.00	\$0.00
8						0.00	\$0.00
9						0.00	\$0.00
10						0.00	\$0.00
11						0.00	\$0.00
12						0.00	\$0.00
13						0.00	\$0.00
14						0.00	\$0.00
15						0.00	\$0.00
16						0.00	\$0.00
17						0.00	\$0.00
18						0.00	\$0.00
19						0.00	\$0.00
20						0.00	\$0.00
Total Contract Change							\$366,435.00

RESOLUTION NO. 46-09

A RESOLUTION TO APPROVE AN AGREEMENT FOR STORM
DEBRIS MONITORING SERVICES WITH SOLID RESOURCES, INC.
IN THE AMOUNT OF \$483,690.00, PLUS A CONTINGENCY IN
THE AMOUNT OF \$96,914.00

WHEREAS, the City of Fayetteville solicited Requests for Proposals for Storm Debris Monitoring Services as required by the Federal Emergency Management Administration (FEMA); and

WHEREAS, a Selection Committee including an alderman and numerous city staff painstakingly reviewed several applicants and eventually voted by an approved rating system to select Solid Resources, Inc. as the most qualified, capable, and affordable applicant to best supply Storm Debris Monitoring Services for the citizens of Fayetteville.

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

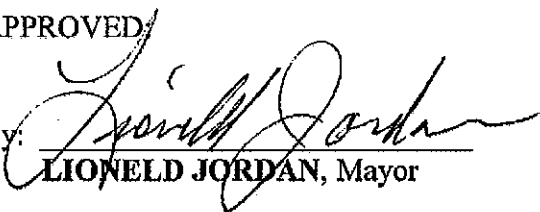
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the selection of Solid Resources, Inc. for Storm Debris Monitoring Services for the City of Fayetteville.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the Agreement For Storm Debris Monitoring Services (attached as Exhibit "A") with Solid Resources, Inc. in the amount of \$483,690, plus a contingency of \$96,914.00.

PASSED and APPROVED this 18th day of February, 2009.

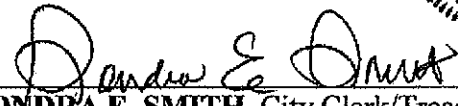
APPROVED:

By:


LIONELD JORDAN, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer



AGREEMENT
For
STORM DEBRIS MONITORING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
SOLID RESOURCES, INC..

THIS AGREEMENT is made as of February 18, 2009, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and SOLID RESOURCES, INC. (hereinafter called SOLID RESOURCES, INC.).

CITY OF FAYETTEVILLE is in need of Debris Management and Monitoring Services for its Right of Way debris removal. Contract responsibilities include but are not limited to monitoring vegetative storm debris removal and tree trimming & removal within public lands and rights of way, and debris disposal site monitoring. Therefore, CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. in consideration of their mutual covenants agree as follows:

SOLID RESOURCES, INC. shall serve as CITY OF FAYETTEVILLE's monitoring consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of SOLID RESOURCES, INC.'s services.

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 SOLID RESOURCES, INC.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of SOLID RESOURCES, INC.
- 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 SOLID RESOURCES, INC.

- 2.1 Provide Fixed Site Debris Monitors and Field Debris Monitors and Debris Monitoring Supervision and Management to assist the City of Fayetteville with ice storm debris removal services. SOLID RESOURCES, INC. will provide:

2.2 **Fixed Site Debris Monitors**

SOLID RESOURCES, INC. will provide trained personnel to oversee the inspection of the disposal or unloading sites by providing the monitoring, verification of load capacity, and documentation at designated temporary disposal sites. Services include:

- 2.2.1 Provide trained disposal site monitor and inspection personnel
- 2.2.2 Complete record of contract haulers' cubic yardage and other record keeping as may be needed on the provided load ticket
- 2.2.3 Initial each load ticket before permitting truck to proceed from the check-in area to the tipping area
- 2.2.4 Remain in contact with debris management/dispatch center or supervisor
- 2.2.5 Perform other duties as directed by the dispatch/staging operation, debris management project manager, or designated City personnel
- 2.2.6 Accurately measure load hauling compartments and accurately compute volume capacity in cubic yards. Document and record measurements and computations

2.3 **Field Debris Monitors**

SOLID RESOURCES, INC. will perform roving on-site, street-level work area inspections of debris cleanup and collection. SOLID RESOURCES, INC. will provide loading site (field) monitors to inspect and control debris collection utilizing manifest load tickets. Services include:

- 2.3.1 Provide field monitor personnel at designated areas to check and verify information on debris removal.
- 2.3.2 Monitor collection activity of trucks.

- 2.3.3 Issue manifest load tickets at loading site for each load.
- 2.3.4 Check the area for safety considerations such as – downed power lines, children playing in area, meeting traffic control needs, safe operation of trucks and equipment .
- 2.3.5 Ensure only eligible ice storm related vegetative (trees, limbs, and brush) debris is collected. No non-vegetative debris is authorized to be collected. No non-ice storm damage related debris is authorized to be collected
- 2.3.6 Perform a pre-work inspection of areas to check debris piles to identify covered utility meters, transformers, fire hydrants, mail boxes, etc. to help prevent damage from loading equipment and to look for potential problems.
- 2.3.7 Should damages occur to utility components, driveways, road surfaces, private property, vehicles, etc., document the damage with photos. If possible, collect information about owner, circumstances of the damage (who, what, when, where) and report to your supervisor.
- 2.3.8 Ensure the work area is clear of debris to the specified level before equipment moves to a new loading area.
- 2.3.9 Accurately measure load hauling compartments and accurately compute volume capacity in cubic yards. Document and record measurements and computations.
- 2.3.10 Properly monitor and record performance and productivity of debris removal crew.
- 2.3.11 Remain in constant contact with debris management/dispatch center or supervisor.
- 2.3.12 Ensure that loads are contained properly before leaving the loading area.
- 2.3.13 Ensure only eligible debris is collected for loading and hauling.
- 2.3.14 Ensure only debris from approved public areas is loaded for removal.
- 2.3.15 Perform other duties from time to time as directed by the debris management project manager or designated City debris management personnel.

2.4 Senior Technician/Field Supervisor/Emergency Operations Manager

SOLID RESOURCES, INC. will provide project management to oversee debris monitoring activities in the field. Services will include:

- 2.4.1 Oversight and Supervision of Monitor field activity.
- 2.4.2 Scheduling of Monitoring resources and deployment timing.
- 2.4.3 Communication and coordination with City personnel.
- 2.4.4 Make suggestions to improve the efficiency of collection and removal of debris.
- 2.4.5 Coordinate daily activities and future planning.
- 2.4.6 Remain in contact with debris management/dispatch center or supervisor.
- 2.4.7 Identify, address, and troubleshoot any questions or problems that could impact work area safety and eligibility.
- 2.4.8 Accurately measure load hauling compartments and accurately compute volume capacity in cubic yards. Document and record measurements and computations. Document truck hauling compartment condition using digital photographs. Prepare a master log book of all hauling equipment used by the City's debris removal SOLID RESOURCES, INC..
- 2.4.9 Compile, reconcile and document daily in an electronic spreadsheet format all eligible debris hauled by the City of Fayetteville's debris removal SOLID RESOURCES, INC..

SECTION 3 - ADDITIONAL SERVICES OF SOLID RESOURCES, INC.

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by SOLID RESOURCES, INC., SOLID RESOURCES, INC. shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.2 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.3 Extra Services

3.1.3.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond SOLID RESOURCES, INC.'s control, SOLID RESOURCES, INC. shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to SOLID RESOURCES, INC. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, SOLID RESOURCES, INC. shall have no obligation to provide those services.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of SOLID RESOURCES, INC..

4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

4.2 Assist SOLID RESOURCES, INC. by placing at SOLID RESOURCES, INC.'s disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

- 4.3 Guarantee access to and make all provisions for SOLID RESOURCES, INC. to enter upon public and private property as required for SOLID RESOURCES, INC. to perform his services under this Agreement.
- 4.4 Examine all proposals, and other documents presented by SOLID RESOURCES, INC. and render in writing decisions pertaining thereto.
- 4.5 The Transportation Manager and the Water & Wastewater Director are the CITY OF FAYETTEVILLE's project representatives with respect to the services to be performed under this Agreement. The Transportation Manager and the Water & Wastewater Director 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.
- 4.6 Give prompt written notice to SOLID RESOURCES, INC. whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.7 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.8 Pay for placement of legal notices and advertisements in newspapers or other publications required by the Project.
- 4.9 Furnish, or direct SOLID RESOURCES, INC. to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.10 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to SOLID RESOURCES, INC. in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 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. SOLID

RESOURCES, INC. 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.

SECTION 6 - PAYMENTS TO SOLID RESOURCES, INC.

6.1 Compensation

6.1.1 Storm Debris Monitoring Services

The maximum not-to-exceed amount authorized for this Agreement is \$ 483,690.00.
The CITY OF FAYETTEVILLE shall compensate SOLID RESOURCES, INC. based on a Unit Price basis as described in Appendix A.

6.1.1.1 Subject to the City Council approval, adjustment of the not-to-exceed amount may be made should SOLID RESOURCES, INC. establish and 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 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. Changes, modifications or amendments in scope, price or fees to this Contract shall not be allowed without formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, fees, or delivery schedule.

6.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for Design services consistent with SOLID RESOURCES, INC.'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 SOLID RESOURCES, INC. and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for Design services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Design phase for the Project.

6.1.2 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to SOLID RESOURCES, INC. shall be negotiated at the time Additional services are authorized.

6.2 Statements

Statements and progress reports for each calendar month will be submitted to CITY OF FAYETTEVILLE. Statements will be based on SOLID RESOURCES, INC.'s actual cost plus fixed fee amount and justified by the updated progress schedule.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of SOLID RESOURCES, INC.'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 SOLID RESOURCES, INC. 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.

6.4 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, SOLID RESOURCES, 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 SOLID RESOURCES, INC. 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 SOLID RESOURCES, INC. or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, SOLID RESOURCES, INC. will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Each Occurrence \$2,000,000 Annual Aggregate
Automobile Liability: Bodily Injury and Property Damage	\$500,000 Each Occurrence \$1,000,000 Annual Aggregate

SOLID RESOURCES, INC. 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.

7.1.2 Debris Removal SOLID RESOURCES, INC.s shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and SOLID RESOURCES, INC. as additional insureds, or, to endorse CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. as additional insured on construction SOLID RESOURCES, INC.'s liability insurance policies covering claims for personal injuries and property damage. Construction SOLID RESOURCES, INC.s shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and SOLID RESOURCES, INC.

7.1.3 CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. 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 SOLID RESOURCES, INC.'s services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE; and all construction SOLID RESOURCES, INC.s shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. for damage or liability covered by any construction SOLID RESOURCES, INC.'s policy of insurance.

7.2 Professional Responsibility

7.2.1 SOLID RESOURCES, INC. will exercise reasonable skill, care, and diligence in the performance of SOLID RESOURCES, INC.'s services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to SOLID RESOURCES, INC. any defects or suspected defects in SOLID RESOURCES, INC.'s services of which CITY OF FAYETTEVILLE becomes aware, so that SOLID RESOURCES, INC. can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. further agree to impose a similar notification requirement on all construction SOLID RESOURCES, INC.s. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of SOLID RESOURCES, INC.

7.2.2 In addition, SOLID RESOURCES, INC. will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by SOLID RESOURCES, INC.'s Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of SOLID RESOURCES, INC.'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 President or any Vice President of SOLID RESOURCES, INC.

7.4 Termination

7.4.1 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:

7.4.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.4.1.2 An opportunity for consultation with the terminating party prior to termination.

- 7.4.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that SOLID RESOURCES, INC. is given:
- 7.4.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
- 7.4.2.2 An opportunity for consultation with the terminating party prior to termination.
- 7.4.3 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
- 7.4.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,
- 7.4.3.2 Any payment due to SOLID RESOURCES, INC. at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of SOLID RESOURCES, INC.'s default.
- 7.4.4 If termination for default is effected by SOLID RESOURCES, INC., 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 SOLID RESOURCES, INC. for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by SOLID RESOURCES, INC. relating to commitments which had become firm prior to the termination.
- 7.4.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, SOLID RESOURCES, INC. shall:
- 7.4.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
- 7.4.5.2 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 SOLID RESOURCES, INC. in performing this Agreement, whether completed or in process.
- 7.4.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.4.7 If, after termination for failure of SOLID RESOURCES, INC. to fulfill contractual obligations, it is determined that SOLID RESOURCES, 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 Paragraph 7.5.4 of this clause.

7.5 Delays

In the event the services of SOLID RESOURCES, INC. are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond SOLID RESOURCES, INC.'s reasonable control, SOLID RESOURCES, INC. shall be entitled to additional compensation and time for reasonable costs incurred by SOLID RESOURCES, INC. in temporarily closing down or delaying the Project.

7.6 Rights and Benefits

SOLID RESOURCES, INC.'s services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.7 Dispute Resolution

7.7.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and SOLID RESOURCES, 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 SOLID RESOURCES, INC. in the performance of this Agreement, and disputes concerning payment.

7.7.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, 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 7.8.3 and 7.8.4 have been complied with.

7.7.3 Notice of Dispute

7.7.3.1 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;

7.7.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give SOLID RESOURCES, INC. written Notice at the address listed in Paragraph 7.14 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.

7.7.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and SOLID RESOURCES, 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 SOLID RESOURCES, INC. 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.

7.8 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to SOLID RESOURCES, INC. for services rendered by SOLID RESOURCES, INC.

7.9 Publications

Recognizing the importance of professional development on the part of SOLID RESOURCES, INC.'s employees and the importance of SOLID RESOURCES, INC.'s public relations, SOLID RESOURCES, INC. may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to SOLID RESOURCES, 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 SOLID RESOURCES, 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. The cost of SOLID RESOURCES, INC.'s activities pertaining to any such publication shall be for SOLID RESOURCES, INC.'s account.

7.10 Indemnification

7.10.1 CITY OF FAYETTEVILLE agrees that it will require all construction SOLID RESOURCES, INC.s to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. 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 SOLID RESOURCES, INC.s, or their employees, agents, SubSOLID RESOURCES, INC.s, and Suppliers.

7.11 Notices

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

CITY OF FAYETTEVILLE's address:

113 West Mountain Street
Fayetteville, Arkansas 72701

SOLID RESOURCES, INC.'s address:

2201 Cantu Court, Suite 119
Sarasota, FL 34232-6254

7.12 Successor and Assigns

CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. 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 SOLID RESOURCES, INC. shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.13 Controlling Law

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.

7.14 Entire Agreement

This Agreement represents the entire Agreement between SOLID RESOURCES, INC. 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 SOLID RESOURCES, INC. a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by SOLID RESOURCES, INC., shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

7.15 Request for Proposal

The Request for Proposal for Storm Debris Monitoring Services is attached as Appendix B.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of SOLID RESOURCES, INC.

8.1.1 CITY OF FAYETTEVILLE's, review, approval, or acceptance of reports and other services furnished hereunder shall not in any way relieve SOLID RESOURCES, INC. 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.

8.1.2 SOLID RESOURCES, INC. shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by SOLID RESOURCES, INC.'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.

8.1.3 SOLID RESOURCES, INC.'s obligations under this clause are in addition to SOLID RESOURCES, INC.'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 SOLID RESOURCES, INC. for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and SOLID RESOURCES, INC. arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 SOLID RESOURCES, 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. SOLID RESOURCES, INC. shall also maintain the financial information and data used by SOLID RESOURCES, 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. SOLID RESOURCES, INC. will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until five 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 five years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 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:

- 8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of SOLID RESOURCES, INC.;
- 8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;
- 8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

SOLID RESOURCES, 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 continent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by SOLID RESOURCES, 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.

8.5 Gratuities

- 8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that SOLID RESOURCES, INC. or any of SOLID RESOURCES, INC.'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 SOLID RESOURCES, 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.
- 8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against SOLID RESOURCES, INC. as it could pursue in the event of a breach of the Agreement by SOLID RESOURCES, 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 OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs SOLID RESOURCES, INC. incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subSOLID RESOURCES, INC.s 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, SOLID RESOURCES, INC. 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 SOLID RESOURCES, INC., by its authorized officer have made and
executed this Agreement as of the day and year first above written.



CITY OF FAYETTEVILLE, ARKANSAS

By:

Mayor Lionel Jordan

ATTEST:

By:

Dondra E. Smith
City Clerk

SOLID RESOURCES, INC.

By:

Gary J. Sankovich

Title:

PRESIDENT

ATTEST:

By:

Gaud C. Hy

Title:

Vice President

Changes, modifications or amendments in scope, price or fees to this Contract shall not be allowed without formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR STORM DEBRIS MONITORING SERVICES

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 12
Solid Resources, Inc.
Change Order No. 2
Page 26 of 28

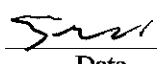
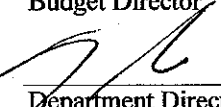
Budget Year 2009	Department: Citywide Division: Citywide Program: Ice Storm 2009 - FEMA	Date Requested 4/7/2009	Adjustment Number
--------------------------------	---	---------------------------------------	--------------------------

Project or Item Added/Increased: \$309,949.00.00 is requested in the Professional Services account in the ICE FEMA (2009 Ice Storm Reimbursement) project.	Project or Item Deleted/Reduced: \$38744.00 is requested from the State Grants - Operational account, \$232,462.00 is requested from the Federal Grants - Operational account and \$38,744.00 is requested from the Use of Fund Balance account.
--	--

Justification of this Increase: Additional funds are needed to allow for an increase in the total cost of ice storm debris removal monitoring services required to complete the removal of all remaining debris. Staff has requested the approval of Change Order #2 to Contract 2026 with Solid Resources, Inc. to increase the contract amount due to actual debris quantities having exceeded the original estimate.	Justification of this Decrease: Since the area was declared a national disaster, reimbursement from FEMA (75%), Arkansas Department of Emergency Management (12.5%) and use of fund balance (12.5%) in the City's Replacement & Disaster Recovery Fund will be available.
---	---

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Professional Services	4270	9280	5314	00	309,949	09010	0901

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
State Grants - Operational	4270	0927	4302	01	38,743	09010	0901
Federal Grants - Operational	4270	0927	4309	01	232,462	09010	0901
Use of Fund Balance	4270	0927	4999	99	38,744		

Approval Signatures		Budget & Research Use Only	
 Budget Director	 Date	Type: A B C <u>D</u> E	
 Department Director	 Date	General Ledger Date	
 Finance Director	 Date	Approval Date	Initial Date
 Chief of Staff	3/31/09 Date	Posted to General Ledger	Initial Date
 Mayor	 Date	Posted to Project Accounting	Initial Date



PURCHASE ORDER

A. 12
Solid Resources, Inc.
Change Order No. 2
Page 27 of 28

VENDOR NO. 18636

Solid Resources Inc

2201 Cantu Court Suite 119
Sarasota FL 34232

Each Package Must Be Marked
Exactly As Shown Here
City of Fayetteville, Arkansas

PURCHASE ORDER #

09-0000214-001

DATE

2/25/09

FOB Fyv

TERMS

NET 30 DAY

Qty.	Unit of Issue	Qty. Received	Description and Account Number	Unit Price	TOTALS
1.00	LOT		a) Storm Debris Monitoring Services Per RFP #09-05 Res #46-09 Contract #2076 4270.9280.5314.00	483690.00	483690.00
				090100901	

Please add line item C) Change Order #2 to Contract #2076 to increase contract amount by \$193,828.00 allowing for additional debris removal monitoring services necessary for clean-up from the 2009 Ice Storm. Please use g/l account number 4270.9280.5314.00 09010/0901, upon approval of contract Change Order #1.

SHIP TO: Transportation Dept
1525 S Happy Hollow Rd

Fayetteville AR 72701

Apperson, G

Sales Tax Total: \$0.00
Purchase Order Total: 483690.00

DEPARTMENT VERIFICATION

RECEIVED
DEPT HEAD APPROVAL
AMOUNT TO PAY

A/P VERIFICATION

PURCHASING VERIFICATION
PRICE CHANGE VERIFICATION

RETURN CHECK TO
SEND COPY TO

BY [Signature] DATE 3/30/09
\$ Change Order

ADDITIONAL APPROVAL

CHECK #
DOES NOT MEET PURCHASING POLICY
CONTRACT PAYMENT
OTHER
APPROVED BY

PROJECT #
THIS PAYMENT \$
PREVIOUS PAYMENT(S) \$
TOTAL PYMT(S) \$
BALANCE \$

DEPT COPY

City of Fayetteville Staff Review Form

Added at Agenda Session 13
5/31/09

DRC Emergency Services, LLC
Change Order No. 2
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Terry Gulley
Submitted By

Transportation
Division

Transportation Services
Department

Action Required:

Approval of Change Order #2 to Contract Number 2077 with DRC Emergency Services, LLC to increase the contract amount by \$200,000.00 for a total contract amount of \$3,019,185.64, approval to increase the contingency amount by \$30,000.00 for a total contingency amount of \$430,000.00 and approval of a budget adjustment in the amount of \$230,000.00.

\$ 230,000.00

Cost of this request

\$ 4,000,000.00

Category / Project Budget

ICE FEMA (2009 Ice Storm Reimb)

Program Category / Project Name

4270.9280.5314.00

Account Number

\$ 2,903,401.54

Funds Used to Date

Ice Storm 2009

Program / Project Category Name

09010 / 0901

Project Number

\$ 1,096,598.46

Remaining Balance

Replacement & Disaster Recovery

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

Terry Gulley
Department Director

3-26-09
Date

Previous Ordinance or Resolution # 47-09

J. D. Whit
City Attorney

3/22/09
Date

Original Contract Date: 2/18/2009

Original Contract Number: 2077

Paul A. Bush
Finance and Internal Services Director

3-30-09
Date

Received in City
Clerk's Office

ENTERED
3-27-09

Don Mann
Chief of Staff

3/30/09
Date

Received in
Mayor's Office

ENTERED
3/30/09

Frank Jordan
Mayor

3/30/09
Date

Comments:



City Council Meeting of April 7, 2009

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council
Mayor Lioneld Jordan

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Services Director

Date: April 7, 2009

Subject: Approval of Change Order #2 to Contract 2077 with DRC Emergency Services, LLC to increase the contract amount by \$200,000.00 for a total contract amount of \$3,019,185.64 and approval to increase the contingency amount by \$30,000.00 for a total contingency amount of \$430,000.00.

RECOMMENDATION

Staff recommends approval of Change Order #2 to Contract Number 2077 with DRC Emergency Services, LLC to increase the contract amount by \$200,000.00 for a total contract amount of \$3,019,185.64 and approval to increase the contingency amount by \$30,000.00 for a total contingency amount of \$430,000.00.

BACKGROUND

Contract Number 2077 currently provides for services including but not limited to vegetative storm debris removal, tree trimming & removal within public lands and right of way, and debris disposal site operations management City-wide, in compliance with FEMA requirements.

DISCUSSION

The storm debris removal and storm debris removal monitoring contracts were based on an estimated total of 419,922 cubic yards of storm debris. As of March 23, 2009, Solid Resources, Inc. reported that DRC Emergency Services, LLC had removed a total of 403,413 cubic yards. An additional 100,000 cubic yards of remaining storm debris is now estimated to require removal.

Uncertainty in the scope of the ice storm debris removal operation at the time it was necessary to begin required the use of estimates prepared with preliminary information and to the best ability of City staff. The estimates were prepared using a combination of aerial photo information calibrated with actual removal rates based on what City crews had actually removed in several areas. As actual storm debris quantities have exceeded the original estimate, a Contract Amendment will be necessary to complete the removal of all remaining storm debris.

BUDGET IMPACT

DRC Emergency Services, LLC projects that an additional \$200,000.00 will be required, in addition to the approved contingency amount, to complete the removal of all remaining debris and staff requests an additional \$30,000.00 to increase contingency. Approval of the attached budget adjustment will allocate the necessary amount from the City's Replacement & Disaster Recovery Fund. Costs associated with ice storm debris removal will be largely offset by reimbursements from FEMA and the State of Arkansas.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER NO. 2 TO THE CONTRACT WITH DRC EMERGENCY SERVICES, LLC IN THE AMOUNT OF \$200,000.00 FOR ADDITIONAL DEBRIS REMOVAL ASSOCIATED WITH THE JANUARY 2009 ICE STORM; APPROVING A CONTINGENCY INCREASE OF \$30,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$230,000.00.

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 approves Change Order No. 2 to the contract with DRC Emergency Services, LLC in the amount of \$200,000.00 for additional debris removal associated with the January 2009 Ice Storm. A copy of the Change Order, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contingency increase of \$30,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$230,000.00.

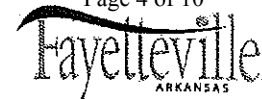
PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



CONTRACT CHANGE ORDER		Change Order No. <u>2</u>	Page <u>1</u> of <u> </u>
		City Contract # <u>2077</u>	Schedule <u> </u>
		City Resolution # <u>47-09</u>	Date <u>3/26/2009</u>
City Project No.:	<u>09010.0901</u>	ANRC Project No.:	<u>N/A</u>
Project Name:	<u>Debris Removal Services</u>	Location:	<u>Fayetteville, AR</u>
Owner:	<u>City of Fayetteville</u>	Contractor:	<u>DRC Emergency Services, LLC</u>
Address:	<u>113 W Mountain</u>	Address:	<u>740 Museum Dr</u>
	<u>Fayetteville, AR 72701</u>		<u>Sarasota, FL 34232</u>
THE FOLLOWING CHANGES ARE HEREBY AMENDED INTO THE CONTRACT PLANS AND SPECIFICATIONS:			
ITEM #	DESCRIPTION	DECREASE	INCREASE
1	Removal of vegetative debris ...		\$75,000.00
5	Tree removal and disposal > 24"		\$50,000.00
6	Limb removal per tree		\$75,000.00
TOTAL DECREASE AMOUNT		\$0.00	
TOTAL INCREASE AMOUNT			\$200,000.00
NET CHANGE ORDER			\$200,000.00
CHANGE TO CONTRACT AMOUNT:		ENGINEERS FINAL ELIGIBLE AMOUNT	
Original Contract Amount		TOTAL AMOUNT	
Total Previous Change Order(s)		\$2,419,185.64	
Net Amount This Change Order		\$400,000.00	
		\$200,000.00	
TOTAL CONTRACT AMOUNT TO DATE		\$3,019,185.64	
		\$200,000.00	
CHANGE TO CONTRACT COMPLETION DATE:			
Original Completion Date _____			
Previous Adjusted Completion Date _____			
(Increase)(Decrease) This Change Order _____			
Calendar Days			
NEW CONTRACT COMPLETION DATE: _____			
RECOMMENDED:	<u>Terry J. Mulhy</u> Signature	<u>Travis. Sisco Dir</u> Title	<u>3-26-09</u> Date
ACCEPTED:	<u>DRC Emergency Services</u> Contractor		
BY:	<u>[Signature]</u> Signature	<u>C.O.O.</u> Title	<u>3/26/09</u> Date
APPROVED:	<u>CITY OF FAYETTEVILLE</u> Owner		
BY:	_____ Signature	_____ Title	_____ Date
BY:	_____ Signature	_____ Title	_____ Date

RESOLUTION NO. 47-09

A RESOLUTION TO APPROVE A CONTRACT FOR STORM DEBRIS REMOVAL SERVICES WITH DRC EMERGENCY SERVICES, LLC IN THE AMOUNT OF \$2,419,185.64, PLUS A CONTINGENCY OF \$400,000.00

WHEREAS, after the devastating ice storm of January 26-27, 2009, President Obama declared much of Northwest Arkansas, including the City of Fayetteville a Disaster Area eligible for FEMA assistance; and

WHEREAS, the amount of downed trees, broken limbs, and other debris throughout Fayetteville is so massive that Fayetteville's employees and equipment cannot handle the tremendous job of removing such debris without hiring an independent contractor; and

WHEREAS, the cost of the debris removal will be largely offset by reimbursements from FEMA and the State of Arkansas; and

WHEREAS, the City of Fayetteville properly solicited Requests For Proposals from independent contractors desiring to be awarded a Contract for Storm Debris Removal Services; and

WHEREAS, the City's Selection Committee painstakingly reviewed proposals from almost twenty companies and the selected by use of an approved rating/point system, the applicant/proposal which was the most qualified, capable, and economical company to pick up, remove and reduce to wood chips the debris caused by the ice storm.

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

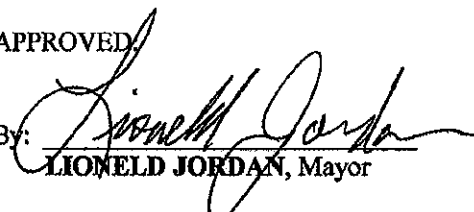
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the selection of DRC Emergency Services, LLC as the most qualified, capable and economical company to be awarded the contract for Storm Debris Removal Services.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby awards the Contract For Storm Debris Removal Services (attached as Exhibit "A") which includes all terms within the Project Manual, to DRC Emergency Services, LLC in the amount of \$2,419,185.64 plus a contingency of \$400,000.00.

PASSED and APPROVED this 18th day of February, 2009.

APPROVED

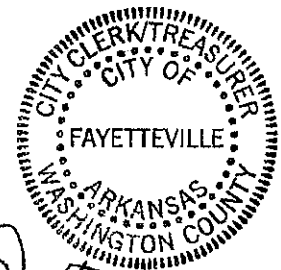
By:


LIONELD JORDAN, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer



SECTION 00500

**AGREEMENT BETWEEN
CITY OF FAYETTEVILLE AND DRC EMERGENCY SERVICES, LLC**

THIS AGREEMENT is dated as of the 18th day of February in the year 20 09
by and between the **CITY OF FAYETTEVILLE** and **DRC EMERGENCY SERVICES, LLC**.

1. **DRC EMERGENCY SERVICES, LLC** shall commence and complete all Work as specified or indicated in the Contract Documents. The **WORK** is generally described as follows:

STORM DEBRIS SERVICES, CONTRACT SECTION 1, 2, 3, & 4

2. **DRC EMERGENCY SERVICES, LLC** shall furnish all materials, supplies, tools, equipment, labor and other service necessary for the completion of the **WORK** described herein.
3. **DRC EMERGENCY SERVICES, LLC** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** on or before a date to be specified in the **NOTICE TO PROCEED** and completed in one hundred twenty (120) days for debris removal and one hundred sixty (160) days for debris collection site closure from date of notice to proceed. **DRC EMERGENCY SERVICES, LLC** shall pay the **CITY OF FAYETTEVILLE**, as liquidated damages, the sum of \$2000 for each calendar day thereafter that the **WORK** is not complete.
4. Upon approval of the City of Fayetteville, the contract may be extended as needed through December 31, 2012.
5. **DRC EMERGENCY SERVICES, LLC** agrees to perform all of the **WORK** described in the **CONTRACT DOCUMENTS** and comply with the terms therein as shown in the **PROPOSAL**.
6. The term **CONTRACT DOCUMENTS** shall mean and include the following:
 - 6.1 Request for Proposal
 - 6.2 Information for Proposers
 - 6.3 Supplemental Information for Proposers
 - 6.4 Statement of Disclosure
 - 6.5 Debarment, Suspension, and Other Responsibility Matters
 - 6.6 Primary Contacts
 - 6.7 Proposal
 - 6.8 Proposer's Statement of Subcontractors
 - 6.9 Bid Bond
 - 6.10 Agreement Between City of Fayetteville and DRC EMERGENCY SERVICES, LLC
 - 6.11 Performance and Payment Bond
 - 6.12 Warranty Bond

- 6.13 General Conditions
- 6.14 Prevailing Wage Rates
- 6.15 Notice of Award
- 6.16 Notice to Proceed
- 6.17 Project Manual for Storm Debris Services
- 6.18 Addenda
- 6.19 Change Orders

7. The **CITY OF FAYETTEVILLE** shall pay **DRC EMERGENCY SERVICES, LLC** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**.

8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

9. **MISCELLANEOUS**

9.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. City of Fayetteville and DRC EMERGENCY SERVICES, LLC each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

9.5. 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.

9.6. **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, DRC EMERGENCY SERVICES, LLC

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.

9.7. This contract must be interpreted under Arkansas Law.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and DRC EMERGENCY SERVICES, LLC have signed this Agreement in quadruplicate. Two counterparts each have been delivered to City of Fayetteville, and two counterparts have been delivered to DRC EMERGENCY SERVICES, LLC. All portions of the Contract Documents have been signed, initialed, or identified by City of Fayetteville and DRC EMERGENCY SERVICES, LLC.

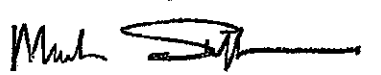
OWNER

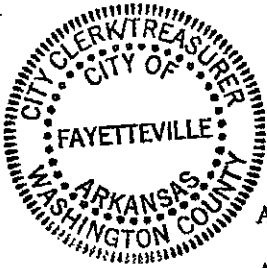
CONTRACTOR

CITY OF FAYETTEVILLE

DRC EMERGENCY SERVICES, LLC

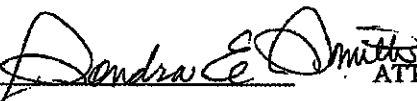
BY 
Mayor Lionel Jordan

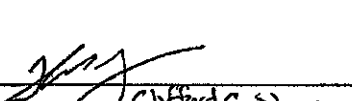
BY 
Mark Stafford, Member & CEO



[CORPORATE SEAL]

[CORPORATE SEAL]

ATTEST 

ATTEST  Clifford C. Sharp, Attorney

Address for giving notices:

Address for giving notices:

113 W. Mountain
Fayetteville, AR 72701

License No. _____

Agent for service of process: _____

(If CONTRACTOR is a corporation, attach
evidence of authority to sign.)

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 13
DRC Emergency Services, LLC
Change Order No. 2
Adjustment Number

Budget Year 2009	Department: Citywide Division: Citywide Program: Ice Storm 2009 - FEMA	Date Requested 4/7/2009 *	Adjustment Number
----------------------------	--	-------------------------------------	-------------------

Project or Item Added/Increased: \$230,000.00 is requested in the Professional Services account in the ICE FEMA (2009 Ice Storm Reimbursement) project.	Project or Item Deleted/Reduced: \$28,750.00 is requested from the State Grants - Operational account, \$172,500.00 is requested from the Federal Grants - Operational account and \$28,750.00 is requested from the Use of Fund Balance account.
Justification of this Increase: Additional funds are needed to allow for an increase in the total cost of ice storm debris removal monitoring services required to complete the removal of all remaining debris. Staff has requested the approval of Change Order #2 to Contract 2027 with DRC Emergency Services, LLC. to increase the contract amount due to actual debris quantities having exceeded the original estimate.	Justification of this Decrease: Since the area was declared a national disaster, reimbursement from FEMA (75%), Arkansas Department of Emergency Management (12.5%) and use of fund balance (12.5%) in the City's Replacement & Disaster Recovery Fund will be available.

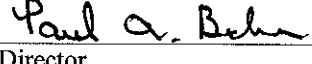
Increase Budget

Account Name	Account Number				Amount	Project Number	
Professional Services	4270	9280	5314	00	230,000	09010	0901

Decrease Budget

Account Name	Account Number				Amount	Project Number	
State Grants - Operational	4270	0927	4302	01	28,750	09010	0901
Federal Grants - Operational	4270	0927	4309	01	172,500	09010	0901
Use of Fund Balance	4270	0927	4999	99	28,750	09010	0901

Approval Signatures

	3-30-09
Budget Director	Date
	3-26-09
Department Director	Date
	3-30-09
Finance Director	Date
Chief of Staff	Date
Mayor	Date

Budget & Research Use Only

Type: A B C D E

General Ledger Date _____

Approval Date _____

Posted to General Ledger _____

Posted to Project Accounting _____

Initial	Date
Initial	Date
Initial	Date



PURCHASE ORDER

A. 13
DRC Emergency Services, LLC
Change Order No. 2
Page 10 of 10

VENDOR NO. 18634

DRC Emergency Services LLC

740 Museum Dr
Mobile AL 36608

Each Package Must Be Marked
Exactly As Shown Here
City of Fayetteville, Arkansas

PURCHASE ORDER #

09-0000207-001

DATE

2/25/09

FOB Fyv

TERMS

NET 30 DAY

Qty.	Unit of Issue	Qty. Received	Description and Account Number	Unit Price	TOTALS
1.00	LOT		a) Storm Debris Services Per RFP #09-04 Res #47-09 Contract #2077 4270.9280.5314.00	2419185.64	2419185.64
			090100901		

Please add line item C) Change Order #2 to Contract #2077 to increase contract amount by \$200,000.00 allowing for additional debris removal services necessary for clean-up from the 2009 Ice Storm. Please use g/l account number 4270.9280.5314.00 09010/0901, upon approval of contract Change Order #2.

SHIP TO: Transportation Dept
1525 S Happy Hollow Rd

Fayetteville AR 72701

Apperson, G

Sales Tax Total: \$223774.67
Purchase Order Total: 2642960.31

DEPARTMENT VERIFICATION

RECEIVED
DEPT HEAD APPROVAL
AMOUNT TO PAY

A/P VERIFICATION

PURCHASING VERIFICATION
PRICE CHANGE VERIFICATION

RETURN CHECK TO
SEND COPY TO

BY [Signature] DATE 3/26/09
3/26/09
\$ Change Order

ADDITIONAL APPROVAL

CHECK #
DOES NOT MEET PURCHASING POLICY
CONTRACT PAYMENT
OTHER
APPROVED BY

PROJECT #
THIS PAYMENT \$
PREVIOUS PAYMENT(S) \$
TOTAL PYMT(S) \$
BALANCE \$

DEPT COPY

City Council Agenda Items
and
Contracts, Leases or Agreements

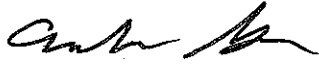
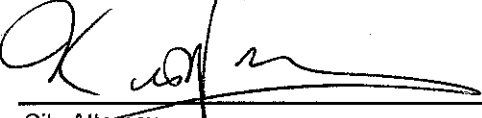
4/7/2009

City Council Meeting Date
Agenda Items OnlyAndrew Garner *AG*
Submitted ByPlanning
DivisionDevelopment Services
Department

Action Required:

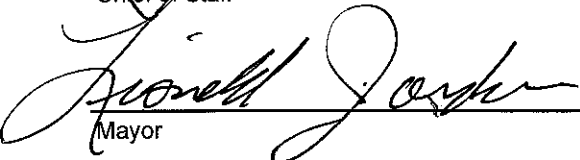
R-PZD 08-2965: (Amberwood Place, 474/475): Submitted by Dave Jorgensen for property located south and east of Double Springs Road and Dot Tipton Road. The property is zoned R-A, Residential-Agricultural and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 145 dwelling units (107 single family, 38 two-family).

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name
Budgeted Item ☐	Budget Adjustment Attached ☐		


 Department Director 04-01-09 Date

 City Attorney 4-1-09 Date

Previous Ordinance or Resolution # _____
 Original Contract Date: _____
 Original Contract Number: _____


 Finance and Internal Services Director 4-1-09 Date

 Chief of Staff 4/1/09 Date

 Mayor 4/1/09 Date

Received in City Clerk's Office	ENTERED 4/1/09 WJ
Received in Mayor's Office	ENTERED 4/1/09 PA

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Jeremy C. Pate, Development Services Director *AG*

Date: March 31, 2009

Subject: Residential Planned Zoning District for Amberwood (R-PZD 08-2965)

RECOMMENDATION

As discussed at previous City Council meetings, staff and the Planning Commission originally recommended denial of this project and the City Council denied the applicant's appeal. The applicant has been working with staff over the past several months and substantially changed the project. The changes in the street and lot layout have increased the overall greenspace from 9.0% to 46.65% and reduced the number of units from 182 to 145. Staff now recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Amberwood, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a 145 residences (107 single-family, 38 two-family) on 39.98 acres.

BACKGROUND

The subject property is located southeast of the intersection of Double Springs/Dot Tipton Roads. The property contains approximately 39.98 acres and is undeveloped agricultural pasture land surrounded by rural residences and agricultural land uses. The request is for rezoning and land use approval for a residential subdivision within an R-PZD zoning district on the subject property.

DISCUSSION

The Planning Commission voted 6-1-0 (Commissioner Kennedy voting 'No') to deny this request on July 14, 2008. This item was appealed by the applicant and denied by City Council on December 12, 2008. Staff has revised the findings and recommended conditions of approval in the revised staff report based on the new project. Staff now finds that the project is consistent with the adopted land use planning objectives, principals, and policies established by the City Council with the adoption of City Plan 2025 to discourage suburban sprawl, create attainable housing, and to assemble an enduring green network.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2965, AMBERWOOD PLACE, LOCATED SOUTH AND EAST OF DOUBLE SPRINGS AND DOT TIPTON ROAD; CONTAINING APPROXIMATELY 39.98 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to R-PZD 08-2965 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

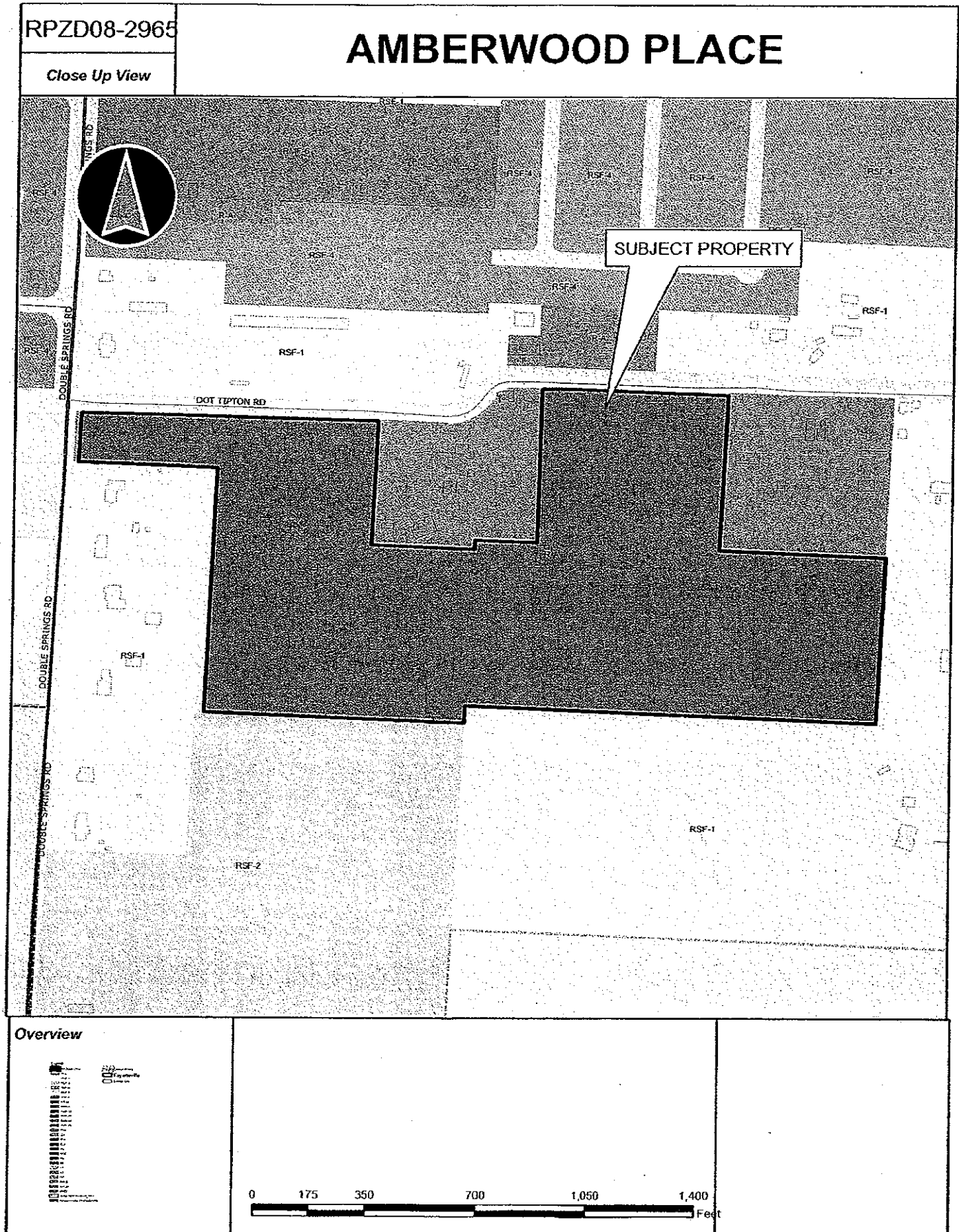


EXHIBIT "B"
R-PZD 08-2965

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 15 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 14 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE1/4, NE1/4 THENCE S89°46'03"W 825.57 FEET, THENCE N00°01'18"W 788.63 FEET, THENCE S89°52'44"W 448.54 FEET, THENCE N00°29'58"E 159.86 FEET, THENCE N88°55'29"E 947.20 FEET, THENCE S00°02'16"E 401.26 FEET, THENCE N89°57'44"E 328.25 FEET, THENCE N00°15'06"E 30.31 FEET, THENCE N89°56'37"E 196.61 FEET, THENCE N01°15'52"W 496.68 FEET, THENCE N87°12'01"E 84.38 FEET, THENCE N89°42'27"E 514.78 FEET, THENCE S00°07'57"W 502.35 FEET, THENCE N89°53'47"E 537.01 FEET, THENCE S00°11'49"W 536.03 FEET, THENCE S89°54'10"W 1320.92 FEET, THENCE S00°28'05"W 55.08 FEET TO THE P.O.B.; CONTAINING 39.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 1 of 4

Conditions of Approval for R-PZD 08-2965 (Amberwood Place)

1. Determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
 - a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Determination of adequate connectivity. Two points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 18.66 acres of dedicated greenspace and parks with pedestrian trails to be constructed by the developer. *Staff recommends in favor of the proposed connectivity.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs. Pedestrian trails shall be dedicated in public access easements.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

Phase	Milestone	Deadline
1	Preliminary Plat Approval	2009
2	Preliminary Plat Approval	2012
3	Preliminary Plat Approval	2014

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts and architectural standards depicted in the building elevations in the booklet as specified.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 2 of 4

Building elevations will be reviewed at the time of building permit.

8. Homes shall be design with articulated and varying facades facing the public street. Homes located on the park shall be designed with an articulated facing the park and public street, where applicable. Front facades of homes as they face the street or park shall be varied in color and material so that no two same facades are adjacent to or across the street from one another.
9. Duplexes shall be designed to appear as a single family residence with an articulated facade facing the public street. Consistent with the concept on the PZD plats, only one curb cut/driveway shall be permitted on the public street for a duplex, the second driveway, if needed shall be off of a private alley or shared drive.
10. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval. Trails and greenspace shall be required in the immediate vicinity of the lots being final platted. Construction materials for the pedestrian trails shall be determined at the time of development by City staff.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.
18. The detention pond shall be designed to provide functional and usable greensapce for passive

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 3 of 4

or active recreation for the neighborhood. The design shall be determined at the time of preliminary plat and the concept indicated on the landscape plan.

19. In order to prevent the common greenspace/park areas from being visually and physically isolated from the homes, a solid/opaque fence such as a standard six-foot woodboard privacy fence shall be prohibited between the backyard of homes and the greenspace areas. A standard privacy fence is permitted in the sideyard between homes. Examples of acceptable fence materials between the backyard and greenspace areas include an open ornamental fence, picket fence, split rail fence, etc.
20. Plat/booklet revisions:
 - a. Pg. 9. Architectural Design Standards for Duplexes. Add the statement regarding the design standards for duplexes referenced in condition No. 9.
 - b. Pg. 20. Section 4. Add the requirement regarding the fence material referenced in condition No. 18.
 - c. Appendix A. Add elevations and/or renderings depicting the two-family units.
 - d. Plats Sheet 3. Title. Reference that this site consists of "Three" planning areas.
 - e. Plats Sheet 3. Land Use Table. Change the Land Use Table format to follow the format of *Table 2* in this staff report.
 - f. Plats Sheet 2. Update the zoning criteria on the plats to match the PZD booklet.
21. A full Tree Preservation Plan will be required when the development comes through the preliminary plat process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
22. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
23. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.
24. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.
25. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 4 of 4

26. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
27. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
28. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
29. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
30. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area.
 - d. Project Disk with all final revisions
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



City Council Meeting
April 7, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: City Council
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Development Services Director
DATE: March 31, 2009

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 145 dwelling units (107 single family, 38 two-family). Planner: Andrew Garner

Findings:

Background: As discussed at previous City Council meetings, staff and the Planning Commission originally recommended denial of this project and the City Council denied the applicant's appeal. The applicant has been working with staff over the past several months and substantially changed the project. The changes in the street and lot layout have increased the overall greenspace from 9.0% to 46.65% and reduced the number of units from 182 to 145. The revised project is described in detail throughout this staff report.

Property: The subject property contains 39.98 acres, located southeast of the intersection of Double Springs/Dot Tipton Roads. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission. The immediately adjacent surrounding land use and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural/rural residential	RSF-1; R-A
South	Agricultural/Dunnerstock Windsor Subdivision (not developed)	RSF-1; RSF-2
East	Agricultural/rural residential	RSF-1
West	Single family residential	Washington County Planning Area (1 unit/acre)

Proposal: The request is for rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 145 dwellings in three planning areas as listed in *Table 2* below:

Table 2
Amberwood R-PZD 08-2965
Land Use Summary

TYPE OF USE	PLANNING AREA	RESIDENTIAL DENSITY (UNITS/ACRE)	RESIDENTIAL UNITS	NON-RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON-RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Single Family	PA-1	6.56	107	0	0	16.32	40.82 %
Two-Family	PA-2	7.60	38	0	0	5.00	12.51 %
Greenspace	PA-3	0.00	0	0	0	18.66	46.67 %
TOTAL		3.63	145	0	0	39.98	100.00 %

The changes in the street and lot layout from the previously submitted project have increased the overall greenspace from 9.0% to 46.67% and reduced the number of units from 182 to 145. The project concept has changed into a conservation subdivision that attempts to cluster development in certain areas of the site in order to create meaningful areas of greenspace in other areas of the site. Large connected areas greenspace are linked by pedestrian trails throughout the development. The central focus is a 2.32-acre park with pedestrian linkages in all directions. The project has also mixed 38 two-family units over the site to provide a varied home type and a mixed income neighborhood. The project has also incorporated Low Impact Development (LID) stormwater management techniques including bioswales and raingardens to pretreat and manage stormwater.

If the PZD is approved as proposed the project would be required to go through subdivision/preliminary plat approval prior to development.

Access: Two access points to the site are provided from Dot Tipton Road to the north. Two street stub-outs are provided to the south and a street stub-out is also provided to the east. Many of the homes are clustered in pods accessed off of shared private drives or motor courts. A row of seventeen homes are located along the northern side of Amberwood Park and are accessed off of a rear alley, with the front of the homes facing the park.

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial), Dot Tipton Road (Local).

Right-of-way to be dedicated: 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

Connectivity: Connectivity to the north is provided with two primary entrance points into the subdivision off of Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is proposed to the existing rural residential lots to the west. These lots are approximately two acres in size. Most of the public streets have sidewalks only on one side of the street as there are public pedestrian trails in the connected greenspace to the rear of the homes.

Parking: Parking is provided in attached or detached garages for all of the residences. There is on-street parallel parking along both sides of the street to the south of Amberwood Park in the central portion of the site.

Phasing: Three phases are planned for Amberwood Place over the next several years as listed below and provided in the PZD Booklet. Final plat approval is required to be obtained for the for the phase within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

Phase	Milestone	Deadline
1	Preliminary Plat Approval	2009
2	Preliminary Plat Approval	2012
3	Preliminary Plat Approval	2014

Water & Sewer: Water and sewer lines would be extended to serve the development.

Parks: The developer has met with City Parks staff and anticipates donating on and off-site land in lieu of payment of parks fees. A 2.32-acre park is planned in the central portion of this development. Additionally, a large amount of private greenspace with pedestrian trails and amenities is provided with these development. This project provides 46.67% of the entire site in greenspace. This project will be required to go through Park Recreation Advisory Board prior to preliminary plat submittal.

Solid Waste Service: Solid waste service will be provided with standard curbside carts for each home as typical of single family residential development.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development. Tree canopy minimum of 25% shall be required.

Public Comment: City staff has received a phone call from an adjacent property owner opposed to the project citing concerns that the proposed density is too high and is not compatible with surrounding farms and rural-residential uses. He also discussed concerns with runoff issues. Staff also received several public comments opposed to other RSF-4 rezoning in this immediate vicinity. The applicant has also presented the project at a Street Committee and Ward 4 meeting to area residents, most specifically to discuss cost-sharing the improvements to Dot Tipton Road.

Recommendation: Finding that the proposed rezoning and development approval meet several of the primary goals adopted within the City Plan 2025 as noted herein, staff recommends approval of **R-PZD 08-2965** with the following conditions:

Conditions of Approval:

1. City Council determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
 - a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. City Council determination of adequate connectivity. Two points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 18.66 acres of dedicated greenspace and parks with pedestrian trails to be constructed by the developer. *Staff recommends in favor of the proposed connectivity.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs. Pedestrian trails shall be dedicated in public access easements.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

Phase	Milestone	Deadline
1	Preliminary Plat Approval	2009
2	Preliminary Plat Approval	2012
3	Preliminary Plat Approval	2014

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building

setbacks or utility easements.

7. Buildings shall be constructed to be consistent with the elevations and concepts and architectural standards depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. Homes shall be design with articulated and varying facades facing the public street. Homes located on the park shall be designed with an articulated facing the park and public street, where applicable. Front facades of homes as they face the street or park shall be varied in color and material so that no two same facades are adjacent to or across the street from one another.
9. Duplexes shall be designed to appear as a single family residence with an articulated facade facing the public street. Consistent with the concept on the PZD plats, only one curb cut/driveway shall be permitted on the public street for a duplex, the second driveway, if needed shall be off of a private alley or shared drive.
10. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval. Trails and greenspace shall be required in the immediate vicinity of the lots being final platted. Construction materials for the pedestrian trails shall be determined at the time of development by City staff.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles),

the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

18. The detention pond shall be designed to provide functional and usable greenspace for passive or active recreation for the neighborhood. The design shall be determined at the time of preliminary plat and the concept indicated on the landscape plan.
19. In order to prevent the common greenspace/park areas from being visually and physically isolated from the homes, a solid/opaque fence such as a standard six-foot woodboard privacy fence shall be prohibited between the backyard of homes and the greenspace areas. A standard privacy fence is permitted in the sideyard between homes. Examples of acceptable fence materials between the backyard and greenspace areas include an open ornamental fence, picket fence, split rail fence, etc.
20. Plat/booklet revisions:
 - a. Pg. 9. Architectural Design Standards for Duplexes. Add the statement regarding the design standards for duplexes referenced in condition No. 9.
 - b. Pg. 20. Section 4. Add the requirement regarding the fence material referenced in condition No. 18.
 - c. Appendix A. Add elevations and/or renderings depicting the two-family units.
 - d. Plats Sheet 3. Title. Reference that this site consists of "Three" planning areas.
 - e. Plats Sheet 3. Land Use Table. Change the Land Use Table format to follow the format of *Table 2* in this staff report.
 - f. Plats Sheet 2. Update the zoning criteria on the plats to match the PZD booklet.
21. A full Tree Preservation Plan will be required when the development comes through the preliminary plat process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
22. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
23. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.
24. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

25. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
26. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
27. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
28. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
29. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
30. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area.
 - d. Project Disk with all final revisions
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

City Council Action:

☐ Tabled ☐ Forwarded to C.C. (recommendation for approval) ☐ Denied

Motion: _____

Second: _____

Vote: _____

Meeting Date: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 08-2965 (Amberwood Place at Fayetteville)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds that much of this application is consistent with the criterion and policies established in City Plan 2025. Staff had concern in the past with previous rezoning requests and development on this site proposed at a density of four units/acre or higher in a sprawling suburban pattern. This site is located on the periphery of the city in a rural residential area with a lack of adequate infrastructure to support a standard residential suburban development. However, the proposed project is not a standard residential suburban development and is designated as a Residential Neighborhood Area on the City's Future Land Use Plan. The development is a conservation, or cluster, subdivision that preserves large, meaningful areas of greenspace (46.67% of the site), as opposed to sprawling over the entire site with platted lots and streets. This greenspace serves several vital functions including helping this development be compatible with the surrounding rural residential land uses, providing meaningful passive and active recreation and visual amenities for residents and the public, and environmental benefits of stormwater treatment and open space preserve for flora and fauna. Amberwood PZD is proposed for 145 units and an overall density of 3.62 units/acre. This density and development pattern is different than the immediately sparsely populated surrounding areas, however, the large amount of greenspace makes it compatible and consistent with the Neighborhood Area designation on the City's Future Land Use Plan.

Staff finds that the proposed project is consistent with several of the primary goals City Plan 2025 and the City's overall land use policies including:

- **Goal 2: We will discourage suburban sprawl** – The proposed conservation/cluster neighborhood is not a suburban pattern as it preserves 46.67% of the site in greenspace/parks. This greenspace provides meaningful recreational opportunities for residents that a standard subdivision would not, while breaking up the typical visual monotony of the neighborhood and providing large areas of open space compatible with the surrounding rural residential uses on the periphery of the city.
- **Goal 5: We will assemble an enduring green network** – The 18.66 acres of greenspace (46.67% of the site) provides connection with the residents and general public to the natural environment, consistent with this goal. This greenspace would offer peaceful views and a variety of recreational opportunities such as walking on the pedestrian paths, community gardens, vegetable plots, composting, fruit trees, orchards, rain gardens, fishing in the preserved pond, and active recreation in the

public park portion of the greenspace. The greenspace proposed and the overall green network in the city helps maintain and create improved community character and quality of life. This site on the outside of the city is appropriate to require a greater amount of environmental preservation than a standard development, and the proposed PZD ensures that a large amount of greenspace will be preserved. The layout of the greenspace provides opportunity not only for the Amberwood neighborhood but for adjacent undeveloped property to connect and provide larger greenbelts and pedestrian trails and connections, and protect natural habitat and water quality.

- **Goal 6: We will create attainable housing** - Attainable or affordable workforce housing is a main goal of this project. A majority of the lots and proposed homes are of modest size to be affordable for a wide variety of potential buyers. The project also now incorporates 38 two-family residences in strategic areas throughout the entire neighborhood, as opposed to one block, or one street of segregated duplexes. These duplexes will not only add variety of building types to the streetscape, but also lead to a mixed-income neighborhood, as opposed to an entire neighborhood of duplexes that isolates affordable housing in one area. Residents in this neighborhood will have relatively small lots and houses, however the large amount of public greenspace, views, and other amenities helps mitigate living on the edge of the city in a small, relatively dense neighborhood.
- **This area is planned for Residential Neighborhood Areas on City Plan 2025.** These areas are predominantly residential in land use, which is consistent with the uses proposed with Amberwood Place.
- **Harmonious relationship/degree of compatibility with adjacent land uses.** Staff finds the surrounding land uses to be large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location with large contiguous and connected areas of greenspace and predominantly single family homes is compatible with the predominantly rural residential land uses.
- **Permitted/Conditional Uses.** Staff finds the proposed single and two-family residential land uses are appropriate.

In summary, staff finds the proposal meet the goals of the City's adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be consistent with the applicable City policies. The application has been submitted in accordance with all statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer, in order to function at acceptable

levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion and could place an undesirable load on police services. This development proposes to contribute \$150,000 for the City to pave Dot Tipton Road. Staff finds that with the street improvements recommended and standard water and sewer improvements required to serve the development that impacts to public services would be acceptable.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: As discussed in Finding No. 1, the surrounding land uses are large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location with large contiguous and connected areas of greenspace and predominantly single family homes is compatible with the predominantly rural residential land uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The 39.98-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while is suitable on the subject property.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development will allow for the construction of 145 dwelling units. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that while the surrounding roads would be brought to an acceptable level of service, and that the proposed development would not create a traffic danger.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as

to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the overall density of 3.63 units/acre is appropriate with the surrounding by rural-residential/agricultural land uses, given that the residences are clustered and 46.67% of the site is preserved in open space. Density within a project under a PZD is to be determined on the basis of the density of surrounding development, urban development goals, and the impact of a given density on the site and adjacent property. The City's urban development goals encourage a variety and mixture of densities within neighborhoods. The proposed project adds to the overall variety and mixture of densities by providing a smaller lot and different development pattern than a typical suburban sprawl neighborhood. Staff finds this proposal would not adversely impact the character of surrounding residential and agricultural uses.

The site does not have any significant natural features to be incorporated into the subdivision, although approximately 18.66 acres of greenspace and pedestrian trails are provided and are connected throughout the neighborhood. The existing stock pond has been preserved and incorporated into the greenspace design. The developer also proposes to have all perimeter lots plant two trees to help provide some vegetative screening around this subdivision which is largely open pasture.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed or required for this single family subdivision. This development proposes 18.66 acres of landscaped greenspace and pedestrian trails and two trees planted in the backyard of each perimeter lot. A landscape plan showing street tree

plantings, the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat. The greenspace is provided adjacent to much of the perimeter property lines as a transition from this neighborhood to the existing rural residential uses.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of two main north-south public streets and one east-west street. The focal point of the development is a 2.32 acre park largely surrounded by homes oriented towards the park. A majority of the homes are clustered and accessed off of shared drives, motor courts or alleys. The street system has been minimized to provide for preserved greenspace while still providing a hierarchy of circulation that encourages an efficient flow of traffic. The external street system consists of two access roads, Double Springs Road, a minor arterial, and Dot Tipton Road, a local street, that is substandard and in need of improvements.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the single and two-family residential uses shall apply. Garage parking spaces are provided for each home.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The applicant proposes that each lot on the perimeter of the project plant two trees in the backyard of the homes. The project preserves 18.66 acres of greenspace including much of the perimeter of the site. The project will comply with all open space requirements.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections are indicated on the PZD plats. Most of the public streets have sidewalks only on one side of the street as there are public pedestrian trails in the connected greenspace to the rear of the homes. The material for the pedestrian trail will be evaluated by staff at the time of construction approval.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public streets at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is

intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The proposed project proposes public streets and alleys that comply with the adopted development standards.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development to comply with Chapter 167 of the UDC. The site has little existing tree canopy which should be incorporated into the design as much as possible.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. All proposed structures are residential.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property. The large amount of greenspace provided will help maintain greenspace space views from the public streets and private residences.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 - (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets some of the primary goals of the City Plan 2025 as discussed Finding No. 1. The proposed PZD provides a mix of lot and house sizes, rather than the typical RSF-4 single family lot size. The proposed cluster development pattern is consistent with several of the goals of the PZD ordinance, Chapter 161, including providing a variety of housing types and providing usable and suitably located open space areas. The density of 3.63 units/acre combined with the 18.66 acres of greenspace provides a development that is compatible with the surrounding rural residential/agricultural properties.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific

design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 08-2965, with three (3) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
 - (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
 - (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance and City Plan 2025 as noted above. Staff finds that the single-family, two-family, and greenspace land uses within the development consider abutting parcels of land and are compatible.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be

allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
- (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's General Plan;
 - (d) the topography and character of the natural environment; and
 - (e) the impact of a given density on the specific site and adjacent properties.

FINDING: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 20 dwelling units on 39.98 acres. The applicants are requesting 145 dwelling units, a density of approximately 3.63 units per acre. This is not a high density and in general the City's development goals and policies do support the development pattern proposed by Amberwood Place in a designated Residential Neighborhood Area. The proposed configuration of greenspace and cluster development pattern reduces the impacts of the proposed density with relation to the adjacent properties. The flat topography and open pasture of the site is appropriate for the proposed density and development pattern.

- (2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums are approximately 3,000 square feet, substantially smaller than standard single family zoning districts. However the lots are surrounded by large

greenspace areas to provide for compatibility with surrounding large lot residential uses. This project would provide for some variety in the size and mass of residential homes over this 39.98 acre subdivision with homes varying from 1,000 – 1,700 square feet including some two-family structures. The structures are generally oriented to the street with 10-foot front setbacks, many of the lots accessed off of either shared drives or alleys.

- (3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are a maximum of 45-feet, consistent with the height requirements of the surrounding zoning.

- (4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The proposed lot coverage varies from 56%-64% building area compared with 40-50% lot coverage allowed under typical single family zoning. This indicates more building coverage on the lots than in a typical subdivision. However, this is also indicative of the development pattern with small lots and large amounts of preserved greenspace outside of the residential lots.

***Required Findings for Rezoning Request.**

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: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. As discussed in these previous findings, this project is consistent with land use planning principals and policies to a degree that supports the rezoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Rezoning the property for 145 residential dwellings in the manner proposed is justifiable at this time. The development will provide needed affordable housing

in a compatible and publicly beneficial development pattern. The project is consistent with the goals and policies adopted by the City Council for rezoning applications.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will increase traffic congestion, however with the recommended street improvements the impacts will be mitigated to an acceptable level. The Fayetteville Police Department has commented that this project may create an appreciable increase in traffic danger and congestion, although a traffic study has not been completed. Overall, the area has a lack of infrastructure or services to serve a high density suburban development pattern, as proposed. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur.

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: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists. However with the street improvements recommended and water and sewer services being constructed to serve the subject development an undesirable load on water and sewer services is not expected.

Engineering: Public water is located adjacent to the site. There is an 8-inch water main along Double Springs Road and one located through this site.

Sanitary sewer is available to the site. There is an 8-inch sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Road and Double Springs Road. Dot Tipton is an unimproved two lane gravel city street, with pavement near the intersection of Double Springs Road. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20-foot wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this R-PZD would substantially alter the population density, and would create an appreciable or undesirable increase in the load on police services. This R-PZD will possibly create an appreciable increase in traffic danger and congestion.

Fire: This property will be covered by Engine 7 located at 835 North Ruppel Road. It is 2.3 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 32 (20 EMS-12 Fire/other) calls for service each year once the development is completed and maximum build out has occurred. The Fire Department does not feel this development will affect calls for service or response time.

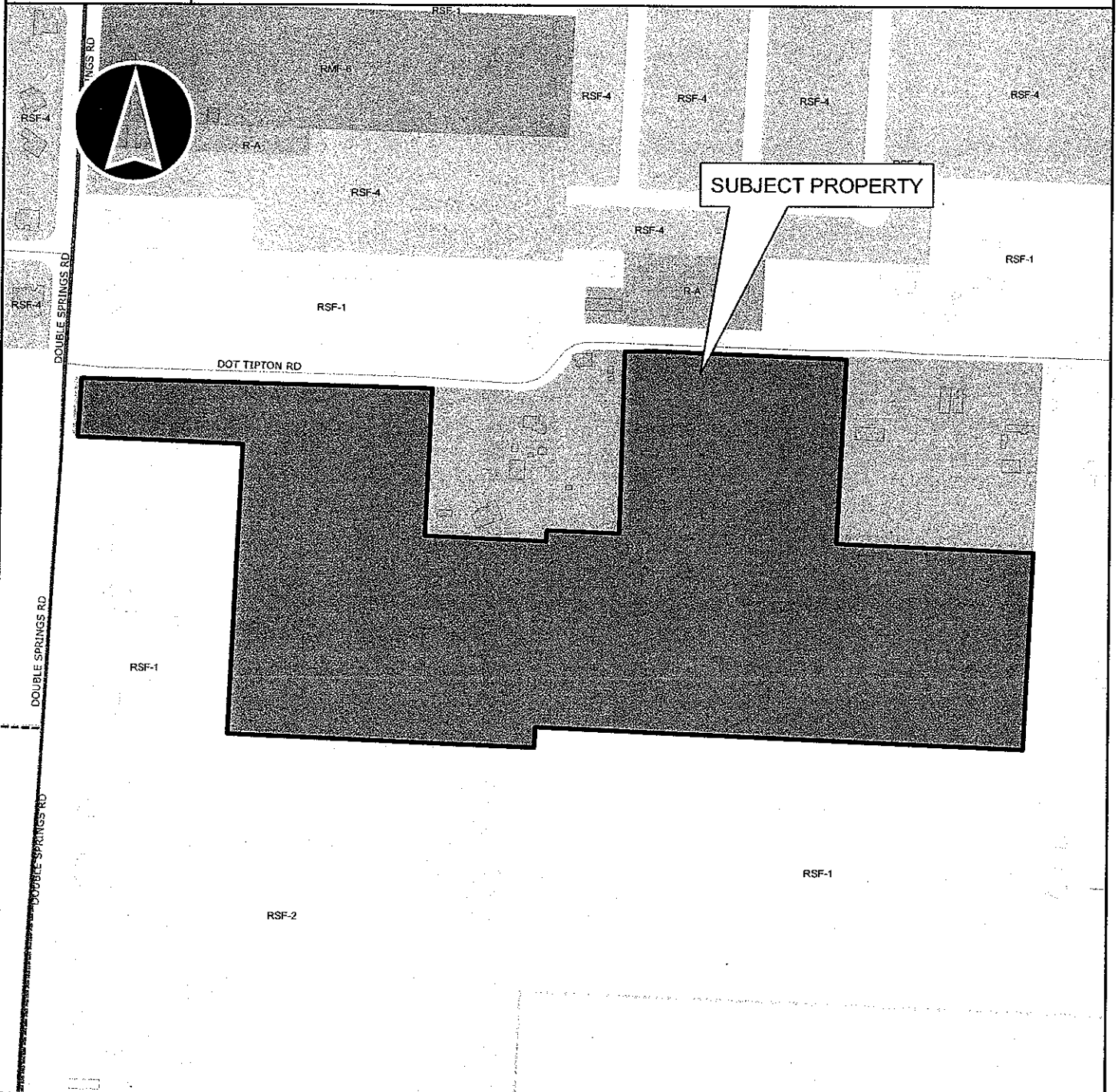
5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of 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: As discussed in the findings throughout this report, staff recommends approval of the requested R-PZD 08-2965, finding the proposal consistent with several adopted goals and policies of the City Plan 2025; finding the project provides affordable housing in an acceptable development pattern and compatible with surrounding agricultural and rural residential land uses.

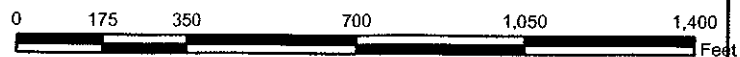
RPZD08-2965

AMBERWOOD PLACE

Close Up View



Overview

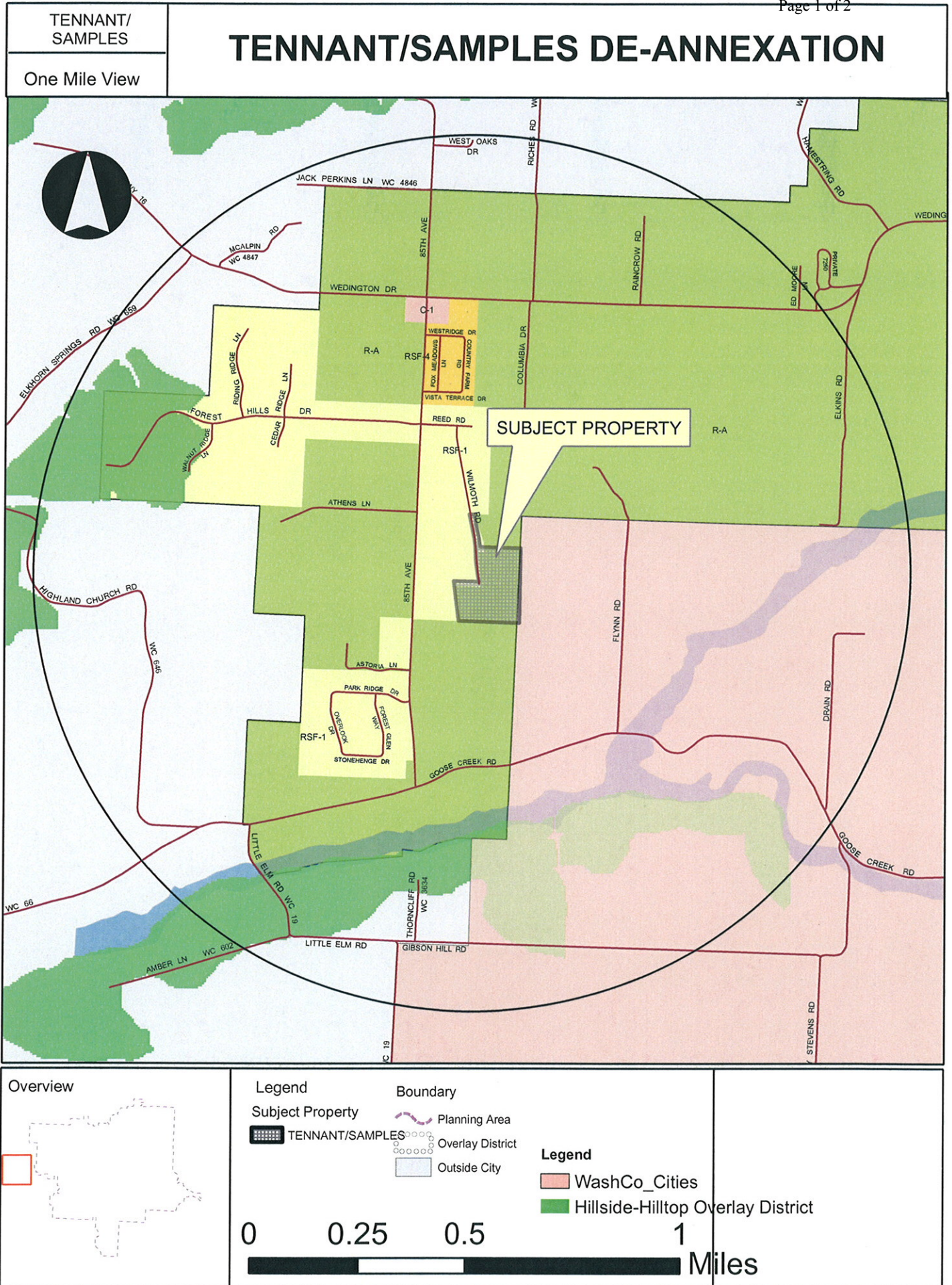


One Mile View

 RPZD08-2965
Overlay District

Legend

0 0.25 0.5 1 Miles



ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE SUBSECTION 166.12: STRUCTURES NOT ALLOWED OVER PUBLIC EASEMENTS, TO CLARIFY WHAT TYPES OF STRUCTURES ARE PERMITTED IN EASEMENTS, AND TO ESTABLISH CONSISTENT GUIDELINES FOR THE INSTALLATION OF STRUCTURES IN EASEMENTS.

WHEREAS, landowners are allowed to use their property within an easement as long as such use does not damage or impede the easement owner's use of the easement; and

WHEREAS, certain structures do not damage or impede the use of an easement and should be permitted within said easement; and

WHEREAS, additional regulations are necessary to clarify what types of structures are permitted in easements, and to establish consistent guidelines for permitting structures within easements;

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 repeals and replaces **§166.12 Structures Not Allowed Over Public Easements**, with the following language:

"§166.12 Structures Not Allowed Over Public Easements"

- (A) No portion of any building, pool (in-ground or above ground) or other immovable structure shall be built within a public utility easement.
- (B) Walls, brick or stone fences (with or without metal portions), monument or pole signs, and other difficult to move structures may only be built within public easements if permitted by the Zoning and Development Administrator after receiving written approval by all utility providers that could access

the easement. The written documentation shall be filed of record in the Washington County Circuit Clerk's office. Any related damage or relocation of utilities or the structure in the easement shall be at the owner/developer's expense.

- (C) Readily movable fences (field fence, barbed wire, chain link, woodboard privacy, etc.) may encroach upon non-drainage public easements, but the owner is responsible at their own expense to promptly remove any portion of the fence blocking the easement if a utility company or the City needs access. A utility company or the City may remove such fence itself to avoid delaying necessary installation, maintenance or repair work without liability to the property owner who may reinstall the fence at his own expense once the installation, repair or maintenance work is finished.
- (D) No fences may be installed in any drainage easement if such installation could impede the drainage through the easement.
- (E) No item may be installed within a public easement that could restrict the function, visibility, or access to a utility structure such as a manhole, meter, electrical, phone, or cable box, or other structure as may be built for utility function. No item shall be placed within three feet of a fire hydrant or in any way that may restrict visibility, access or use of the hydrant, which includes the clear space around the hydrant from which a pressurized hose may extend when in use.

PASSED and **APPROVED** this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
March 17, 2009**

A meeting of the Fayetteville City Council was held on March 17, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Gray, Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Update on Ice Storm Debris Removal – Don Marr, Chief of Staff

Don Marr, Chief of Staff gave a report on the ice storm cleanup. He stated we have picked up 359,689 cubic yards of debris. This includes all public road right of ways. This does not include private streets. We have 823 hazardous trees identified and 11,052 trees that have had hangers trimmed from them. We have approximately 700 to 800 acres of four inch coverage of wood chips. We would like to thank the citizens for their patience.

Louise Schaper, Library Director: Today we had an announcement of our Solar Test Bed Project. This is a project that is a partnership with the City of Fayetteville, University of Arkansas College of Engineering, Arkansas Energy Office, Arkansas Power and Electronics International, and AEP Swepco. It is an amazing project. It is a grant from the International City County Management Association in partnership with the Bill and Melinda Gates

Foundation. There will be an array of solar panels at the Fayetteville Public Library that will produce power. The project will be designed, constructed, and installed by students in the Senior Design Class at the College of Engineering. The oversight will be by the faculty. The project will serve as a test bed for locally developed technology. The project will start this fall and then move into next spring. We hope this will have a lot of exposure.

Mayor Jordan: I would like to thank you and your staff for the excellent job you are doing.

Louise Schaper: We could not do it without the vision and hard work of John Coleman, Sustainability Director. It is a great partnership.

Alderman Cook congratulated the Fayetteville High School Boys and Girls Basketball Team for winning the State Championships.

Mayor Jordan also congratulated them.

Nominating Committee Report:

Alderman Cook gave the Nominating Committee report. A copy of the report is attached.

Alderman Rhoads: The Tree and Landscape Advisory Committee what sort of role will they play as far as trying to re-forest the City?

Alderman Cook: They are looking at re-forestation, ways to work with the neighborhood associations, and ways to get trees in here free to the citizens or at a very reduced cost. We have some money in escrow that has to go to certain subdivisions.

State law stated the A & P Commission appoints their members and this body ratifies those positions. Typically in the past they have met after us, if the City Council ratifies those positions I prefer that we interview them so we will know who we are appointing. This time they met before us and made the appointments before we met. I was a little disappointed in that because we had several applicants lined up to interview for that board.

Alderman Ferrell moved to approve the Nominating Committee Report. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Alderman Ferrell thanked Chief Tony Johnson and Dennis Pratt for the program they presented before the Equipment Committee meeting.

Consent:

Approval of the February 18, 2009 Special City Council meeting minutes and March 3, 2009 City Council meeting minutes.

Approved

Bid # 09-23 Drake Field HVAC Controls Upgrade: A resolution awarding Bid # 09-23 and approving a contract with _____ in the amount of \$XX,XXX.XX for Drake Field HVAC Controls Upgrade.

This item was removed from Consent and tabled to the April 7, 2009 City Council meeting.

Arkansas Recreational Trails Grant: A resolution approving an Agreement of Understanding with the Arkansas Highway & Transportation Department (AHTD) for the acceptance of the Arkansas Recreational Trails Grant to utilize \$60,000.00 in federal aid funds for the construction of a trail connection to Mud Creek Trail at Old Missouri Road; and approving a budget adjustment in the amount of \$75,000.00.

Resolution 57-09 as Recorded in the office of the City Clerk.

Fayetteville Parks & Recreation Division Donations: A resolution approving a budget adjustment for the Fayetteville Parks & Recreation Division in the amount of \$30,000.00 to recognize donation revenues from various community organizations to fund item purchases and new programs.

Resolution 58-09 as Recorded in the office of the City Clerk.

2009 Overlay/Sidewalk Projects: A resolution approving the Transportation Division overlay/sidewalk projects list for 2009.

Resolution 59-09 as Recorded in the office of the City Clerk.

Amend Fayetteville Police Department Policy 41.2.17 "Canines": A resolution amending Policy No. 41.2.17 "Canines" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

Resolution 60-09 as Recorded in the office of the City Clerk.

Amend Fayetteville Police Department Policy 84.1.1 "Property Management": A resolution amending Policy No. 84.1.1 "Property Management; Acquired and In-Custody Property" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

Resolution 61-09 as Recorded in the office of the City Clerk.

Alderman Thiel moved to table Bid # 09-23 Drake Field HVAC Controls Upgrade to the April 7, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Alderman Cook moved to approve the Consent Agenda. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Amberwood Place Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *(This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting. This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.)* **This ordinance was Tabled at the March 3, 2009 City Council meeting to the March 17, 2009 City Council meeting.**

Jeremy Pate, Development Services Department Director: I recommend that this item be tabled for a couple of weeks while we review documents.

Alderman Lucas moved to table the ordinance to the April 7, 2009 City Council Meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled to the April 7, 2009 City Council Meeting.

New Business:

House Bill 1891: A resolution to express the City Council's opposition to House Bill 1891 which would remove the City Council's power to select the best health care insurance coverage for City employees.

Mayor Jordan: This was brought to our attention by Missy. At first we thought it would cost \$227,000 per year but it is actually \$227,000 per month.

Missy Leflar, Human Resources Division Manager: A little over \$2.8 million more a year for no advantage in coverage.

City Attorney Kit Williams: The resolution puts us directly against this. This would take away the power of the City Council to make the decision on the best health care for our City employees.

Alderman Lewis moved to amend the dollar amount listed on the resolution. There was no second to the motion. Upon roll call the motion passed unanimously.

Alderman Ferrell: Have we talked to our legislative delegation? Do we know where they stand on this? I would urge everyone to contact your legislators.

Alderman Ferrell moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Resolution 62-09 as Recorded in the office of the City Clerk.

Newspaper Publishing: A resolution to limit newspaper publishing to only legally required items.

Alderman Cook: I brought this forward based on our discussion during the advertising contract. To me it is not really about money I just think that we as the City get the information out to the public in a lot of different ways than we have before. The City Clerk's office has a list serve, if anyone wants to be added to the list serve they can call and be added to it. We have them on our website and we have live broadcast on our website. The fact that we have gone above and beyond in the past is commendable but at this point we have ways in place that we can get information out there. We may come up with other ways to get the information out there. There are plenty other avenues with technology. I am asking the Council to consider limiting it to only what we are required by State law to advertise at this point.

Alderman Thiel: Can the City Clerk list items this will eliminate?

Sondra Smith, City Clerk: The main item it would eliminate in our office would be the final agenda. It is not required by State law. It is on the website and posted through Cable Administration. I can not speak for other Divisions. It would probably eliminate a few things in other Divisions too.

Alderman Thiel: That kind of concerns me because a lot of people still depend on the newspaper. I certainly agree with your concept of trying to reduce the cost. Maybe we could eliminate everything but that. That to me needs to be published.

Alderman Cook: I respectfully disagree. It seems to me that people that want to find the information are going to find the information. I don't think people get that much information from the papers. Very few people that apply for the boards and committees check the box that says they saw the ad in the newspaper. Most of it is word of mouth or they see it on line. The Planning Division will be affected by this also if we pass this.

Alderman Lewis: Is there any information that you have that would hinder our ability to communicate in other ways if we get rid of this?

City Attorney Kit Williams: I don't think so. There are some State laws that require newspaper publishing of ordinances and things like that. There are some notices that the Planning Department must put out. There may come a time that the Mayor may need to put

something in the paper that is not legally required. I assume that what you are talking about are the regular sort of things that happen all the time, in case there is some sort of publication that the Mayor needs to do this would not be opposing that.

Alderman Cook: I am not limiting people. I think there are areas in the past that we have advertised that I do not feel like we have to. I am not saying you can't advertise. I think each department will decide that themselves. I wanted to bring something forward for discussion because I don't think we gave any direction to staff.

Alderman Ferrell: I like your idea, I think it makes sense. It would be helpful to me to see a summary on what this is going to affect.

Alderman Petty: I will probably support this but I would like to see a summary as well. If we ratify this resolution can we include a notice at the bottom of what we put in the paper that says "additional notices are provided at this web address". We could put a listing of all the notices on one web address. That is something we do not do now. I have received a few inquiries about this. What I have observed is that most people that can not afford the internet can not afford a newspaper subscription either so they make time to find out the information.

Alderman Gray: I would like to know how much money we would be saving. I think our rate may change if we are not doing as much volume. I think it is a great idea that we need to look at carefully.

Alderman Lewis: I would be interested in knowing if there is a way to make an exception.

Alderman Ferrell: This is also sustainability.

Alderman Lucas: I think over the years we have added more and more that we publish in the paper. I think when we discussed this we far exceeded what our contract with the paper required. I think we are going to be alright in that respect.

City Attorney Kit Williams: You are correct.

Alderman Cook moved to table the resolution to the April 7, 2009 City Council Meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled to the April 7, 2009 City Council Meeting.

New World Systems, Inc.: An ordinance to waive competitive bidding and to approve a three year contract for software maintenance with New World Systems, Inc.

City Attorney Kit Williams read the ordinance.

Scott Huddleston, Information Technology Director: New World is the provider of our financial software in addition to our utilities and HR. They are the only vendor that can provide

that support and updates to the software, if we stop maintenance we would have to go with new software which is a cost.

Mayor Jordan: The reason we are doing a no bid contract is changing companies would be a substantial cost to the City.

Alderman Lucas moved to suspend the rules and go to the second reading. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Petty moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5227 as Recorded in the office of the City Clerk.

Amend Chapter 96: An ordinance amending §96.09: Compression Release Engine Brake, of the Fayetteville Code of Ordinances to grant an exemption to certain municipal vehicles.

City Attorney Kit Williams read the ordinance.

Dennis Pratt, Fleet Operations Superintendent: Fleet is asking for this in the redesign of their heavier equipment. The new system is quite a bit lighter, a lot less expensive, and it passes within the noise ordinance of the City.

Alderman Lewis: I think it is great. Thank you for your work and investigation on this. There is always a lot of new technology out there so I hope there will continue to be research and we don't just stick with this system because it is in the ordinance. Do we need to amend the ordinance or it will come back if we find something new.

City Attorney Kit Williams: Our Code is amended fairly frequently any time there is something new that would come forward. It was their recommendation that we mention this particular system. I think if another system comes forward that is equally effective or better then I am sure you will be informed and this ordinance will be amended.

Alderman Ferrell: I would like to thank Alderman Thiel for hearing this and passing it forward.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5228 as Recorded in the office of the City Clerk.

Amend Chapter 97: An ordinance amending §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah, and Wilson, of the Fayetteville Code of Ordinances to establish daily and season permits for non-motorized boating.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Parks & Recreation Director: This is something our staff as well as our Parks and Recreation Advisory Board are recommending. People have complained since we changed the fees that they would like more time to utilize our lakes for recreational boating rather than just fishing. That is why we would like to have a non-motorized section in which people can go out and canoe and kayak, just get people out on our lakes recreating. We can do a color coded tag that will distinguish those that have a non-motorized permit as opposed to a boating and fishing permit. I do not see that this will have a budget impact. I believe our numbers will increase with canoes and kayakers out on the lakes.

Alderman Ferrell: Non-motorized boats that fish will have to pay the fishing rate?

Connie Edmonston: Yes.

Alderman Petty moved to suspend the rules and go to the second reading. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5229 as Recorded in the office of the City Clerk.

Agenda Additions:

Alderman Ferrell moved to add the following agenda items. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

A. Camp Equipment, LLC – Bid #09-18: A resolution awarding Bid #09-18 and approving the purchase of an Asphalt Paver Machine from A. Camp Equipment, LLC in the amount of \$300,500.00; and approving a budget adjustment in the amount of \$10,000.00.

Alderman Ferrell: This went through the Equipment Committee. We have one asphalt machine and it is starting to have maintenance problems. We will trade the old one in towards the purchase of this one. Paving season is getting ready to start so we would like to get this done.

Alderman Petty: There was a question at the Equipment Committee if our new paver broke down we would enter into an agreement with the County to use their paver if that happens.

Alderman Cook: It is very frustrating if your paver breaks down. It is very wasteful as far as material and people hours.

Alderman Lucas: We were told it would not be financial feasible to retain the old one as a backup.

Alderman Lewis: What is the purpose for the hurry?

Alderman Ferrell: Paving season runs from April to November.

Alderman Ferrell moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Resolution 63-09 as Recorded in the office of the City Clerk.

Pig Trail Harley Davidson – Bid #09-17: A resolution awarding Bid #09-17 and approving the purchase of two (2) Police Pursuit Motorcycles from Pig Trail Harley Davidson in the amount of \$38,000.00.

Alderman Ferrell: We usually keep the Harley Davidson motorcycles three years because the resale is good on those and the demand for them is good.

Dennis Pratt: The motorcycles have been retained a year longer than usual. They are getting extra miles and things are starting to go wrong with them. The resale value is still very well on these.

Alderman Cook: At one time we were talking about investigating the BMW bikes.

Dennis Pratt: When we put that bid out BMW was able to bid and then they decided not to bid.

Alderman Lewis: I have the same question as before why are we hurrying to get these ordered?

Alderman Ferrell: One of the things is the maintenance is starting to increase.

Dennis Pratt: The time constraint on this one is trying to get it done in the spring so they can start riding them in the summer. When you receive a product that is when your warranty starts. It is almost a month before your next meeting and then a couple of weeks to get them in.

Alderman Petty: Have we ever considered the total cost of ownership for these vehicles when we solicit bids?

Alderman Cook: Yes. We look at the total life cycle.

Alderman Ferrell: We brought up maintenance, mileage, etc. when we compare them.

Alderman Petty: That seems like the kind of discussion we should have with every fleet purchase and every bid that comes in for equipment.

Alderman Ferrell: I think you make a good point. I think that should be looked at.

Alderman Ferrell moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

Resolution 64-09 as Recorded in the office of the City Clerk.

The meeting adjourned at 7:00 PM

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

RESOLUTION NO. 65-09

**A RESOLUTION TO CONGRATULATE THE FAYETTEVILLE
HIGH SCHOOL MEN'S AND WOMEN'S VARSITY
BASKETBALL TEAMS ON PERFECT, UNDEFEATED,
STATE CHAMPIONSHIP SEASONS**

WHEREAS, for the first time in Arkansas history and probably in the history of the United States, in the highest division level of high school athletics, both the Fayetteville High School Men's and Women's Basketball Teams achieved perfect, undefeated, state championship seasons in the same year; and

WHEREAS, both the men's and women's Fayetteville Bulldog Basketball Teams were nationally ranked at the end of their hard fought and well-deserved state championships; and

WHEREAS, both the Fayetteville Bulldog Men's and Women's Basketball Teams had the Most Valuable Players in the state championships and All-State Players, but even more importantly achieved their undefeated seasons through gritty, inspired, unselfish, team-oriented efforts from starters and reserves alike.

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

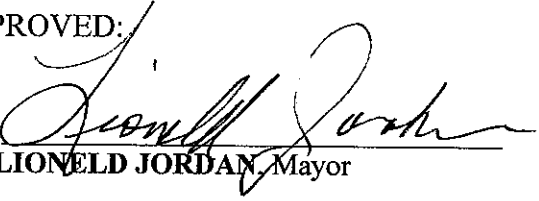
Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby takes great pride and satisfaction in recognizing and congratulating the Fayetteville Bulldog Men's and Women's Basketball Teams for their perfect, undefeated, state championship seasons.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby thanks these Bulldogs for their exemplary performance both on and off the basketball court which brings great credit to themselves, their coaches, their parents, their school and their hometown.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

By:


LIONELD JORDAN, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer



**Office of the Mayor
City of Fayetteville
Proclamation**

WHEREAS: the Fayetteville High School men's and women's varsity basketball teams have made Arkansas and national history by each achieving perfect, undefeated, state championship seasons in the same sport in the same year, and

WHEREAS: upon winning their respective Class 7A State Championship games in Hot Springs, both teams capped off undefeated seasons and earned a national ranking, and

WHEREAS: this remarkable achievement would not have been possible without the solid leadership, hard work and deep commitment of the members of both teams, and

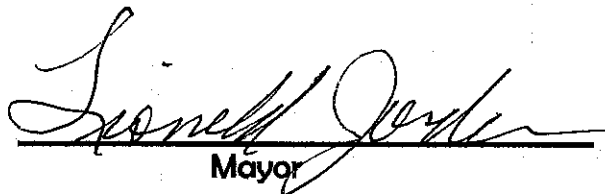
WHEREAS: the exemplary performance of these student athletes both on and off the court has earned our admiration and respect and we applaud their teamwork, character and heart, and

WHEREAS: we at the City of Fayetteville are proud of the hard work and dedication of these young men and women and wish to congratulate them on this truly amazing accomplishment,

NOW THEREFORE, I, Lioneld Jordan, Mayor of the City of Fayetteville, Arkansas do hereby proclaim Tuesday, April 7, 2009 as

"FHS BULLDOG AND LADY BULLDOG BASKETBALL DAY"

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Fayetteville, Arkansas to be affixed on the 7th day of April, 2009.


Mayor

Attest:

City Clerk



Actual Advertising Costs

	2006	2007	2008
City Clerk:			
Final Agenda	\$ 5,349.55	\$ 3,581.75	\$ 4,557.03
Board/Committee Openings	\$ 1,336.58	\$ 591.27	\$ 342.88
Planning:			
Public Notices	\$11,746.98	\$ 6,107.39	\$ 5,635.27
Solid Waste			
Holiday Notices	\$ 7,177.90	\$ 7,593.20	\$ 6,572.70
	<u>\$25,611.01</u>	<u>\$17,873.61</u>	<u>\$17,107.88</u>

The city clerk would eliminate advertising the agendas and board and committee openings, but they currently provide access to the agendas with email notification, on the city website, through webcasting the meetings, and on the government channel.

The planning office would eliminate the agenda advertising, but they would still be required to advertise any zoning changes, UDC amendments, BOA agendas, PZDs, and annexations. They also would still post signs on site and send letters to the adjacent property owners. The public notice costs shown would be reduced about 90% of current expenditures. As you can see, as the amount of development has dwindled so has the amount of public notices.

Solid Waste currently advertises in both newspapers. These ads are for notification of the holiday schedules, and they run the ads for six days in advance of the nine holidays. I recommend they cut the number of days to three instead of six. As another possible option, they could run an ad only when the regular routes are not run.

Potential Savings

	2006	2007	2008
City Clerk:			
Final Agenda	\$ 5,349.55	\$ 3,581.75	\$ 4,557.03
Board/Committee Openings	\$ 1,336.58	\$ 591.27	\$ 342.88
Planning:			
Public Notices	\$ 10,572.28	\$ 5,496.66	\$ 5,071.74
Solid Waste:			
Holiday Notices	\$ 3,588.95	\$ 3,796.60	\$ 3,286.35
Total Savings	\$ 20,847.36	\$ 13,466.28	\$ 13,258.00

General Fund Savings	\$ 17,258.41	\$ 9,669.68	\$ 9,971.65
Solid Waste Fund Savings	\$ 3,588.95	\$ 3,796.60	\$ 3,286.35

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

RECEIVED

APR 01 2009

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville Public Notice

March 27, 2009

Publication Charge : \$43.04

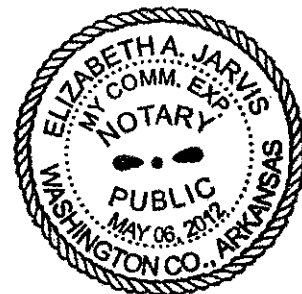
Signed: Cathy Wiles

Subscribed and sworn to before me
This 31 day of March, 2009.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent



RECEIVED

APR 01 2009

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Public Hearing Notice

Notice is hereby given that a Public Hearing on the question of the issuance of the Series 2009 Water and Sewer Revenue Bonds in the approximate amount of \$8.5 million has been scheduled before the City Council of the City of Fayetteville for April 7, 2009 at 6:00 pm in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

Fayetteville
ARKANSAS

The proceeds of the proposed Bonds will be used (i) to finance and reimburse the costs of various improvements to the System, including, but not limited to, the relocation, installation and upgrading of certain water distribution and sewer collection lines and related System components in conjunction with road construction projects within the City (including the widening of State Highway 265), (ii) to fund a debt service reserve, (iii) to pay the premium for bond insurance, if deemed economically beneficial, and (iv) to pay the costs of issuing the Bonds.

Fayette Junction
Council Meeting 4/7/09

From: Sue Madison <smadison@sbcglobal.net>
To: Karen Minkel <kminkel@ci.fayetteville.ar.us>
CC: <lljordan7@hotmail.com>
Date: 4/2/2009 3:21 PM
Subject: Re: Fayette Junction Master Plan Goes to City Council on the 7th

I have a few comments on the Fayette Junction proposal.

I reviewed the pictures and plats available on-line and found them difficult to use. None of the maps had keys so it was hard to tell what some of the colored areas meant. I don't know why so many pictures of participants were included, this just added to the volume of what I was trying to read.

On page 26, the "18th Street Layout": I want to object to the new street that opens onto West Custer. The City Council has previously turned down such an intrusion into this existing neighborhood of single family residences. The lot on West Custer where the plat appears to show a large residential dwelling has a large high transmission electric line post; there is very little room for such a structure. Most of the structures on the new street appear to be large and therefore I assume multifamily. For purposes of accessing 18th street, I-540 or Razorback Rd. an entrance on West Custer would be useless. We own ten rental houses in this neighborhood and we have tried to be good neighbors and work for the benefit of the neighborhood. I object strenuously to this intrusion.

Sue Madison
State Senator, District 7

From: Karen Minkel <kminkel@ci.fayetteville.ar.us>
To: Karen Minkel <kminkel@ci.fayetteville.ar.us>
Sent: Thursday, April 2, 2009 2:43:52 PM
Subject: Fayette Junction Master Plan Goes to City Council on the 7th

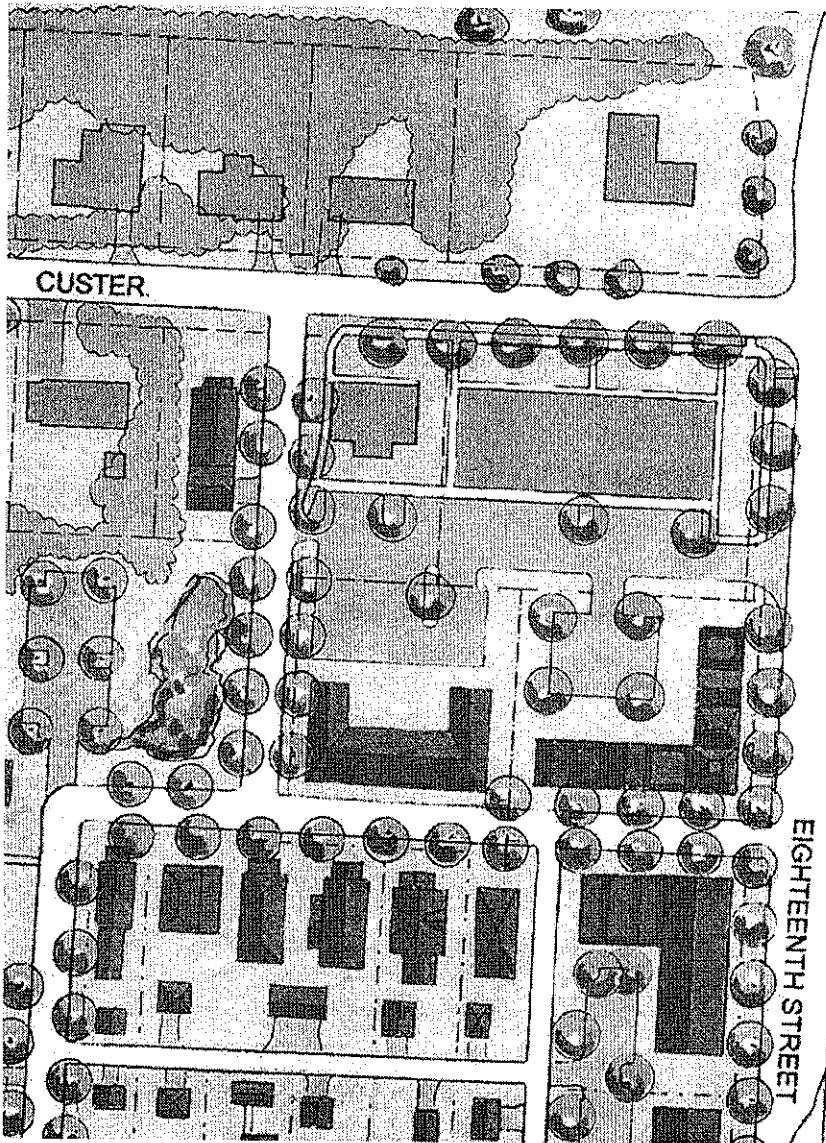
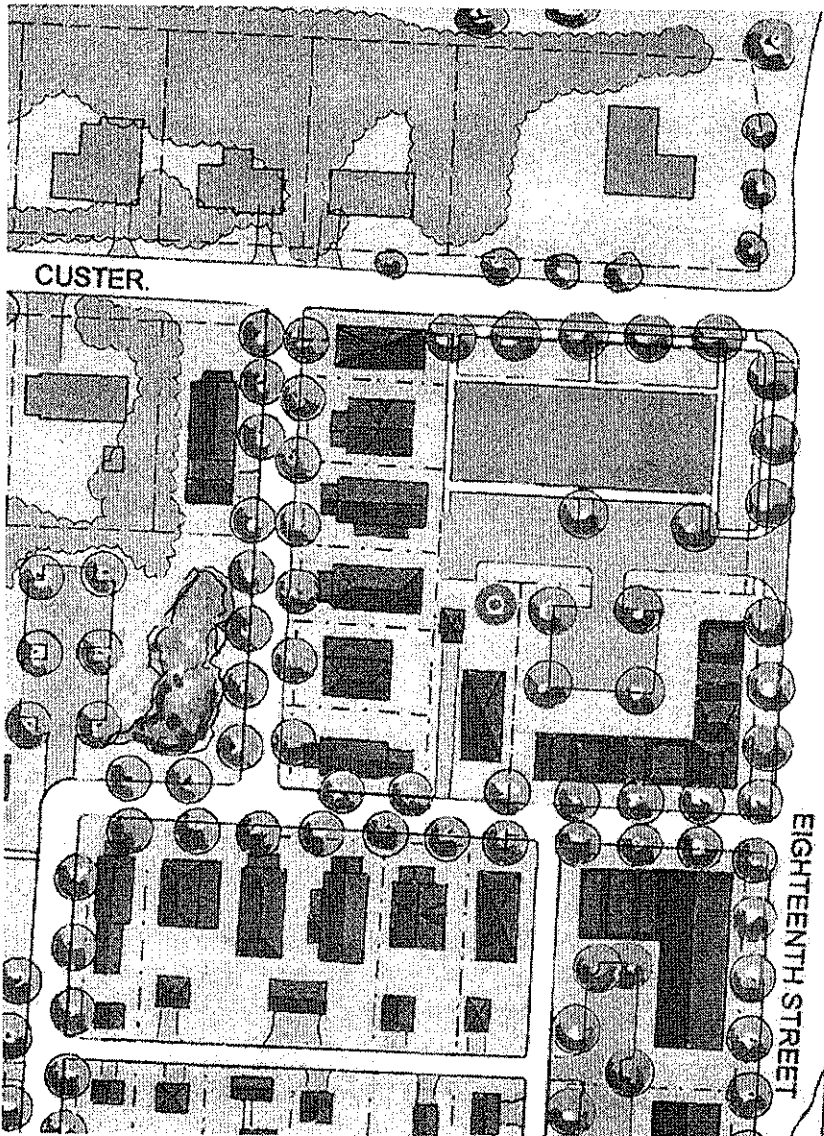
Fayette Junction Master Plan participants,
The Illustrative Plan and vision document are on the City Council's agenda for the meeting on April 7 at 6:00 p.m. in Room 219 at the City Administration Building located at 113 W. Mountain Street. The City Council will take public comment at the meeting or you can email City staff, and we will make sure the Council members receive your comments.

Staff has enjoyed meeting and working with all of you during this process and we appreciate your hard work on this master plan. Approximately 75 stakeholders showed up at the final community presentation at BioBased Companies on February 5, which was a fantastic turnout. Feel free to email or call 575-8267 if you have comments or questions. The draft Illustrative Plan and vision document as well as the Community Presentation can be viewed at <http://cityplan2025.accessfayetteville.org>

Best,
Karen Minkel

Karen Minkel
Strategic Planning and Internal Consulting Director
City of Fayetteville
(479) 575-8271

EXHIBIT "q"



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville, Arkansas
City Council Meeting
April 7, 2009**

A meeting of the Fayetteville City Council will be held on April 7, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Fayetteville Bulldogs Congratulations Resolution

Agenda Session Presentations:

1. Courts Building Progress – Lynn Hyke, Construction Project Manager
2. Sales Tax Update – Paul Becker, Finance and Internal Services Director

Mayor's Announcements, Proclamations and Recognitions:

1. Fayetteville Bulldogs Proclamation

Presentations, Reports and Discussion Items:

1. Botanical Gardens of the Ozarks Annual Report

A. Consent:

1. Approval of the March 17, 2009 City Council meeting minutes.

2. **Bid # 09-14 Rick Pershall Building Co.:** A resolution awarding Bid # 09-14 to Rick Pershall Building Co. in the amount of \$23,632.30 for replacement of the Solid Waste Transfer Station tipping floor; and approving a contingency in the amount of \$5,000.00.
3. **Bid # 09-21 Pollution Management, Inc.:** A resolution approving a construction contract with Pollution Management, Inc. in the amount of \$19,680.00 for removal of underground storage tanks at the Noland Wastewater Treatment Facility and approving a contingency in the amount of \$5,000.00.
4. **Garver Engineers, LLC Amendment No. 3:** A resolution approving Amendment No. 3 to the contract with Garver Engineers, LLC in an amount not to exceed \$253,588.00 for bidding and construction phase services for Mount Comfort Road Improvements Contract 2, from Alpine Avenue to Ruppel Road.
5. **Department of Homeland Security Assistance Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security 2009 Assistance to Firefighters Grant in the amount of \$200,000.00 for purchase of a Mobile Multi-Trainer System.
6. **U.S. Department of Justice's Bulletproof Vest Partnership Program:** A resolution approving a budget adjustment for the Fayetteville Police Department in the amount of \$7,339.00 to recognize grant revenue from the U.S. Department of Justice's Bulletproof Vest Partnership Program.
7. **Community Development Block Grant (CDBG):** A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2009 in the estimated amount of \$635,930.00.
8. **Operations Management International (OMI) Amendment No. 16A:** A resolution approving Amendment Number 16A to the contract with Operations Management International (OMI) in the amount of \$61,819.73 for operational expenses incurred as a direct result of the January 2009 ice storm.
9. **Arkansas Department of Aeronautics:** A resolution authorizing the Fayetteville Executive Airport Staff to apply for and accept an amended 80/20 grant in the estimated amount of \$102,000.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project; and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business:

1. **Bid # 09-23 Drake Field HVAC Controls Upgrade:** A resolution awarding Bid # 09-23 and approving a contract with _____ in the amount of \$XX,XXX.XX for Drake Field HVAC Controls Upgrade.

This resolution was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.

2. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *(This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting. This ordinance failed at the December 2, 2008 City Council meeting. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting. This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.) This ordinance was Tabled at the March 3, 2009 City Council meeting to the March 17, 2009 City Council meeting.*

This ordinance was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.

3. **Newspaper Publishing:** A resolution to limit newspaper publishing to only legally required items.

This resolution was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.

C. Public Hearing:

1. **A Public Hearing regarding the issuance of Series 2009 Water and Sewer Revenue Bonds in the approximate amount of \$8.5 million** – David Jurgens, Utilities Director
2. **Tenant/Samples De-annexation:** An ordinance concurring with Farmington ordinance No. 2009-05, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.
3. **Westside Storage, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Westside Storage, Inc. needed for the Ruppel Road Project.
4. **Patrick J. Tobin – Ruppel Road Project Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust needed for the Ruppel Road Project.
5. **Patrick J. Tobin – Township Street Widening Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust needed for the Township Street Widening Project.

D. New Business:

- 1. Fayette Junction Master Plan:** A resolution to adopt the Fayette Junction Master Plan vision document and Illustrative Master Plan.
- 2. Animal Services Advisory Board:** A resolution establishing an Animal Services Advisory Board.
- 3. RZN 09-3218 (Life Styles):** An ordinance rezoning that property described in rezoning petition RZN 09-3218, for approximately 1.27 acres, located north of the Sycamore Street and Saddlehorne Avenue intersection from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.
- 4. ADM 09-3219 Amend Chapter 166:** An ordinance amending the Unified Development Code subsection 166.12: Structures Not Allowed Over Public Easements, to clarify what types of structures are permitted in easements, and to establish consistent guidelines for the installation of structures in easements.
- 5. Amend Chapter 33:** An ordinance to amend §33.001 City Organizational Chart of the Code of Fayetteville.

Agenda Additions:

Announcements:

- 1. City Council Tour: April 6, 2009**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or 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 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

AGENDA REQUEST

FOR: COUNCIL MEETING OF APRIL 7, 2009

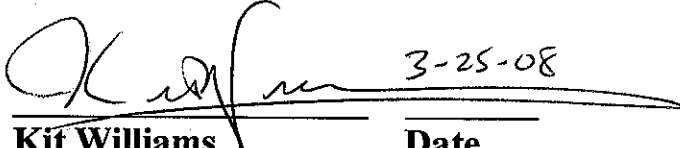
FROM:

**Kit Williams, City Attorney; Alderman Adella Gray; Alderman Brenda Thiel;
Alderman Kyle B. Cook; Alderman Matthew Petty; Alderman Robert Rhoads,
Alderman Bobby Ferrell; Alderman Shirley Lucas; Alderman Sarah Lewis**

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Congratulate The Fayetteville High School Men's And Women's Varsity Basketball Teams On Perfect, Undefeated, State Championship Seasons

APPROVED FOR AGENDA:

 3-25-08

Kit Williams **Date**
City Attorney

Adella Gray **Date**
Alderman

Brenda Thiel **Date**
Alderman

Kyle B. Cook **Date**
Alderman

Matthew Petty **Date**
Alderman

Robert Rhoads **Date**
Alderman

Bobby Ferrell **Date**
Alderman

Shirley Lucas **Date**
Alderman

Sarah Lewis **Date**
Alderman

RESOLUTION NO. _____

**A RESOLUTION TO CONGRATULATE THE FAYETTEVILLE
HIGH SCHOOL MEN'S AND WOMEN'S VARSITY BASKETBALL
TEAMS ON PERFECT, UNDEFEATED, STATE CHAMPIONSHIP
SEASONS**

WHEREAS, for the first time in Arkansas history and probably in the history of the United States, in the highest division level of high school athletics, both the Fayetteville High School Men's and Women's Basketball Teams achieved perfect, undefeated, state championship seasons in the same year; and

WHEREAS, both the men's and women's Fayetteville Bulldog Basketball Teams were nationally ranked at the end of their hard fought and well-deserved state championships; and

WHEREAS, both the Fayetteville Bulldog Men's and Women's Basketball Teams had the Most Valuable Players in the state championships and All-State Players, but even more importantly achieved their undefeated seasons through gritty, inspired, unselfish, team-oriented efforts from starters and reserves alike.

**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 takes great pride and satisfaction in recognizing and congratulating the Fayetteville Bulldog Men's and Women's Basketball Teams for their perfect, undefeated, state championship seasons.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby thanks these Bulldogs for their exemplary performance both on and off the basketball court which brings great credit to themselves, their coaches, their parents, their school and their hometown.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

City Council Meeting of April 7, 2009

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council
Thru: Don Marr, Chief of Staff
From: Connie Edmonston, Parks and Recreation Director *CE*
Date: March 16, 2009
Subject: Botanical Gardens of the Ozarks Annual Report presented by Bill Dollar and Walt Eilers, Board of Directors.

BACKGROUND

On September 2, 1997, City Council approved a Land Lease Agreement with the Botanical Garden Society of the Ozarks, Inc. (BGSO), for the purpose of operating botanical gardens on 98.6 acres at Lake Fayetteville to serve Northwest Arkansas. The Portico Group of Seattle, Washington developed a master plan of the gardens in 2000. City Council approved an update to the Lease Agreement in August of 2003. According to the lease agreement, BGSO is to present an annual report to the Parks and Recreation Advisory Board and the City Council. The attached BGSO Report contains priorities for 2009 and a review of 2008.



**2008 Annual Report
Parks and Recreation Advisory Board
March 2, 2009**

LOOKING FORWARD - 2009 PRIORITIES

Objectives:

- *Fund, recruit and employ an Executive Director responsible for operating the Garden and serving as the CEO and chief fundraiser.*
- *Approve and track the 2009 strategic plan.*
- *Move the Garden to financial sustainability by 2011.*
- *Update the Fayetteville lease and get Council approval by May 31.*
- *Conclude a land swap with the Environmental Center.*
- *Conclude details and construction of the Lake Fayetteville Trail through and adjacent to the Garden fee space.*

1. GOVERNANCE ACTION MATRIX EXECUTIVE DIRECTOR

Action item	Responsible	Target
Submit funding grant.	Dollar, Bass, Shirley, Eilers	March 23
Write Executive Director transition plan, budget and calendar.	Mulhollan, Dollar	April 14
Start Executive Director announcement and interview protocol.	Dollar, Shirley and Bass	July 21
Oversee Executive Director hiring, contract and move.	Ex.Comm. Board	Dec. 15

2. BGSO STRATEGIC PLAN

Action item	Responsible	Target
Seek Chair edits to Strategic Plan.	Dollar	March 5
Review and final edit of Strategic Plan.	Eilers, Dollar	March 10
Complete the Operations components.	Scott Starr	March 12
BGSO Board adopts the Strategic Plan.	Board	March 17
Board meeting review and assessment.	EC and Board	Bimonthly

3. BGO SUSTAINABILITY PLAN

Action item	Responsible	Target
Develop 2010 budget with ED salary and line item.	McKnight	Feb. 27
Write a fundraising and grant plan for \$85,000 in 2009.	Eilers, Dollar, McKnight	March 10
Seek weekday commercial rental of Totemeier Center.	Staff, Board	Monthly
Board focus on fundraisers, fundraising and grants.	Board	Monthly

4. FAYETTEVILLE LEASE UPDATE

Action item	Responsible	Target
Develop annual report to Parks and Council.	Dollar, Eilers and Mulhollan	March 2
List and define lease details and changes.	Dollar, Eilers and Mulhollan	March 10
Meet with Edmonston, Colwell on lease.	Dollar, Eilers and Mulhollan	March 26
Land swap details and map/description.	Troutman and Plans and Prop.	April 17
Lease revisions to Council.	Dollar, Eilers	May 19

5. LAKE FAYETTEVILLE TRAIL

Action item	Responsible	Target
Plan land swap map/description and letter agreement.	Troutman and Plans and Prop.	April 17
List lease implications.	Plans/Prop	May 19
Complete the Mesa Master Plan with sequence/priority plan and projected construction budget.	Plans/Prop	June 15
Identify design and feature details of the parking lot, trailhead access and Lake Fayetteville Trail in the BGO fee area.	Plans/Prop	July 10
Discussion details with Parks and Trails on project.	Dollar	July 21
BGO board action on trail.		

LOOKING BACKWARD – 2008 IN REVIEW

The Botanical Gardens' initial year of operation was a challenging and growing experience. We had to discover and invent many things. Our successes include:

- Construction of all infrastructure, gardens and features in Garden Phase 1A is complete. This includes the Ball Greenhouse and features and gardens. The nine completed Gardens and Totemeier Center represent a leasehold improvement value of over **\$2.18 million**.
- More than 30,000 people visited the Garden, including visitors from thirty-seven states and five countries.
- More than 4000 students from five area school districts participated in the Earth Day and Butterfly Day events.
- The staff and Plans/Properties Committee developed an operations manual, wrote policies on rental, catering, photography, liquor and guest etiquette.
- 165 volunteers donated 8,474 hours to support the Garden. This service is valued at \$319,000.
- The Reading Railroad, a \$20,000 gift of the Kiwanis, is under construction adjacent to the Children's Garden. This outdoor reading area should be available in spring 2009.
- The Garden hosted a summer musical series, two gala fundraisers, Shakespeare production, ballet recital, Christmas Farmers' Market, educational series, cocktail series and 28 weddings.
- 2008 membership hit a record level of 1245 households. Nearly 1800 individuals, families, and businesses donated to the Garden in 2008.
- BGSO has recently launched three initiatives to achieve financial sustainability: Giving Circles campaign for annual or monthly giving, Chamber leader membership campaign for business members and an end-of-the year appeal.
- The Board completed a revamp and update of the 1994 corporate filings and our 1993 bylaws. All governance documents are now current.
- The www.bgozarks.org website and monthly electronic newsletter are well received and popular. Over 2000 readers each month check out BGO and its digital newsletter.

**City Council Agenda Items
and
Contracts, Leases or Agreements**

4/7/2009

City Council Meeting Date
Agenda Items Only

Brian Pugh

Submitted By

Solid Waste and Recycling

Division

Public Utilities

Department

Action Required:

Approve resolution to award bid 09-14 to Rick Pershall Building Co. for the replacement of the Solid Waste Transfer Station floor in the amount of \$23,632.30, and approve a \$5,000 contingency.

\$ 28,632.30

Cost of this request

\$ 55,000.00

Category / Project Budget

Transfer Station Improvements

Program Category / Project Name

5500-5060-5816.00

Account Number

\$ -

Funds Used to Date

Solid Waste Improvements

Program / Project Category Name

09013 / 1

Project Number

\$ 55,000.00

Remaining Balance

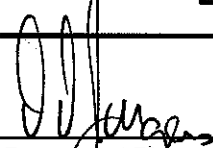
Solid Waste

Fund Name

Budgeted Item

☒ XX

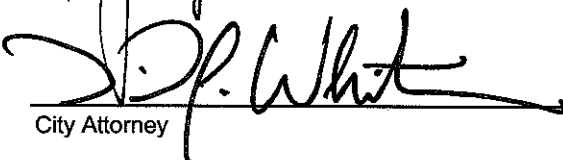
Budget Adjustment Attached

☐

Department Director
20 MAR 09
Date

Previous Ordinance or Resolution #

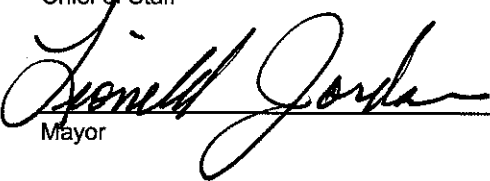
Original Contract Date:

Original Contract Number:


City Attorney
3/23/09
Date

Finance and Internal Services Director
3-23-09
DateReceived in City
Clerk's Office


Chief of Staff
3/24/09
DateReceived in
Mayor's Office


Mayor
3/24/09
Date

Comments:

City Council Agenda Item

City Council Meeting of April 7, 2009

To: Mayor and City Council
Thru: David Jurgens, Public Utilities Director
Don Marr, Chief of Staff
From: Brian Pugh
Date: 3/20/09
Subject: Approve resolution to award bid 09-14 to Rick Pershall Building Co. for replacement of the Solid Waste Transfer Station floor in the amount of \$23,632.30, and approve a \$5,000 contingency.



Recommendation: Staff recommends approving a resolution to award bid 09-14 to Rick Pershall Building Co. for replacement of the Solid Waste Transfer Station floor in the amount of \$23,632.30, and approve a \$5,000 contingency.

Background: The City's Solid Waste Transfer Station Tipping Floor is in need of replacement. After 14 years of waste processing, the tipping floor has recently rapidly deteriorated between the existing rails and has caused tire damage to equipment while processing daily waste loads. City Engineers evaluated the current deterioration and developed a concrete mixture and process to keep the waste from deteriorating the concrete and causing damage to the tipping floor. The current floor and rails need to be removed and replaced with new concrete as defined by City Engineers. Staff issued Bid 09-14 which was opened on 3-20-09. The low bidder was Rick Pershall Building Co.

Discussion: The Solid Waste and Recycling Division, utilizing City Engineers, reasons a savings will be realized using specifications as defined by City Engineers. A similar process using an outside company was quoted at nearly \$300,000. The process of replacing the floor is expected to take two weeks and Solid Waste vehicles will be direct hauling to the Waste Management Tontitown landfill during that period. The replacement of the tipping floor is crucial to continued efficient operation at the facility for processing solid waste and protecting the environment and public health.

Budget Impact: This is a budgeted Solid Waste Improvement Project, number 09013/1.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #09-14 TO RICK PERSHALL BUILDING CO. IN THE AMOUNT OF \$23,632.30 FOR REPLACEMENT OF THE SOLID WASTE TRANSFER STATION TIPPING FLOOR; AND APPROVING A CONTINGENCY IN THE AMOUNT OF \$5,000.00.

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 #09-14 to Rick Pershall Building Co. in the amount of \$23,632.30 for replacement of the Solid Waste Transfer Station tipping floor.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Contingency in the amount of \$5,000.00.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8289

INVITATION TO BID

INVITATION TO BID: BID 09-14, Solid Waste Concrete Floor Replacement
DEADLINE: Friday, March 20, 2009 at 10:00 AM, Central Standard Time
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Andrea Foren, CPPB, aforen@ci.fayetteville.ar.us, 479.575.8220
DATES OF ADVERTISEMENT: March 05, 2009 & March 12, 2009 – Issued 03/05/09

INVITATION TO BID BID 09-14, SOLID WASTE CONCRETE FLOOR REPLACEMENT

No late bids will be accepted. Bids shall be submitted in sealed envelopes labeled "Bid 09-14, Solid Waste Concrete Floor Replacement", with the name and address of the bidder.

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.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Manager.

Name of Firm: RICK PERSHALL BUILDING COMPANY

Contact Person: RICK PERSHALL Title: OWNER

E-Mail: RPBUILDINGCO@YAHOO.COM Phone: 479-601-5215

Business Address: 308 SOUTH MOCK

City: PRAIRIE GROVE State: AR Zip: 72753

Signature: *Rick Pershall* Date: 3/20/09

City of Fayetteville
Bid 09-14, Solid Waste Concrete Floor Replacement
ADVERTISEMENT: 03/05/09 and 03/12/09

The City of Fayetteville is accepting bids from properly licensed professionals to bid on the replacement of a solid waste concrete floor, located at the City of Fayetteville Solid Waste & Recycling Division, 1560 S. Happy Hollow Road, Fayetteville, Arkansas 72701. Any questions concerning the bidding process should be addressed to Andrea Foren, City of Fayetteville, Purchasing Agent at aforen@ci.fayetteville.ar.us or by calling (479)575-8220.

Bids must be submitted in a sealed envelope or package labeled "Bid 09-14, Solid Waste Concrete Floor Replacement". All bids must be received on or before Friday, **March 20, 2009 at 10:00 AM**, Central Standard Time to the City of Fayetteville, Room 306, 113 W. Mountain, Fayetteville, Arkansas 72701.

Bidding documents must be obtained at one of the following location:

City of Fayetteville
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701

Each bid exceeding \$20,000 shall be accompanied by a certified check or bid bond, in an amount not less than five (5) percent of the amount bid.

An Arkansas Contractors License is required for any bid exceeding \$20,000.00.

A one hundred percent (100%) performance and payment bond is required with a contract awarded amount of \$20,000.00 or more.

Bidders shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the Project is located.

"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."

CITY OF FAYETTEVILLE, ARKANSAS
By: Andrea Foren, CPPB, Purchasing Agent
Ad dates: 03/05/09 and 03/12/09

City of Fayetteville
Bid 09-14, Solid Waste Concrete Floor Replacement
PROJECT TERMS AND CONDITIONS

1. All bids shall be submitted in a sealed envelope, labeled "Bid 09-14, Solid Waste Concrete Floor Replacement" and must contain valid Arkansas Contractors License number related to company submitting the bid. All bids must be submitted on forms acquired by the vendor from the City of Fayetteville. All packaging and shipping containers must be labeled in this same manner.
2. Bids with missing pages or missing any requested attachment will be deemed incomplete.
3. Bids received after the date and time set for receiving bids will not be considered.
4. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.
5. The bid price shall remain good and firm until project is completed. Payment to the vendor by the City will be made within 30 days following delivery and acceptance in accordance with these specifications and the City's Purchase Order to the vendor. Faster payment delivery is offered through acceptance of Visa.
6. All products and services delivered shall comply with applicable standards of quality.
7. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Pricing Form.
8. Total Turn Key price shall include all labor, materials, overhead, profit, insurance, etc., to cover the completion of the project being bid. This includes any federal, state, and local applicable taxes.
9. Failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages or other appropriate sanctions.
10. Copy of any warranties shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.
11. Bidders must provide the City with their bids signed by a representative 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.
12. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
13. 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 of bid.

14. Bids must be received by mail or hand delivery in the **Purchasing Office, Attention: Andrea Foren, Room 306, 113 W. Mountain St. Fayetteville, AR 72701**, on or before Friday, March 20, 2009 at 2:00 PM, Central Standard Time.
15. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (479) 575-8220 to insure receipt of their bid documents prior to opening time and date listed on the bid form.
16. Bidder must conform to the requirements listed below and include appropriate evidence for each.
 - a. Workers Compensation as required by Arkansas State Statutes ✓
 - b. A bid bond of five percent (5%) must be submitted with all bids. A cashier's check for five percent (5%) of the amount bid will also be acceptable as a replacement to a bid bond. In the event a cashier's check is submitted AND that vendor is awarded the bid, the bid bond will not be returned until the City of Fayetteville has a valid one hundred (100) percent performance and payment bond. ✓
17. A one hundred percent (100%) performance bond is required after the project has been approved by City Council. Work shall not begin until the City of Fayetteville has a valid 100% performance and payment bond, stamped as being filed with the Washington County Clerk's Office. Bidder is responsible for filling a copy, including any cost, of the 100% performance bond with the Washington County Clerk's Office and all fees associated with such filing. Such performance and payment bond shall be provided to the City within ten (10) calendar days of notice of award.
18. Plans are included with these bid documents. **Any discrepancy between the specifications and plans should be brought to the attention of the Purchasing Agent immediately.**
19. All new, used and excess construction materials related to this project, including those enticed via change order, belongs to the contractor and shall be removed from the property and job site by the contractor at no additional cost to the City of Fayetteville. Such removal of excess new and used construction materials shall be completed in a timely manner during and after project. Clean up requirements are also as follows:
 - a) Area associated with trenching and construction shall be restored to its original condition.
 - b) All damaged vegetation associated with this project shall be restored to its original condition
 - c) Clean up all waste materials, rubbish, and debris resulting from this project weekly or at such frequencies as required by the City of Fayetteville.
 - d) Place waste materials, rubbish, and debris in area designated by the City of Fayetteville project manager.
 - e) Oversee cleaning and ensure grounds, job, and all associated construction areas are maintained free from accumulations of debris.

- City of Fayetteville, Arkansas
 Bid 09-14, Solid Waste Concrete Floor Replacement
 Page 5 of 11

24. Bid form referenced **"Total Turn-Key Bid Amount"** is hereby defined as the entire cost of complete job, including, but not limited to the following: insurance, bonds, all materials, applicable state, local and federal taxes, labor, site preparation, vegetation restoration, etc.
25. "Attachment A: Site Drawing" shall be made part of these bid documents. Bidders shall follow all instructions and notes listed on plans.
26. Newly installed concrete shall have a smooth finish.
27. No air entrainment shall be used.
28. No plastic sheet barrier/water vapor barrier is required.
29. Site shall be restored to original condition prior to contractor arriving to complete project.
30. All work or materials which are not directly noted in the Scope of Work but are necessary for the proper carrying out of the obvious intentions thereof are to be understood as implied work and will be provided for by the contractor as if specifically described or drawn.
31. All contraction joints shall be sealed with sonolastic material, such as Sonneborn NP-1 by BASF Building Systems or equal.
32. All bidders are encouraged to visit the site by contacting Brian Pugh at 479-575-8398.
33. **Contractor shall have 7 calendar days to complete project beginning the day after notice to proceed has been issued.**
34. **Contractor shall coordinate with the Solid Waste & Recycling Division in a team effort to insure downtime of transfer station is as minimal as possible.**

City of Fayetteville
Bid 09-14, Solid Waste Concrete Floor Replacement
BID FORM (MUST BE COMPLETE SUBMITTED WITH BID)

PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENTS FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID.

COPY OF ATTACHED VENDOR FORM MUST ALSO BE SUBMITTED WITH BID.

Bidder Information:

*CONTRACTORS NAME: RICK PERSHALL BUILDING COMPANY
*CONTRACTORS LICENSE NUMBER: 0192210309
*CONTACT NAME: RICK PERSHALL *TITLE: OWNER
*BUSINESS ADDRESS: 308 SOUTH MOCK
*CITY: PRAIRIE GROVE *STATE: AR *ZIP: 72753
*PHONE: 479-601-5215 FAX: 888-319-6576
*E-MAIL ADDRESS: RPBUILDINGCO@YAHOO.COM

*****PLEASE PROVIDE COMPLETED ATTACHED "VENDOR FORM" WITH EACH BID*****

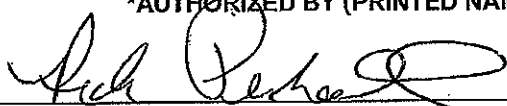
Bid Amount (in US Dollars). Refer to "Terms and Conditions" for descriptions.

A.) Total Turn-Key Bid Amount: *\$ 23,632.30 (TWENTY THREE THOUSAND SIX HUNDRED THIRTY TWO and 30/100 DOLLARS)
*Total amount to complete project based on bidding documents provided, including plans (including contractor all materials, labor, bonds, insurance, etc).

Total number of calendar days estimated to complete project: 5-7 DAYS

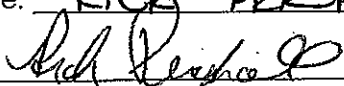
This form continues on next page and MUST be signed in order for your bid to be acceptable for consideration.

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on. *Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.* If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein. Unsigned bids will be rejected. Items marked * are mandatory for consideration.

RICK PERSHALL
*AUTHORIZED BY (PRINTED NAME)

*AUTHORIZED SIGNATURE

OWNER
*TITLE

03 / 20 / 09
*DATE

Acknowledge Addendums:	
Addenda No. <u>1</u> , BID <u>09-14</u>	Dated: <u>3/17/09</u>
Addenda No. _____	Dated: _____
Addenda No. _____	Dated: _____
Printed Name: <u>RICK PERSHALL</u>	
Signature: <u></u>	
Title: <u>OWNER</u>	
Company: <u>RICK PERSHALL BUILDING CO.</u>	

City of Fayetteville
Bid 09-14, Solid Waste Concrete Floor Replacement
SAMPLE CONTRACT

This contract executed this ____ day of _____, 2009, between the City of Fayetteville, Arkansas, and RICK PERSHALL BUILDING COMPANY (RPBC) In consideration of the mutual covenants contained herein, the parties agree as follows:

1. RPBC 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 09-14 as stated in _____ bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #09-14, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay RPBC based on their bid proposal in an amount not to exceed \$ _____. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and RPBC consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 09-14 with the specifications and conditions typed thereon.
 - B. RPBC bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and RPBC and may be modified only by a duly executed written instrument signed by the City of Fayetteville and RICK PERSHALL.
5. RPBC shall not assign its duties under the terms of this agreement.
6. RPBC 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 RPBC'S 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.
7. RPBC shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries 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, RPBC 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.

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

The premiums for all insurance and the bond required herein shall be paid by RPBC.

8. RPBC to furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or RPBC with 10 days written notice.
10. 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.
11. 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.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2009.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

LIONELD JORDAN, Mayor

Attest:

Sondra Smith, City Clerk

rick pershall building co.
CONTRACTOR

BY _____
NAME AND TITLE

ATTEST: COMPANY SECRETARY

BUSINESS ADDRESS

City of Fayetteville, Arkansas
Bid 09-14, Solid Waste Concrete Floor Replacement
Page 10 of 11

City of Fayetteville
Bid 09-14, Solid Waste Concrete Floor Replacement
STATEMENT OF NO BID – IF APPLICABLE

We, the undersigned, have declined to bid for the following reason(s):

1. _____ We do not offer this service/product
2. _____ Our schedule would not permit us to perform
3. _____ Unable to meet specifications
4. _____ insufficient time to respond to the Invitation to Bid
5. _____ We are unable to meet bond requirements
6. _____ Other (Explain)

*NAME OF FIRM: _____

*BUSINESS ADDRESS: _____

*CITY: _____ *STATE: _____ *ZIP: _____

*PHONE: _____ *FAX: _____

*E-MAIL ADDRESS: _____

*BY : (PRINTED NAME) _____

*AUTHORIZED SIGNATURE: _____

*TITLE: _____

*PLEASE LIST OTHER COMMENTS BELOW:

*Please note: We appreciate your feedback on this form and are very interested in your reason for not bidding. Please do not hesitate to contact us at 479-575-8220 if you have questions, comments, or concerns regarding these bid documents.

**CITY OF FAYETTEVILLE
INVITATION TO BID
Bid 09-14, Solid Waste Concrete Floor Replacement**

The City of Fayetteville is accepting bids from properly licensed professionals to bid on the replacement of a solid waste concrete floor, located at the City of Fayetteville Solid Waste & Recycling Division, 1560 S. Happy Hollow Road, Fayetteville, Arkansas 72701. Any questions concerning the bidding process should be addressed to Andrea Foren, City of Fayetteville, Purchasing Agent at aforen@ci.fayetteville.ar.us or by calling (479)575-8220.

Bids must be submitted in a sealed envelope or package labeled "Bid 09-14, Solid Waste Concrete Floor Replacement". All bids must be received on or before Friday, **March 20, 2009 at 10:00 AM**, Central Standard Time to the City of Fayetteville, Room 306, 113 W. Mountain, Fayetteville, Arkansas 72701.

Bidding documents must be obtained at one of the following location:

City of Fayetteville
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701

Each bid exceeding \$20,000 shall be accompanied by a certified check or bid bond, in an amount not less than five (5) percent of the amount bid.

An Arkansas Contractors License is required for any bid exceeding \$20,000.00.

A one hundred percent (100%) performance and payment bond is required with a contract awarded amount of \$20,000.00 or more.

Bidders shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the Project is located.

"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."

CITY OF FAYETTEVILLE, ARKANSAS
By: Andrea Foren, CPPB, Purchasing Agent
Ad dates: 03/05/09 and 03/12/09

Bid 09-14, Addendum 1



Date: Tuesday, March 17, 2009

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 09-14, Solid Waste Concrete Floor Replacement

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

• **BID 09-14, has the following modifications and clarifications:**

- 1.) All bids are due **Friday, March 20, 2009 on or before 10:00 AM, local time.**
- 2.) No dowels are required to be installed into the existing concrete.
- 3.) Existing clips/bolts are estimated to be on 10 foot centers.
- 4.) As noted in the typical section, the existing rail is an 85 lb ASCE rail, which is a standard railroad rail weighing 85 lb per yard of length.
- 5.) Bidders shall be experienced in pouring and finishing concrete. Bidders shall provide information with bid demonstrating at least 3 similar concrete projects within the past 5 years.
- 6.) A test placement will not be required.
- 7.) No specific of method of detaching is required- after the rails are detached, the existing steel plate to remain shall be ground smooth if required to eliminate any protrusions above the concrete surface.
- 8.) One continuous placement is required and is specified on the plan sheet. Machine application of the hardener is not required.
- 9.) Saw cuts shall be made as close to the wall as practicable.

License No. 0192210309

State of Arkansas

Contractors Licensing Board

RICK PERSHALL, D/B/A RICK PERSHALL BUILDING COMPANY
PO BOX 663
FARMINGTON, AR 72730

RICK PERSHALL, D/B/A RICK PERSHALL BUILDING COMPANY

This is to Certify That

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended
and is entitled to practice Contracting in the State of Arkansas within the
following classification:

BUILDING
RESIDENTIAL

with the following suggested bid limit \$550,000

from May 9, 2008 until March 31, 2009

when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



W. Dan Wright

CHAIRMAN

Michael T. A.

SECRETARY

May 9, 2008

Qualifications and Experience Statement

To whom it may concern:

Rick Pershall Building Company (RPBC) is a fully licensed and bonded constructions company. Its personnel and associates have been established in the NW Arkansas area for several years. RPBC has extensive Municipal, Commercial and Residential construction experience, both large and small. Recent Projects that are comparable to the proposed project are Prarie Grove Telephone Warehouse Floor Rehab, Numerous Custom and Track Housing Footings and Slabs, Brockman Storage Building West and North footings and slabs, Numerous Slab Systems for Multi Family Apartments Complexes and there accompanying Concrete Parking Lots. RPBC is fully qualified to perform the propose work. Also attached herein are several personal referenced of RPBC or it representatives from people and clients that are familiar with RPBC's present and past performance record and financial stability.

Date, 2/13/2009

James R. Doss
1135 Beverly Hills Drive
Van Buren, AR. 72956

Ref: Reference for Mr. Don McCandless

To Whom It May Concern:

We have known Don for several years and are currently using his company to manage a large construction project. He is multi talented and knowledgeable in virtually all of the construction trades.

We would recommend Don and his group for any large capital projects requiring budget control.

A handwritten signature in cursive script that reads "James R. Doss".

James R. Doss
Director of Energy, Tyson Foods Inc., *Retired*

Untitled
To: City Of Fayetteville -- Purchasing Division
113 West Mountain St. Room 306
Fayetteville, AR 72701

From: Don McCandless

Hello City of Fayetteville,

My name is Don McCandless. I have been a project manager going on 11 years and in the construction industry bordering on 26. I am not only budget conscious, I am also deadline driven.

As a project manager, I have worked on over 500 residencial projects. 25 major commercial and 2 industrial projects top the list.

Alongside this letter are two personal references. I would also like to thank you for concidering myself and my associates for this project.

Sincerely,



Don McCandless

Ridout

Contractor Outlet of Fayetteville

2195 N. Gregg
Fayetteville, AR 72703

479-587-8900 phone
479-587-8906 fax

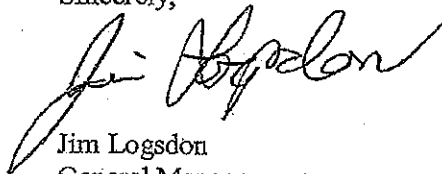
February 16, 2009

RE: Rick Pershall Building Company

To Whom It May Concern:

Mr. Pershall has been a customer, with an account in good standing, of Ridout Contractor Outlet of Fayetteville (Ridout Lumber Co) since June 1995. In serving Mr. Pershall's building needs we have found him to be outstanding in his business relations with us. We look forward to a long and continued successful relationship with him.

Sincerely,



Jim Logsdon
General Manager



139 N. Mock Street, P.O. Box 1010
Prairie Grove, AR 72753
Phone: (479) 846-7200 Fax: (479) 267-1112
Internet: www.pgic.com

February 16, 2009.

To Whom It May Concern:

Please accept this letter as a testament to the dependability and ability of Rick Pershall Building Company to bring a job to completion as promised. Mr. Pershall has worked on multiple construction jobs for the Prairie Grove Telephone Company over the years and has never failed to perform as promised. We have found Mr. Pershall and his employees to be honest and dependable in the quality of work and their ability to complete a job as scheduled.

When considering his employment please take note of his practice of hiring local people which allows your dollars to stay at work here in Arkansas.

Sincerely,

Rick Reed
General Manager

ARVEST[®] BANK

February 16, 2009

To Whom It May Concern:

I have done business with Rick Pershall for over 30 years and have made him numerous loans during that time. He has always paid his loans as agreed. He is a very good customer and is a very reliable and responsible person. Should you need any further information, please feel free to contact me at 846-2115.

Sincerely,



Monte R. Burden
Vice President
Arvest, Prairie Grove

BID BOND

PUBLIC WORK

BOND NUMBER 70686709

KNOW ALL MEN BY THESE PRESENTS,

That we, RICK PERSHALL d/b/a RICK PERSHALL BUILDING COMPANY, hereinafter called the Principal, and WESTERN SURETY COMPANY, a Corporation duly organized under the laws of the State of SOUTH DAKOTA, as Surety, hereinafter called the Surety, are held and firmly bound unto CITY OF FAYETTEVILLE, as Obligee, hereinafter called the Obligee, in the sum of FIVE percent, (5) %, of the amount of the bid, 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 BID 09-14, SOLID WASTE CONCRETE FLOOR REPLACEMENT, AS SPECIFIED,

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 material 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 such bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 20TH day of MARCH, 2009

RICK PERSHALL d/b/a
RICK PERSHALL BUILDING COMPANY

(Principal)

By Rick Pershall

WESTERN SURETY COMPANY

By Sarah Elizabeth Crowder

Sarah Elizabeth Crowder (Attorney-in-fact)

POWER OF ATTORNEY

Know All Men by These Presents:

(Irrevocable)

No. SP-

22771830

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired. That Western Surety Company, a corporation, does hereby make, constitute and appoint the following

FIVE 5 authorized individuals:

AUTHORIZED INDIVIDUALS	AUTHORIZED INDIVIDUALS
GREG REYNOLDS SIMS RANDY JOE CLAY STEVEN ALAN STANDRIDGE	LISA R WILLIAMS SARAH ELIZABETH CROWDER

in the City of CONWAY, State of ARKANSAS, with limited authority, its true and lawful Attorney(s) in fact with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, the following described bond:

BID, PERFORMANCE, AND/OR PAYMENT BOND, IN ADDITION THE RELATED TRANSACTIONS SUCH AS CONSENTS OF SURETY, RIDERS, AND LETTERS OF INTENT, MAINTENANCE AND WARRANTY BONDS, PROVIDING THE BOND PENALTY DOES NOT EXCEED ONE MILLION AND NO/100 DOLLARS (1,000,000.00).**

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

All authority hereby conferred shall expire and terminate, without notice, unless used before midnight of

MARCH 31 2014, but until such time shall be irrevocable and in full force and effect.

WESTERN SURETY COMPANY further certifies that the following is a true and exact copy of Section 7 of the By-Laws of Western Surety Company, duly adopted and now in force to-wit: "Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, or Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

The penal amount of the bond herein described may be increased if there is attached to this Power, written authority so authorizing in the form of an endorsement, letter or telegram signed by the Underwriting Manager, Underwriting Consultant, Underwriting Specialist, Underwriter, President, Vice President, Assistant Vice President, Treasurer, Secretary or Assistant Secretary of Western Surety Company specifically authorizing said increase.

IN WITNESS WHEREOF, Western Surety Company has caused these presents to be executed by its Senior Vice President with its corporate seal affixed this 11th day of December 2006

WESTERN SURETY COMPANY

STATE OF SOUTH DAKOTA } ss.
COUNTY OF MINNEHAHA }

By

Paul T. Bruffat
Senior Vice President

On this 11th day of December, in the year 2006, before me, a Notary Public, personally appeared Paul T. Bruffat, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



D. Krell

Notary Public, South Dakota

My Commission Expires November 30, 2012

I, the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that Section 7 of the By-Laws of the company as set forth in the Power of Attorney, is now in force.

In testimony whereof, I have hereunto set my hand and the seal of Western Surety Company this 20th day of March, 2009

WESTERN SURETY COMPANY

***IMPORTANT: This date must be filled in before it is attached to the bond and it must be the same date as the bond.**

By

Paul T. Bruffat
Senior Vice President

Form 749-12-2006

NOTICE: This border must be BLUE. If it is not BLUE, this is not a certified copy.



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
03/19/2009

PRODUCER NATHAN COMBS INSURANCE AGENCY JOHN DAVID TRUE 110 SARATOGA WAY, SUITE 5 FARMINGTON, AR 72730		THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED RICK PERSHALL RICK PERSHALL BUILDING COMPANY P. O. BOX 663 FARMINGTON, AR 72730		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: NATIONWIDE INSURANCE COMPANY	37877
		INSURER B: LIBERTY MUTUAL INSURANCE COMPANY	27243
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.									
INSR/ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS				
A	GENERAL LIABILITY	6303AC009888-3001	06/08/2008	06/08/2009	EACH OCCURRENCE	\$	500,000		
	☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	100,000		
	☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person)	\$	5,000		
					PERSONAL & ADV INJURY	\$	500,000		
					GENERAL AGGREGATE	\$	1,000,000		
					PRODUCTS - COMPROP AGG	\$	1,000,000		
						\$			
	GEN'L AGGREGATE LIMIT APPLIES PER:								
	☒ POLICY ☐ PROJECT ☐ LOC								
					AUTOMOBILE LIABILITY	6303AC009888-3002	03/19/2009	03/19/2010	COMBINED SINGLE LIMIT (Ea accident)
☐ ANY AUTO		BODILY INJURY (Per person)	\$						
☐ ALL OWNED AUTOS		BODILY INJURY (Per accident)	\$						
☒ SCHEDULED AUTOS		PROPERTY DAMAGE (Per accident)	\$						
☐ HIRED AUTOS									
☐ NON-OWNED AUTOS									
		GARAGE LIABILITY							AUTO ONLY - EA ACCIDENT
	☐ ANY AUTO	OTHER THAN EA ACC				\$			
		AUTO ONLY: AGG				\$			
		EXCESS / UMBRELLA LIABILITY							EACH OCCURRENCE
☐ OCCUR ☐ CLAIMS MADE		AGGREGATE	\$						
			\$						
			\$						
			\$						
			\$						
			\$						
			\$						
			\$						
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC5 35S380790-029	02/20/2009	02/20/2010				WC STATUTORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below								
	OTHER				E.L. EACH ACCIDENT	\$	100,000		
					E.L. DISEASE - EA EMPLOYEE	\$	100,000		
					E.L. DISEASE - POLICY LIMIT	\$	500,000		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RICK PERSHALL IS EXCLUDED AS OWNER

CERTIFICATE HOLDER

 CITY OF FAYETTEVILLE
 113 WEST MOUNTAIN STREET
 FAYETTEVILLE, AR 72701

CANCELLATION

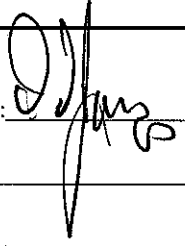
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

*All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)**All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us*

Vendor #:						Vendor Name:		Rick Pershall Building Co		Requisition No.:		Date: 3/20/2009	
308 So. Mock St.						Fob Point:				P.O Number:		Expected Delivery Date:	
City: Prairie Grove						State: Arkansas		Zip Code: 72753		Ship to code: 170		Taxable Yes: No:	
Requester: Brian Pugh						Requester's Employee #: 2133		Extension: 685		Division Head Approval:		Quotes Attached Yes: No:	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers		Project/Subproject #		Inventory #		Fixed Asset #	
1	Replacement of Solid Waste Transfer Station Floor	1	LOT	23,632.30	\$23,632.30	5500-5060-5816.00		09013 / 1				5911	
2					\$0.00								
3					\$0.00								
4					\$0.00								
5					\$0.00								
6					\$0.00								
7					\$0.00								
8					\$0.00								
9					\$0.00								
10					\$0.00								
*	Shipping/Handling		Lot		\$0.00								
Special Instructions:										Subtotal: \$23,632.30			
Per Bid 09-14 and Res. __-09										Tax: \$0.00			
										Total: \$23,632.30			
Approvals:													
Mayor: _____				Department Director: 				Purchasing Manager: _____					
Finance & Internal Services Director: _____				Budget Manager: _____				IT Manager: _____					
Dispatch Manager: _____				Utilities Manager: _____				Other: _____					

City of Fayetteville Staff Review Form

A. 3

Bid # 09-21 Pollution Management, Inc.

Page 1 of 16

**City Council Agenda Items
and
Contracts, Leases or Agreements**

4/7/2009

City Council Meeting Date
Agenda Items Only

Shannon Jones
Submitted By

Water and Wastewater
Division

Water and Wastewater
Department

Action Required:

Approval of Bid #09-21 for a construction contract with Pollution Management, Inc. in the amount of \$19,680.00 with a contingency of \$5,000.00 for removal of underground storage tanks at the Noland Wastewater Treatment Facility.

\$ 24,680.00

Cost of this request

\$ 40,000.00

Category / Project Budget

Underground Storage Tank Removal

Program Category / Project Name

5400.5700.5815.00

Account Number

Funds Used to Date

Water & Wastewater

Program / Project Category Name

05044.3

Project Number

\$ 40,000.00

Remaining Balance

Water / Sewer

Fund Name

Budgeted Item

xx

Budget Adjustment Attached

[Signature]
Department Director

16 MAR 09
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

3/19/09
Date

Original Contract Date:

Original Contract Number:

Paul A. Baker
Finance and Internal Services Director

3-19-09
Date

Received in City
Clerk's Office



[Signature]
Chief of Staff

3/19/09
Date

Received in
Mayor's Office



[Signature]
Mayor

3/24/09
Date

Comments:

City Council Meeting of April 7, 2009

CITY COUNCIL AGENDA

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Fayetteville Sewer Committee
Don Marr, Chief of Staff
David Jurgens, Water and Wastewater Director

From: Shannon Jones, Water and Wastewater Engineer

Date: March 16, 2009

Subject: Approval of Bid #09-21 for a construction contract with Pollution Management, Inc. in the amount of \$19,680.00 with a contingency of \$5,000.00 for removal of underground storage tanks at the Noland Wastewater Treatment Facility.

RECOMMENDATION

Staff recommends approval of Bid #09-21 for a construction contract with Pollution Management, Inc. in the amount of \$19,680.00 with a contingency of \$5,000.00 for removal of underground storage tanks at the Noland Wastewater Treatment Facility.

BACKGROUND

The project includes removal of four (4) underground storage tanks, 1000 gallon unleaded, 2000 gallon diesel, 6000 gallon diesel, 6000 gallon diesel at the Noland Wastewater Treatment Facility. This is the final of a three phased project to remove all of the buried fuel and chemical storage tanks owned by the Water and Wastewater. These tanks are approaching their service life, and we have above ground tanks available that meet the requirements previously met by the buried tanks. These tanks are located very close to the White River, and failure of the tanks could produce very harmful results. The City learned this in the first phase of this project was to remove a chemical storage tank at the Gregg Avenue sewer lift station, which was discovered to be leaking into the stream. Significant remediation was required, costing over \$100,000 for one tank alone. ADEQ has very stringent removal and closure requirements for buried storage tanks due to the frequency with which abandoned or improperly removed buried tanks cause contamination.

DISCUSSION

The City received 4 responsive bids on March 12, 2009.

Pollution Management, Inc.	\$19,680.00
MiD-America Environmental Solutions	\$21,875.00
Cobb Environmental & Technical Services, Inc.	\$25,280.00
Ark-O Petroleum Equipment Co.	\$27,789.00

Pollution Management, Inc. is a licensed underground storage tank contractor with the State of Arkansas Department of Environmental Quality. They submitted a site specific work plan for underground storage tank permanent closure and removal in accordance with the bid documents. Review of the work plan indicates they did a thorough investigation of the sites where the tanks are located and are qualified to complete the work.

BUDGET IMPACT

Funds are available within the project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH POLLUTION MANAGEMENT, INC. IN THE AMOUNT OF \$19,680.00 FOR REMOVAL OF UNDERGROUND STORAGE TANKS AT THE NOLAND WASTEWATER TREATMENT FACILITY; AND APPROVING A CONTINGENCY IN THE AMOUNT OF \$5,000.00.

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 approves a construction contract with Pollution Management, Inc. in the amount of \$19,680.00 for removal of underground storage tanks at the Noland Wastewater Treatment Facility. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Contingency in the amount of \$5,000.00.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDON, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

BID: 09-21
3/12/2009
2:00 PM, Local Time
CITY OF FAYETTEVILLE

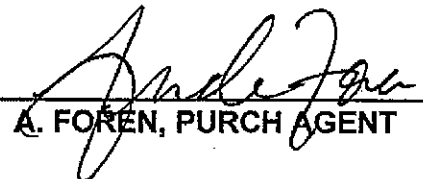


Bid 09-21, Underground Storage Tank Removal

BIDDER	TOTAL BASE BID
1 Ark-O Petroleum Equipment Co.	\$27,789.00
2 Cobb Environmental & Technical Services, Inc.	\$25,280.00
3 MiD-America Environmental Solutions	\$21,875.00
4 Pollution Management, Inc.	\$19,680.00

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

CERTIFIED:


A. FOREN, PURCH AGENT


WITNESS

03/13/09
DATE

SECTION 00310

BID PROPOSAL

LOCATION: CITY OF FAYETTEVILLE, ROOM 306
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701

DATE: March 5, 2009 at 2:00 p.m. LOCAL TIME

Proposal of: POLLUTION MANAGEMENT, INC.

Address: 17476 Highway 412 EAST
SPRINGDALE, Arkansas 72764
479-750-7131 PH.

Bid For: UNDERGROUND STORAGE TANK REMOVAL

Bid Submitted to:

The City of Fayetteville
Andrea Foren, Purchasing Agent – Room 306
113 W. Mountain
Fayetteville, AR 72701

BIDDER will complete the Work for the unit prices as listed in the Bid Form.

Total Base Bid as outlined on Bid Form:

NINETEEN THOUSAND SIX HUNDRED
EIGHTY DOLLARS & NO/CENTS

Amount in Words

\$ 19,680.⁰⁰

Figures

The undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into an Agreement with **CITY OF FAYETTEVILLE** in the form included in these Contract Documents to complete all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in these Contract Documents. **BIDDER** accepts the provisions of the Agreement as to Liquidated Damages in the event of failure to complete the Work in the Contract Time specified.

BIDDER accepts all of the terms and conditions of the **Information for Bidders**, including without limitation those dealing with the disposition of **BID SECURITY**. This **Bid** will remain open for sixty (60) days after the day of **Bid Opening**. **BIDDER** will sign the **Agreement** required by these **Contract Documents** within ten (10) days after the date of **CITY OF FAYETTEVILLE'S Notice of Award**.

In submission of this **BID**, **BIDDER** represents, as more fully set forth in the **Agreement**, that **BIDDER** has examined all **CONTRACT DOCUMENTS** (including but not limited to **Advertisement, Invitation to Bid and the Information for Bidders**) and the following **ADDENDA**: Bid 09-21, Addendum #1 dated 3-2-09

Failure to list all necessary **Agenda** issued by the **OWNER** or the **ENGINEER** could mean the **BID** submitted by the **BIDDER** may be deemed unresponsive and not read publicly.

In submission of the **BID**, **BIDDER** represents, that they have examined the site and locality where the **Work** is to be performed, the legal requirements (Federal, State and Local Laws, Ordinances, Rules and Regulations) and the conditions affecting cost, progress or performance of the **Work** and has made such independent investigations as **BIDDER** deems necessary.

In submission of the **BID**, **BIDDER** represents, that 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. The **BIDDER** represents that they have not directly or indirectly induced or solicited any other **BIDDER** to submit a false or sham **BID**. The **BIDDER** represents that they have not solicited or induced any person, firm or corporation to refrain from bidding and have not sought by collusion to obtain for themselves any advantage over any other **BIDDER** or over the **CITY OF FAYETTEVILLE**.

All terms used in the **BID** are defined and have the meanings assigned to them in the **General Conditions** of these **Contract Documents**.

Attached to this **BID FORM** is the required **Bid Security** in the form of a **Bid Bond** or **Certified Check** in the amount of five (5) percent of the **Total Bid Amount**.

BIDDER submitting this BID is:

☒ A Corporation, incorporated in the State of Arkansas

☐ A Partnership, consisting of the following partners, whose full names are: N/A

☐ An Individual whose full name is: N/A

POLLUTION MANAGEMENT, INC.

General Contractor (Firm Name)

Tony R. Scott

Signed By TONY R. SCOTT

Construction Manager

Title

3-12-09

Date

17476 Highway 412 EAST

Address

SPRINGDALE, ARKANSAS 72764

479-750-7131 PH 479-750-7134 FAX

Telephone Number & Fax

GC # 0010070409 ADEQ # 000236

Contractor's License Number

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SECTION 00310 - BID PROPOSAL

<u>Item</u>		<u>Approx.</u>		<u>Unit Price In</u>	<u>Total</u>
<u>No.</u>	<u>Item Description</u>	<u>Qty.</u>	<u>Unit</u>	<u>Figures</u>	
1	Maintenance Building - one 1,000 gallon diesel & one 2,000 gallon gasoline	1	LS		
	SIX THOUSAND FOUR HUNDRED EIGHTY dollars			\$ 6,408. ⁰⁰	\$ 6,408. ⁰⁰
2	Generator Fuel Tank Near Entrance - one 6,000 gallon diesel	1	LS		
	SIX THOUSAND SEVEN HUNDRED THIRTY-TWO dollars			\$ 6,732. ⁰⁰	\$ 6,732. ⁰⁰
3	Equipment Barn - one 6,000 gallon diesel	1	LS		
	SIX THOUSAND FIVE HUNDRED FORTY dollars			\$ 6,540. ⁰⁰	\$ 6,540. ⁰⁰

Total Base Bid in Words NINETEEN THOUSAND SIX HUNDRED EIGHTY DOLLARS & NO/CENTS

Total Base Bid in Figures \$19,680.⁰⁰

END OF SECTION 00310

SECTION 00500

**AGREEMENT BETWEEN
CITY OF FAYETTEVILLE AND POLLUTION MANAGEMENT, INC.**

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2009 by and between the **CITY OF FAYETTEVILLE** and **POLLUTION MANAGEMENT, INC.**

1. The **POLLUTION MANAGEMENT, INC.** shall commence and complete all Work as specified or indicated in the Contract Documents. The **WORK** is generally described as follows:

UNDERGROUND STORAGE TANK REMOVAL

2. **POLLUTION MANAGEMENT, INC.** shall furnish all materials, supplies, tools, equipment, labor and other service necessary for the completion of the **WORK** described herein.
3. **POLLUTION MANAGEMENT, INC.** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** on or before a date to be specified in the **NOTICE TO PROCEED** and completed and ready for final payment within 90 calendar days. **POLLUTION MANAGEMENT, INC.** shall pay the **CITY OF FAYETTEVILLE**, as liquidated damages, the sum of **\$200** for each calendar day thereafter that the **WORK** is not complete.
4. **POLLUTION MANAGEMENT, INC.** agrees to perform all of the **WORK** described in the **CONTRACT DOCUMENTS** and comply with the terms therein as shown in the **BID PROPOSAL**.
5. The term **CONTRACT DOCUMENTS** shall mean and include the following:
 - 5.1 Invitation to Bid
 - 5.2 Information for Bidders
 - 5.3 Supplemental Information for Bidders
 - 5.4 Bid Proposal
 - 5.5 Bid Bond
 - 5.6 Agreement Between City of Fayetteville and Pollution Management, Inc.
 - 5.7 Performance and Payment Bond
 - 5.10 General Conditions
 - 5.13 Prevailing Wage Rates
 - 5.14 Notice of Award
 - 5.15 Notice to Proceed
 - 5.16 Project Manual for Underground Storage Tank Removal
 - 5.18 Addenda
 - 5.19 Change Orders

6. The **CITY OF FAYETTEVILLE** shall pay **POLLUTION MANAGEMENT, INC.** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

8. **MISCELLANEOUS**

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. City of Fayetteville and Pollution Management, Inc. each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. 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.

8.6. **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, Pollution Management, Inc. 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.

8.7. This contract must be interpreted under Arkansas Law.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and POLLUTION MANAGEMENT, INC. have signed this Agreement in quadruplicate. One counterpart each has been delivered to City of Fayetteville and Engineer, and two counterparts have been delivered to Pollution Management, Inc. All portions of the Contract Documents have been signed, initialed, or identified by City of Fayetteville and Pollution Management, Inc. or identified by Engineer on their behalf.

OWNER

CITY OF FAYETTEVILLE

BY _____

Mayor Lioneld Jordan

[CORPORATE SEAL]

ATTEST _____

Address for giving notices:

113 W. Mountain
Fayetteville, AR 72701

CONTRACTOR

POLLUTION MANAGEMENT, INC.

BY _____

CHUCK RICHESIN - President

[CORPORATE SEAL]

ATTEST _____

TONY SCOTT

Address for giving notices:

3512 South Shackleford

Little Rock, AR 72205

License No. GC# 0010070409
ADEQ# 000236

Agent for service of process: _____

(If POLLUTION MANAGEMENT, INC. is a corporation, attach evidence of authority to sign.)



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END OF SECTION 00500



State of Arkansas
Department of
Environmental Quality



Pollution Management, Inc.

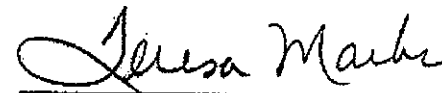
is a licensed

UNDERGROUND STORAGE TANK CONTRACTOR

*having qualified as required by law in accordance with regulations adopted by the Arkansas
Pollution Control and Ecology Commission's Regulation 12 pursuant to Arkansas Code Annotated,
§8-7-801 et seq., relative to underground storage tanks within the State of Arkansas.*

License Number: **000236**

	Issue	Expire
Install/Repair/Upgrade	6/25/2008 - 6/30/2010	
Close	6/25/2008 - 6/30/2010	


ADEQ Director

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date: Bid # 09-21 Pollution Management, Inc.
P.O Number:	3/16/2009 Page 15 of 16
	Expected Delivery Date: ASAP

Vendor #:	Vendor Name: Pollution Management, Inc.	Mail Yes: No: ☒
Address: 3512 South Shackleford	Fob Point: 113 W Mountain; Fayetteville, AR	Taxable Yes: No: ☒
City: Little Rock	State: AR	Zip Code: 72205
Requester: Shannon Jones / Cheryl Partain	Requester's Employee #: 2689	Extension: 452

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Underground Storage Tank Removal	1	ea	19,680.00	\$19,680.00	5400.5700.5815.00	05044.3		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

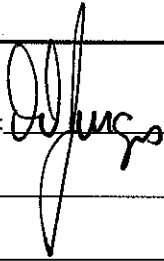
Special Instructions:

Bid 09-21

Subtotal:	\$19,680.00
Tax:	\$0.00
Total:	\$19,680.00

Approvals:

Mayor: _____

Department Director: 

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: 

City of Fayetteville Staff Review Form

A. 4
 Garver Engineers, LLC
 Amendment No. 3
 Page 1 of 10

City Council Agenda Items
 and
 Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
 Agenda Items Only

Chris Brown

Engineering

Development Services

Submitted By

Division

Department

Action Required:

A resolution authorizing execution of Amendment No. 3 to the Engineering Contract with Garver Engineers, LLC in an amount not to exceed \$253,588 for bidding and construction phase services for Mount Comfort Road, Contract 2, from Alpine Avenue to Ruppel Road.

\$ 253,588.00

Cost of this request

\$ 24,737,671.00

Category / Project Budget

Transportation Bond Improvements

Program Category / Project Name

4520.9520.5314.00

Account Number

\$ 11,187,417.00

Funds Used to Date

Professional Services

Program / Project Category Name

06035.1500

Project Number

\$ 13,550,254.00

Remaining Balance

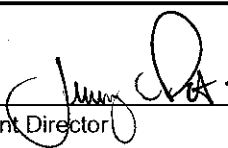
2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

 Department Director

03/23/09

Date

Previous Ordinance or Resolution # 154-06

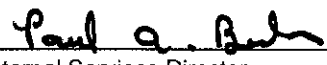
Original Contract Date: 9/19/2006

Original Contract Number: 1051


 City Attorney

3/23/09

Date

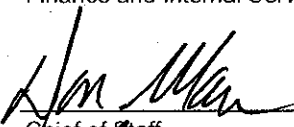

 Finance and Internal Services Director

3-23-09

Date

 Received in City
 Clerk's Office

 ENTERED
 3/23/09
 LDB


 Chief of Staff

3/23/09

Date

 Received in
 Mayor's Office

 ENTERED
 3/23/09
 BRP


 Mayor

3/24/09

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*

CB
From: Chris Brown, Interim City Engineer

Date: March 20, 2009

Subject: A resolution authorizing execution of Amendment No. 3 to the Engineering Contract with Garver Engineers, LLC in an amount not to exceed \$253,588 for bidding and construction phase services for Mount Comfort Road, Contract 2, from Alpine Avenue to Ruppel Road.

RECOMMENDATION:

Staff recommends approval of a resolution authorizing execution of Amendment No. 3 to the Engineering Contract with Garver Engineers, LLC in an amount not to exceed \$253,588 for bidding and construction phase services for Mount Comfort Road, Contract 2, from Alpine Avenue to Ruppel Road.

BACKGROUND:

Mount Comfort Road Improvements are a part of the Transportation Improvement Bond Program. The project includes major intersection improvements at the I540/Shiloh Drive Intersection, relocation of Shiloh Drive to the west, signalization of 4 intersections along Mount Comfort, and widening of Mount Comfort to 4 lanes from I-540 to Ruppel Road.

Under the original contract, and Contract Amendment No. 1, Garver provided traffic studies, design surveys and preliminary and final design services for Mount Comfort Road, from I-540 to west of Ruppel Road. The design has been completed by Garver, and bids for construction have been received for contract 1. Contract Amendment No. 2 has also been approved for construction phase services by Garver for Contract 1.

Contract 2 will be advertised for bid in the coming months.

DISCUSSION:

Under this Contract Amendment, Garver will provide engineering services required during bidding of Contract 2, and construction observation services and engineering support during the construction of the project.

The amount of this Contract Amendment will not exceed \$253,588. The original contract amount plus amendments 1 and 2 was \$1,254,487; therefore, the total amended contract amount is \$1,508,075. The contract amendment will be paid based on hourly rates for time actually spent on the project.

BUDGET IMPACT:

This contract will be paid from funds available in the Transportation Improvement Bond Program. Total funding required for this item is \$253,588.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE CONTRACT WITH GARVER ENGINEERS, LLC IN AN AMOUNT NOT TO EXCEED \$253,588.00 FOR BIDDING AND CONSTRUCTION PHASE SERVICES FOR MOUNT COMFORT ROAD IMPROVEMENTS CONTRACT 2, FROM ALPINE AVENUE TO RUPPLE ROAD.

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. 3 to the contract with Garver Engineers, LLC in an amount not to exceed \$253,588.00 for bidding and construction phase services for Mount Comfort Road Improvements Contract 2, from Alpine Avenue to Ruppel Road. A copy of the Amendment, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

CONTRACT AMENDMENT NO. 3 – CONSTRUCTION PHASE SERVICES

**Mt. Comfort Road Improvements – (Construction Contract No. 2) Ruppel Road to
Alpine Avenue**

This Contract Amendment No. 3, dated _____, 2009 shall amend the original contract between the CITY OF FAYETTEVILLE (Fayetteville, Arkansas) and GARVER ENGINEERS, LLC (GARVER), dated September 19, 2006 for proposed improvements to Mt. Comfort Road from Interstate 540 to Ruppel Road, referred to in the following paragraphs as the original contract. Previously executed, Contract Amendment No. 1 added professional engineering and survey services for Design and Bidding Phase Services of Construction Contract No. 1 and for Design Phase Services for Construction Contract No. 2. Previously executed, Contract Amendment No. 2 added professional engineering and surveying services for the Construction Phase Services of Construction Contract No. 1. This Contract Amendment No. 3 adds professional engineering and surveying services for the Bidding Services and Construction Phase Services of Construction Contract No. 2, as described herein.

The original contract is hereby modified as follows:

SECTION 6 – PAYMENT TO GARVER

6.1 Compensation

Replace “not to exceed \$1,254,487” with “not to exceed \$1,508,075”.

6.1.6 Bidding Services

Add the following:

For Bidding Services related to Construction Contract No. 2 described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be \$13,588.

6.1.7 Construction Phase Services

Add the following:

For Construction Phase Services related to Construction Contract No. 2 described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be \$240,000.

APPENDIX A

2.10 Bidding Services

Add the following:

During the bidding phase of Construction Contract No. 2 of the project, the Engineer will dispense construction contract documents to perspective bidders (at the approximate cost of reproduction and handling), support the contract documents by preparing addenda as appropriate, attend the bid opening, prepare bid tabulation, evaluate bids, recommend award, and prepare construction contracts.

2.12 Construction Phase Services

Add the following:

During the construction phase of work on Construction Contract No. 2, GARVER ENGINEERS will accomplish the following:

1. Provide up to 24 man-hours plus 8 crew-hours to revise easement and right-of-way documents during the construction phase.
2. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting.
3. Review the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and will make a recommendation to the CITY OF FAYETTEVILLE regarding payment.
4. Attend progress/coordination meetings with CITY OF FAYETTEVILLE/Contractor.
5. Prepare for and attend utilities coordination meeting.
6. Provide coordination with a construction materials testing firm.
7. Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by GARVER ENGINEERS on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner.
8. Maintain a set of working drawings and prepare and furnish record drawings.
9. Provide part-time resident construction observation services for the 360-calendar-day construction contract performance time. The proposed fee is based on approximately **4 hours per day**, 5 days per week, during the 360-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement or if the CITY OF FAYETTEVILLE wishes to increase the time or frequency of the observation, the CITY OF FAYETTEVILLE will pay GARVER ENGINEERS an additional fee agreed to by the CITY OF FAYETTEVILLE and GARVER ENGINEERS.
10. Provide up to 120 hours of survey crew for staking utilities or others features, verifying contractor's layout and record drawings as requested by the CITY OF FAYETTEVILLE.
11. When authorized by the CITY OF FAYETTEVILLE, prepare change orders for changes in

the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the CITY OF FAYETTEVILLE will pay GARVER ENGINEERS an additional fee (unless changes are required due to the fault of GARVER ENGINEERS) to be agreed upon by the CITY OF FAYETTEVILLE and GARVER ENGINEERS.

12. Participate in final project inspection, prepare punch list, review final project closing documents, and submit final pay request.

Construction observation services will be provided by GARVER ENGINEERS Resident Project Representative, who will provide or accomplish the following:

- Consult with and advise the CITY OF FAYETTEVILLE during the construction period.
- Coordinate with the firm providing construction materials quality assurance testing under separate contract with the CITY OF FAYETTEVILLE.
- Maintain a file of quantities incorporated into the work, test reports, certifications, shop drawings and submittals, and other appropriate information.
- Maintain a project diary which will contain information pertinent to each site visit including date and weather conditions, names of important visitors, construction work in progress and location, size of Contractor's work force and equipment in use, number of hours worked by Contractor's forces, and substance of important conversations with the Contractor. Engineer will provide copies to CITY OF FAYETTEVILLE weekly.

In performing construction observation services, GARVER ENGINEERS will endeavor to protect the CITY OF FAYETTEVILLE against defects and deficiencies in the work of the Contractor(s); but GARVER ENGINEERS cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction GARVER ENGINEERS observes that the Contractor's work does not comply with the construction contract documents, GARVER ENGINEERS will immediately notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. GARVER ENGINEERS will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, GARVER ENGINEERS will notify the CITY OF FAYETTEVILLE immediately, so that appropriate action under the CITY OF FAYETTEVILLE's contract with the Contractor can be taken.

APPENDIX A-2 – Fee Summary

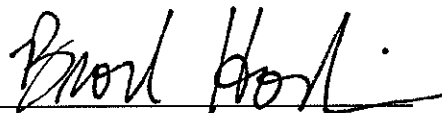
Fee summary is replaced in its entirety with the attached Fee Summary.

IN TESTIMONY OF WHICH, this instrument has been executed on behalf of GARVER ENGINEERS, and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of equal force, on the day and year first above written.

CITY OF FAYETTEVILLE

GARVER ENGINEERS, LLC

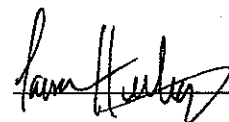
By: _____
Lioneld Jordan

By: 
Brock Hoskins

Title: Mayor

Title: Sr. Vice President

ATTEST: _____

ATTEST:  _____

APPENDIX A-2

CITY OF FAYETTEVILLE MOUNT COMFORT ROAD IMPROVEMENTS

FEE SUMMARY

	Original Contract	Amendment No. 1	Amendment No. 2	Amendment No. 3	Total
Traffic Studies	\$29,080	\$0	\$0	\$0	\$29,080
Schematic Study	\$49,500	\$0	\$0	\$0	\$49,500
Signalization Design	\$0	\$37,500	\$0	\$0	\$37,500
Surveys - Design	\$97,100	\$0	\$0	\$0	\$97,100
Surveys - Property	\$0	\$42,300	\$0	\$0	\$42,300
Drainage Study	\$0	\$0	\$0	\$0	\$0
Environmental Handling and Documentation	\$0	\$0	\$0	\$0	\$0
Conceptual Design	\$104,020	\$0	\$0	\$0	\$104,020
Preliminary Design	\$0	\$260,300	\$0	\$0	\$260,300
Final Design	\$0	\$261,800	\$0	\$0	\$261,800
Property Acquisition Documents	\$0	\$100,950	\$0	\$0	\$100,950
Contractor Procurement Assistance Services	\$0	\$14,000	\$0	\$0	\$14,000
Construction Phase Services - Contract No. 1	\$0	\$0	\$217,587	\$0	\$217,587
Bidding Services - Contract No. 2	\$0	\$0	\$0	\$13,588	\$13,588
Construction Phase Services - Contract No. 2	\$0	\$0	\$0	\$240,000	\$240,000
Subtotal NTE Fee	\$279,700	\$716,850	\$217,587	\$253,588	\$1,467,725
<u>Subcontracted Services</u>					
Geotechnical Services	\$22,750	\$0	\$0	\$0	\$22,750
Record Research	\$0	\$0	\$0	\$0	\$0
ARKUPS - Utility Locates	\$17,600	\$0	\$0	\$0	\$17,600
Estimated Subcontract Fees	\$40,350	\$0	\$0	\$0	\$40,350
Total NTE Fee	\$320,050	\$716,850	\$217,587	\$253,588	\$1,508,075

City of Fayetteville Staff Review Form

A. 5
Department of Homeland
Security Assistance Grant
Page 1 of 86

**City Council Agenda Items
and
Contracts, Leases or Agreements**

April 7, 2009

**City Council Meeting Date
Agenda Items Only**

Tony Johnson

Submitted By

Fire

Division

Fire

Department

Action Required:

Council approval to apply for the 2009 Assistance To Firefighters Grant program. The amount to be requested will be approximately \$200,000 for the purchase of a mobile multi-trainer system. The city's obligation under this grant program is a 20% matching contribution if awarded.

\$ 40,000.00

Cost of this request

1010.0001.4308.00

1010.0001.4309.00

Account Number

\$ -

Category / Project Budget

\$ -

Funds Used to Date

\$ -

Remaining Balance

Act 833 Rev / Federal Grant Rev

Program Category / Project Name

Revenues

Program / Project Category Name

General Fund

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

3/9/2009

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

3/19/09

Date

Received in City Clerk's Office
ENTERED 3/10/09 UM

Paul A. Bach
Finance and Internal Service Director

3-19-09

Date

Received in Mayor's Office
ENTERED 3/19/09 PH

[Signature]
CHIEF OF STAFF
[Signature]
Mayor

3/19/09

Date

3/24/09

Date

Comments:



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

A. 5

Department of Homeland
Security Assistance Grant
Page 2 of 86

March 9, 2009

To: Mayor Jordan
Fayetteville City Council

From: Tony Johnson, Fire Chief *T.J.*

Subject: Request to Make Grant Application

As in past years, the department of Homeland Security/Federal Emergency Management Agency is making money available through the 2009 Assistance to Firefighters Grants program. The fire department has greatly-benefited from this funding source in the past, and we are requesting authorization to apply for \$200,000 for purchase of a Mobile Multi-Trainer System. If our request is selected for funding, we will apply for authorization from the City Council to appropriate the \$40,000 matching amount from the Act #833 funding which is received annually from the State of Arkansas to purchase equipment for the fire department.

Honor, Commitment, Courage;
Our people make the difference!

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE FIRE DEPARTMENT TO APPLY FOR A DEPARTMENT OF HOMELAND SECURITY 2009 ASSISTANCE TO FIREFIGHTERS GRANT IN THE AMOUNT OF \$200,000.00 FOR PURCHASE OF A MOBILE MULTI-TRAINER SYSTEM.

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 the Fayetteville Fire Department to apply for a Department of Homeland Security 2009 Assistance to Firefighters Grant in the amount of \$200,000.00 for purchase of a Mobile Multi-Trainer System.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

FEDERAL EMERGENCY MANAGEMENT AGENCY

U.S. DEPARTMENT OF HOMELAND SECURITY

Fiscal Year 2008

Assistance to Firefighters Grants

Program and Application Guidance

February 2008

*2009 Guidance
Not yet
available.*

*EW
3/9/09*



FEMA

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Key Changes in FY 2008

The Fiscal Year (FY) 2008 Assistance to Firefighters Grants (AFG) remains largely unchanged from the previous year's program based upon input from members of the America's fire services and other stakeholders. The FY AFG program continues to promote a risk-based funding approach consistent with other programs administered by the Department of Homeland Security's (DHS). In FY 2008 we will also continue our commitment to regional projects in order to promote regional integration, interoperable communications, mutual aid agreements, and equipment compatibility.

The criteria development panel recommended that the AFG emphasize the importance of training in the FY 2008 program. As such, the FY 2008 application will contain questions regarding the applicant's training certification level and interest in attaining higher levels of proficiency. The answers will not affect the preliminary screening of any application, but they will be available for consideration by the technical review panelists in their evaluation. We anticipate that the technical review panelists will not recommend awarding grants for applications where membership is not fully trained (commensurate with National Fire Protection Association (NFPA) 1001 or an equivalent State standard) and where the applicant is not seeking funding to attain a minimum level of training for their membership.

As allowed in FY 2007, all eligible applicants in FY 2008 may submit three separate applications, (*i.e.*, one application under Operations and Safety, a second application under Vehicle Acquisition, and a third application for a regional project). Fire departments and nonaffiliated emergency medical service (EMS) organizations in urban and suburban communities are allowed to request multiple vehicles on their Vehicle Acquisition application. Departments servicing rural communities will continue to be restricted to only one vehicle per request. Previous vehicle awardees may receive a FY 2008 AFG vehicle award.

However, in FY 2008, DHS will no longer provide advance funding for the purchase of vehicle chassis. DHS will only allow a limited advance of funds not to exceed 25 percent of the Federal share on vehicle grants to cover any pre-delivery costs. Also, all-terrain vehicles (ATVs) and rescue boats, previously eligible under the equipment category, will no longer be eligible for funding. Finally, regional communications projects will not be funded unless their State's Statewide Communications Interoperability Plan (SCIP) has been reviewed and approved by DHS.

All FY 2008 AFG applicants must submit a justification for their project(s) that provides details regarding the project and the project's budget, the benefits to be derived from the project, the applicant's financial need, and how the project would affect the applicant's daily operations in protecting lives and property within their community.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

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U.S. Department of Homeland Security – Assistance to Firefighters Grants

Introduction

Assistance to Firefighters Grants (AFG) provides financial assistance directly to fire departments and nonaffiliated EMS organizations to enhance their capabilities with respect to fire and fire-related hazards. Our primary goal is to help fire departments and nonaffiliated EMS organizations meet their firefighting and emergency response needs. AFG seeks to support organizations that lack the tools and resources necessary to more effectively protect the health and safety of the public and their emergency response personnel with respect to fire and all other hazards.

The purpose of this package is to provide: an overview of the AFG; the formal grant guidance; and, the application materials needed to apply for funding under this program. Also included is an explanation of DHS management requirements for implementation of a successful application.

Making an application for Federal funds under programs such as this can be complex. Our job at DHS is to provide clear guidance and efficient application tools to assist applicants. Our customers are entitled to effective assistance during the application process, and transparent, disciplined management controls to support grant awards. We intend to be good stewards of precious Federal resources, and common-sense partners with our first-responder colleagues.

A. Federal Investment Strategy.

The AFG program is an important part of the Administration's larger, coordinated effort to strengthen homeland security preparedness. Of particular significance are the National Preparedness Guidelines and their associated work products. The National Preparedness Guidelines are an all-hazards vision regarding the Nation's four core preparedness objectives: prevent, protect, respond and recover from both terrorist attacks and catastrophic natural disasters.

The National Preparedness Guidelines define a vision of what to accomplish and a set of tools to forge a unified national consensus about what to do and how to work together at all levels of government. First-responder participation is integral to the Guidelines' success. DHS expects its first-responder partners to be familiar with this national preparedness architecture and to incorporate elements of this architecture into their planning, operations, and investments.

B. Overarching Funding Priorities.

The funding priorities for the FY 2008 AFG reflect the Department's overall investment strategy, in which three priorities are paramount: enhancing national capabilities, risk-

U.S. Department of Homeland Security – Assistance to Firefighters Grants

based prioritizations, and interoperability. Each year, DHS brings together a panel of fire service professionals representing the nine major fire service organizations to recommend funding priorities and other implementation criteria for AFG. These nine organizations are:

- Congressional Fire Services Institute (CFSI),
- International Association of Arson Investigators (IAAI),
- International Association of Fire Chiefs (IAFC),
- International Association of Firefighters (IAFF),
- International Society of Fire Service Instructors (ISFSI),
- National Association of State Fire Marshals (NASFM),
- National Fire Protection Association (NFPA),
- National Volunteer Fire Council (NVFC), and
- North American Fire Training Directors (NAFTD).

This criteria development panel is charged with making recommendations to DHS regarding the creation and/or modification of previously established funding priorities, as well as developing criteria for awarding grants. This document reflects the Department's implementation of the criteria development panel's recommendations with respect to the priorities, direction, and criteria for awarding grants.

The AFG authorizing legislation requires DHS to take into account the benefit to be derived from the costs of the grant activity when considering each application for award. DHS has determined that risk-based funding achieves this cost/benefit consideration and that the frequency of use, as well as the level of population protected, are both measures of risk and indicators of the benefit that could be derived from an award. Therefore, for each activity below, DHS will provide a higher level of consideration to departments with significant levels of incidents and to departments that protect large populations relative to other applicants, regardless of the type of community served.

The criteria development panel has recommended that DHS make a distinction between "new missions" and "new risks." A department takes on a "new mission" when it expands services into areas not previously offered, such as a fire department seeking funding to provide emergency medical services for the first time. A "new risk" presents itself when a department must address risks that have materialized in the department's area of responsibility, for example, the construction of a chemical plant. An organization taking on "new risks" will be afforded higher consideration than departments taking on a "new mission." However, grant requests reaching the second level of competition (the peer review) can mitigate the impact of "new missions" on the competitiveness of the application by providing evidence that the department will be able to support and sustain the "new mission" beyond the period of grant.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

In order to focus on the overarching priorities, the Department identifies specific criteria as our highest priorities under each of the funding areas as set forth in Appendices 1 and 2 of this guidance. No one funding area is considered a priority over the others; therefore, the lists in Appendices 1 and 2 are not in any particular order.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Part I.

Available Funding and Eligible Applicants

This section describes departments and organizations that are eligible to apply for funding under the FY 2008 AFG, the total available funding in FY 2008, and how those funds are allocated. The authority for AFG is derived from the Federal Fire Protection and Control Act of 1974 (15 U.S.C. §§ 2229 *et seq.*), as amended. Congress reauthorized AFG and appropriated a total of \$560 million for the FY 2008 AFG. Funds appropriated for the FY 2008 AFG are available for obligation and award until September 30, 2009.

A. Available Funding.

Congress appropriated a total of \$560 million to carry out the activities of the FY 2008 AFG program. Congress directed DHS to administer these funds as indicated below.

- Up to 5 percent of appropriated funds (\$28 million) may be used for program administration.
- Up to 2 percent of appropriated funds (\$11.2 million) may be used for awards to nonaffiliated EMS organizations.
- No more than 25 percent of appropriated funds (\$140 million) may be used for vehicle awards.
- No less than 3.5 percent of funds (\$19.6 million) must be awarded for EMS equipment and training.
- No less than 5 percent of appropriated funds (\$28 million) must be made available to make grants for fire prevention activities (FP&S grants). However, due to the importance of mitigation activities, the 2008 FP&S will be allocated \$35 million for grants.
- No less than \$3 million must be awarded for foam and foam-related equipment.

When making awards, DHS must assure that combined percentage of awards to combination and volunteer departments is equal to or greater than the percentage of the Nation's population that these types of departments serve. The National Fire Protection Association has reported (*U.S. Department Profile Through 2006*, issued October 2007) that combination departments protect 33 percent of the Nation's population and volunteer departments protect 22 percent. As such,

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- No more than 45 percent of the AFG funds (\$252 million) may be awarded to career departments.
- No less than 33 percent of AFG funds (\$184.8 million) must be awarded to combination organizations (organizations with both paid career and volunteer active duty firefighters).
- No less than 22 percent of AFG funds (\$123.2 million) must be awarded to all-volunteer organizations (organizations with no active duty paid career firefighters).

Congress also limited award amounts based on population protected by the applicant, as indicated below.

- Applicants that serve a jurisdiction with a population of 500,000 people or less may not receive grant funds in excess of \$1,000,000 in any program year.
- Applicants that serve a jurisdiction with more than 500,000, but not more than 1,000,000, people may not receive grant funds in excess of \$1,750,000 in any program year.
- Applicants that serve a jurisdiction of more than 1,000,000 people may not receive grant funds in excess of \$2,750,000 in any program year.

The cumulative total of the Federal share of awards in Operations and Safety, Vehicle Acquisition, and Fire Prevention and Safety will be factored when assessing award amounts and any limitations thereto. Applicants may request funding up to the statutory limit on each of their applications (*i.e.*, an applicant that serves a population of less than 500,000 may request up to \$1,000,000 on their Operations and Safety application and up to \$1,000,000 on their vehicle request); however, the applicant would have to choose which application to accept, if the cumulative value of both applications exceeds the statutory limits if awarded.

For the purposes of this program, applications for regional projects will not be included in the host applicant's funding limitations detailed above. Regional applications will be considered independent of, and unrelated to, any other applications that the host applicant may submit and thus will not be included when assessing the host applicant's Federal funding limits. Regional applications, however, will be subject to their own limitation based on the total population that the regional project will serve. For example, a regional project that serves a population of fewer than 500,000 people will be limited to \$1,000,000.

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DHS will also continue to separate FP&S grants from AFG, and will have a separate application period devoted solely to FP&S grants. The FP&S application period is planned for fall 2008.

In addition, Congress appropriated \$190 million for Staffing for Adequate Fire and Emergency Response (SAFER) grants in FY 2008. SAFER's goal is to help fire departments increase the number of frontline firefighters. When available, information about the FY 2008 SAFER grants will be announced on the AFG Website at www.firegrantsupport.com/safer/.

B. Eligible Applicants.

Eligible applicants for AFG are limited to fire departments and nonaffiliated EMS organizations. Fire departments or nonaffiliated EMS organizations operating in any of the 50 States plus the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and Puerto Rico are eligible for funding.

A "fire department" is defined as an agency or organization that has a formally recognized arrangement with a State, territory, local, or tribal authority (city, county, parish, fire district, township, town, or other governing body) to provide fire suppression to a population within a fixed geographical area on a first-due basis.

A "nonaffiliated EMS organization" is defined as a public or private nonprofit emergency medical services organization that provides direct emergency medical services, including medical transport, to a specific geographic area on a first-due basis but is not affiliated with a hospital and does not serve a geographic area where emergency medical services are adequately provided by a fire department.

In making the determination regarding "adequately provided," DHS will conclude that any nonaffiliated EMS organization would be eligible if it is "adequately providing" direct emergency medical services at the time of application submission and is in good standing with the community, (*i.e.*, licensed and/or chartered to provide EMS services to the community). Rescue squads that provide direct emergency medical services, including medical transport, to the community they serve are eligible to apply as a nonaffiliated EMS organization.

By "affiliated" we mean receiving any kind of direct support from a hospital in the form of funding, facilities, staff, equipment, or apparatus. Contracting with a hospital on a fee-for-service basis would not constitute an "affiliation" in the context of AFG. Also, for the purpose of these grants, a "hospital" is defined as an organization, clinic, medical center, medical college or university, infirmary, surgery center, or any other institution, association, or foundation that provides medical, surgical, or psychiatric care and treatment for the sick or injured.

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A municipality (such as a fire district) may submit an application on behalf of a fire or EMS organization when the organization, defined as a fire department or nonaffiliated EMS organization, lacks the legal status to do so, (e.g., when the organization falls within the auspices of the municipality or district). The Alaska Village Initiative, a nonprofit organization incorporated in the State of Alaska, will also be considered eligible for purposes of receiving assistance under this program on behalf of any Alaska Native village.

For the 2008 program year, each eligible applicant may submit one application for each of the program areas, (i.e., one application for the Vehicle Acquisition program area, one application for Operations and Safety program area, and one application for a regional project). However, if an eligible applicant submits multiple applications in a single program area (for example two regional project applications for which they are a host or two Operations and Safety applications) we will deem all of the applications in that same program area to be ineligible.

For the purposes of these grants, we consider two or more separate fire departments or nonaffiliated EMS organizations that share facilities as being one organization. This determination is designed to avoid duplication of benefits. For example, it would not be cost-beneficial to purchase two firefighting vehicles for two fire departments that share a facility to serve the same community when so many other communities need new apparatus; nor would it be cost-beneficial to buy two sets of equipment for the same firefighters. We believe that two or more organizations that share facilities should be able to satisfy all of their operational needs with one program area application. Thus, if two or more organizations that share facilities each submit an application in the same program area, we will deem all of those program area applications as ineligible.

A fire department can apply for assistance for its EMS unit, provided the unit falls organizationally under the auspices of the fire department. Fire departments may NOT apply for assistance as a “nonaffiliated EMS organization” under the AFG program. Fire departments whose applications are submitted as a nonaffiliated EMS organization will have their application deemed ineligible. Likewise, a nonaffiliated EMS organization may NOT apply for assistance as a fire department. If a nonaffiliated EMS organization submits an application as a fire department, we will deem that application to be ineligible as well.

Non-Federal airport and/or port authority fire or EMS organizations are eligible only if they have a formally recognized arrangement with the local jurisdiction to provide fire suppression or emergency medical services on a first-due basis outside the confines of the airport or port facilities. Airport or port authority fire and EMS organizations whose sole responsibility is suppression of fires or EMS response on the airport grounds or port facilities are not eligible for funding under AFG.

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C. – Ineligible Organizations.

- Fire departments that are Federal, or contracted by the Federal government, and are solely responsible under a formally recognized agreement for suppression of fires on Federal installations or land are ineligible for funding.
- Fire stations that are not independent entities, but are part of, controlled by, or under the day-to-day operational direction of a larger fire department or agency are not eligible for funding.
- Fire departments that are for-profit departments (*i.e.*, do not have specific nonprofit status or are not municipally based) are not eligible for funding.
- Auxiliaries, fire service organizations or associations, and State/local agencies such as a forest service, fire marshals, hospitals, and training offices are not eligible for funding.
- Dive teams and search and rescue teams, or any similar organizations that do not provide medical transport, are not eligible for assistance as nonaffiliated EMS organizations.

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Part II.
Evaluation Process

This section summarizes the multi-level review and evaluation process used to select applications for AFG funding.

A. Pre-Screening Process.

As explained earlier, funding priorities and criteria for evaluating AFG applications are established based on recommendations from the criteria development panel. We will rank all submitted applications based on the substance of the application relative to the established funding priorities for the type of community served. Answers to the application's activity-specific questions provide information used to determine each application's ranking relative to the stated priorities.

If you apply for more than one activity in your selected project, each activity will be scored separately. Then the scores will be prorated based on each individual activity's funding level, compared to the total requested funding in your application. For example, under the Operations and Safety Activity, if you apply for \$9,000 in training and \$1,000 in equipment, the training portion of the proposal will represent 90 percent of the score and the equipment will represent 10 percent of the score. The number of activities included in the application will not affect the application - negatively or positively.

B. Peer Review Process.

Applications that best address the grant funding priorities (as outlined below) will score higher than applications that are inconsistent with the priorities. Applications scoring the highest will be determined to be within the "competitive range" and will undergo further evaluation through a peer review process. It has been DHS' practice to review a sufficient number of applications to assure that the program's goals and objectives will be met. To achieve this, the number of applications reviewed each year is the number of applications whose cumulative requests total 200 percent of the appropriated funding for AFG. As such, with \$540 million appropriated for AFG in 2008, DHS will consider approximately \$1.1 billion in applications to be in the competitive range and reviewed by a panel of peers.

A panel of at least three technical evaluation specialists will evaluate each application in the competitive range using the project narrative, along with answers to the general questions and the activity-specific questions. During the panel review process, panelists will provide a subjective but qualitative judgment on the merits of each request.

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Applications that include requests for equipment and/or training will be evaluated by the panelists relative to the critical infrastructure within the applicant's area of first-due response. Critical infrastructure includes any system or asset that, if attacked or impacted by a hazardous event, would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes the following: public water or power systems, major business centers, chemical facilities, nuclear power plants, major rail and highway bridges, petroleum and natural gas transmission pipelines or storage facilities, telecommunications facilities, or facilities that support large public gatherings such as sporting events or concerts. Panelists will assess such infrastructure and the hazards confronting the community, as explained in the narrative, to determine the benefits that will be realized from a grant to the applicant.

Panelists will evaluate and score the following project elements:

- 1) the clarity of your proposed project, including the project's budget detail;
- 2) the organization's financial need;
- 3) the benefits that would result from an award relative to the cost; and
- 4) the extent to which the grant would enhance daily operations, and/or how the grant will positively impact an organization's ability to protect life and property.

Each of these four elements carries equal weight when factored into the panelists' scores (*i.e.*, one-fourth).

Each application will be judged on its own merits, not compared to other applications. The panelists will consider all expenses budgeted, including administrative and/or indirect costs, as part of the cost-benefit review. An applicant may demonstrate cost-benefit by describing, as applicable, how the grant award will accomplish the following:

- 1) enhance a regional approach, *i.e.*, is consistent with current capabilities and requests of neighboring organizations or otherwise benefits other organizations in the region;
- 2) implement interoperable communications capabilities which are certified by the appropriate State Administrative Agency and DHS as being aligned with the applicable Statewide Communications Interoperability Plan (SCIP) and coordinated with relevant local, State, and Federal first responder and other organizations; and
- 3) allow first responder organizations to respond to incidents involving Chemical, Biological, Radiological, Nuclear, or High-Yield Explosives (CBRNE). Capabilities to respond to all hazards, including incidents involving fire, seismic

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(earthquake), atmospheric (tornadoes, hurricanes), or technological (hazardous materials or nuclear) events, are also relevant so long as they would also support the CBRNE mission.

Panelists will review each application in its entirety and rate the application according to the established evaluation criteria.

Keep in mind that we will use the answers to the activity-specific questions when conducting our initial assessment. The answers to these questions are the primary basis for determining whether an application warrants further evaluation through peer review. Applicants whose answers indicate that their project is consistent with the established priorities (as outlined below) will have a better chance of reaching the competitive range and the second level peer review than those applicants whose projects do not reflect the established priorities. Applicants that submit false information with their applications or misrepresent their organizations in any material manner will have their applications deemed ineligible by the AFG Program Office and referred to the DHS Office of Inspector General (OIG) for further action, as appropriate.

Each application that scores high under the peer review process will be deemed in the fundable range. Applications that are in the fundable range will undergo both a Technical Review by a subject matter specialist as well as a program office review prior to being recommended for award. In the Technical Review, the subject matter specialists will assess the technical feasibility of the application addressing the needs of the applicant. After the Technical Review, the program office will conduct an additional review to assess the request with respect to costs and quantities and eligibility prior to recommending the application for award.

C. State Strategy and Communications Technical Review.

Each State will provide the AFG Program Office with a representative to conduct a technical review of peer-reviewed applications from the State to review requests for CBRNE-related equipment or training, or interoperable communications equipment or training. After the panel review process is complete, the designated State homeland security official will review the application to ensure that requests for communications systems conform to the State's SCIP. The State representative will further certify that such requests are consistent with the State Homeland Security Strategy and do not duplicate or conflict with assistance already provided or imminent. If a State representative determines that an application is either inconsistent with the State strategy or duplicates the State's assistance, that portion of the AFG application will not be funded. Further, applicants within States that have not submitted their SCIP to DHS for review and approval will not be eligible for interoperable communications funding.

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D. Critical Infrastructure and Key Resources.

DHS maintains a classified list of the nation's critical infrastructure and key resources. Once the competitive range is established (please refer to the definition of this process in section B of this Part) DHS will review the list of applicants that are not included in the competitive range to determine if any those applicants are responsible for protecting critical infrastructure or key resources on this classified list. If it is determined that an applicant has responsibility for protecting one or more critical infrastructure or key resource but is not included in the competitive range, DHS will determine whether it is appropriate to place that application before the peer review panel due to the importance of its mission to protect these critical resources. This action will not affect any other application or otherwise undermine the process used to determine the competitive range. Peer review panelists will not be aware of any applicant's protection of critical infrastructure/key resources and all applications will be peer reviewed against the criteria described in section B of Part II of this document.

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Part III.
Application Requirements

This section summarizes the process for applying for FY 2008 AFG program.

A. Automated Grant Application.

The FY 2008 AFG application will be accessible from the AFG website (www.firegrantsupport.com), the U.S. Fire Administration's (USFA) Website (www.usfa.fema.gov), and grants.gov Website (www.grants.gov). We have designed the automated application with many built-in "help screens" and "drop-down menus" to assist applicants throughout the application process. The application can be saved and retrieved as many times as needed to complete it - up to the application deadline or the submittal of the application.

However, once you have submitted your application, you cannot change it. You will not be allowed to update your application to correct errors discovered after submission or to reflect changes in your organization's circumstances regardless of severity. You will be automatically notified via e-mail once we have received your application.

An applicant tutorial will be available on the Internet at www.firegrantsupport.com. The tutorial explains the grant program, helps applicants with the online grant application, provides tips for navigating the application screens, and summarizes FY 2008 program changes. The tutorial also provides a review of lessons learned during previous grant periods.

You may decide to hire or engage a grant writer to assist you in the application process. However, as the applicant, you are responsible for the cost associated with using outside assistance, and for all information contained in your application. By submitting the application, you are certifying that all of the information contained therein is true and is an accurate reflection of your organization. Therefore, prior to submission, please review all work produced by grant writers, or other third parties, on your behalf. Applicants that falsify their applications or misrepresent their organizations in any material manner will have their applications deemed ineligible by the AFG Program Office and referred to the DHS OIG for further action, as appropriate.

Paper applications will be accepted, but are discouraged due to the inherent delays associated with processing them. Also, successful applicants who submitted paper applications must continue to manage their grants via paper, including payment requests, requests for modifications, reporting, etc.; whereas, applicants who applied online can perform all of these functions online. In addition, paper applications do not

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provide the built-in help that is available to online applicants. Finally, there is no assurance that your paper application is complete when submitted. If you do not have access to the Internet, contact us at (1-866-274-0960) to request a paper copy of the application via regular mail. We will not send paper applications via overnight delivery, fax, or e-mail.

The only eligible paper application is the application that we send you. Do not use any paper application that you did not receive directly from us. Do not print the screens from this year's online application and submit them as a paper application. Do not use a previous year's application. Any paper application that is not in the correct format will be deemed ineligible.

Applications for the 2008 AFG will be accepted starting on March 3, 2008, at 8:00 a.m. EDT. Up-to-date application information will be posted on the AFG and USFA Websites. Completed applications must be received by 5:00 p.m. EDT on April 4, 2008. Applications submitted by mail must be postmarked by April 1, 2008. Applications not submitted electronically must be mailed to:

Fire Grant Program Technical Assistance Center
U.S. Fire Administration, Room I-207
16825 South Seton Avenue
Emmitsburg, Maryland 21727-8998

We will not be responsible for applications mailed to any address other than the address listed above. Late, incomplete, or faxed applications will NOT be accepted. No electronically submitted applications other than those submitted online via the automated grant application system will be accepted.

B. Application Process.

Eligible applicants can apply for AFG funding online via the "e-grants" application. The system will allow an authorized representative of an applicant to log in and create a username and password for the applicant. The selection of the authorized representative is at the discretion of each applicant. If your organization submitted an application in previous years, we advise you to use the same username and password used for previous applications. If your organization is submitting more than one FY 2008 application, you must use the same username and password used for prior-year applications, as well as for each FY 2008 application.

C. DUNS Number.

Effective October 1, 2003, all Federal grant applicants must contain a Dun & Bradstreet Data Universal Numbering System (DUNS) number. The DUNS number helps the Federal Government identify organizations that receive Federal funding and ensures

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consistent name and address data for electronic grant applications. Additional information about DUNS numbers can be found on the Dun & Bradstreet website at <https://eupdate.dnb.com/requestoptions/government/ccrreg/>.

There is no charge to obtain a DUNS number, and it is the applicant's responsibility to obtain one. Extensions may not be granted for applicants who were unable to obtain a DUNS number prior to the end of the application period. Applicants are encouraged to apply for a DUNS number as soon as possible by calling 1-866-705-5711; as it may take several weeks or more to obtain the number online. The DUNS number must be entered in a special data field on the AFG application.

D. Project Period.

The project period for any award under AFG will be 12 months from the date of the award.

E. Application Details.

As in previous years, the AFG application includes general questions about your organization and community, as well as questions specific to the proposed project. The answers to these questions will be used to evaluate your application and to determine whether your organization serves an urban, suburban, or rural community. Characteristics such as population, water supply, land use, number of stations, call volume, and the number of inhabitable structures over four stories tall in the jurisdiction indicate the type of community served. For the purpose of AFG grants, a "story" is the habitable or occupiable space between a floor and a ceiling of a structure. We will allow you to self-declare the type of community you serve; however, we will also use these characteristics to assist us in determining the type of community you serve. If your declaration and our determination differ, you will be prompted to justify your declaration in the narrative section of the application.

The designation of community type is important because we have established different funding priorities in some of the activity areas, depending on the type of community served. These funding priorities are delineated in each program area below, if applicable. The community designation (*i.e.*, urban, suburban, or rural) may also affect the ranking of your application, depending on the program area or activity for which you are applying. This is why you must justify your designation in the narrative of the application, if your designation is different from ours.

After completing the general questions, you will be asked a series of activity-specific questions relative to the program area selected and the activities for which you plan to apply. Answer the questions for each of the activities that support your project. Lastly, you will be required to provide a written narrative describing the planned project. The narrative portion of the application should provide details of the activities for which you

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are seeking funding, including budget details for each activity. The narrative should also describe your organization's financial need and elaborate on the benefits your community and/or organization will gain from the expenditure of the grant funds. Applications should particularly note how the grant would enhance your department's ability to protect critical infrastructure. Finally, the narrative should explain the extent to which the grant would enhance your daily operations and/or how the grant will positively impact your ability to protect life and property.

We recommend that you type your narrative offline in any word processing software, such as Word, Word Perfect, or Notepad. Once the narrative is complete, you can copy it or "cut-and-paste" it from the word processing document into the narrative block of the application. Space for the narrative is limited and cannot exceed five pages. Any narrative beyond the five-page limit will be cut off by the electronic system and will not be a part of your application submission. Do **NOT** type the narrative using only capital letters. For more specific information regarding the application and the narrative section, we advise you to review the applicant tutorial on the AFG Website (www.firegrantsupport.com).

F. Project Development.

As in previous years, the AFG program allows applicants to formulate a very comprehensive grant proposal. Depending on the program area for which you apply, your grant proposal may include a number of related "activities" to address all of your needs within a programmatic or functional area. This approach provides you with the opportunity to develop a more comprehensive grant project that addresses a broader range of your organization's needs. Be advised that your application should include only activities that can be completed within a one-year period of performance.

In FY 2008, you may submit one application per application period in each of the program areas, (*i.e.*, one application under Operations and Safety, one under Vehicle Acquisition, and/or a separate application as a regional host). If multiple applications are submitted on behalf of one organization **within** one of these program areas, either intentionally or unintentionally, we will deem all of that organization's applications in that program area to be ineligible. For example, if any applicant submits two applications for Operations and Safety, both applications will be deemed ineligible.

When formulating your grant proposal(s), keep in mind the legislative funding limits (See Part I.). If an applicant receives awards under both the Operations and Safety and Vehicle Acquisition areas, the total of both awards cannot exceed the legislatively established funding limit.

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a. Fire Department Projects.

Fire departments may submit applications for either or both of the following program areas. AFG awards are subject to the statutory funding limitations discussed above. Under Operations and Safety, you may include as many activities within the program area as necessary to meet your needs. However, you may submit **only one application per program area**. If multiple applications are submitted on behalf of one organization within one of these program areas, either intentionally or unintentionally, we will deem all of that organization's applications in that program area to be ineligible. The eligible program areas and associated activities for the FY 2008 AFG are listed below.

- **Firefighter Operations and Safety.** Eligible activities for fire departments under this program area are limited to training, equipment, Personal Protective Equipment (PPE), wellness and fitness, and modifications to fire stations and facilities. If an EMS unit falls organizationally under the auspices of a fire department, the fire department may submit requests for EMS training and equipment on behalf of their department's EMS unit under the appropriate functional area (*i.e.*, training or equipment, respectively). However, a fire department should NOT apply as a nonaffiliated EMS organization, even if its application is solely for EMS equipment or training. Requests for equipment, PPE, and training to prepare for response to incidents involving CBRNE are eligible under the appropriate activities in this program area. Applicants should ensure that all projects applied for under AFG are consistent with national standards and address interoperable communications and equipment compatibility.
- **Firefighter Vehicle Acquisition.** Eligible apparatus available to fire departments under this program area include, but are not limited to, pumpers, brush trucks, tankers/tenders, rescue vehicles, ambulances, quints, aerials, foam units, and fire boats. Urban and suburban departments may apply for multiple vehicles on one application; however, urban and suburban applications will be limited to one vehicle per station (at the time of the application). Rural fire departments may apply for only **one** vehicle per year. Applications from fire departments that serve rural communities and are requesting more than one vehicle will be deemed ineligible. For FY 2008, there is no restriction on vehicle requests based on previous AFG vehicle awards. Applicants who received vehicles under prior-year AFG awards are eligible to receive a vehicle grant in FY 2008. Activities related to a vehicle grant, such as driver/operator training and equipment for a vehicle should be included in the vehicle request, not as part of an Operations and Safety request.

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As stated above, for FY 2008 you may submit one application for assistance in each of these two program areas. Within your selected program area (Operations and Safety or Vehicle Acquisition), you may develop a comprehensive project to address all of your needs by applying for as many of the eligible activities that you determine are necessary. For example, if you determine that your needs are in the Operations and Safety area, you could apply for any one of the activities under that program area, any combination of activities, or all of the activities listed within that area. If you need a vehicle, you must apply under the Vehicle Acquisition program area. You may not apply for any vehicle under the Operations and Safety program area. Any equipment or training requested in a vehicle application must be specifically relevant to the requested vehicle and consistent with applicable National Fire Protection Association (NFPA) standards (1002, 1901, 1961, etc.).

b. Nonaffiliated EMS Organizations.

Nonaffiliated EMS organizations are eligible to apply for assistance during the FY 2008 AFG application period. The nonaffiliated EMS portion of AFG mirrors what is available to fire departments. EMS applicants may apply for assistance under either the Operations and Safety program area or the Vehicle Acquisition program area, or both using separate applications. EMS awards are subject to the statutory funding limitations, as discussed in Part 1 of this guidance. The EMS Operations and Safety area provides a range of eligible activities that enables applicants to formulate a very comprehensive grant proposal to meet all operational needs. The EMS Vehicle Acquisition area allows applicants to apply for a vehicle to enhance emergency response capabilities and may include operator training, as necessary.

For the FY 2008 application period, you may submit **one application per program area**; however, you are limited to only **one** application in each of the two program areas listed below. If multiple applications are submitted for a program area on behalf of one organization, either intentionally or unintentionally, we will deem all applications from that organization in that program area to be ineligible. Your application should include only activities that can be completed within the one-year period of performance. EMS program areas and associated activities eligible under the FY 2008 AFG are listed below.

- **EMS Operations and Safety.** Eligible activities available to nonaffiliated EMS organizations under this program area are limited to EMS training, EMS equipment, including PPE, wellness and fitness, and modifications to stations and facilities. Requests for equipment, PPE, and training to prepare for responding to incidents involving CBRNE are eligible for funding under the appropriate activities in this program area. Applicants should ensure that all

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projects applied for under the grant program are consistent with national standards and address interoperable communications and equipment compatibility.

- **EMS Vehicle Acquisition.** Eligible apparatus available to nonaffiliated EMS organizations under this area include, but are not limited to, ambulances, transport units, and rescue squads. Small specialty access vehicles such as ATVs, snowmobiles, and gators are not eligible under the vehicles acquisition category nor under the EMS Operations and Safety program area. Urban and suburban organizations may apply for multiple EMS vehicles on one application; however, urban and suburban applications will be limited to one vehicle per station in operation (at the time of the application). Rural organizations may apply for only **one** vehicle per year. You may not include equipment for your EMS vehicle in your request; however, your request may include driver/operator training. Applications from EMS organizations that serve rural communities that request more than one vehicle will be deemed ineligible. Previous AFG vehicle grant recipients are eligible to receive a vehicle grant in FY 2008.

c. Regional Projects.

Any eligible applicant, whether a fire department or a nonaffiliated EMS organization, may act as a “host applicant” and apply for large-scale or regional projects on behalf of itself and any number of organizations in neighboring jurisdictions. A regional project is one in which multiple organizations serving more than one local jurisdiction benefit directly from the activities implemented with the grant funds. A county fire department applying for a countywide communications system is NOT a regional project because it does not benefit multiple “seats-of-government.” Regional projects are designed to facilitate interoperable communications and efficiency among the participating jurisdictions. As such, the only activities available for application under a regional project are training and equipment acquisition (such as communications equipment) that positively affect interoperability between jurisdictions. Purchase of turnouts, SCBA, wellness and fitness, modification to facilities, and vehicle acquisition activities are not eligible as regional projects.

The criteria development panel recommended that, due to the limited funding available for grants and the recent change in SCBA standards (the 2007 Edition of NFPA 1981), DHS will not consider requests for regional projects that involve wholesale replacement of SCBA within a region.

Regional projects require one eligible applicant to act as the “host” for the project. Regional applications may only include activities that are meant to address the identified regional risk. Regional applications cannot include the purchase of

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resources or any activities meant solely for the host applicant. As in last year's program, host applicants in FY 2008 may apply for funding to address their own needs beyond the scope of the regional project in a separate application(s). The "host" will be responsible for fulfilling all grant requirements, such as reporting to National Fire Incident Reporting System (NFIRS), control of and accounting for the funds, and distribution and control of the property. Additionally, the host is responsible for assuring that the cost-share is met. The cost share for regional projects is based on the total population and demographics of the entire region.

DHS has the discretion to waive the legislatively established funding limits under AFG. In order to encourage interest and participation in this critical strategy to address interoperability, DHS may exercise this discretion, if the funding of a regional application is at risk of exceeding statutory funding caps, (*i.e.*, the funding of the regional request combined with other AFG awards would cause the host applicant to exceed the legislatively established funding limits).

In general, equipment purchased as a result of a regional project will be physically distributed to all the departments that are beneficiaries of the project. This physical distribution of the equipment to other first responder organizations is the single characteristic that distinguishes eligible regional projects from projects that are not regional in nature but may have an impact on a region via mutual aid. For example, a project that would not be considered to have an affect on interoperability (and thus would not be considered a regional project) would be an application for an air compressor or a hazardous materials (HAZMAT) response vehicle. In these examples, the assets would be shared with neighboring departments under mutual or automatic aid agreements, but the asset is physically located in the awardee's department and not disseminated among the participants, as such, they do not qualify as a regional project.

Examples of viable regional projects would be a multi-jurisdictional communications system or standardization of training. As stated above, regional projects should be designed to address issues of communications or equipment interoperability among multiple jurisdictions.

In order to apply for a regional project, the host organization must:

- 1) be an eligible applicant, (*i.e.*, either a fire department or a nonaffiliated EMS organization) (a county, county association, or city could not apply for a regional project), and
- 2) agree, if awarded, to be responsible for all aspects of the grant, including, but not limited to, accountability for the assets and all reporting requirements.

In the application, the host organization will be required to describe the

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characteristics of the entire region that will be affected by the project (*i.e.*, the population of the affected region, not the applicant's first-due population). The applicant must provide detailed information in the project narrative describing the effect of the project and the need for the project. This includes a detailed description of the following:

- the proposed project and the project budget;
- the financial need for the project;
- the benefits that would result; and
- the extent to which the grant would enhance daily operations, and/or how the grant will positively impact the regional ability to protect life and property.

In addition, the applicant must include a list of all the participating organizations that will benefit from the regional project, if the project is approved. Fire departments or nonaffiliated EMS organizations that will benefit from a regional project may also apply for funding under the AFG, as long as they are not requesting the same items as the host applicant for the regional project. For example, if a host applicant applies for a multi-jurisdictional communications project, a participating organization that will receive some of the communications equipment can apply for other needs as long as it does not apply for duplicative communications equipment. Host applicants MAY NOT apply to address other needs beyond the regional project on the regional application; however, a host applicant may submit a request to meet its own, non-regional needs in a separate application.

When evaluating the benefits of any regional project, we will take into account the other partners that will be involved in the project, whether they are other fire departments, nonaffiliated EMS organizations, or other public service organizations. We will also take into consideration the extent to which the non-fire/EMS partners will contribute to the overall costs of the regional project.

Appendix 1. **Funding Priorities and Allowable Expenses For Fire Departments**

AFG funding priorities differ for fire departments and nonaffiliated EMS organizations. Please read the guidance document with this in mind and make sure you are researching the appropriate sections for your organization. Equipment requested under AFG must meet all mandatory regulatory requirements, as well as any national and/or DHS-adopted standards in order to be eligible for purchase with grant funds. The Responder Knowledge Base (RKB), which can be accessed at <http://www.rkb.mipt.org/>, includes relevant information on first responder standards and allows “guest users” to ask any questions they may have on applicable standards.

Equipment/technology requests should have the goal of solving interoperability or compatibility problems. Therefore, applicants should describe in their narrative sections how the purchase of equipment would comply with standards and/or facilitate solving interoperability or compatibility problems.

Fire Department Priorities.

The AFG authorizing legislation requires DHS to take into account the benefit to be derived from the costs of the grant activity when considering each application for award. DHS has determined that the frequency of use and the size of population protected are both a measure of benefit that could be derived from an award. Therefore, for each activity below, DHS will provide a higher level of consideration to departments with significant levels of incidents and to departments that protect large populations relative to other applicants, regardless of the type of community served. Departments with low call volume and/or that serve small communities will receive lower consideration.

The criteria development panel recommended that the AFG emphasize the importance of training in the 2008 program with respect to fire departments. As such, the 2008 application for fire departments will contain questions regarding the applicant's training level and interest in attaining higher levels of proficiency. The questions will not affect the preliminary screening of an application for the 2008 program, but the questions and answers will be available for consideration by the technical review panelists in their evaluation of the applications. We anticipate that applicants whose membership is not fully trained (commensurate with NFPA 1001 or an equivalent State standard) and not seeking funding to attain a minimum level of training for their membership, will not score well enough during the peer review to be funded.

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Requests for CBRNE equipment and/or training will be evaluated by the peer review panelists relative to the critical infrastructure the applicant protects. Critical infrastructure includes any system or asset that, if attacked, would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes the following: public water and power systems, major business centers, chemical facilities, nuclear power plants, major rail and highway bridges, petroleum and/or natural gas transmission pipelines and storage facilities, telecommunications facilities, and facilities that support large public gatherings, such as sporting events or concerts.

Specific rating criteria and funding priorities for the AFG FY 2008 grant activities are provided below following the descriptions of this year's eligible program areas. The rating criteria, in conjunction with the program area description, will provide you with an understanding of what information we are seeking about your proposed projects.

A. Fire Operations and Firefighter Safety.

Five different fundable activities are included in this program area: training, equipment, PPE, wellness and fitness, and modifications to facilities. You may apply for as many of the activities within this program area as you deem necessary. There are no bonuses or penalties for applying for only one activity or for multiple activities. Fire-based EMS training and equipment are available under the appropriate activity (*i.e.*, training, equipment, etc.) in this program area.

a. Firefighter Training:

AFG grants are available to train firefighting personnel. Examples of training activities include, but are not limited to the following: Firefighter I and II certifications; First Responder EMS; driver/operator; fire officer; HAZMAT response; incident command; supervision and safety; CBRNE awareness, performance, planning and management; or train-the-trainer courses in any of these areas.

In implementing the fire service's recommendations concerning AFG, DHS has determined that the most benefit is derived from training that is instructor-led and hands-on that leads to a nationally sanctioned or State certification. Training requests that include web-based home study or distance learning, and the purchase of training materials, equipment, or props are a lower priority. Therefore, applications focused on national or State certification training, including train-the-trainer initiatives, will receive a higher competitive rating. Training that involves instructors, that require the students to demonstrate their grasp of knowledge of the training material via testing, and that is integral to a certification will receive a high competitive rating. Instructor-led training that does not lead to a certification, and any self-taught courses, are of lower benefit, and therefore will not be a high priority.

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A high competitive advantage is provided to proposed training projects that benefit the highest percentage of applicable personnel within a fire department, or that will be open to other departments in the region. Large departments with a high number of active firefighters will receive additional consideration when applying under the training activity.

Training that brings the department into statutory or Occupational Safety and Health Administration (OSHA) compliance or compliance with federally mandated initiatives (such as knowledge and understanding of the National Incident Management System (NIMS) and/or Incident Command Systems (ICS)) or training that would bring an applicant into compliance with national standards would provide the highest benefit, relative to training that is not required. Therefore, requests to meet federally mandated or national standard compliance would receive the highest consideration. Training that is meant to address a local risk is secondary to training that leads to departments meeting statutory compliance or compliance with national standards. Training that does not have statutory compliance, or meet a national standard, will receive a low competitive rating. Training designated to enhance multi-jurisdictional capabilities will receive a higher rating.

Due to the inherent differences among urban, suburban, and rural firefighting conventions, there are different priorities in the training activity for departments servicing the different types of communities. CBRNE awareness training and Improvised Explosive Device (IED) response awareness training, however, has a high benefit and will receive the highest consideration, regardless of the type of community served.

For departments serving rural communities, requests for basic; operational-level firefighting training; safety officer training; operational-level rescue; driver training; or first responder EMS, EMT-B, and EMT-I, (*i.e.*, training in basic firefighting or EMS duties) has greater benefit than funding officer training, airport rescue and firefighting (ARFF), or other specialized training. In rural communities, after basic training, officer training and ARFF will receive a lower cost-benefit rating. The lowest consideration will be provided to departments that serve rural communities but are seeking assistance for other specialized types of training, such as mass-casualty, HAZMAT, advance rescue and EMT, or inspector training.

With respect to AFG training priorities to departments serving urban or suburban communities, the criteria development panel recommended that any training requested by an urban or suburban department be given the highest level of consideration. When considering the relative merit of applications for training from departments serving urban and suburban communities, DHS will give higher priority to training proposals that improve coordination capabilities across first-responder disciplines (fire, EMS, and law enforcement), and jurisdictions (local, State, and Federal). Training, such as NIMS and ICS, related to coordinated incident response (*e.g.*, weapons of mass destruction (WMD) awareness and incident operations, chemical or biological operations, or bomb

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threats), tactical emergency communications procedures, or similar types of interdisciplinary, inter-jurisdictional training will receive the highest competitive rating.

For FY 2008, eligible uses of training funds include, but are not limited to, tuition, exam and course fees, certification and/or re-certification expenses, purchase of training curricula, training equipment (including training trailers and other mobile simulators), training props, and training services (such as instructors). Tow vehicles may be eligible as an expense under this activity if adequately justified; however, we will limit such expenses to \$6,000 per year per application. Compensation to volunteer firefighters for wages lost because of attending training under this activity is an eligible expense if justified in the proposal. Overtime expenses paid to career firefighters to attend training, or overtime expenses paid to career firefighters to cover for colleagues who are in training, are eligible expenses if justified in the proposal. Although compensation and overtime/backfill expenses are eligible, proposals that contain these costs may be scored less favorably than similar proposals without compensation expenses, due to the cost-benefit element in the evaluation process. Applicants are encouraged to take this into account when formulating their application budget as it may be better to have a more competitive application than to cover every last expense.

Ineligible activities in this area include:

- construction of facilities, such as classrooms, buildings, towers *etc.*;
- firefighting equipment or PPE for use in training exercises, such as SCBA;
- modular training units that are not trailer-mounted or are otherwise immobile;
- site preparation to accommodate any training activity, facility, or prop;
- purchase or lease of real estate; and
- remodeling that is not directly related to other grant activities.

The necessary remodeling or renovation of an existing facility to accomplish training activities is allowable, if the remodeling is minor in nature (e.g., limited to minor interior alterations costing less than \$10,000), justified in the proposal, and integral to the completion of the training activities. Remodeling or renovation expenses should be included in the application as an "Other" line-item expense and clearly explained in the narrative.

DHS funds the direct delivery of a variety of classes that can be requested through the State to meet first responders training needs. These classes are listed in the course catalog found at http://www.firstrespondertraining.gov/odp_webforms.

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b. Firefighting Equipment Acquisition:

AFG funds are available for equipment to enhance the safety or effectiveness of firefighting, rescue, and fire-based EMS functions. Grants also are available for equipment necessary for response to CBRNE incidents.

DHS has determined that the greatest benefits of AFG funding will be achieved to enable fire departments to purchase firefighting equipment (including rescue, EMS, and CBRNE) that supports a department's existing mission, or to replace used or obsolete firefighting equipment. Our second priority will be to fund departments seeking to expand their functional capabilities within their existing mission areas, or to appropriately equip themselves to meet a new risk. The lowest priority is funding equipment to increase a department's reserve supply, or to expand a department's services into new mission areas. However, applicants whose grant request succeeds in reaching the second level of competition, the peer review, can mitigate the impact of "New Missions" on the competitiveness of their application by providing evidence that the department will be able to support and sustain the new mission beyond the period of grant.

For the FY 2008 AFG, the purchase of equipment that brings the department into compliance with nationally recommended standards (such as the NFPA) or statutory compliance (such as OSHA) will provide the highest benefit to the applicant and therefore will receive the highest consideration. The purchase of equipment that brings a department into voluntary compliance with OSHA standards will also receive a high competitive rating, but secondary to equipment that leads to a department's statutory compliance. Equipment that does not have an effect on statutory compliance or voluntary compliance with a national standard will receive a lower competitive rating. Applicants should designate which compliance standards would be achieved with this activity.

Training is of critical importance to any first responder organization. DHS believes that equipment is of no use if the operator is not trained to use it. As such, applicants must demonstrate that users of equipment purchased with the grant either are or will be sufficiently trained to use the equipment. Inability to demonstrate and fulfill this training requirement will result in ineligibility for equipment funding.

AFG's purpose is to protect the health and safety of the public and firefighters from fire and fire-related hazards; therefore, equipment that has a direct effect on firefighters' health and safety will receive a high competitive rating over equipment that has no such effect. Equipment promoting interoperability with neighboring jurisdictions may receive additional consideration in the cost-benefit assessment, if the application ranks within the competitive range.

Eligible expenses include expenses necessary to acquire, assemble, and install the requested equipment. The cost of training department personnel on the use of the new

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equipment is eligible, but should be requested under the training activity. Compressor systems, cascade systems, or similar SCBA refill systems are eligible expenditures in this area. Remodeling or renovations to an existing facility to accommodate equipment purchased with grant funds are allowable if justified in the narrative, and if the remodeling or renovation is minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000). Remodeling that is not directly related to other grant activities is not eligible. Traffic signal preemption systems are eligible. The costs of shipping equipment purchased under this program and applicable sales taxes are also eligible expenses.

Individual communications equipment (portable radios) and mobile communications equipment (including mobile repeaters) are eligible, but telephones and cell phones are not eligible. Under the AFG, DHS will limit funding for portable radios to the number of seated positions based on the applicant's firefighting vehicle fleet unless otherwise justified in the narrative, and only fund the number of mobile radios required to equip the vehicle inventory listed in the application. We will not fund mobile radios for personally owned vehicles, with the exception of the chief fire officer's personal vehicle if adequately justified in the application. Mobile data systems (MDTs) are eligible. Integrated communications systems such as base stations, computer-aided dispatch, fixed-site repeaters, and wireless and broadband mobile data systems are eligible under this activity.

The purchase of any communications systems or equipment under this activity should have the intent or goal of solving interoperability problems, as applicable. Each State will have the opportunity to review requests for communications equipment, with respect to conformity with the State's SCIP. The State representative will certify that such requests are consistent with the State Homeland Security Strategy and do not duplicate or conflict with assistance already provided or imminent. If a State representative determines that an application is either inconsistent with the State strategy or duplicates the State's assistance, that portion of the AFG application will not be funded. Further, applicants within States that have not submitted their SCIP to DHS for review and approval will not be eligible for interoperable communications funding. Any applicant seeking funding for eligible equipment should provide details in the narrative section of the application regarding their local plan to enable or enhance interoperable communications within their jurisdiction as well as their efforts to ensure consistency with their State's interoperability plan.

Equipment used in response to CBRNE incidents is also eligible. Equipment exclusively designed for use in CBRNE incidents is eligible this year and includes special monitoring equipment (biological, radioactive, *etc.*) and CBRNE-related pharmaceuticals for first responders, such as auto injectors.

Requests for EMS equipment are eligible under this equipment acquisition activity. Eligible expenses for EMS equipment in this activity may include, but are not limited to,

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defibrillators, basic and advanced life support equipment, universal precaution supplies (*i.e.*, personal protective equipment), computers, and infectious disease control and decontamination systems.

Grant funds may NOT be used for the following items:

- construction of facilities, such as buildings, sheds to house communications, towers, or other equipment;
- repeaters that will not be installed or attached to existing infrastructure;
- warranties and maintenance agreements;
- sirens or other outdoor warning devices;
- telephones and cell phones;
- bomb disposal equipment and robots;
- vehicles;
- ATVs;
- boats that do not have firefighting capability;
- personal watercraft;
- medication, and disposable or otherwise expendable supplies (such as gloves, syringes, and cervical collars); and
- PPE, including clothing for structural and wildland fire suppression, such as “turnout gear” or “bunker gear” (including boots, pants, coats, gloves, hoods, goggles, vests, helmets, coveralls, and fire shelters), SCBAs, spare cylinders, and Personal Alert Safety Systems (PASS) (See PPE Acquisition Activity below).

c. Firefighter Personal Protective Equipment (PPE):

AFG funds are available to acquire primarily OSHA-required PPE for firefighting personnel. One purpose of AFG is to protect the health and safety of the public and of firefighters. To achieve this goal and maximize the benefit to the firefighting community, the FY 2008 AFG will give higher priority to funding applicants needing to purchase PPE for the first time or for new firefighters than departments replacing old and obsolete or

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substandard equipment (e.g., equipment not meeting current NFPA and OSHA standards). In applications that request funding to replace equipment, the age and condition of the PPE that is to be replaced will be the primary consideration with the replacement of older or worn-out equipment receiving higher consideration than requests for replacement of newer equipment.

For departments replacing equipment such as “turnout gear,” the condition of the equipment to be replaced will be factored into the score with a higher priority given to replacing equipment that is damaged, torn, or contaminated over equipment that is worn but usable. For departments replacing old or damaged equipment, departments with the oldest equipment will receive the highest priority, and departments with the newest equipment will receive a low priority.

For departments replacing SCBA, the specific edition of NFPA 1981 to which the existing equipment is compliant (2007 edition, 2002 edition, 1997 edition, etc.) will be factored into the score with a higher priority given to replacing equipment that is older. For departments replacing old or damaged equipment, departments with the oldest or most worn-out equipment will get the highest priority, and departments with the newest most functional equipment will get a low priority.

The criteria development panel recommended that, due to the limited funding available for grants and the recent change in SCBA standards (the 2007 Edition of NFPA 1981), DHS will not consider requests for regional projects that involve wholesale replacement of SCBA within a region. The criteria development panel recommended that DHS only consider replacing old, inoperable SCBA, and/or upgrading older SCBAs to the new standard within a region if proper justification was provided. Additionally, they recommended that DHS not consider replacement of SCBA that is compliant to the 1997 Edition of NFPA 1981 nor the 2002 Edition of NFPA 1981.

In concurrence with the recommendations of the criteria development panel, we will give a high competitive rating in this activity to fire departments where a large percentage of their active firefighting staff does not have compliant PPE. Accordingly, DHS will assign a higher competitive rating in this category to fire departments where a larger number of active firefighting staff is without compliant PPE. However, large departments with a high number of firefighters will receive additional consideration irrespective of their percentage of non-compliant PPE. We will also give a high competitive rating to departments who want to purchase enough PPE to bring their compliance up to 100 percent. If the request is for SCBA, the percentage of compliance should be determined from the number of seated positions rather than the number firefighters.

Departments seeking to purchase PPE for a new mission will receive a low rating. However, if the department's application is still successful in reaching the second stage of competitive review, the peer review, an applicant can improve their competitive standing if the application demonstrates the applicant's ability to sustain the mission

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beyond the grant period. Departments seeking to purchase PPE to have as an extra reserve supply will receive the lowest priority.

DHS believes that training is of critical importance to any first responder organization. Applicants that are not, or will not be, sufficiently trained to use the equipment requested under this program will be a very low priority for funding.

Application requests for PASS devices will only be considered, if the equipment requested meets current national standards, *i.e.*, integrated and/or automatic or auto-on PASS. This is because of the safety benefits automated PASS devices provide firefighters. Eligible PPE includes clothing for structural or wildland fire suppression, such as "turnout gear" or "bunker gear" (including boots, pants, coats, gloves, hoods, goggles, retro-reflective highway apparel, vests, helmets, coveralls, and fire shelters), SCBAs, spare cylinders, and PASS (within the limits noted above).

If awarded, SCBA replacement will be based on the number of seated positions in the applicant's fleet and the age of the applicant's SCBA inventory. Specifically, the criteria development panel recommended that DHS not consider replacement of SCBA that is compliant to the 1997 Edition of NFPA 1981 nor the 2002 Edition of NFPA 1981. Requests for replacement of newer SCBA will have to provide justification for such a request. If awarded, DHS will limit the number of spare cylinders funded to one spare cylinder for each SCBA requested, unless the applicant can adequately justify more than one spare per unit.

In addition to "turnout gear" and SCBA, protective clothing for response to hazardous materials incidents and other specialized incidents is eligible under this activity. Protective clothing designed for EMS activities or for response to CBRNE incidents is also eligible in this activity. Eligible PPE for EMS activities includes PPE ensembles (coats and trousers) that afford universal precautions against exposure to infectious diseases, *etc.*

Ineligible expenditures include the following:

- three-quarter length rubber boots;
- bomb disposal suits;
- uniforms (formal/parade or station/duty) and uniform items (hats, badges, *etc.*); and
- personal communications equipment such as radios, cell phones, and pagers (See Firefighting Equipment Acquisition above).

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d. Firefighter Wellness and Fitness:

For the FY 2008 AFG, fire department wellness/fitness activities must offer periodic health screenings, entry physical examinations, and immunizations. Applicants for grants in this activity must currently offer, or plan to use grant funds to provide **all three benefits** in order to receive consideration for funding for any other initiatives under this activity. High priority is also given to formal fitness and injury prevention projects. Lower priority is given to stress management, injury/illness rehabilitation, and employee assistance.

In accordance with the recommendations of the criteria development panel, the greatest benefit will be realized by supporting applications for new wellness and fitness programs. Therefore, higher competitive ratings will be given to applicants that lack wellness/fitness programs. Applicants that already provide the three requisite benefits and wish to expand their wellness and fitness program will receive lower consideration than departments that are seeking to initiate a wellness and fitness activity. Finally, because participation is critical to achieving any benefits from a wellness/fitness activity, we will give higher competitive ratings to departments whose wellness and fitness activities mandate participation and are open to all personnel.

Eligible expenditures in the firefighter Wellness and Fitness activity include the following:

- procurement of medical services from trained medical professionals (MDs or RNs) to ensure the firefighting personnel are physically able to carry out their duties; and
- costs for personnel, physicals, physical fitness equipment (including shipping charges and sales tax as applicable), and supplies directly related to performance of physicals or physical fitness activities.

Ineligible expenditures include the following items:

- transportation expenses;
- contractual services with anyone other than medical professionals listed above (e.g., health-care consultants, trainers, and nutritionists);
- fitness club memberships for firefighters or their families;
- cash incentives;

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- non-cash incentives (t-shirts or hats of nominal value, vouchers to local businesses, or time-off);
- purchase of medical equipment;
- construction of facilities to house a fitness activity, such as exercise or fitness rooms, showers, *etc.*; and
- purchase of real estate.

Minor remodeling or renovations to an existing facility are allowable if justified in the narrative, if minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000), and integral to the completion of the wellness/fitness activity (See Appendix 3. Other Allowable Costs for more details). Remodeling that is not directly related to other grant activities is not eligible. Remodeling expenses should be included in the budget as an “Other” line-item expense and explained in the narrative.

e. Modifications to Fire Stations and Facilities:

FY 2008 AFG grants may be used to modify fire stations and other facilities to protect the health and safety of firefighting personnel. Activities involving modifications to facilities are subject to all applicable environmental and historic preservation requirements. Applicants seeking assistance to modify their facilities may undergo additional screening. DHS is required to ascertain to what degree the proposed modifications to fire stations or facilities might affect an applicant's structures relative to the National Environmental Policy Act, National Historic Preservation Act of 1966, National Flood Insurance Program regulations, and any other applicable laws and Executive Orders. No project can proceed – except for project planning – prior to formal DHS approval. Noncompliance with this provision may jeopardize an applicant's award and subsequent funding.

Eligible projects under this activity must have a direct effect on the health and safety of firefighters. Therefore, eligible activities focus on improving firefighter safety in fire stations and other facilities.

Eligible initiatives in this area are limited to the following items:

- 1) installation of sprinkler systems;
- 2) vehicle exhaust extraction systems;
- 3) smoke and fire alarm notification systems; and

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4) facility emergency power generators.

We will NOT fund any requests for modifications other than the initiatives listed above. Additionally, under no circumstances may grant funds be used to supplement new construction. Any vehicle exhaust extraction system funded under this activity should be either extensive enough to extract toxic vapors and particulates emitted from internal combustion engines to the lowest feasible concentration in accordance with the National Institute of Occupational Safety and Health (NIOSH) recommendation and/or meet all applicable State, and local standards, or be part of a larger comprehensive system that does. Some exhaust extraction systems may meet standards for removal of certain carcinogens, but not others; therefore, it may be necessary to utilize more than one system or employ complementary systems to fully protect your firefighters.

More benefit would be derived from modifying fire stations than from modifying dispatch centers, fire-training facilities, or other fire department facilities. The frequency of use would have a direct bearing on the benefits to be derived from grant funds. In addition, the frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities occupied or otherwise in use, 24-hours-per-day, and 7-days-per-week will receive the highest competitive rating. Facilities used less than full time will receive lower consideration. Facilities used only occasionally, or on an irregular or part-time basis, will receive the lowest consideration. Requests involving facilities that have sleeping quarters will receive a higher competitive rating.

Grant funds are to be used only to retrofit existing structures that do not have the eligible safety features or to upgrade facilities whose features are outdated. When requesting funds for modifications to facilities, older structures will receive the highest consideration for funding. NFPA standards regarding exhaust emissions (1500 §§ A.9.1.6) were adopted in 2002, therefore fire departments should have taken the standards into consideration when planning new structures. As such, any structures that were built subsequent to 2003 and that do not contain these safety features will receive the lowest consideration.

When requesting funding for emergency power generators, it is the programs expectation that departments will request generators sufficient to provide power for **only** those functions that are operationally imperative (i.e., bay doors, communications equipment, emergency lighting, heat, etc.) and no more (i.e., banquet facilities).

There are no monetary limits on the individual initiatives under this activity, but no applicant can request more than \$100,000 per fire station under their authority. You may request funding for modifications for each station if you have multiple stations, up to the \$100,000 per station limit, as long as the entire request does not exceed the Federal share limit.

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The necessary remodeling or renovation of an existing facility to accomplish modification activities is allowable if the remodeling is minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000 and/or requisite activities associated with installation of equipment when 1) occurring immediately adjacent to the facility and 2) the project area has been previously disturbed), justified in the proposal, and integral to the completion of the activities. Remodeling or renovation expenses should be included in the application as an “Other” line-item expense and clearly explained in the narrative. Maintenance expenditures such as cleaning or painting of apparatus bays are not eligible under the AFG.

B. Firefighting Vehicle Acquisition Program Area.

AFG provides grants for new firefighting vehicles; used fire apparatus originally designed for firefighting, or refurbished apparatus originally designed for firefighting. Funds may also be used to refurbish a vehicle the department currently owns but only if it is a vehicle originally designed for firefighting. Converted vehicles not originally designed for firefighting are not eligible for refurbishment. New vehicles purchased with AFG funds must be compliant with NFPA 1901 or 1906 standards. Used apparatus must be compliant with NFPA 1901 or 1906 standards for the year the vehicle was manufactured. Refurbished apparatus must meet NFPA 1912 standards.

In FY 2008, applicants that serve urban or suburban communities may apply for more than one vehicle. However, awards will be limited to only one vehicle per station. Applicants serving rural communities are limited to one vehicle per application. If a rural applicant submits an application requesting more than one vehicle, we will deem the application ineligible. Applicants awarded vehicle grants under AFG in previous years are eligible for another vehicle award in this program year.

As in FY 2007, AFG awardees must obtain a bond if funds are advanced to a manufacturer, and include specific performance requirements and penalties for non-compliance with the requirements as part of the contract with the vehicle manufacturer. Extensions to a grant's period of performance may not be considered if the requisite bond is not obtained or if the performance penalties are not included in the purchase contract.

Due to inherent differences among urban, suburban, and rural firefighting conventions, AFG has different priorities in the vehicle program area for departments that serve different types of communities. As stated above, applications from departments that serve urban and suburban communities may submit an application for multiple vehicles. The urban or suburban application may include requests for vehicles from any or all of the three priorities; however, applications that include lower priority vehicles will receive lower consideration. The following table lists the funding priorities for this program area by each type of community.

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Firefighting Vehicle Program Priorities			
Priority	Urban Communities	Suburban Communities	Rural Communities
Priority One	Pumper Aerial Quint (Aerial < 76') Quint (Aerial > 76') Rescue	Pumper Aerial Quint (Aerial < 76') Quint (Aerial > 76')	Pumper Brush/Attack Tanker/Tender Quint (Aerial < 76')
Priority Two	Command HAZMAT Light/Air Rehab	Command HAZMAT Rescue Tanker/Tender Brush/Attack	HAZMAT Rescue Light/Air Aerial Quint (Aerial > 76')
Priority Three	Foam Truck ARFFV Brush/Attack Fire Boat Tanker/Tender Ambulance	Foam Truck ARFFV Rehab Light/Air Fire Boat Ambulance	Foam Truck ARFFV Command Rehab Fire Boat Ambulance

As with other eligible AFG activities, one of the goals in the vehicle acquisition program is firefighter safety. Applicants seeking to replace or refurbish unsafe vehicles will receive the higher consideration than applicants seeking to replace vehicles with safety features. The highest consideration is provided to applicants wanting to replace vehicles that have been converted for use as firefighting vehicles, but were not originally designed for firefighting. However, replacement of an unsafe vehicle will still have to be justified in the narrative. Converted vehicles not originally used, nor intended to be used, in emergency operations will not be favorably reviewed merely because they are converted. We will give high consideration to applicants with firefighting vehicles that had an "open-cab" configuration in their original design. Applicants wanting to benefit from this consideration must certify that the unsafe vehicle will be permanently removed from service if awarded a grant.

DHS believes that a greater benefit will be derived from funding an additional vehicle(s) to departments that own fewer or no vehicles of the type requested. As such, DHS assigns a higher competitive rating in the apparatus category to fire departments that own fewer firefighting vehicles relative to other departments serving similar types of communities (*i.e.*, urban, suburban, and rural). DHS assesses all vehicles with similar functions when assessing the number of vehicles a department possesses within a

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particular type. For example, the “pumper” category includes: pumpers, engines, pumper/tankers (apparatus that carries a minimum of 300 gallons of water and has a pump with a capacity to pump a minimum of 750 gallons per minute), rescue-pumpers, quint (with aerials less than 76 feet in length), and urban interface vehicles (Type I). Apparatus that has water capacity in excess of 1,000 gallons and a pump with pumping capacity of less than 750 gallons per minute are considered to be a tanker/tender.

DHS will evaluate the marginal value derived from an additional vehicle of any given type on the basis of call volume. As a result, departments with fewer vehicles of a given type than other departments who service comparable call volumes are more likely to score competitively than departments with more vehicles of that type and comparable call volume unless the need for an additional vehicle of such type is made apparent in the application.

As in 2007, urban and suburban applicants in 2008 may submit requests for more than one vehicle; however, applications are limited to one vehicle per station as well as by the statutory funding limits. Applicants must supply sufficient justification for each vehicle contained in the request. For those applications with multiple vehicles, the panelists will be instructed to evaluate the marginal benefit to be derived from funding the additional vehicle(s) given the potential use and the population protected. DHS anticipates that the panels will only recommend an award for a multiple vehicles application when the cost-benefit justification is adequately compelling.

DHS assigns a higher competitive rating to departments possessing an aged fleet of firefighting vehicles. DHS will also assign a higher competitive rating to departments that respond to a high volume of incidents.

DHS will give lower priority to funding departments seeking apparatus with the goal to expand into new mission areas, unless the applicant demonstrates that they will be able to support and sustain the new mission or service area beyond the grant program.

DHS will assign no competitive advantage to the purchase of standard model commercial vehicles relative to custom vehicles, or the purchase of used vehicles relative to new vehicles in the preliminary evaluation of applications. DHS has noted that given the size of the department and the size of the community that the department serves, the peer review panelists often prefer low-cost vehicles when evaluating the cost-benefit section of the project narratives. DHS also reserves the right to consider current vehicle costs within the fire service vehicle manufacturing industry when determining the level of funding that will be offered to the potential grantee, particularly if those current costs indicate that the applicant’s proposed purchase costs are excessive.

When assessing the number of vehicles a department has within a particular class, we will include all vehicles with similar functions. For example, in the “pumper” category, we will consider the following to be of similar function: any firefighting vehicle with

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pumping capacity of 750 gallons per minute (gpm) or more and water carrying capacity of at least 300 gallons, including rescue-pumpers, urban interface vehicles such as Type I, II or III, and quints (with aerials less than 76 feet in length). We consider tankers or water-tenders to be firefighting vehicles with a carrying capacity of 1,000 gallons or more and with pumping capacity of less than 750 gpm. A firefighting vehicle with a carrying capacity of more than 1,000 gallons and pumping capacity of more than 750 gpm will be considered to be a pumper under AFG.

Departments that have formal automatic aid agreements with neighboring departments will receive additional consideration. Departments with formal mutual aid agreements will receive more consideration than departments without formal agreements, but not as much consideration as departments with automatic aid agreements.

Finally, due to the inherent safety benefits to be realized in departments using a comprehensive driver training program meeting NFPA standard 1002 or its equivalent, we will provide a competitive advantage to requests where the applicant has a comprehensive driver training program. Applicants seeking driver training with their vehicle request will receive a slightly lower competitive advantage than departments with such a program already in place. Applicants without a comprehensive driver training program, and who will not implement appropriate driver training in conjunction with their AFG award, or through other resources, will **NOT** be considered for a vehicle award.

No competitive advantage will be given to applicants seeking to purchase standard model commercial vehicles versus custom vehicles, or the purchase of used vehicles versus new vehicles in the preliminary application evaluation so long as the vehicles are (or were) originally designed for firefighting. Depending on the type and size of a department, the technical evaluation panelists often prefer low-cost vehicles when reviewing the cost-benefit section of the project narratives. Panelists may be provided with guidance for use in their evaluation of the reasonableness of vehicle costs. We also reserve the right to impose funding limits on requests for vehicles whose costs we deem excessive or otherwise not in the best interest of the program.

Eligible expenditures under this program include the cost of the vehicle and associated equipment necessary to conform to applicable national standards (NFPA 1901 or 1906). New, used, or refurbished vehicles are eligible; however, any used or refurbished vehicles must conform to the national standards that were in effect the year the vehicle was manufactured. An allowance for transportation to inspect a vehicle under consideration or during a vehicle's production would be eligible if reasonable and justified in the grant proposal. Any additional costs associated with the purchase and installation of a vehicle-mounted exhaust filtration system for any vehicle purchased with grant funds would also be eligible. The costs associated with driver-operator training may be eligible for any vehicle award if justified in the narrative.

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Applicants will not be allowed to modify the scope of work of a vehicle award (*i.e.*, change the type of vehicle to be purchased after the application is submitted). Vehicles contracted for or otherwise purchased prior to the end of the established application period are not eligible for funding. Aircraft, bulldozers, and construction-related equipment are not eligible for purchase with AFG funds.

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Appendix 2.
Funding Priorities and Allowable Expenses
For Nonaffiliated EMS Organizations

AFG funding priorities differ for fire departments and nonaffiliated EMS organizations. Please read the guidance document with this in mind and make sure you are researching the appropriate sections for your organization. Equipment requested under AFG must meet all mandatory regulatory requirements, as well as any national and/or DHS-adopted standards in order to be eligible for purchase with grant funds. The RKB, which can be accessed at <http://www.rkb.mipt.org/>, includes relevant information on first responder standards and allows “guest users” to ask any questions they may have on applicable standards.

Equipment/technology requests should have the goal of solving interoperability or compatibility problems. Therefore, applicants should describe in their narrative sections how the purchase of equipment would comply with standards and/or facilitate solving interoperability or compatibility problems.

Nonaffiliated EMS Organization Priorities.

AFG grants may be used to enhance emergency medical services provided by nonaffiliated EMS organizations. EMS funding is limited to no more than 2 percent of the AFG appropriation.

The criteria development panel recommended that it is more cost-effective to enhance or expand an existing EMS organization by providing training or equipment than it would be to create a new service. As such, communities that are attempting to initiate EMS services will receive the lowest competitive rating.

Specific rating criteria and funding priorities for AFG FY 2008 grant activities are provided below following the descriptions of eligible program areas. The rating criteria, in conjunction with the program area description, will provide you with an understanding of what information we are seeking about your proposed projects.

A. EMS Operations and Safety Program Area.

Five different activities are available for funding under this program area: EMS training; EMS equipment; PPE; wellness and fitness; and modifications to facilities. Requests for equipment and training to prepare for response to incidents involving CBRNE are available under the applicable equipment and training activities. Applications that include requests for CBRNE equipment or training will be evaluated by the peer review panelists relative to the critical infrastructure the applicant protects. Critical infrastructure includes any system or asset that, if attacked, would result in catastrophic

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loss of life or catastrophic economic loss. Critical infrastructure includes the following: public water and power systems, major business centers, chemical facilities, nuclear power plants, major rail and highway bridges, petroleum and/or natural gas transmission pipelines and storage facilities, telecommunications facilities, and facilities that support large public gatherings, such as sporting events or concerts.

Applicants should ensure that all projects applied for under the grant program are consistent with national standards and address the goals of interoperable communications and equipment compatibility.

DHS has determined that the frequency of use and the population protected are useful measures in determining the benefits of an award. Therefore, DHS will provide a higher level of consideration to organizations with a high call volume and to organizations that serve large populations.

If you opt to apply under the EMS Operations and Safety Program Area, you may request assistance for as many activities as you deem necessary. There are no bonuses or penalties for applying for only one activity or for multiple activities.

a. EMS Training:

AFG provides grants to train EMS personnel. Examples of training activities include, but are not limited to, first responder, EMT-Basic, EMT-Paramedic, HAZMAT Operations, or Rescue Operations.

A higher competitive rating will be given to nonaffiliated EMS organizations that are planning to upgrade services from first responder to EMT-B level. Because training is a prerequisite to the effective use of EMS equipment, organizations whose requests are more focused on training activities will receive a higher competitive rating than organizations whose requests are more focused on equipment. Large organizations with a high number of active first responders will receive additional consideration when applying under the training activity. Our second priority is to elevate emergency responders' capabilities from EMT-B to EMT-I or higher. Organizations seeking training in rescue or HAZMAT operations will receive lower consideration than organizations seeking training for medical services. Our lowest priority is to fund first responder training.

Eligible uses of training funds include, but are not limited to:

- tuition, exam, and course fees;
- certification or recertification expenses;

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- purchase of training curricula, training equipment, training props, and training services (such as instructors); and
- attendance at formal training forums or conferences that provide continuing-education credits.

Compensation to volunteer emergency responders for wages lost because of attending training under this activity is an eligible expense if reasonable and justified in the grant proposal. Overtime expenses paid to emergency responders to enable them to attend training, or overtime expenses paid to emergency responders to cover for colleagues in training are eligible expenses if reasonable and justified in the grant proposal. Although compensation is an eligible expense, proposals containing this type of compensation expense may be ranked less favorably than similar proposals without compensation expenses due to the cost-benefit element in the evaluation process.

Ineligible activities in this area include the following:

- construction of facilities, such as classrooms, buildings, and towers;
- site-preparation to accommodate any training activity, facility, or prop; and
- purchase or lease of real estate.

The necessary remodeling of an existing facility to accomplish training activities funded by the grant is allowable if the remodeling is minor in nature (e.g., limited to minor interior alterations costing less than \$10,000), justified in the proposal, and integral to the completion of the training activities funded by the grant. Remodeling that is not directly related to other grant activities is not eligible under this program (See Appendix 3. Other Allowable Costs). Remodeling expenses should be included in the application as an "Other" line-item expense and clearly explained in the narrative.

DHS funds the direct delivery of a variety of classes that can be requested through the State to meet first responders' training needs. These classes are listed in the course catalog found at http://www.firstrespondertraining.gov/odp_webforms.

b. EMS Equipment Acquisition:

Because training is a prerequisite to the effective use of EMS equipment, organizations whose requests are more focused on training activities will receive a higher competitive rating than organizations whose requests are more focused on equipment. Organizations that request training to the EMT-B level, along with basic support equipment, will receive a higher priority. Requests seeking assistance to purchase equipment to support advance-level EMS services are a secondary priority.

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Organizations seeking equipment for rescue or HAZMAT operations will receive lower consideration than organizations seeking equipment used to provide medical services. Our lowest priority is to fund first responder training. Items that are eligible for funding, but a lower priority, include tents, shelters, generators, lights, and heating and cooling units.

DHS makes a distinction between “new missions” and “new risks.” According to the criteria development panel, an organization takes on a “new mission” when it expands services into areas not previously offered; such as, an EMS organization seeking funding to provide water rescue capability for the first time. A “new risk” is when an organization is forced to address risks that have materialized in the department’s area of responsibility; for example, construction of a plant that uses significant levels of chemicals could constitute a “new risk.”

Organizations upgrading their equipment for existing services will receive the highest consideration. Organizations taking on “new risks” will be considered the second priority. Organizations taking on a “new mission” will receive a lower priority, due to the risk that an applicant will not be able to financially support and sustain the “new mission” beyond the grant performance period. The lowest priority is funding equipment to increase an applicant’s available supply (reserve equipment) or to expand an applicant’s services into new mission areas. Finally, equipment that will bring an organization into compliance with State or Federal regulations will receive higher consideration than equipment that has no statutory basis.

Eligible expenses for equipment acquisition include basic and advanced life support equipment to support EMT-B through EMT-P, with higher priority given to organizations requesting equipment to support service at the EMT-B level. Examples of eligible items available under this section include, but are not limited to the following:

- basic life-support equipment;
- advanced life-support equipment;
- rescue tools;
- communications equipment (mobile and portable radios);
- HAZMAT and decontamination equipment;
- computers;
- automated external defibrillators; and
- infectious disease control and decontamination systems.

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Protective clothing is NOT eligible under this equipment category, but is available under the PPE Activity below.

For FY 2008, individual communications equipment (portable radios) and/or mobile communications equipment (including mobile repeaters) are eligible; but, telephones, cell phones, satellite phones, repeaters that will not be installed or attached to existing infrastructure are not eligible, and sirens or other outdoor warning devices are not eligible. We will only fund the number of mobile radios required to equip the vehicle inventory listed in the application. We will not fund mobile radios for personally owned vehicles under EMS. Mobile data systems are eligible. Integrated communications systems such as base stations, computer-aided dispatch, fixed-site repeaters, and wireless and broadband mobile data systems are eligible under this activity. The purchase of any communications systems or equipment under this activity should have the intent or goal of solving interoperability problems. Each State will have the opportunity to review requests for communication systems to ensure compliance with statewide interoperable communications plans and the State Homeland Security Strategy. Applicants seeking funding for EMS equipment should provide details in the application's narrative section regarding their local plan to enable jurisdiction-wide interoperable communications.

Any equipment requested under this section, particularly decontamination and HAZMAT equipment, is fundable to the current level of your capabilities (*i.e.*, we will not fund level-A equipment for organizations only trained to the HAZMAT operation level, unless the application also includes a request for training compatible with the equipment request). The costs of shipping any equipment purchased under this program and applicable sales taxes are also eligible expenses. However, warranties and maintenance agreements are NOT eligible.

Other items that are not eligible under this section include: vehicles (such as ambulances), ATVs, boats, personal watercraft, equipment used for firefighting, medications, disposable or otherwise expendable supplies (such as gloves, syringes, and cervical collars), body armor, uniforms, and new construction such as communications towers or facilities are not eligible for AFG EMS equipment.

c. EMS Personal Protective Equipment (PPE) Acquisition:

AFG allows grant funds to be used to acquire PPE for active EMS first responder personnel, particularly PPE required by OSHA. One of AFG's goals is to protect the health and safety of the public and first responders. To achieve this goal and to maximize the benefit to the EMS community, in FY 2008 AFG will prioritize funding for organizations needing to purchase PPE for the first time. We also will give very high consideration to organizations replacing obsolete or substandard equipment. In these cases, the condition of the equipment to be replaced will be factored into the score, with a higher priority given to replacing equipment that is damaged, torn, or contaminated

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over equipment that is worn but usable. For organizations replacing old or damaged equipment, organizations with the oldest equipment will get the highest priority, and organizations with the newest equipment will get lowest priority. In addition, we will give a high competitive rating to EMS organizations with a large percentage of active staff without compliant EMS PPE. However, large organizations with a high number of first-responders will receive additional consideration irrespective of their percentage of non-compliant PPE. We will also give a high competitive rating to departments who want to purchase enough PPE to bring their compliance up to 100 percent. Our lowest priorities are to fund the purchase of equipment for a new mission, or the purchase of equipment as a reserve in the event it is needed.

DHS believes that training is of critical importance to any first responder organization, and that equipment is of no use if the operator is not trained to use it. As such, applicants that are not, or will not be, sufficiently trained to use the equipment requested under this program will not be eligible for funding.

Examples of eligible clothing include EMS “turnout gear,” non disposable universal precautionary supplies (*i.e.*, medical PPE), extrication jumpsuits, rescue helmets, gloves, and boots. Protective clothing must meet national standards or local EMS protocols. The purchase of SCBA may also be eligible if the EMS organization has a formally adopted standard operating procedure that requires SCBA availability and adequately justifies the request. If you apply for funding for SCBA, we may require you to submit documentation to support the eligibility of SCBA.

Any equipment requested under this section, particularly decontamination and HAZMAT suits, are fundable to the current level of your training (*i.e.*, we will not fund level-A suits for organizations only trained to the HAZMAT operation level unless the application also includes a request for training compatible with the equipment request). Uniforms (formal/parade or station/duty) and uniform items (hats, badges, *etc.*) are not eligible expenses under this activity. Nonaffiliated EMS organizations also may not apply for non-EMS PPE such as body armor, wildland firefighting gear, and firefighting “turnout gear.” Personal communications equipment, such as radios and pagers, are not eligible under this activity, but are eligible under the EMS Equipment Acquisition activity.

d. EMS Wellness and Fitness:

For the FY 2008 AFG, an effective EMS wellness/fitness activity must offer periodic health screenings, entry-level physical examinations, and an immunization program. Applicants for grants in this activity must currently offer, or plan to use grant funds to provide, **all three benefits** to receive consideration and funding for any other initiatives under this activity. After entry-level physicals, annual physicals, and immunizations, high priority is given to formal fitness and injury prevention programs. Lower priority is given to stress management, injury/illness rehabilitation, and employee assistance.

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We will afford higher competitive ratings to applicants lacking wellness/fitness programs over applicants that already employ a wellness/fitness program. Applicants already providing the three requisite benefits that wish to expand their wellness and fitness program will receive a slightly lower consideration than applicants seeking to initiate a wellness/fitness program. Finally, since participation is critical to achieving any benefits from a wellness/fitness program, we will give higher competitive ratings to departments whose wellness/fitness programs mandate participation and are open to all personnel.

Eligible expenditures in a wellness and fitness activity for EMS personnel may include the procurement of medical services from trained medical professionals (MDs or RNs) to ensure that EMS personnel are physically able to carry out their duties. The purchase of medical equipment is not an eligible expenditure under this category. Eligible expenditures to carry out wellness/fitness activities may include costs for personnel physicals, physical fitness equipment (including shipping charges and sales tax, as applicable), and supplies directly related to the conduct of physicals or physical fitness activities.

Ineligible expenses include the following:

- transportation expenses;
- contractual services with anyone other than medical professionals listed above (e.g., health-care consultants, trainers, and nutritionists)
- fitness club memberships for EMS personnel and their families;
- cash incentives;
- non-cash incentives (t-shirts or hats of nominal value, vouchers to local businesses, or time-off);
- construction of facilities to house a fitness program (exercise or fitness rooms, showers, etc.); and
- purchase of real estate.

Minor remodeling or renovations to an existing facility are allowable if justified in the narrative if the remodeling is minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000), and if the remodeling is integral to the completion of the wellness/fitness activities funded by the grant. Remodeling that is not directly related to other grant activities is not eligible. Remodeling expenses should be included in the budget as an "Other" line-item expense and explained in the narrative.

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e. Modifications to EMS Stations and Facilities:

FY 2008 AFG grants may be used to modify EMS stations, EMS training facilities, and other facilities to protect the health and safety of first responder personnel. Activities involving modifications to facilities are subject to all applicable environmental and historic preservation requirements. Applicants seeking assistance to modify their facilities may undergo additional screening. DHS is required to ascertain to what degree the proposed modifications to EMS stations or facilities might affect an applicant's structures relative to the National Environmental Policy Act, National Historic Preservation Act of 1966, National Flood Insurance Program regulations, and any other applicable laws and Executive Orders. No project can proceed – except for project planning – prior to formal DHS approval. Noncompliance with this provision may jeopardize an applicant's award and subsequent funding.

Eligible projects under this activity must focus on promoting safety in EMS stations and facilities. Eligible initiatives in this area are limited to the following items:

- 1) installation of sprinkler systems;
- 2) vehicle exhaust extraction systems;
- 3) smoke and fire alarm notification systems; and
- 4) facility emergency power generators.

We will NOT fund any other requests for modifications than the initiatives listed. Grant funds are to be used only to retrofit existing structures that do not have the eligible safety features or to upgrade facilities whose features are outdated. Additionally, under no circumstances may grant funds be used to supplement new construction.

Any vehicle exhaust extraction system funded under this activity should be either extensive enough to extract all toxic vapors and particulates emitted from internal combustion engines, and meet all applicable Federal, State, and local standards, or be a part of a larger comprehensive system that does. Some exhaust extraction systems may meet standards for removal of certain carcinogens, but not others; therefore, it may be necessary to utilize more than one system, or employ redundancies, to fully protect your first responders.

More benefit would be derived from EMS stations than from modifying dispatch centers, training facilities, or other EMS facilities. The frequency of use would have a direct bearing on the benefits to be derived from grant funds. In addition, the frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities occupied or otherwise in use, 24-hours-per-day, and 7-days-per-week will receive the highest competitive rating. Facilities used

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less than full time will receive lower consideration. Facilities used only occasionally, or on an irregular or part-time basis, will receive the lowest consideration. Requests involving facilities that have sleeping quarters will receive a higher competitive rating.

When requesting funds for modifications to facilities, older structures will receive the highest consideration for funding. NFPA standards regarding exhaust emissions (1500 §§ A.9.1.6) were adopted in 2002, therefore first-responder organizations should have taken the standards into consideration when planning new structures. As such, any structures that were built subsequent to 2003 and that do not contain these safety features will receive the lowest consideration.

Grant funds are to be used to retrofit existing structures that do not have the eligible safety features, or to upgrade facilities whose features are outdated. When requesting funds for modifications to facilities, older structures will receive the highest consideration for funding. Funds may not be used to supplement new construction. When requesting funding for emergency power generators, it is the programs expectation that EMS organizations will request generators sufficient to provide power for **only** those functions that are operationally imperative (i.e., bay doors, communications equipment, emergency lighting, heat, etc.) and no more (i.e., banquet facilities).

There are no monetary limits on individual initiatives under this activity. However, no applicant may request more than \$100,000 in modifications per station under their authority. If you have multiple stations, you may request funding for modifications for each station up to this \$100,000 per station limit, as long as the entire request does not exceed the Federal share limit.

The necessary remodeling or renovation of an existing facility to accomplish modification activities is allowable, if the remodeling is minor in nature (i.e., limited to minor interior alterations costing less than \$10,000 and/or requisite activities associated with installation of equipment when 1) occurring immediately adjacent to the facility and 2) the project area has been previously disturbed); justified in the proposal; and integral to the completion of the requested activities. Remodeling or renovation expenses should be included in the application as an "Other" line-item expense and clearly explained in the narrative. Maintenance expenditures such as cleaning or painting of apparatus bays is not eligible under the AFG.

B. EMS Vehicle Acquisition Program Area.

FY 2008 AFG grants may be used to acquire new, used, or refurbished EMS vehicles. Funds may also be used to refurbish a vehicle the organization currently owns. New vehicles purchased with AFG funds must be compliant with current General Services Administration standards, specifically KKK-A-1822E, found at <http://apps.fss.gsa.gov/vehiclestandards/assocDocs.cfm#>.

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Used apparatus must be compliant with Federal or industry standards for the year the vehicle was manufactured. Refurbished apparatus must also meet applicable standards.

In FY 2008, applicants that serve urban or suburban communities may apply for more than one vehicle. However, awards will be limited to only one vehicle per station. Applicants serving rural communities are limited to one vehicle per application. If a rural applicant submits an application requesting more than one vehicle, we will deem the application ineligible. Applicants awarded vehicle grants under AFG in previous years ARE ELIGIBLE for another vehicle award in this program year.

Due to the inherent benefits of an ambulance, or any transport vehicle, to an EMS service provider, these types of vehicles are the highest priority compared to non transport vehicles. Due to the costs associated with obtaining and outfitting non transport rescue vehicles, we believe non transport rescue vehicles should have a lower competitive rating than transport vehicles. Vehicles having a limited function, such as aircraft, boats, and ATVs, will receive the lowest competitive rating. Because of the very limited funding for EMS vehicle awards, we anticipate that this program will be very competitive. Therefore, it is unlikely we would fund any vehicles not listed as a "Priority One" this year. Priorities in this year's EMS vehicle program are the same for all communities. The following chart lists priorities in this program area.

EMS Vehicle Priorities

Priority One	Priority Two	Priority Three
• Ambulance or transport unit to support EMT-B needs and functions	• First responder non transport vehicles • Special operations vehicles	• Command vehicles • Hovercraft • Other special access vehicles

As with any request, DHS reserves the right to reduce any vehicle request for assistance, in whole or in part, that we deem to be excessive or otherwise contrary to the best interests of this program. AFG funding is meant to supplement, rather than replace, an organization's funding. Grantees must maintain their level of operating expenditures during the grant period at a level equal to, or greater than, the average of their operating expenditures in the two years preceding the year in which assistance is received. (See Appendix 6. Grantee Responsibilities.) This means that if an organization has a vehicle replacement program where it purchases three new vehicles

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every year, and that organization is awarded a vehicle grant, that organization will have to maintain its practice of purchasing three new vehicles in the year of the grant as well as the vehicle(s) awarded under the grant. The vehicle grantee CANNOT use AFG funding as a substitute for their vehicle replacement budget. In order to assure that this requirement is met, DHS may require detailed documentation regarding an applicant's or grantee's vehicle purchasing practices and policies.

As with other eligible AFG activities, one priority of the vehicle acquisition program is the safety of first responders. Therefore, we will give the highest consideration to applicants wanting to replace vehicles that have been converted to use as EMS vehicles, but were not originally designed for EMS and vehicles that did not include seatbelts in their original design. Applicants with these unsafe vehicle characteristics will receive this higher consideration over applicants seeking to replace vehicles having these safety features. Applicants wanting to benefit from this consideration must certify that the unsafe vehicle will be permanently removed from service, if awarded a grant.

In addition, more benefit will be realized by funding applicants owning few or no vehicles of the type they are seeking than there would be by providing vehicle funding to an organization with numerous vehicles of the type they are seeking. In assessing the number of vehicles an organization has within a particular class, we will include all vehicles with similar functions. For example, we would include transport vehicles in the same class as ambulances. We will also give higher competitive ratings to applicants that have an aged fleet of emergency vehicles.

This grant program will achieve the greatest benefits if we provide vehicles to EMS organizations purchasing basic response vehicles (categorized above in priority order) to meet their existing missions. The highest consideration will be given to EMS organizations that have never owned the vehicles, as well as to organizations seeking to replace used or obsolete vehicles. A secondary priority will be to fund EMS organizations seeking to add more vehicles to their existing fleet within their existing mission areas. The lowest priority is funding new apparatus to expand an applicant's services into "new mission" areas. A department takes on a "new mission" when it expands its services into areas not previously offered; such as, an EMS organization seeking funding to create a HAZMAT response team for the first time.

A higher competitive rating will be given to an EMS organization owning few or no response vehicles relative to other organizations serving similar types of communities. A higher competitive rating also is given to organizations that have an aged fleet of vehicles, as well as to organizations with high-mileage vehicles. Organizations with a newer fleet of vehicles, or with vehicles that are not driven extensively, will receive lower consideration. EMS organizations that have formal automatic aid agreements with neighboring departments will receive additional consideration. Organizations with formal mutual aid agreements will receive more consideration than organizations

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without such arrangements, but not as much consideration as organizations with automatic aid agreements.

Finally, due to the inherent safety benefits to be realized in organizations that utilize a comprehensive driver training program, we provide a high competitive advantage for applicants who have an established comprehensive driver training program. Applicants seeking driver training with their vehicle request will receive a slightly lower competitive advantage. Applicants without a comprehensive driver training program who are not seeking funding for driver training in this application, or through other resources, will **NOT** be considered for a vehicle award.

No competitive advantage has been assigned to the purchase of standard model commercial vehicles versus custom vehicles, or the purchase of used vehicles versus new vehicles in the preliminary evaluation of applications. The technical evaluation panelists often prefer low-cost vehicles when evaluating the cost-benefit section of the project narratives. We also reserve the right to impose funding limits on requests for vehicles whose costs we deem excessive or otherwise not in the best interest of the program.

EMS vehicle awardees will be required to obtain a bond if funds are advanced to the manufacturer and include specific performance requirements and penalties for non-compliance with the requirements as part of the contract with the vehicle manufacturer. Extensions to a grant's period of performance may not be considered if the requisite bond is not included in the purchase contract.

Eligible expenses under this program would include **ONLY** the cost of the vehicle and requested driver training. We will **NOT** provide funding for associated equipment. New, used, or refurbished vehicles are eligible; however, all used or refurbished vehicles must conform to the national standards that were in effect the year the vehicle was manufactured. ATVs, gators, and similar equipment are considered to be EMS equipment, **NOT** vehicles and are not eligible under this category. An allowance for transportation to inspect a vehicle under consideration, or during a vehicle's production, would be eligible if reasonable and justified in the grant proposal. Additionally, operator training may be eligible for any vehicle award if justified in the narrative.

Applicants will not be allowed to modify the scope of work of a vehicle award, (*i.e.*, change the type of vehicle requested after award). Vehicles contracted for, or otherwise purchased, prior to the end of the established application period are not eligible for funding. Aircraft, bulldozers, and construction-related equipment are not eligible.

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Appendix 3. Other Allowable Costs

This section describes additional costs that may be paid using AFG grant funds.

A. Administrative Costs: Administrative costs are allowable under any of the program areas listed above in accordance with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, or OMB Circular A-122, Cost Principles for Nonprofit Organizations, as applicable. (For more information about Circulars, go to www.whitehouse.gov/omb/circulars.) Applicants may apply for administrative costs if the costs are directly related to the implementation of the program for which they are applying. Administrative costs are identifiable costs directly associated with the implementation and management of the grant, and cannot exceed 3 percent of the award.

If you are requesting administrative expenses, you must list the costs under the "Other" category in the budget, and explain the purpose for the administrative costs in your project narrative. Administrative costs should be based on actual expenses, not a percentage of the overall grant. We will reimburse actual expenses only. Examples of eligible administrative costs include shipping, office supplies, and computers associated with the NFIRS reporting requirements. Grant funds may not be used for maintenance agreements, product warranties, insurance, Internet service provider fees, or any similar monthly service fees. The cost of a grant writer (if specifically listed on your application) is eligible and can be charged to the grant as administrative costs in accordance with the provisions outlined below [See G. below]. We will assess the reasonableness of the administrative costs requested in each application and determine if they are reasonable and in the best interest of the program.

B. Indirect Costs: Indirect costs are those incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. A cost may not be allocated to an award as an indirect cost, if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost. Typical examples of indirect costs include depreciation or use allowances on buildings and equipment; the costs of operating and maintaining facilities; general administration; and other general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

If you have an approved indirect cost rate, you may charge indirect costs to the grant. If you are charging indirect costs to the grant, you must submit documentation supporting the indirect cost rate to us for review prior to submitting any claims for reimbursement of indirect costs. Appropriate documentation for an approved indirect rate is a federally approved indirect cost rate agreement. We will allow the rate to be applied as long as it is consistent with its established terms. For example, some indirect cost rates may not

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apply to capital procurements; in these cases, indirect cost rates would not be applicable for an equipment or vehicle grant.

C. Audit Costs: Grantees must comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations, which states that recipients of Federal funding that expend more than \$500,000 in Federal funds (from all Federal sources) in their fiscal year are required to have a single audit. (For more information about OMB Circulars, go to www.whitehouse.gov/omb/circulars.) If a single audit is required, a portion of the audit cost would be allowable, if included in the application budget. We will allow you to charge a prorated share of the costs of the single audit to the grant. For example, if you expend \$100,000 from the AFG and \$400,000 from the Forestry Service during your fiscal year, we will allow you to charge one-fifth of the audit cost to the AFG grant. We do not require any other audits; therefore, you cannot charge any other audit expenses to the grant.

D. Remodeling or Renovation Costs: Remodeling or renovations to an existing facility are allowable only if minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000 and/or requisite activities associated with installation of equipment when 1) occurring immediately adjacent to the facility and 2) the project area has been previously disturbed). To be eligible, the remodeling must be essential to the successful completion of the grant's scope of work. The purchase of real estate and construction costs are not eligible. Construction includes major alterations to a building and/or changes to the profile or footprint of the structure. Enhancements to existing structures, such as the installation of apparatus bay ventilation systems and retrofitting fire stations with sprinkler systems, are eligible for application under the Modifications to Fire or EMS Stations and Facilities activity.

E. Pre-award Costs: Generally, grantees cannot use grant funds to pay for products and services contracted for or purchased prior to the effective date of the grant. However, expenses incurred after the application deadline, but prior to award, may be eligible for reimbursement if the expenses were justified, unavoidable, consistent with the grant's scope of work, and specifically approved by DHS. We will consider requests for reimbursement for pre-award costs on a case-by-case basis.

F. Pre-application Costs: Expenses, obligations, commitments, or contracts incurred or entered into prior to the application deadline are not eligible to be included as a grant expense with the exception of grant preparation costs [See G. below].

G. Grant Writer Fees: Fees for grant writers may be included as a pre-award or pre-application expenditure. Fees payable on a contingency basis are not an eligible expense. For grant writer fees to be eligible as a pre-award expenditure, the fees must be specifically identified and listed in the "Request Details" section of the application. In

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addition, the fees must have been paid prior to any contact with grants management staff or an award (*i.e.*, paid within 30 days of the end of the application period). Applicants may be required to provide documentation to support these pre-award expenditures.

Hiring a grant writer, or use of any other third party in preparing the application, does not eliminate the applicant's responsibility for ensuring that information contained in the application is true and correct. Applicants that submit false information with their applications, or misrepresent their organizations in any material manner, will have their applications deemed ineligible by the AFG Program Office and referred to DHS OIG for further action, as appropriate.

H. Prepayments: A grantee may not use grant funds to prepay for any products or services in advance of delivery of the products or rendering of services. A down payment for the purchase of a vehicle is allowable if required in the purchase contract, but we will only allow up to 25 percent of the Federal share to be drawn for this purpose. No additional funds will be provided in advance of the delivery of the vehicle. Any costs over-and-above the 25 percent limit, such as the cost of a chassis or any other fees or services, must be borne by the grantee or deferred until final payment is drawn. Federal funds may not be used for any other periodic or progress payments, except the final payment, which should not be requested until after the vehicle is received, inspected, and accepted by the grantee.

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Appendix 4.
Reasonableness of a Request

The peer review panelists will review all of the applications in the competitive range and judge each application on its own merits. The panelists will consider all expenses budgeted, including administrative and indirect costs, as part of the cost-benefit determination, and may recommend appropriate adjustments. Regardless of the eligibility of any costs requested, we reserve the right to reduce any requests for assistance, in whole or in part, that we deem to be excessive or otherwise contrary to the best interests of this program.

Applicants that submit false information with their applications, or misrepresent their organizations in any material manner, will have their applications deemed ineligible by the AFG Program Office and referred to the DHS OIG for further action, as appropriate.

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Appendix 5. Award Procedure

Awards will be made using the results of peer-reviewed applications as the primary basis for our decisions, regardless of program. However, there are some exceptions to strictly using the peer review results. For example, AFG's authorizing legislation restricts how the funds may be used. Grant awards for vehicles may not exceed 25 percent of the total appropriated funding, and nonaffiliated EMS organizations may not receive more than 2 percent of appropriated funding. Once we reach these limits, we must deviate from the rank order with respect to the remaining vehicle requests or nonaffiliated EMS requests.

Additionally, career organizations are limited to 45 percent of the available funding and volunteer and combination organizations are required to receive no less than 22 percent and 33 percent of the available funding, respectively. Achieving this delineation may also require deviating from the peer review results.

To fulfill our obligations under the law, we may also make funding decisions using the size and nature of the community served (urban, suburban, or rural), the type of organization (career, combination, or volunteer), and the geographic location of the organization. In these instances where we are making decisions based on geographic location, we will use States as the basic geographic unit. The geographic location of an applicant will be used primarily as a final discriminator, (e.g., in cases where applicants have similar qualifications, we may use the geographic location of the applicants to maximize the diversity of the awardees).

Fire departments that have received funding under the AFG in previous years are eligible to apply for funding in the current year. However, due to our responsibilities under the authorizing statute to assure adequate distribution of awards among certain types of organizations (career, combination, and volunteer) and certain types of communities (urban, suburban, or rural), we reserve the right to fund or not to fund previous grant recipients under this program in order to fulfill statutory requirements. We may also take into account an applicant's performance on prior grants when making funding decisions on current applications.

As stated earlier, each application will be evaluated based on the answers to the activity-specific questions. The applications that best address the established funding priorities will be deemed to be in the "competitive range" and subject to a second-level review. This second-level review is conducted via a panel of technical reviewers who will assess the application's merits with respect to the detail provided in the narrative on the activity, the applicant's financial need, and the purported benefit to be derived for the cost. The panel evaluators will independently score each application, discuss the

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merits and shortcomings of the application, and reconcile any major discrepancies, if necessary. A consensus is allowed but not required.

Once every application in the competitive range has been through the panel review, the applications will be ranked according to the average score awarded by the panel. The ranking will be summarized in a Technical Report prepared by the AFG Program Office. The AFG Program Office will then make award recommendations to the grants management specialists in the Financial Accountability and Oversight Division of the Grant Programs Directorate. The grants management specialists will then contact the applicant to discuss and/or negotiate the content of the application before making final award decisions.

We will select a sufficient number of awardees from this one application period to obligate all of the FY 2008 funding available. Awards will be announced over several months as decisions are made. Awards will not be made in any specified order, (*i.e.*, not by State, program, or any other characteristic).

Award amounts are limited based on the population of the jurisdiction. Specifically, an applicant that serves a jurisdiction with a population of 500,000 or less may not receive grant funds in excess of \$1,000,000 in any program year. An applicant that serves a jurisdiction with more than 500,000, but not more than 1,000,000, people may not receive grant funds in excess of \$1,750,000. Finally, an applicant that serves a jurisdiction of more than 1,000,000 people may not receive grant funds in excess of \$2,750,000 in any fiscal year.

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Appendix 6.

Grantee Responsibilities

AFG award recipients (grantees) must agree to:

(1) Perform, within the designated period of performance, all tasks (scope of work) as outlined in the grantee's application and approved by the AFG Program Office in accordance with the Articles of Agreement. Failure to adhere to the policies, terms, and conditions of the award as set forth in this document, as well as the award package and all references, including clarifications provided in the program's frequently asked questions, may result in loss of the current award as well as future eligibility.

(2) Share in the costs of the projects funded under this grant program. Fire departments and nonaffiliated EMS organizations serving populations of over 50,000 or more must match the Federal grant funds with an amount of non-Federal funds equal to 20 percent of the total project cost. Fire departments and nonaffiliated EMS organizations serving populations between 20,000 and 50,000 must agree to match the Federal grant funds with an amount of non-Federal funds equal to 10 percent of the total project cost. Fire departments and nonaffiliated EMS organizations serving areas with a population of 20,000 or fewer must match the Federal grant funds with an amount of non-Federal funds equal to 5 percent of the total project cost. Regional projects' cost-share will be based on the total population and demographics of the entire region. All non-Federal match funds must be in cash; in-kind contributions are not acceptable. No waivers of this requirement will be granted except for applicants located in Insular Areas as provided for in 48 U.S.C. § 1469a.

The grantee is not required to have the cash match in hand at the time of application, nor at the time of award. But, before a grant is awarded, DHS will contact potential awardees to determine whether the grantee has the funding in hand or if the grantee has a viable plan to obtain the funding necessary to fulfill the matching requirement.

(3) Maintain operating expenditures for the 1-year-grant period of performance in the areas funded by this grant activity at a level equal to or greater than the average of their operating expenditures in the 2 years preceding the year in which this assistance is received. This program is meant to supplement rather than replace an organization's funding.

(4) Retain grant files and supporting documentation for 3 years, after the conclusion and closeout of the grant or any audit subsequent to closeout.

(5) Ensure all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. In doing so, the grantee must

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follow its established procurement processes when purchasing vehicles, equipment, and services with AFG funds. If the grantee has no established procedures, it should obtain at least two quotes/bids for the items being procured and document the process used in the grant files. Sole-source purchasing is not an acceptable procurement method except in unusual circumstances.

(6) Submit a performance report to DHS after 6 months as well as a final closeout report. If a grant's period of performance is extended for any reason, the grantee must submit performance reports every 6 months until the grant is closed out. At grant closeout, the grantee must report how the grant funding was used and the benefits realized from the award in a detailed final report at the end of your grant's period of performance. An accounting of the funds must also be included. Applicants should be aware that prior performance including timely submission of performance and closeout reports will be taken into consideration in evaluating future awards.

(7) Make grant files, books, and records available, if requested, for inspection to ensure compliance with any requirement of the grant program.

(8) If the grantee is a fire department, agree to provide information, through established reporting channels, to the USFA's NFIRS for the period covered by the assistance. Nonaffiliated EMS organizations do not have to comply with the NFIRS reporting requirement. If a fire department does not participate in the incident reporting system, and does not have the capacity to report, at the time of the award, that grantee must agree to provide information to the NFIRS system for a 12-month period commencing as soon as they develop the capacity to report. We expect non-reporting grantees to pursue the capacity to report immediately after notification of award, and for these non-reporting grantees to be actively reporting to NFIRS within the approved period of performance. AFG program grantees from previous years will not be allowed to close out their grants until they demonstrate that they are complying with this requirement. Failure to close out previous years' grants may affect the consideration of future awards.

(9) Following the audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations, grantees that expend \$500,000 or more in Federal funds in their year (from all Federal sources) must have a single audit performed in accordance with the Circular. (For more information about the Circulars, go to www.whitehouse.gov/omb/circulars.)

(10) Comply with Homeland Security Presidential Directive-5 (HSPD-5). Starting October 1, 2004, HSPD-5 requires all recipients of Federal preparedness funding – including recipients of Federal grants and contracts – to adopt NIMS as a condition for receipt of Federal funds. Recipients of FY 2008 AFG funds must comply with this directive. AFG recipients will be considered in compliance with this NIMS requirement if the grantee: 1) has an operational knowledge of ICS; 2) has an understanding of NIMS'

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principles and policies; and 3) agrees to adopt and/or comply with all directives, ordinances, rules, orders, edicts, *etc.*, passed down by local or State authorities with respect to incident management. Organizations already trained in ICS do not need retraining if the previous training was consistent with DHS standards. In order for us to document compliance, grantees will be required to certify their recognition of NIMS/ICS as part of the grant closeout process.

DHS offers ICS and NIMS training for organizations that have not implemented ICS, or that are unfamiliar with NIMS principles and policies. For example, the Federal Emergency Management Agency (FEMA) offers ICS training, from introductory courses to advanced ICS training. For more information regarding ICS and NIMS training, visit the NIMS website at www.fema.gov/emergency/nims/. For more information about ICS training, contact the DHS Centralized Scheduling and Information Desk (CSID) at 1-800-368-6498, or visit the website of the DHS Emergency Management Institute (EMI) and the National Fire Academy (NFA) at www.usfa.fema.gov. Your State emergency management training office may also be a source of information.

(11) Vehicle awardees are required to obtain a performance bond if they advance any funding to the vehicle manufacturer.

(12) Vehicle awardees are required to include a performance clause in their contract. The clause will specify a delivery date for the vehicle under contract and include a provision for penalty for non-delivery on the specified date. Non-delivery by the contract's guaranteed date will require a penalty for non-performance that is no less than \$100 per day until the date that the vehicle is delivered. Delivery is not acceptable unless the vehicle is operational, functioning, and ready to be placed in service.

(13) Grantees must conduct all bidding activities (solicitation, receipt, and evaluation) after award, *i.e.*, during the period of performance. Quotes obtained prior to submittal of the application - for the purposes of applying for this grant - are not considered to be sufficient to satisfy the requirements for competition as outlined at 44 CFR Part 13. Grantees may be jeopardizing their awards if they do not adhere to the requirements set forth herein.

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Appendix 7. Excess Funds

Occasionally, due to successful competitive bid processes, some grantees have funds remaining after the completion of the obligations outlined above. Fire department grantees that complete the approved scope of work prior to the end of the performance period, and still have grant funds available, have three options for the use of the excess funds:

- (1) Grantees may use the greater of 1 percent of their award amount or \$5,000 to continue, or expand, the activities for which they received the award. For example, if a grantee has funds remaining after completion of the activities listed in their grant agreement, the grantee may use excess funds (subject to the above limitation) to purchase other eligible items without seeking DHS approval.
- (2) Grantees may use excess funds to create, or expand, a fire or injury prevention program. Excess funds above the amounts discussed in paragraph (1) above must be used for fire or injury prevention activities or returned to DHS [See option (3) below]. In order to use excess funds for fire or injury prevention activities, a grantee must submit an amendment to its grant. The amendment request should explain the following:
 - i) fire or injury prevention efforts currently underway in your organization;
 - ii) where the use of excess funds would fit within your existing efforts, if applicable;
 - iii) what is the fire or injury problem that you are trying to address with these funds;
 - iv) the target audience for your fire or injury prevention project(s), and how this audience was identified;
 - v) how you will implement/deliver your project(s); and
 - vi) how you will evaluate the effectiveness of the requested fire or injury prevention project(s).
- (3) Grantees may return excess funds to DHS. To exercise this option, a grantee must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of grant obligations. The grantee must also indicate that it understands that the funds will be deobligated and unavailable for

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future expenses. Deobligation of excess funds will decrease the Federal portion of the grant and the amount of the grantee's match.

Fire department grantees that complete the approved scope of work prior to the end of the performance period, and still have grant funds available, may also use excess funds in a combination of activities from options (1) and (2). Nonaffiliated EMS organizations that have excess funds may exercise the same options for use of excess funds as that of a fire department, however, EMS organizations are restricted to uses that only involve injury prevention. EMS organizations may not expend grant funds for fire prevention activities.

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over equipment that is worn but usable. For organizations replacing old or damaged equipment, organizations with the oldest equipment will get the highest priority, and organizations with the newest equipment will get lowest priority. In addition, we will give a high competitive rating to EMS organizations with a large percentage of active staff without compliant EMS PPE. However, large organizations with a high number of first-responders will receive additional consideration irrespective of their percentage of non-compliant PPE. We will also give a high competitive rating to departments who want to purchase enough PPE to bring their compliance up to 100 percent. Our lowest priorities are to fund the purchase of equipment for a new mission, or the purchase of equipment as a reserve in the event it is needed.

DHS believes that training is of critical importance to any first responder organization, and that equipment is of no use if the operator is not trained to use it. As such, applicants that are not, or will not be, sufficiently trained to use the equipment requested under this program will not be eligible for funding.

Examples of eligible clothing include EMS “turnout gear,” non disposable universal precautionary supplies (*i.e.*, medical PPE), extrication jumpsuits, rescue helmets, gloves, and boots. Protective clothing must meet national standards or local EMS protocols. The purchase of SCBA may also be eligible if the EMS organization has a formally adopted standard operating procedure that requires SCBA availability and adequately justifies the request. If you apply for funding for SCBA, we may require you to submit documentation to support the eligibility of SCBA.

Any equipment requested under this section, particularly decontamination and HAZMAT suits, are fundable to the current level of your training (*i.e.*, we will not fund level-A suits for organizations only trained to the HAZMAT operation level unless the application also includes a request for training compatible with the equipment request). Uniforms (formal/parade or station/duty) and uniform items (hats, badges, *etc.*) are not eligible expenses under this activity. Nonaffiliated EMS organizations also may not apply for non-EMS PPE such as body armor, wildland firefighting gear, and firefighting “turnout gear.” Personal communications equipment, such as radios and pagers, are not eligible under this activity, but are eligible under the EMS Equipment Acquisition activity.

d. EMS Wellness and Fitness:

For the FY 2008 AFG, an effective EMS wellness/fitness activity must offer periodic health screenings, entry-level physical examinations, and an immunization program. Applicants for grants in this activity must currently offer, or plan to use grant funds to provide, **all three benefits** to receive consideration and funding for any other initiatives under this activity. After entry-level physicals, annual physicals, and immunizations, high priority is given to formal fitness and injury prevention programs. Lower priority is given to stress management, injury/illness rehabilitation, and employee assistance.

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We will afford higher competitive ratings to applicants lacking wellness/fitness programs over applicants that already employ a wellness/fitness program. Applicants already providing the three requisite benefits that wish to expand their wellness and fitness program will receive a slightly lower consideration than applicants seeking to initiate a wellness/fitness program. Finally, since participation is critical to achieving any benefits from a wellness/fitness program, we will give higher competitive ratings to departments whose wellness/fitness programs mandate participation and are open to all personnel.

Eligible expenditures in a wellness and fitness activity for EMS personnel may include the procurement of medical services from trained medical professionals (MDs or RNs) to ensure that EMS personnel are physically able to carry out their duties. The purchase of medical equipment is not an eligible expenditure under this category. Eligible expenditures to carry out wellness/fitness activities may include costs for personnel physicals, physical fitness equipment (including shipping charges and sales tax, as applicable), and supplies directly related to the conduct of physicals or physical fitness activities.

Ineligible expenses include the following:

- transportation expenses;
- contractual services with anyone other than medical professionals listed above (e.g., health-care consultants, trainers, and nutritionists)
- fitness club memberships for EMS personnel and their families;
- cash incentives;
- non-cash incentives (t-shirts or hats of nominal value, vouchers to local businesses, or time-off);
- construction of facilities to house a fitness program (exercise or fitness rooms, showers, *etc.*); and
- purchase of real estate.

Minor remodeling or renovations to an existing facility are allowable if justified in the narrative if the remodeling is minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000), and if the remodeling is integral to the completion of the wellness/fitness activities funded by the grant. Remodeling that is not directly related to other grant activities is not eligible. Remodeling expenses should be included in the budget as an "Other" line-item expense and explained in the narrative.

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e. Modifications to EMS Stations and Facilities:

FY 2008 AFG grants may be used to modify EMS stations, EMS training facilities, and other facilities to protect the health and safety of first responder personnel. Activities involving modifications to facilities are subject to all applicable environmental and historic preservation requirements. Applicants seeking assistance to modify their facilities may undergo additional screening. DHS is required to ascertain to what degree the proposed modifications to EMS stations or facilities might affect an applicant's structures relative to the National Environmental Policy Act, National Historic Preservation Act of 1966, National Flood Insurance Program regulations, and any other applicable laws and Executive Orders. No project can proceed – except for project planning – prior to formal DHS approval. Noncompliance with this provision may jeopardize an applicant's award and subsequent funding.

Eligible projects under this activity must focus on promoting safety in EMS stations and facilities. Eligible initiatives in this area are limited to the following items:

- 1) installation of sprinkler systems;
- 2) vehicle exhaust extraction systems;
- 3) smoke and fire alarm notification systems; and
- 4) facility emergency power generators.

We will NOT fund any other requests for modifications than the initiatives listed. Grant funds are to be used only to retrofit existing structures that do not have the eligible safety features or to upgrade facilities whose features are outdated. Additionally, under no circumstances may grant funds be used to supplement new construction.

Any vehicle exhaust extraction system funded under this activity should be either extensive enough to extract all toxic vapors and particulates emitted from internal combustion engines, and meet all applicable Federal, State, and local standards, or be a part of a larger comprehensive system that does. Some exhaust extraction systems may meet standards for removal of certain carcinogens, but not others; therefore, it may be necessary to utilize more than one system, or employ redundancies, to fully protect your first responders.

More benefit would be derived from EMS stations than from modifying dispatch centers, training facilities, or other EMS facilities. The frequency of use would have a direct bearing on the benefits to be derived from grant funds. In addition, the frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities occupied or otherwise in use, 24-hours-per-day, and 7-days-per-week will receive the highest competitive rating. Facilities used

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less than full time will receive lower consideration. Facilities used only occasionally, or on an irregular or part-time basis, will receive the lowest consideration. Requests involving facilities that have sleeping quarters will receive a higher competitive rating.

When requesting funds for modifications to facilities, older structures will receive the highest consideration for funding. NFPA standards regarding exhaust emissions (1500 §§ A.9.1.6) were adopted in 2002, therefore first-responder organizations should have taken the standards into consideration when planning new structures. As such, any structures that were built subsequent to 2003 and that do not contain these safety features will receive the lowest consideration.

Grant funds are to be used to retrofit existing structures that do not have the eligible safety features, or to upgrade facilities whose features are outdated. When requesting funds for modifications to facilities, older structures will receive the highest consideration for funding. Funds may not be used to supplement new construction. When requesting funding for emergency power generators, it is the programs expectation that EMS organizations will request generators sufficient to provide power for **only** those functions that are operationally imperative (i.e., bay doors, communications equipment, emergency lighting, heat, etc.) and no more (i.e., banquet facilities).

There are no monetary limits on individual initiatives under this activity. However, no applicant may request more than \$100,000 in modifications per station under their authority. If you have multiple stations, you may request funding for modifications for each station up to this \$100,000 per station limit, as long as the entire request does not exceed the Federal share limit.

The necessary remodeling or renovation of an existing facility to accomplish modification activities is allowable, if the remodeling is minor in nature (i.e., limited to minor interior alterations costing less than \$10,000 and/or requisite activities associated with installation of equipment when 1) occurring immediately adjacent to the facility and 2) the project area has been previously disturbed); justified in the proposal; and integral to the completion of the requested activities. Remodeling or renovation expenses should be included in the application as an "Other" line-item expense and clearly explained in the narrative. Maintenance expenditures such as cleaning or painting of apparatus bays is not eligible under the AFG.

B. EMS Vehicle Acquisition Program Area.

FY 2008 AFG grants may be used to acquire new, used, or refurbished EMS vehicles. Funds may also be used to refurbish a vehicle the organization currently owns. New vehicles purchased with AFG funds must be compliant with current General Services Administration standards, specifically KKK-A-1822E, found at <http://apps.fss.gsa.gov/vehiclestandards/assocDocs.cfm#>.

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Used apparatus must be compliant with Federal or industry standards for the year the vehicle was manufactured. Refurbished apparatus must also meet applicable standards.

In FY 2008, applicants that serve urban or suburban communities may apply for more than one vehicle. However, awards will be limited to only one vehicle per station. Applicants serving rural communities are limited to one vehicle per application. If a rural applicant submits an application requesting more than one vehicle, we will deem the application ineligible. Applicants awarded vehicle grants under AFG in previous years ARE ELIGIBLE for another vehicle award in this program year.

Due to the inherent benefits of an ambulance, or any transport vehicle, to an EMS service provider, these types of vehicles are the highest priority compared to non transport vehicles. Due to the costs associated with obtaining and outfitting non transport rescue vehicles, we believe non transport rescue vehicles should have a lower competitive rating than transport vehicles. Vehicles having a limited function, such as aircraft, boats, and ATVs, will receive the lowest competitive rating. Because of the very limited funding for EMS vehicle awards, we anticipate that this program will be very competitive. Therefore, it is unlikely we would fund any vehicles not listed as a "Priority One" this year. Priorities in this year's EMS vehicle program are the same for all communities. The following chart lists priorities in this program area.

EMS Vehicle Priorities

Priority One	Priority Two	Priority Three
• Ambulance or transport unit to support EMT-B needs and functions	• First responder non transport vehicles • Special operations vehicles	• Command vehicles • Hovercraft • Other special access vehicles

As with any request, DHS reserves the right to reduce any vehicle request for assistance, in whole or in part, that we deem to be excessive or otherwise contrary to the best interests of this program. AFG funding is meant to supplement, rather than replace, an organization's funding. Grantees must maintain their level of operating expenditures during the grant period at a level equal to, or greater than, the average of their operating expenditures in the two years preceding the year in which assistance is received. (See Appendix 6. Grantee Responsibilities.) This means that if an organization has a vehicle replacement program where it purchases three new vehicles

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every year, and that organization is awarded a vehicle grant, that organization will have to maintain its practice of purchasing three new vehicles in the year of the grant as well as the vehicle(s) awarded under the grant. The vehicle grantee CANNOT use AFG funding as a substitute for their vehicle replacement budget. In order to assure that this requirement is met, DHS may require detailed documentation regarding an applicant's or grantee's vehicle purchasing practices and policies.

As with other eligible AFG activities, one priority of the vehicle acquisition program is the safety of first responders. Therefore, we will give the highest consideration to applicants wanting to replace vehicles that have been converted to use as EMS vehicles, but were not originally designed for EMS and vehicles that did not include seatbelts in their original design. Applicants with these unsafe vehicle characteristics will receive this higher consideration over applicants seeking to replace vehicles having these safety features. Applicants wanting to benefit from this consideration must certify that the unsafe vehicle will be permanently removed from service, if awarded a grant.

In addition, more benefit will be realized by funding applicants owning few or no vehicles of the type they are seeking than there would be by providing vehicle funding to an organization with numerous vehicles of the type they are seeking. In assessing the number of vehicles an organization has within a particular class, we will include all vehicles with similar functions. For example, we would include transport vehicles in the same class as ambulances. We will also give higher competitive ratings to applicants that have an aged fleet of emergency vehicles.

This grant program will achieve the greatest benefits if we provide vehicles to EMS organizations purchasing basic response vehicles (categorized above in priority order) to meet their existing missions. The highest consideration will be given to EMS organizations that have never owned the vehicles, as well as to organizations seeking to replace used or obsolete vehicles. A secondary priority will be to fund EMS organizations seeking to add more vehicles to their existing fleet within their existing mission areas. The lowest priority is funding new apparatus to expand an applicant's services into "new mission" areas. A department takes on a "new mission" when it expands its services into areas not previously offered; such as, an EMS organization seeking funding to create a HAZMAT response team for the first time.

A higher competitive rating will be given to an EMS organization owning few or no response vehicles relative to other organizations serving similar types of communities. A higher competitive rating also is given to organizations that have an aged fleet of vehicles, as well as to organizations with high-mileage vehicles. Organizations with a newer fleet of vehicles, or with vehicles that are not driven extensively, will receive lower consideration. EMS organizations that have formal automatic aid agreements with neighboring departments will receive additional consideration. Organizations with formal mutual aid agreements will receive more consideration than organizations

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without such arrangements, but not as much consideration as organizations with automatic aid agreements.

Finally, due to the inherent safety benefits to be realized in organizations that utilize a comprehensive driver training program, we provide a high competitive advantage for applicants who have an established comprehensive driver training program. Applicants seeking driver training with their vehicle request will receive a slightly lower competitive advantage. Applicants without a comprehensive driver training program who are not seeking funding for driver training in this application, or through other resources, will **NOT** be considered for a vehicle award.

No competitive advantage has been assigned to the purchase of standard model commercial vehicles versus custom vehicles, or the purchase of used vehicles versus new vehicles in the preliminary evaluation of applications. The technical evaluation panelists often prefer low-cost vehicles when evaluating the cost-benefit section of the project narratives. We also reserve the right to impose funding limits on requests for vehicles whose costs we deem excessive or otherwise not in the best interest of the program.

EMS vehicle awardees will be required to obtain a bond if funds are advanced to the manufacturer and include specific performance requirements and penalties for non-compliance with the requirements as part of the contract with the vehicle manufacturer. Extensions to a grant's period of performance may not be considered if the requisite bond is not included in the purchase contract.

Eligible expenses under this program would include **ONLY** the cost of the vehicle and requested driver training. We will **NOT** provide funding for associated equipment. New, used, or refurbished vehicles are eligible; however, all used or refurbished vehicles must conform to the national standards that were in effect the year the vehicle was manufactured. ATVs, gators, and similar equipment are considered to be EMS equipment, **NOT** vehicles and are not eligible under this category. An allowance for transportation to inspect a vehicle under consideration, or during a vehicle's production, would be eligible if reasonable and justified in the grant proposal. Additionally, operator training may be eligible for any vehicle award if justified in the narrative.

Applicants will not be allowed to modify the scope of work of a vehicle award, (*i.e.*, change the type of vehicle requested after award). Vehicles contracted for, or otherwise purchased, prior to the end of the established application period are not eligible for funding. Aircraft, bulldozers, and construction-related equipment are not eligible.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Appendix 3. Other Allowable Costs

This section describes additional costs that may be paid using AFG grant funds.

A. Administrative Costs: Administrative costs are allowable under any of the program areas listed above in accordance with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, or OMB Circular A-122, Cost Principles for Nonprofit Organizations, as applicable. (For more information about Circulars, go to www.whitehouse.gov/omb/circulars.) Applicants may apply for administrative costs if the costs are directly related to the implementation of the program for which they are applying. Administrative costs are identifiable costs directly associated with the implementation and management of the grant, and cannot exceed 3 percent of the award.

If you are requesting administrative expenses, you must list the costs under the "Other" category in the budget, and explain the purpose for the administrative costs in your project narrative. Administrative costs should be based on actual expenses, not a percentage of the overall grant. We will reimburse actual expenses only. Examples of eligible administrative costs include shipping, office supplies, and computers associated with the NFIRS reporting requirements. Grant funds may not be used for maintenance agreements, product warranties, insurance, Internet service provider fees, or any similar monthly service fees. The cost of a grant writer (if specifically listed on your application) is eligible and can be charged to the grant as administrative costs in accordance with the provisions outlined below [See G. below]. We will assess the reasonableness of the administrative costs requested in each application and determine if they are reasonable and in the best interest of the program.

B. Indirect Costs: Indirect costs are those incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. A cost may not be allocated to an award as an indirect cost, if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost. Typical examples of indirect costs include depreciation or use allowances on buildings and equipment; the costs of operating and maintaining facilities; general administration; and other general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

If you have an approved indirect cost rate, you may charge indirect costs to the grant. If you are charging indirect costs to the grant, you must submit documentation supporting the indirect cost rate to us for review prior to submitting any claims for reimbursement of indirect costs. Appropriate documentation for an approved indirect rate is a federally approved indirect cost rate agreement. We will allow the rate to be applied as long as it is consistent with its established terms. For example, some indirect cost rates may not

U.S. Department of Homeland Security – Assistance to Firefighters Grants

apply to capital procurements; in these cases, indirect cost rates would not be applicable for an equipment or vehicle grant.

C. Audit Costs: Grantees must comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations, which states that recipients of Federal funding that expend more than \$500,000 in Federal funds (from all Federal sources) in their fiscal year are required to have a single audit. (For more information about OMB Circulars, go to www.whitehouse.gov/omb/circulars.) If a single audit is required, a portion of the audit cost would be allowable, if included in the application budget. We will allow you to charge a prorated share of the costs of the single audit to the grant. For example, if you expend \$100,000 from the AFG and \$400,000 from the Forestry Service during your fiscal year, we will allow you to charge one-fifth of the audit cost to the AFG grant. We do not require any other audits; therefore, you cannot charge any other audit expenses to the grant.

D. Remodeling or Renovation Costs: Remodeling or renovations to an existing facility are allowable only if minor in nature (*i.e.*, limited to minor interior alterations costing less than \$10,000 and/or requisite activities associated with installation of equipment when 1) occurring immediately adjacent to the facility and 2) the project area has been previously disturbed). To be eligible, the remodeling must be essential to the successful completion of the grant's scope of work. The purchase of real estate and construction costs are not eligible. Construction includes major alterations to a building and/or changes to the profile or footprint of the structure. Enhancements to existing structures, such as the installation of apparatus bay ventilation systems and retrofitting fire stations with sprinkler systems, are eligible for application under the Modifications to Fire or EMS Stations and Facilities activity.

E. Pre-award Costs: Generally, grantees cannot use grant funds to pay for products and services contracted for or purchased prior to the effective date of the grant. However, expenses incurred after the application deadline, but prior to award, may be eligible for reimbursement if the expenses were justified, unavoidable, consistent with the grant's scope of work, and specifically approved by DHS. We will consider requests for reimbursement for pre-award costs on a case-by-case basis.

F. Pre-application Costs: Expenses, obligations, commitments, or contracts incurred or entered into prior to the application deadline are not eligible to be included as a grant expense with the exception of grant preparation costs [See G. below].

G. Grant Writer Fees: Fees for grant writers may be included as a pre-award or pre-application expenditure. Fees payable on a contingency basis are not an eligible expense. For grant writer fees to be eligible as a pre-award expenditure, the fees must be specifically identified and listed in the "Request Details" section of the application. In

U.S. Department of Homeland Security – Assistance to Firefighters Grants

addition, the fees must have been paid prior to any contact with grants management staff or an award (*i.e.*, paid within 30 days of the end of the application period). Applicants may be required to provide documentation to support these pre-award expenditures.

Hiring a grant writer, or use of any other third party in preparing the application, does not eliminate the applicant's responsibility for ensuring that information contained in the application is true and correct. Applicants that submit false information with their applications, or misrepresent their organizations in any material manner, will have their applications deemed ineligible by the AFG Program Office and referred to DHS OIG for further action, as appropriate.

H. Prepayments: A grantee may not use grant funds to prepay for any products or services in advance of delivery of the products or rendering of services. A down payment for the purchase of a vehicle is allowable if required in the purchase contract, but we will only allow up to 25 percent of the Federal share to be drawn for this purpose. No additional funds will be provided in advance of the delivery of the vehicle. Any costs over-and-above the 25 percent limit, such as the cost of a chassis or any other fees or services, must be borne by the grantee or deferred until final payment is drawn. Federal funds may not be used for any other periodic or progress payments, except the final payment, which should not be requested until after the vehicle is received, inspected, and accepted by the grantee.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Appendix 4.
Reasonableness of a Request

The peer review panelists will review all of the applications in the competitive range and judge each application on its own merits. The panelists will consider all expenses budgeted, including administrative and indirect costs, as part of the cost-benefit determination, and may recommend appropriate adjustments. Regardless of the eligibility of any costs requested, we reserve the right to reduce any requests for assistance, in whole or in part, that we deem to be excessive or otherwise contrary to the best interests of this program.

Applicants that submit false information with their applications, or misrepresent their organizations in any material manner, will have their applications deemed ineligible by the AFG Program Office and referred to the DHS OIG for further action, as appropriate.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Appendix 5. Award Procedure

Awards will be made using the results of peer-reviewed applications as the primary basis for our decisions, regardless of program. However, there are some exceptions to strictly using the peer review results. For example, AFG's authorizing legislation restricts how the funds may be used. Grant awards for vehicles may not exceed 25 percent of the total appropriated funding, and nonaffiliated EMS organizations may not receive more than 2 percent of appropriated funding. Once we reach these limits, we must deviate from the rank order with respect to the remaining vehicle requests or nonaffiliated EMS requests.

Additionally, career organizations are limited to 45 percent of the available funding and volunteer and combination organizations are required to receive no less than 22 percent and 33 percent of the available funding, respectively. Achieving this delineation may also require deviating from the peer review results.

To fulfill our obligations under the law, we may also make funding decisions using the size and nature of the community served (urban, suburban, or rural), the type of organization (career, combination, or volunteer), and the geographic location of the organization. In these instances where we are making decisions based on geographic location, we will use States as the basic geographic unit. The geographic location of an applicant will be used primarily as a final discriminator, (e.g., in cases where applicants have similar qualifications, we may use the geographic location of the applicants to maximize the diversity of the awardees).

Fire departments that have received funding under the AFG in previous years are eligible to apply for funding in the current year. However, due to our responsibilities under the authorizing statute to assure adequate distribution of awards among certain types of organizations (career, combination, and volunteer) and certain types of communities (urban, suburban, or rural), we reserve the right to fund or not to fund previous grant recipients under this program in order to fulfill statutory requirements. We may also take into account an applicant's performance on prior grants when making funding decisions on current applications.

As stated earlier, each application will be evaluated based on the answers to the activity-specific questions. The applications that best address the established funding priorities will be deemed to be in the "competitive range" and subject to a second-level review. This second-level review is conducted via a panel of technical reviewers who will assess the application's merits with respect to the detail provided in the narrative on the activity, the applicant's financial need, and the purported benefit to be derived for the cost. The panel evaluators will independently score each application, discuss the

U.S. Department of Homeland Security – Assistance to Firefighters Grants

merits and shortcomings of the application, and reconcile any major discrepancies, if necessary. A consensus is allowed but not required.

Once every application in the competitive range has been through the panel review, the applications will be ranked according to the average score awarded by the panel. The ranking will be summarized in a Technical Report prepared by the AFG Program Office. The AFG Program Office will then make award recommendations to the grants management specialists in the Financial Accountability and Oversight Division of the Grant Programs Directorate. The grants management specialists will then contact the applicant to discuss and/or negotiate the content of the application before making final award decisions.

We will select a sufficient number of awardees from this one application period to obligate all of the FY 2008 funding available. Awards will be announced over several months as decisions are made. Awards will not be made in any specified order, (*i.e.*, not by State, program, or any other characteristic).

Award amounts are limited based on the population of the jurisdiction. Specifically, an applicant that serves a jurisdiction with a population of 500,000 or less may not receive grant funds in excess of \$1,000,000 in any program year. An applicant that serves a jurisdiction with more than 500,000, but not more than 1,000,000, people may not receive grant funds in excess of \$1,750,000. Finally, an applicant that serves a jurisdiction of more than 1,000,000 people may not receive grant funds in excess of \$2,750,000 in any fiscal year.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Appendix 6.

Grantee Responsibilities

AFG award recipients (grantees) must agree to:

(1) Perform, within the designated period of performance, all tasks (scope of work) as outlined in the grantee's application and approved by the AFG Program Office in accordance with the Articles of Agreement. Failure to adhere to the policies, terms, and conditions of the award as set forth in this document, as well as the award package and all references, including clarifications provided in the program's frequently asked questions, may result in loss of the current award as well as future eligibility.

(2) Share in the costs of the projects funded under this grant program. Fire departments and nonaffiliated EMS organizations serving populations of over 50,000 or more must match the Federal grant funds with an amount of non-Federal funds equal to 20 percent of the total project cost. Fire departments and nonaffiliated EMS organizations serving populations between 20,000 and 50,000 must agree to match the Federal grant funds with an amount of non-Federal funds equal to 10 percent of the total project cost. Fire departments and nonaffiliated EMS organizations serving areas with a population of 20,000 or fewer must match the Federal grant funds with an amount of non-Federal funds equal to 5 percent of the total project cost. Regional projects' cost-share will be based on the total population and demographics of the entire region. All non-Federal match funds must be in cash; in-kind contributions are not acceptable. No waivers of this requirement will be granted except for applicants located in Insular Areas as provided for in 48 U.S.C. § 1469a.

The grantee is not required to have the cash match in hand at the time of application, nor at the time of award. But, before a grant is awarded, DHS will contact potential awardees to determine whether the grantee has the funding in hand or if the grantee has a viable plan to obtain the funding necessary to fulfill the matching requirement.

(3) Maintain operating expenditures for the 1-year-grant period of performance in the areas funded by this grant activity at a level equal to or greater than the average of their operating expenditures in the 2 years preceding the year in which this assistance is received. This program is meant to supplement rather than replace an organization's funding.

(4) Retain grant files and supporting documentation for 3 years, after the conclusion and closeout of the grant or any audit subsequent to closeout.

(5) Ensure all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. In doing so, the grantee must

U.S. Department of Homeland Security – Assistance to Firefighters Grants

follow its established procurement processes when purchasing vehicles, equipment, and services with AFG funds. If the grantee has no established procedures, it should obtain at least two quotes/bids for the items being procured and document the process used in the grant files. Sole-source purchasing is not an acceptable procurement method except in unusual circumstances.

(6) Submit a performance report to DHS after 6 months as well as a final closeout report. If a grant's period of performance is extended for any reason, the grantee must submit performance reports every 6 months until the grant is closed out. At grant closeout, the grantee must report how the grant funding was used and the benefits realized from the award in a detailed final report at the end of your grant's period of performance. An accounting of the funds must also be included. Applicants should be aware that prior performance including timely submission of performance and closeout reports will be taken into consideration in evaluating future awards.

(7) Make grant files, books, and records available, if requested, for inspection to ensure compliance with any requirement of the grant program.

(8) If the grantee is a fire department, agree to provide information, through established reporting channels, to the USFA's NFIRS for the period covered by the assistance. Nonaffiliated EMS organizations do not have to comply with the NFIRS reporting requirement. If a fire department does not participate in the incident reporting system, and does not have the capacity to report, at the time of the award, that grantee must agree to provide information to the NFIRS system for a 12-month period commencing as soon as they develop the capacity to report. We expect non-reporting grantees to pursue the capacity to report immediately after notification of award, and for these non-reporting grantees to be actively reporting to NFIRS within the approved period of performance. AFG program grantees from previous years will not be allowed to close out their grants until they demonstrate that they are complying with this requirement. Failure to close out previous years' grants may affect the consideration of future awards.

(9) Following the audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations, grantees that expend \$500,000 or more in Federal funds in their year (from all Federal sources) must have a single audit performed in accordance with the Circular. (For more information about the Circulars, go to www.whitehouse.gov/omb/circulars.)

(10) Comply with Homeland Security Presidential Directive-5 (HSPD-5). Starting October 1, 2004, HSPD-5 requires all recipients of Federal preparedness funding – including recipients of Federal grants and contracts – to adopt NIMS as a condition for receipt of Federal funds. Recipients of FY 2008 AFG funds must comply with this directive. AFG recipients will be considered in compliance with this NIMS requirement if the grantee: 1) has an operational knowledge of ICS; 2) has an understanding of NIMS'

U.S. Department of Homeland Security – Assistance to Firefighters Grants

principles and policies; and 3) agrees to adopt and/or comply with all directives, ordinances, rules, orders, edicts, *etc.*, passed down by local or State authorities with respect to incident management. Organizations already trained in ICS do not need retraining if the previous training was consistent with DHS standards. In order for us to document compliance, grantees will be required to certify their recognition of NIMS/ICS as part of the grant closeout process.

DHS offers ICS and NIMS training for organizations that have not implemented ICS, or that are unfamiliar with NIMS principles and policies. For example, the Federal Emergency Management Agency (FEMA) offers ICS training, from introductory courses to advanced ICS training. For more information regarding ICS and NIMS training, visit the NIMS website at www.fema.gov/emergency/nims/. For more information about ICS training, contact the DHS Centralized Scheduling and Information Desk (CSID) at 1-800-368-6498, or visit the website of the DHS Emergency Management Institute (EMI) and the National Fire Academy (NFA) at www.usfa.fema.gov. Your State emergency management training office may also be a source of information.

(11) Vehicle awardees are required to obtain a performance bond if they advance any funding to the vehicle manufacturer.

(12) Vehicle awardees are required to include a performance clause in their contract. The clause will specify a delivery date for the vehicle under contract and include a provision for penalty for non-delivery on the specified date. Non-delivery by the contract's guaranteed date will require a penalty for non-performance that is no less than \$100 per day until the date that the vehicle is delivered. Delivery is not acceptable unless the vehicle is operational, functioning, and ready to be placed in service.

(13) Grantees must conduct all bidding activities (solicitation, receipt, and evaluation) after award, *i.e.*, during the period of performance. Quotes obtained prior to submittal of the application - for the purposes of applying for this grant - are not considered to be sufficient to satisfy the requirements for competition as outlined at 44 CFR Part 13. Grantees may be jeopardizing their awards if they do not adhere to the requirements set forth herein.

U.S. Department of Homeland Security – Assistance to Firefighters Grants

Appendix 7. Excess Funds

Occasionally, due to successful competitive bid processes, some grantees have funds remaining after the completion of the obligations outlined above. Fire department grantees that complete the approved scope of work prior to the end of the performance period, and still have grant funds available, have three options for the use of the excess funds:

- (1) Grantees may use the greater of 1 percent of their award amount or \$5,000 to continue, or expand, the activities for which they received the award. For example, if a grantee has funds remaining after completion of the activities listed in their grant agreement, the grantee may use excess funds (subject to the above limitation) to purchase other eligible items without seeking DHS approval.
- (2) Grantees may use excess funds to create, or expand, a fire or injury prevention program. Excess funds above the amounts discussed in paragraph (1) above must be used for fire or injury prevention activities or returned to DHS [See option (3) below]. In order to use excess funds for fire or injury prevention activities, a grantee must submit an amendment to its grant. The amendment request should explain the following:
 - i) fire or injury prevention efforts currently underway in your organization;
 - ii) where the use of excess funds would fit within your existing efforts, if applicable;
 - iii) what is the fire or injury problem that you are trying to address with these funds;
 - iv) the target audience for your fire or injury prevention project(s), and how this audience was identified;
 - v) how you will implement/deliver your project(s); and
 - vi) how you will evaluate the effectiveness of the requested fire or injury prevention project(s).
- (3) Grantees may return excess funds to DHS. To exercise this option, a grantee must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of grant obligations. The grantee must also indicate that it understands that the funds will be deobligated and unavailable for

U.S. Department of Homeland Security – Assistance to Firefighters Grants

future expenses. Deobligation of excess funds will decrease the Federal portion of the grant and the amount of the grantee's match.

Fire department grantees that complete the approved scope of work prior to the end of the performance period, and still have grant funds available, may also use excess funds in a combination of activities from options (1) and (2). Nonaffiliated EMS organizations that have excess funds may exercise the same options for use of excess funds as that of a fire department, however, EMS organizations are restricted to uses that only involve injury prevention. EMS organizations may not expend grant funds for fire prevention activities.

City of Fayetteville Staff Review Form

A. 6
U.S. Department of Justice's
Bulletproof Vest Partnership Program
Page 1 of 6

**City Council Agenda Items
and
Contracts, Leases or Agreements**

April 7, 2009

City Council Meeting Date
Agenda Items Only

W. Newman
Submitted By

Support Services
Division

Police
Department

Action Required:

Approval of a budget adjustment in the amount of \$7,339 to recognize available grant funds from the U.S. Department of Justice's Bulletproof Vest Partnership Program for the Fayetteville Police Department.

\$ 7,339.00
Cost of this request

1010-2920-5302.00
Account Number

07042-0301
Project Number

\$ 16,034.00
Category / Project Budget

\$ -
Funds Used to Date

\$ 16,034.00
Remaining Balance

Bulletproof Vest Partnership Program
Program Category / Project Name

Grant
Program / Project Category Name

General
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

Department Director

3-20-09
Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

3-24-2009
Date

Received in City
Clerk's Office

ENTERED
3-20-09
UAB

Chief of Staff

3/24/09
Date

Received in
Mayor's Office

ENTERED
3/23/08
BEP

Mayor

3/24/09
Date

Comments:



Departmental Correspondence

To: Lioneld Jordan, Mayor and City Council

From: Greg Tabor, Police Chief 

Date: March 20, 2009

Re: **Recognize Grant Funds from the Bulletproof Vest Partnership Program**

Background

The Bulletproof Vest Partnership (BVP), created by the Bulletproof Vest Partnership Grant Act of 1998 is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. The Fayetteville Police Department has previously obtained grant funding in excess of \$60,000 for the purchase of bulletproof vests through this partnership. The BVP program provides a critical component to the continuing health and welfare of our Police Officers.

Discussion

The Police Department has \$3,139 remaining from the 2005 grant award and \$4,200 remaining from the 2007 grant award for a total unrecognized balance of \$7,339. The available grant funds were previously accepted, however, these funds were not recognized within the City's Project Accounting System resulting in no budgeted expenses within the 2009 Operating Budget. Without the approval of the attached budget adjustment, staff can not obtain purchasing approval for the uses of these grant funds.

The funds in question have the sole purpose of providing body armor vests to our Police Officers. The body armor vests are planned for new employees and routine replacement of out of warranty vests. All state-of-the-art body armor is custom made to the exact specifications of the wearer and can take up to ten weeks for delivery. To ensure all new officers have our required level of protection, we must remain proactive on our body armor purchases.

Recommendation

Staff recommends approval of the budget adjustment in the amount \$7,339 for the recognition of available grant funds from the U.S. Department of Justice's Bulletproof Vest Partnership Program.

Budget Impact

These grant funds provide a reimbursement of 50% of expenses associated with the purchase of bulletproof vests for our Police Officers. The matching funds for this grant is included in the 2009 budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR THE
FAYETTEVILLE POLICE DEPARTMENT IN THE AMOUNT OF
\$7,339.00 TO RECOGNIZE GRANT REVENUE FROM THE U.S.
DEPARTMENT OF JUSTICE'S BULLETPROOF VEST
PARTNERSHIP PROGRAM.

**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 for the Fayetteville Police Department in the amount of \$7,339.00 to
recognize grant revenue from the U.S. Department of Justice's Bulletproof Vest Partnership
Program.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 6
U.S. Department of Justice's
Bulletproof Vest Partnership Program
Page 4 Adjustment Number

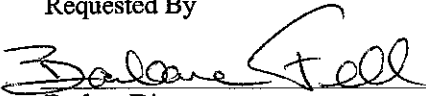
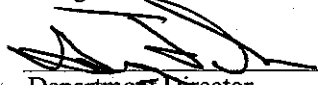
Budget Year 2009	Department: Police Division: Police Program: Police/Animal Projects	Date Requested 4/7/2009
--------------------------------	---	---------------------------------------

Project or Item Added/Increased: Bulletproof Vest Partnership Program	Project or Item Deleted/Reduced: Bulletproof Vest Partnership Program
--	--

Justification of this Increase: These are grant funds that provide a 50% reimbursement of expenses associated with the purchase of bulletproof vests for our Police Officers.	Justification of this Decrease: Revenue resulting from 50% reimbursement of expense associated the the purchase of bulletproof vests for our Police Officers.
--	--

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Uniforms/Personal Equipment	1010	2920	5302	00	7,339	07042	0301

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Federal Grants - Capital	1010	0001	4309	00	7,339	07042	0301

Approval Signatures		Budget & Research Use Only	
	3-18-09	Type:	A B C <u>D</u> E
Requested By	Date	General Ledger Date	
	3/20/09	Approval Date	
Budget Director	Date	Initial	Date
	3-20-09	Posted to General Ledger	
Department Director	Date	Initial	Date
Finance Director	Date	Posted to Project Accounting	
Mayor	Date	Initial	Date


[NIJ Standards](#)
[Glossary](#)
[Yellow Pages](#)
[Section Receipts](#) > [Manage Receipts](#) > [Report Receipts](#)

OMB #1121-0235
 (Expires: 10/31/2006)

1. Registration

- 1.1 [Contact Information](#)
- 1.2 [Change Password](#)

2. Application

- 2.1 [Pre Application](#)
- 2.2 [Manage Application](#)
- 2.3 [Review Application](#)
- 2.4 [Submit Application](#)

Only the Chief Executive Officer (CEO) or authorized designee (employee of the jurisdiction) has the authority to submit requests for payment. Contractors and third party vendors may not complete the vest receipt section, nor may they submit the request for payment.

If your jurisdiction has vests on applications with remaining funds, click on 'Report Receipt of Vests' to report additional receipts.

3. Receipts

- 3.1 [Manage Receipts](#)
- 3.2 [Receipt Reports](#)

Regular Funding

Fiscal Year	Funds Name	Amount Approved	Funds Available	Action
2005	Regular Fund	\$7,700.00	\$3,138.79	Report Receipt of Vests
2007	Regular Fund	\$4,200.00	\$4,200.00	
2008	Regular Fund	\$16,033.56	\$16,033.56	
Totals:		\$27,933.56	\$23,372.35	

4. Payment

- 4.1 [Bank Information](#)
- 4.2 [Print Bank Form](#)
- 4.3 [Request Payment](#)
- 4.4 [Payment History](#)

5. Status

- 5.1 [Current Status](#)
- 5.2 [LEA Status](#)
- 5.3 [Application History](#)



BVP HELP DESK
 (Toll-Free 1-877-758-3787)
 (Toll 1-301-595-4595)

A. 7
Community Development Block
Grant (CDBG)
Page 1 of 56

City Council Meeting Date
Agenda Items Only

**Development Services
Department**

Approval of Mayor's authority to execute the 2009 Community Development Block Grant (CDBG) Agreement upon receipt.

Budget Adjustment Attached

Date _____

ENTERED
3-20-09 *UA*

ENTERED
3/23/08 BCP

Date _____

Revised January 15, 2009

CITY COUNCIL AGENDA MEMO

To: Mayor and Council

Thru: Jeremy Pate, Director of Development Services 

From: Yolanda Fields, CS Director 

Date: March 19, 2009

Subject: 2009 Community Development Block Grant (CDBG)

RECOMMENDATION

Staff recommends authority be given to the Mayor to execute the 2009 Community Development Block Grant Agreement upon receipt.

BACKGROUND

Fayetteville has been a Community Development Block Grant (CDBG) Entitlement city since 1975. Funding is based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons, and the number of housing units. This process sets aside CDBG for the City of Fayetteville each year the Community Resources Division submits an annual "Action Plan" outlining the proposed use for the funds to the U.S. Department of Housing & Urban Development (HUD) for CDBG funding. If the Action Plan meets HUD requirements an agreement is received. This agreement must be executed, returned to the HUD field office in Little Rock then sent to Washington D.C. for the release of funds.

Grant amounts vary each year dependent upon funding levels authorized by Congress through the annual federal budget process. The estimated award for 2009 is \$635,930.00
Grant funding detail:

✓ Administration	\$121,359
✓ Housing Rehabilitation	\$279,998
✓ Fayetteville Public Library	\$ 3,000
✓ LifeSource	\$ 11,248
NWAEDD	\$ 7,604
Ozark Guidance	\$ 5,000
Peace at Home	\$ 14,915
Parks & Recreation(YRCC)	\$ 28,233
Taxi Program	\$ 11,000
Transportation Program	\$ 9,000
✓ Code Compliance	\$ 44,573
✓ YouCan!	\$ 15,501
Youth Bridge	\$ 62,651
Parks & Recreation(YRCC)	<u>\$ 21,848</u>
Grant Total	<u>\$635,930</u>

DISCUSSION

The timeliness in returning the CDBG agreement will reduce the waiting time in starting the both internal and external program to assist the low-to-moderate income residents of our community. Any change in the funding amount will be presented to Council.

BUDGET IMPACT

2009 estimated grant revenue - \$635,930.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT
FOR 2009 IN THE ESTIMATED AMOUNT OF \$635,930.00.

**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
authorizes the Mayor to execute the Community Development Block Grant (CDBG)
Agreement in the estimated amount of \$635,930.00.00 for 2009, with allocation proposed as
follows:

➤ Administration	\$121,359
➤ Housing Rehabilitation	\$279,998
➤ Fayetteville Public Library	\$3,000
➤ LifeSource	\$11,248
➤ NWAEDD	\$7,604
➤ Ozark Guidance	\$5,000
➤ Peace at Home	\$14,915
➤ YRCC (Services)	\$28,233
➤ Taxi Program	\$11,000
➤ Transportation Program	\$9,000
➤ Code Compliance	\$44,573
➤ YouCan!	\$15,501
➤ Youth Bridge	\$62,651
➤ YRCC (Facilities)	\$21,848

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



Community Development Block Grant

2009 Action Plan

Community Resources Division
Helping to Build a Better Community

Community Resources Division

Yolanda Fields, CGFM
Community Resources Director
125 W Mountain Street
Fayetteville Arkansas 72701

Phone 479 575 8260
Fax 479 444 3445
community_resources@ci.fayetteville.ar.us

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2009 Consolidated Action Plan | Introduction

This document serves as the City of Fayetteville's Consolidated Plan Submission of the 2009 One-Year Action Plan for the use of the Community Development Block Grant (CDBG) Program funds. The Action Plan describes how the City will address the priority needs and specific objectives identified in the Five-Year strategy of the City of Fayetteville's 2005-2009 Consolidated Plan. The One-Year Action Plan is a component of the Consolidated Plan that is updated annually to reflect resource allocation changes.

The planning process for the development of this One-Year Action Plan began on July 22, July 25, and July 27, 2008, with published notice providing notification that the City was accepting applications for 2009 CDBG program funding. This notice of funding, in combination with the public hearing held on October 2, 2008, allowed agencies and interested citizens the opportunity to express concerns and community needs. The public hearing announcement is included in Appendix B of this document.

Following the application submission period, 17 funding requests were received and reviewed by staff and the members of the selection committee. Applications were reviewed for compliance application requirements. Council adopted local community development objectives and consistency with the priorities and objectives contained in the 2005-2009 Consolidated Plan. CDBG funded activities must qualify by meeting one of the three national objectives: benefit low-and-moderate income individuals, prevent or eliminate blight and slums or meet urgent community development that pose a serious and immediate threat to the health or welfare of the community. In addition, each application was assessed for project readiness, financial leverage and other relevant concerns.

A summary of the proposed uses of CDBG funds recommended by staff was published in The Northwest Arkansas Times on September 24 and 28, 2008. This public notice marked the start of the 30-day public comment period. In addition, the public notice advised the general public of three locations that the proposed 2009 One-Year Action Plan was available for their review. The draft One-Year Action Plan was then discussed at a public hearing held on October 2, 2008.

2009 Consolidated Action Plan

In order to receive its annual CDBG funding, the City of Fayetteville must develop and submit to the Department of Housing and Urban Development (HUD) its Consolidated Plan. This plan is the City's comprehensive planning document and application.

In the Consolidated Plan, the City identifies its goals for CDBG programs, which also serve as the criteria against which HUD will evaluate the City's performance in carrying out its goals. The Consolidated Plan promotes a comprehensive approach to local decisions by requiring cities to pull together all local residents interested in community development to help identify the needs of the community and formulate strategies for addressing those needs.

The concept behind the Consolidated Plan is to:

- Enable a community to view HUD programs not as isolated tools to solve narrow functional problems, but rather as an invitation to embrace a comprehensive vision of housing and community development;
- Create a comprehensive vision which includes affordable housing, fair housing, transportation, economic development, community rehabilitation;
- Enable communities to apply this comprehensive approach in helping the homeless in a continuum of care, a comprehensive system for moving individuals and families from homeless to permanent housing;
- Improve program accountability and support results-oriented management by establishing clear priority needs and goals; providing more timely and readable information on needs, goals, and proposed projects to citizens; providing measurable indicators of progress; and reporting on progress against these measures;
- Facilitate citizen involvement and commitment in the planning process by increased community outreach;
- Partner with the local Public Housing Authority in comprehensive planning efforts to revitalize distressed neighborhoods and help low-income residents;
- Integrate efforts to identify and take measures to overcome impediments to fair housing, which is an integral part of comprehensive planning efforts. The programs covered by the Consolidated Plan all have in common the characteristic that expenditures must primarily benefit extremely low (0 to 30 percent of median income), very low (31 percent to 50 percent of median income), and low-income (51 percent to 80 percent of median income) persons and households.

2009 Consolidated Action Plan

In addition, they are intended to meet the following three federal statutory objectives:

PROVIDE DECENT HOUSING | which includes:

assisting homeless persons obtain affordable housing; assisting persons at risk of becoming homeless; retention of affordable housing stock; increase the availability of affordable permanent housing in standard condition to low income and moderate income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence; and providing affordable housing that is accessible to job opportunities.

PROVIDE A SUITABLE LIVING ENVIRONMENT | which includes:

improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within areas through spatial de-concentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods; restoring and preserving properties of special historic, architectural, or aesthetic value; and conservation of energy resources.

EXPAND ECONOMIC OPPORTUNITIES | which includes:

job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan; availability of mortgage financing for low income persons at reasonable rates using non discriminatory lending practices; access to capital and credit for development activities that promote the long term economic and social viability of the community; and empowerment and self sufficiency for low income persons to reduce generational poverty in federally assisted housing and public housing.

2009 Consolidated Action Plan Institutional Structure & Coordination

INSTITUTIONAL STRUCTURE and COORDINATION

Federal regulations require recipients to establish a common program year and identify a single lead agency to prepare and submit the Plan. The task of preparing this Plan is assigned to the City of Fayetteville's Community Resources Division (CRD). Annually, CRD prepares the One-Year Action Plan as an update to the Five-Year Consolidated Plan. The division addresses the various housing needs and strategies of the City of Fayetteville and administers the City's CDBG Program. It also functions as a program and services delivery-unit to help address the community's needs for decent housing, a suitable living environment, and sustained economic health.

The Community Resources Division has been in contact with an extensive network of governmental and non-profit agencies in preparation for the writing of this plan. Notices of funding availability were published in the local newspaper.

The delivery and financing of affordable/attainable housing involves organizations and participants from public agencies, businesses and private institutions, non-profits and community based organizations. The roles and responsibilities of the participants will vary depending on the project, required resources, leadership, and levels of commitment, capacity, productivity and understanding of the issue. The Community Resources Division plans to continue working with the various organizations as it implements the provisions of the 2009 One-Year Action Plan and the 2005-2009 Consolidated Plan.

Staff also maintains relationships with state and federal partners and agencies to better link services to our targeted population. CRD staff has assumed leadership and support roles with the Northwest Arkansas Housing Coalition, League of United Latin American Citizens, New Arkansas Resource Network Advisory Committee, and the City of Fayetteville Housing Task Force.

2009 Consolidated Action Plan Community Profile

COMMUNITY PROFILE

The City of Fayetteville, county seat of Washington County, is located in the northwestern part of Arkansas. Washington County is the second most populous county in Arkansas and one of the fastest growing. Fayetteville is situated at the foothills of the Ozark Mountains. Fayetteville is the southernmost city in metropolitan Northwest Arkansas and is located approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma, 350 miles northeast of Dallas, Texas, and 210 miles south of Kansas City, Missouri. Fayetteville and the Northwest Arkansas region have gained a national reputation as one of the best places in the country to live and raise a family. The City and the region are experiencing rapid population growth and an increasing number of visitors. Fayetteville's population has increased from approximately 20,000 in 1960 to 58,047 according to the 2000 census. A special census completed in June of 2006 showed the population to be 67,158. The city is the third most populous in Arkansas, and currently encompasses 34,153 acres.

As of the 2000 census, there were 58,047 people, 23,789 households, and 12,136 families residing within the city. The population density was 1,336.6/mi. There were 25,467 housing units at an average density of 586.4/mi. The racial makeup of the city was 86.50% White, 5.11% African American, 1.26% Native American, 2.56% Asian, 0.16% Pacific Islander, 1.99% from other races, 2.42% from two or more races and 4.86% Hispanic or Latino of any race.

In the city the population was spread out with 19.9% under the age of 18, 25.7% from 18 to 24, 29.9% from 25 to 44, 15.8% from 45 to 64, and 8.7% were 65 years of age or older. The median income for a household in the city was \$31,345, and the median income for a family was \$45,074. The per capita income for the city was \$18,311. 19.9% of the population and 11.4% of families were below the poverty line.

2009 Consolidated Action Plan Housing & Community Development Needs

HOUSING & COMMUNITY DEVELOPMENT NEEDS

HOUSING

The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2005, the City has focused on developing community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the Attainable Housing effort in the City of Fayetteville. Attainable housing has become a topic of great concern for this division. Housing costs in Northwest Arkansas have increased at a considerable rate throughout the past 10 years according to the latest information from the 2000 Census. The cost of the median mortgage payment in the City of Fayetteville remains the highest in Northwest Arkansas at \$916, an increase of 45 percent. It is the highest median mortgage payment of any city in Northwest Arkansas and 24 percent higher than the state median of \$737.



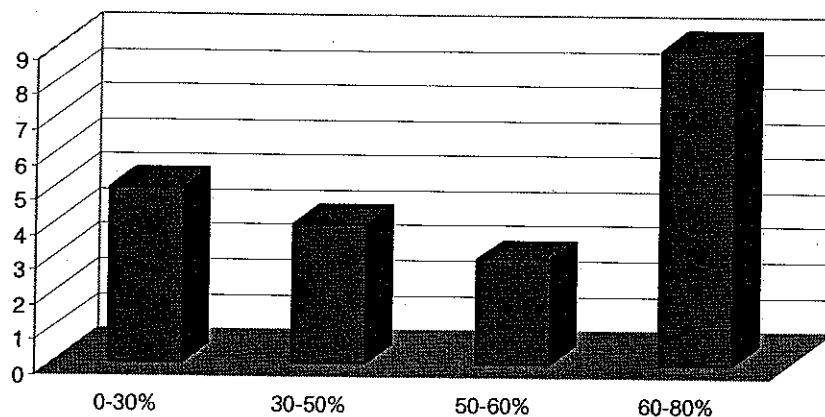
This home received housing rehabilitation with Community Development Block Grant funds. The moderate rehabilitation consisted of an upgrade in electrical, plumbing, and installation of new HVAC unit; removal and replacement of windows and doors; removal and replacement of all rotting and damaged soffit and fascia; replacement of porch ceiling; addressing of all lead-based paint issues; and painting of exterior surface.

REHABILITATION

The City of Fayetteville has been helping homeowners with rehabilitation of their homes for approximately 30 years. The funding has allowed homeowners to stay in their homes, and the improvements to their homes have acted as a catalyst for other, high quality renovations and new construction of housing in the project area. The majority of recipients have been very low income and or elderly households. These owners have little or no funds available to repay the loan and typically have the greatest amount of deferred maintenance. The chart below reflects the income levels from January 2008 - September 2008.

2009 Consolidated Action Plan Housing & Community Development Needs

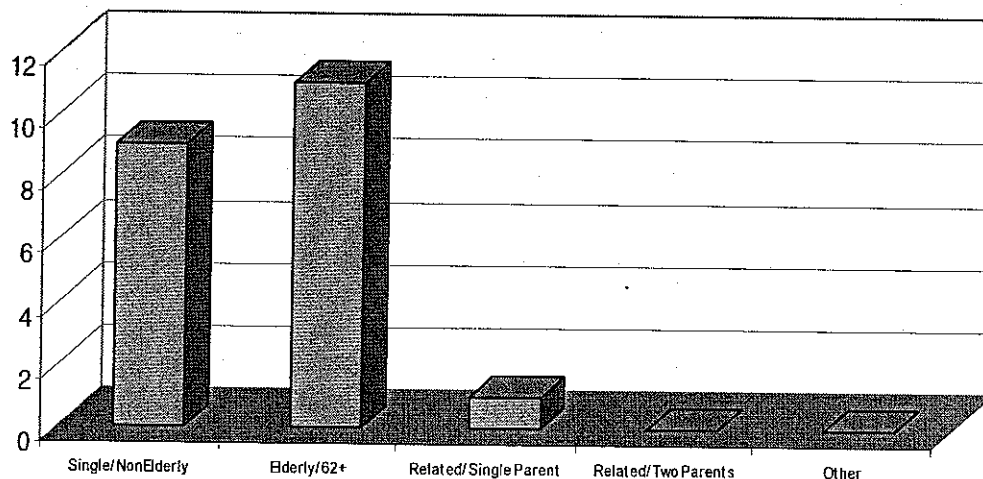
Housing Projects Completed | Income Limits



According to the U.S. Census Bureau approximately 7,722 homes were built prior to 1978 in the City of Fayetteville. Any rehabilitation activities on homes constructed prior to 1978 will have lead hazards identified and actions taken to remove the hazard. Lead-based paint hazards consist of any condition that causes exposure to lead. In 2008, the program conducted 8 Lead-Based Paint tests and removed hazards from the homes that tested positive.

Along with the Lead Based Paint need the U.S. Census Bureau reports that there are approximately 5,038 residents over the age of 65 in the City of Fayetteville. These homeowners are generally on a fixed income and cannot afford to make any repairs on their homes or address making their homes energy efficient. The program addresses both Lead-Based Paint issues and making the home energy efficient to allow the homeowners to remain in their homes for up to 10 years longer than expected. The charts below reflect the statistics on the participants that have been assisted in the past nine months of 2008. We have provided rehabilitation to 21 homes from January—September 2008.

Housing Projects Completed | Head of Household



2009 Consolidated Action Plan Housing & Community Development Needs

Housing Projects Completed | Sex of Household



PUBLIC SERVICES

Utilization of CDBG funds for the provision of public services, which serve LMI groups, has been, and continues to be a focus of the Community Development Program. The Taxi Voucher program provides subsidized cab fare for our city's elder citizens, allowing an inexpensive transportation choice for many who would not have transportation available otherwise. This simple, cost effective program receives unwavering support from those who use it to go shopping, to the doctor, post office, church, out to eat, or any number of other destinations. The program is hugely successful in providing our elders opportunity to participate in community life and to live independently.

PUBLIC FACILITIES

CDBG has historically supported community services facilities projects in Fayetteville. CDBG dollars have assisted construction, renovation and development of facilities for local non-profit organizations such as Seven Hills Homeless Center, Head Start, Yvonne Richardson Center, YouCan!, and Peace at Home Family Shelter, as well as renovations and improvements to streets, sidewalks and other infrastructure located in the designated target area.

2009 Consolidated Action Plan Housing & Community Development Needs

REDEVELOPMENT

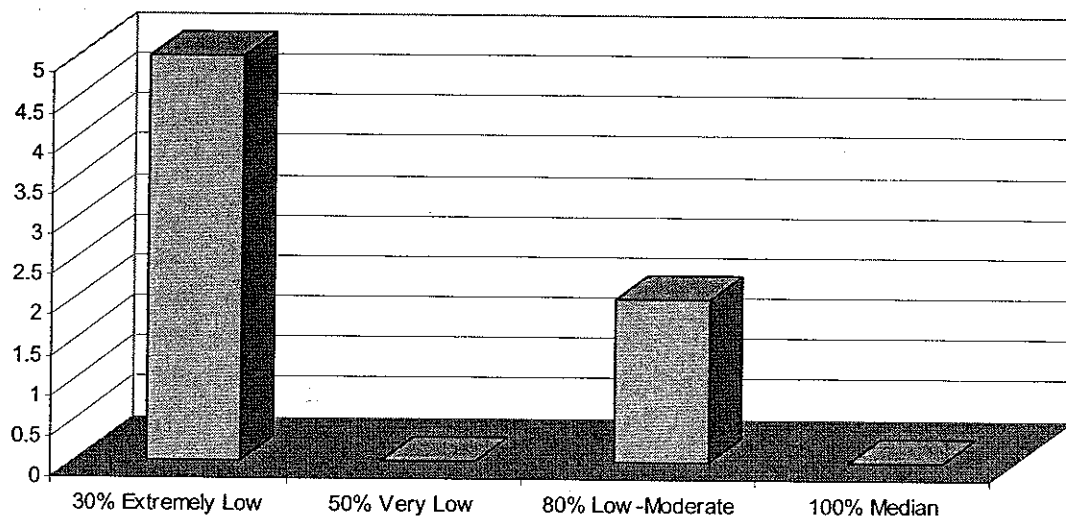
In 1992, a neighborhood within a low-to-moderate-income area of Fayetteville was designated as the Target Area. Prior to the creation of the program, Code Compliance efforts were placing an additional economic strain on the low-to-moderate income Homeowners in the Target Area who are physically or financially unable to correct code violations. Thus, in 2004, the Redevelopment Program was established for the Target Area to assist in cleaning and revitalizing the deteriorating neighborhood.

According to the Community Sourcebook of Zip Code Demographics, 37.2% of the population makes less than \$25,000; 26.0% make \$25,000 to \$49,000; 24.3% make \$50,000 to \$99,000; 8.0% make \$100,000 to \$149,000; and 4.6% make \$150,000 or more. The Target Area is located within the 72701 zip code area, which is comprised of mainly low-to-moderate-income residents.

With a great percentage making less than \$25,000 a year, it is evident that residents will not have the resources to correct code violations on their property. Currently there are 41 active cases and 56 service requests in the Target Area. Without the assistance of the Redevelopment Program, residents would be placed under more economic strain.

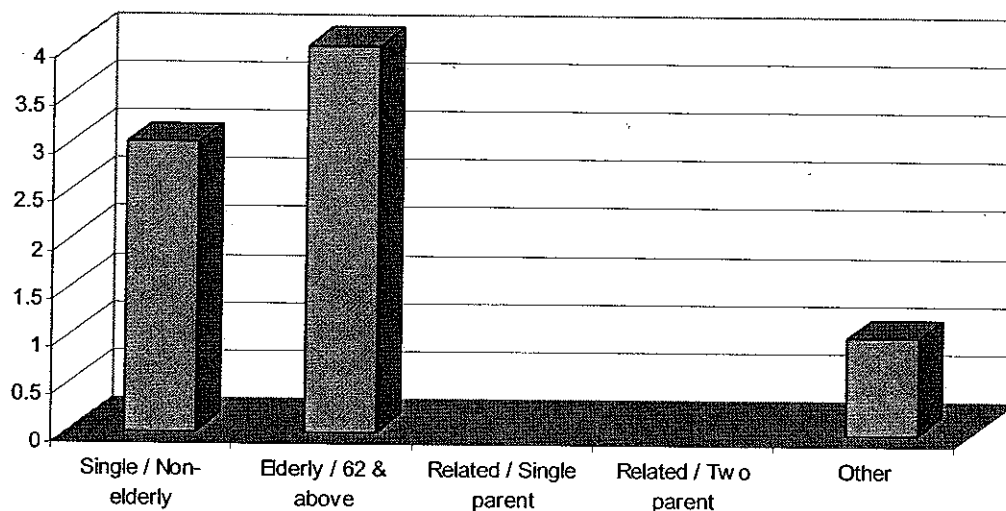
From January 2008 - September 2008, we have successfully assisted eight households. The charts below demonstrate the statistics on the participants that were assisted.

Redevelopment Projects Completed | Income Limits

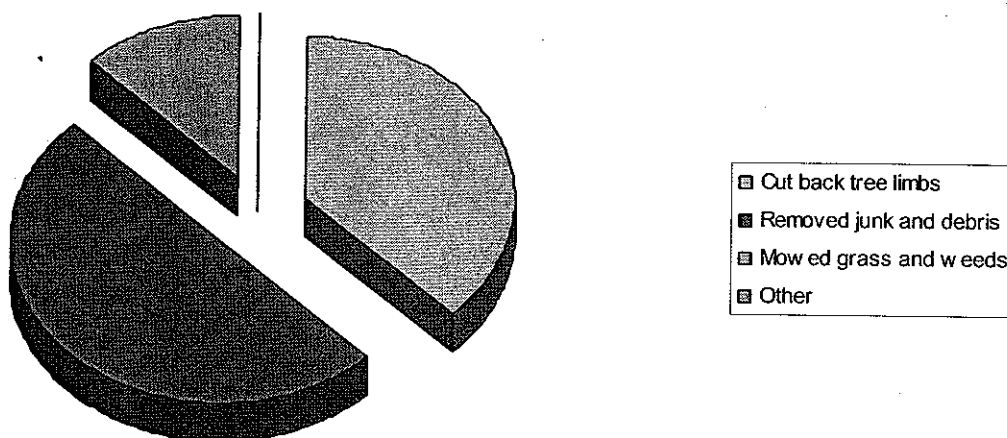


2009 Consolidated Action Plan Housing & Community Development Needs

Redevelopment Projects Completed | Head of Household



Redevelopment Projects Completed | Work Performed



As a way to reach out to more residents in the Target Area, the Redevelopment Program took a turn and changed its tactics to educate the residents of the Target Area. The Redevelopment Officer is now dedicating three days a week to meet with residents and local organizations. The goal is to not only to educate the public on the city ordinances and the program, but also to develop more relationships to further the efforts of the program.

2009 Consolidated Action Plan Available Resources & Public Access | Participation

AVAILABLE RESOURCES

FEDERAL | STATE The City is the recipient of a formula grant program, the Community Development Block Grant. Private non-profit organizations in Fayetteville are funded through competitive state and federal allocations, the local United Way campaign, private foundation grants, other special competitive grants, and private donations including fund-raising activities. The City anticipates the CDBG formula allocation in 2009 will be approximately \$635,930.

MUNICIPAL GOVERNMENT The City's Street Division has estimated \$366,346 for street overlay and repair of streets located in the designated Community Development Target Area. The City's Budget Division has budgeted a balance of \$0.00 for the maintenance of city-owned buildings occupied by area non-profit agencies performing public service activities.

PUBLIC ACCESS & PARTICIPATION

CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff, and special purpose committees, input from community stakeholders and resource holders are integrated to designate action priorities.

One formal public hearing was held to present and discuss proposed CDBG activities for fiscal year 2009. Non-profit agency representatives and others attended the meeting. Community Development staff have been active in the presentation of program information.

In addition, the development of a quarterly newsletter serves to inform the community of current and future projects. Program literature in Spanish is also available in the office. Staff continues to be very active in the Northwest Arkansas Housing Coalition.

In accordance with Fayetteville's Citizen Participation Plan, the 2009 Consolidated Action Plan is submitted for a 30 day citizen review period.

2009 Consolidated Action Plan Analysis of Impediments to Further Fair Housing

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

The *Analysis of Impediments to Fair Housing* (AI) was updated in 2005. CDBG Program regulations require recipient jurisdictions to “affirmatively further fair housing,” required by Section 808 of the Fair Housing Act.

The AI is conceived as an effort to affirmatively further fair housing choice by identifying all impediments to fair housing choice which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the AI will foster the collaboration of stakeholders and resource providers in the public, non-profit, and private sectors, thereby promoting relationship-building and consensus on fair housing issues. The AI process will help describe a clearer picture of housing conditions for LMI households in Fayetteville, and aid us in defining current and future housing directions.

The current AI identified three areas of action:

- Further development of the Attainable Housing Element that provides methods of enhancing attainable housing by providing a multi-faceted policy.
- Encouragement of continuing education/outreach in the realtor/developer community, and local newspapers and other publications on fair housing.
- Enhancement of local fair housing ordinance.

Action development in these areas will be the purview of the administration program.

2009 One Year Action Plan

ONE-YEAR ACTION PLAN 2009

SUMMARY | USE OF FUNDS

The One-Year Action Plan for the 2009 program year illustrates the various programs, listings of projects and descriptions that will be implemented and funded under the CDBG federal program.

Comments regarding the 2009 Action Plan can be sent to:

City of Fayetteville
Community Resources Division
113 W. Mountain Street
Fayetteville, AR 72701
Attention: Yolanda Fields

Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) created the CDBG Program. Re-authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act, local communities can use the resources of the CDBG Program to develop flexible, locally designed community development strategies to address the program's national objectives of:

1. Providing benefits to low and moderate income persons;
2. Eliminating slums and blight; and
3. Meeting an urgent community need.

Within the framework of these national objectives, the City of Fayetteville has also established the following local community development objectives:

1. Housing and neighborhood preservation;
2. Economic development through job enhancement;
3. Public facilities and improvements limited to the support of objectives 1 and 2;
4. Elimination of blight and blighting elements limited to the support of objectives 1 and 2; and
5. Special programs offering significant community benefit and in direct support of 1 and 2.

2009 Consolidated Action Plan Administration | Housing | Redevelopment

ADMINISTRATION

Administration funds are used for the salary and benefits of the Community Development Director, administration staff, office supplies, travel and training costs, some Fair Housing activities, and other costs associated with administration of community development activities. CDBG funds allocated - \$121,359. Location: Community Planning & City Engineering Building, 125 West Mountain Street, Fayetteville, Arkansas 72701.

HOUSING SERVICES

RESIDENTIAL REHABILITATION | This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The following services are offered:

- Minor Rehabilitation up to \$10,000
- Moderate Rehabilitation up to \$25,000

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, those that alleviate deferred maintenance conditions, safety devices, and replacement of principal fixtures and components. CDBG funds allocated—\$279,998 and includes salary and program delivery costs for management and oversight of all housing programs. Fifty households to be served.

Location: Citywide, applicants are prioritized according to established criteria to give preference on the waiting list to those most in need of services. Priority criteria include: Very Low Income, Elderly, Disabled, Single-parent household, Lead-based paint hazards in homes, and homes located in the Target Area.

REDEVELOPMENT PROGRAM

Program activities conducted in the target area include code compliance, clearance and demolition, and land acquisition for attainable housing. Twenty-five households to be served. CDBG fund allocated - \$44,573. Location: Community Planning & City Engineering Building, 125 West Mountain Street, Fayetteville, Arkansas 72701.

2009 Consolidated Action Plan Public Services

PUBLIC SERVICES

FAYETTEVILLE PUBLIC LIBRARY | *Reading Roadshow's Books for Borrowing* \$3,000

Reading Roadshow takes the public library story-time experience to children in day-care settings, who otherwise would miss out. Books for Borrowing expands this by establishing lending libraries in four Fayetteville Headstart centers, encouraging home-based early literacy for low-income preschoolers.

LIFESOURCE | *Kid's Life Summer Camp* \$11,248

Funds will help support an 8-week summer daycamp that provides educational and recreational activities for at-risk youth in the 2nd through 9th grades. The camp operates eight hours a day, five days a week, for eight weeks.

NORTHWEST ARKANSAS ECONOMIC DEVELOPMENT DISTRICT, INC. | *Fayetteville, Hillcrest Towers Senior Center Transportation Services* \$7,604

Funding will allow for the purchase of a handicap accessible conversion van for the Fayetteville/Hillcrest Towers Senior Center Transportation Services, providing a new, reliable van which will serve the needs of the underserved door-to-door individuals.

OZARK GUIDANCE | *Watson Street Apartments* \$5,000

Funding will provide immersion and mainstream activities for the adults of Watson Street Apartments. Activities will include transportation, meals, and tickets to events at the Walton Arts Center, University of Arkansas, Northwest Arkansas Naturals games, and others.

YVONNE RICHARDSON CENTER, PARKS and RECREATION | *FUN4KIDS Program* \$28,233

FUN4KIDS program funding includes transportation, education, and recreation programs at the Yvonne Richardson Community Center.

PEACE at HOME | *Safe Housing New Hope* \$14,915

Safe Housing-New Hope project will assist 20 homeless, extremely low-income households residing in Fayetteville to obtain and maintain violence free housing and employment with income sufficient to support themselves and their children

TRANSPORTATION PROGRAM | *Taxi Program* \$11,000

Supplemental transportation for disabled and elderly residents, in hopes of creating greater self-sufficiency for each participant. *Transit Program* \$9,000 supplemental transportation for qualifying low-to-moderate income residents.

2009 Consolidated Action Plan Public Facilities

PUBLIC FACILITIES

YVONNE RICHARDSON CENTER, PARKS and RECREATION | *KidTrax* \$21,848

Funding for a storage room, a check in/front desk area, and a KidTrax system designed to track youth and membership at YRCC. KidTrax will help increase the level of security and safety provided for children and others who visit the Center.

YOU CAN! | Energy Efficiency Overhaul of the Community Imagination Studio Building \$15,501

Funding to replace all existing heat and air units in the Community Imagination Studio building; replacement of these units will increase energy efficiency, reduce utility costs, and allow for programming to continue serving low and moderate-income families.

YOUTHBRIDGE, Inc | *Youth at Play* \$62,651

Provide safe, recreational areas for youth living at the Washington County Emergency Shelter and two transitional living homes for homeless youth, Copper Creek, and the Fayetteville Junior Civic League's Julie House.

2009 Consolidated Action Plan Monitoring

MONITORING

COMMUNITY DEVELOPMENT PROGRAMS will be monitored by the Community Development Division, State HUD staff and external auditors to ensure long-term compliance with federal, state and local regulations and statutes. Goals and objectives outlined in the Consolidated Plan will be reviewed periodically by the Community Development staff to ensure compliance to the plan.

HOUSING PROGRAMS will be monitored by the CDBG Housing Program staff, State HUD staff and the City of Fayetteville Building Safety Division, when needed for compliance to building ordinances. All building ordinances must be met prior to final payment on all housing rehabilitation projects. Follow-up visits will be made to all minor rehabilitation project sites.

PUBLIC SERVICE ACTIVITIES Sub-recipient agreements will be required for all public service activities. Monitoring area will include program performance, financial performance and regulatory compliance. Sub-recipient agreements will require documentation of activities and results. In addition, agreements will require an estimated project schedule and a project completion date. Agreement will outline procedures to be followed in case a non-compliance situation may occur.

REDEVELOPMENT PROGRAMS will be monitored by the staff, State HUD staff and external auditors. Code compliance issues are administered according to city ordinances and policy/procedures guidelines. Land acquired will be utilized for attainable housing in the target area. Program efforts will serve to advance the revitalization of the target area.

LEAD BASED PAINT Hazard Reduction Rehabilitation projects are evaluated and tested for lead-based paint hazards in accordance with the City of Fayetteville lead-based paint policy. The policy has been established based on current federal regulation for lead-based paint. This policy will be reviewed on an annual basis by CDBG staff.

GRANTEE MONITORING Division staff continues to take all necessary steps to ensure compliance with program requirements. All activities are looked at on an individual basis to determine what regulations are applicable and how they should be met. Division staff receives on-going training to develop the knowledge and skills to operate and comply with program requirements.

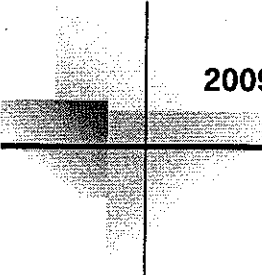


Community Development Block Grant

2009 Action Plan

APPENDICES

Community Resources Division
Helping to Build a Better Community



2009 Consolidated Action Plan Certifications

Appendix A *Certifications*



2009 Consolidated Action Plan Public Hearing Announcement

Appendix B *Public Hearing Announcement*

Tuesday, July 22, 2008

NORTHWEST ARKANSAS TIMES

Fayetteville

ARKANSAS

Fayetteville Community Development Block Grant applications for funding for program year 2009 are available **Monday, July 28, 2008**. Applications may be picked up at the office of the Community Resources Division at the Community Planning & Engineering Building at 125 W. Mountain St., or requested by calling 479-575-8260. An application workshop will be held on **Friday, August 1, 2008** at the City Administration Building, room 326 at 10:00 a.m. to assist with the successful completion of the application. The application deadline is **Friday, August 29, 2008 at 5:00 p.m.**

The Community Resources Division will be holding a public hearing to obtain views of citizens, public agencies, and other interested parties that will or may be affected by program funds, such as minorities, persons with disabilities, residents of public and assisted housing developments, residents living in slum and blighted areas, residents in predominantly low-to-moderate income neighborhoods, particularly Southeast Fayetteville residents which is the targeted revitalization area. The public hearing will be held on **Thursday, October 2, 2008** at 5:30 p.m. at 612 South College Avenue (the old Jefferson Elementary building).

For more information, please contact the Community Resources Division at 479-575-8260 or Community_Resources@ci.fayetteville.ar.us or visit our offices in the Community Planning & Engineering Building at 125 W. Mountain St.

Wednesday, July 23, 2008

NORTHWEST ARKANSAS TIMES

Fayetteville

ARKANSAS

Fayetteville Community Development Block Grant applications for funding for program year 2009 are available **Monday, July 28, 2008**. Applications may be picked up at the office of the Community Resources Division at the Community Planning & Engineering Building at 125 W. Mountain St., or requested by calling 479-575-8260. An application workshop will be held on **Friday, August 1, 2008** at the City Administration Building, room 326 at 10:00 a.m. to assist with the successful completion of the application. The application deadline is **Friday, August 29, 2008 at 5:00 p.m.**

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For more information, please contact the Community Resources Division at 479-575-8260 or Community_Resources@ci.fayetteville.ar.us or visit our offices in the Community Planning & Engineering Building at 125 W. Mountain St.

NORTHWEST ARKANSAS TIMES

Sunday, July 27, 2008

Fayetteville

ARKANSAS

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Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville – 2009 Grant Application

July 22, 23, & 27, 2008

Publication Charge : \$316.50

Subscribed and sworn to before me
This 29 day of *July*, 2008.

Notary Public *Elizabeth A. Jarvis*

My Commission Expires: *May 6, 2012*

Do not pay from Affidavit, an invoice will be sent



Wednesday, September 24, 2008

NORTHWEST ARKANSAS TIMES

Fayetteville

ARKANSAS

The U.S. Department of Housing and Urban Development provides funding to the City through the Community Development Block Grant to develop projects and activities to improve housing, public and community facilities and to provide public services principally for low-to-moderate income residents in the City of Fayetteville. On or about **Saturday, November 15, 2008** the Community Development office will submit to HUD the 2009 Consolidated Action Plan for the CDBG Program. Copies of the Plan are available at the office of the City Clerk in the City Administration Building at 113 W. Mountain St. and the Community Resources Division office in the Community Planning & Engineering Building on 125 W. Mountain St.

A Summary of the Action Plan and the Budget is presented below:

ADMINISTRATION	\$	121,359.00
HOUSING	\$	279,998.00
REDEVELOPMENT	\$	44,573.00
PUBLIC SERVICES	\$	90,000.00
Fayetteville Public Library	\$ 8,000.00	
LifeSource	\$ 11,248.00	
NWAEDD	\$ 7,604.00	
Ozark Guidance	\$ 5,000.00	
Peace at Home	\$ 14,915.00	
Taxi Program	\$ 11,000.00	
Transportation Program	\$ 9,000.00	
Yvonne Richardson Center	\$ 28,233.00	
PUBLIC FACILITIES		\$ 100,000.00
YouCan!	\$ 15,501.00	
Youth Bridge	\$ 62,651.00	
Yvonne Richardson Center	\$ 21,848.00	
TOTAL	\$	635,930.00

The Public comment period will be **September 29-October 30, 2008**. A public hearing will be held **Thursday, October 2, 2008** at 5:30 p.m. at 612 South College Avenue (the old Jefferson Elementary building) to discuss the Consolidated Plan and Consolidated Action Plan. All interested parties are invited to attend.

For more information, please contact the Community Resources Division at 479-575-8260 or Community_Resources@ci.fayetteville.ar.us or visit our offices in the Community Planning & Engineering Building at 125 W. Mountain St.

Sunday, September 28, 2008

NORTHWEST ARKANSAS TIMES

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Sept. 24 & 28, 2008

Publication Charge : \$168.80

Subscribed and sworn to before me
This 30 day of *September*, 2008.

Notary Public *Elizabeth A. Jarvis*

My Commission Expires: *May 6, 2012*

Do not pay from Affidavit, an invoice will be sent



• Semana del 25 de septiembre de 2008 • • •

Noticias Libres 3A



El Departamento de Housing and Urban Development provee con fondos a la ciudad a través de el desarrollo de la ciudad para llevar a cabo proyectos y actividades para mejorar la condición de los vecindarios y edificios públicos principalmente para residentes de bajos ingresos en la ciudad de Fayetteville. **El Sábado 15 de Noviembre del 2008** entregará a HUD el plan de acción consolidado para el 2009 el programa CDBG. Copias de este plan estar disponibles en el edificio de administración de la ciudad 113 W. Mountain St., y en la oficina de Community Resources Division en el edificio de Planeamiento e Ingeniería conmutaria en 125 W. Mountain St.

Un Resumen de Acción de Plan y Presupuesto está presentado abajo:

ADMINISTRACIÓN	\$	121,359.00
HOUSING	\$	279,998.00
REDEVELOPMENT	\$	44,573.00
SERVICIOS PUBLICOS	\$	90,000.00
Biblioteca Publica de Fayetteville	\$	3,000.00
LifeSource	\$	11,248.00
NWAEDD	\$	7,604.00
Ozark Guidance	\$	5,000.00
Peace at Home	\$	14,915.00
Taxi Program	\$	11,000.00
Programa de Transportacion	\$	9,000.00
Yvonne Richardson Center	\$	28,233.00
FACILIDADES PUBLICAS	\$	100,000.00
YouCan!	\$	15,501.00
Youth Bridge	\$	62,651.00
Yvonne Richardson Center	\$	21,848.00
TOTAL	\$	635,930.00

El periodo de comentarios públicos se llevará a cabo del **29 de Septiembre al 30 Octubre del 2008**. Una audiencia pública se llevará a cabo el **Jueves 2 de octubre del 2008 a las 5:30 p.m.** en 612 South College Avenue (antiguo edificio de la escuela Jefferson) para hablar del Plan de Consolidación y el Plan de Acción Consolidado. Todos los interesados están invitados a asistir.

Por más Información por favor contacta a La División de Recursos Comunitarios en 479-575-8260 o community_resources@ci.fayetteville.ar.us o visítanos en Community, Planning & Engineering Building en 125 W. Mountain St.

CERTIFICATE OF PUBLICATION

I, Cathy Wiles, solemnly swear that I am a Classified Representative for the Arkansas Democrat Gazette, and I do solemnly swear that the attached advertisement was published in the following weekly paper(s):

☐ Rogers Hometown News
☐ Weekly Vista
☐ The Times of Northeast Benton County
☐ Herald Leader
☐ Gentry Courier-Journal/Decatur Herald
☐ White River Valley News
☐ Gravette News Herald
☒ Noticas Libres

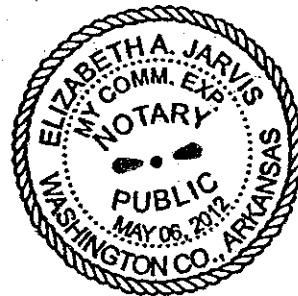
of general and bona fide circulation in Benton County, Arkansas.

1st Publication: 25 day of September, 2008.
2nd Publication: _____ day of _____, 2008.
3rd Publication: _____ day of _____, 2008.
4th Publication: _____ day of _____, 2008.

Charges: \$67.92

Sworn to and subscribed before me
This 30 day of September, 2008.

Notary Public
My Commission Expires: May 6, 2012



**NOTICE OF FINDING OF
NO SIGNIFICANT IMPACT
AND NOTICE OF INTENT TO REQUEST
RELEASE OF FUNDS**



October 5, 2008

City of Fayetteville
113 W Mountain Street
Fayetteville, Arkansas 72701
(479) 575-8260

The notices shall satisfy two separate, but related procedural requirements for activities to be undertaken by the City of Fayetteville, Community Development Division.

REQUEST FOR RELEASE OF FUNDS

On or about November 15, 2008, the City of Fayetteville will submit a request to the Department of Housing & Urban Development (HUD)/Arkansas for the release of Community Development Block Grant funds under Title 1 of the Housing and Community Development Act of 1974, as amended, to undertake the projects known as: Administration Program: Administration of the Community Development Block Grant Program, (\$121,359). Housing Services Program: Provide grants and for deferred forgivable loans for extremely-low to low-to-moderate income homeowners on a city-wide basis under the CDBG Minor & Moderate Housing Rehabilitation Programs, (\$279,998). Redevelopment Program: Activities conducted in the target area, included but not limited to code compliance, clearance, demolition, and land acquisition, (\$44,573). Public Services Program: Fayetteville Public Library, the public library story-time experience to children in day-care setting who otherwise would miss out, (\$3,000), Life-Source International, an 8 week summer daycamp that provides educational and recreational activities to at-risk youth in the 2nd through 9th grades, (\$11,248). Northwest Arkansas Economic Development District, Inc., for the purchase of a handicap accessible conversion van for the Fayetteville/Hillcrest Tower Senior Center Transportation Services, providing a new, reliable van, (\$7,604). Ozark Guidance, providing immersion and mainstream activities for the adults of Watson Street Apartment, activities will include transportation, meals and tickets to events, (\$5,000). Peace at Home, will assist to obtain and maintain violence-free homes and employment that provides sufficient income to support the survivor of domestic violence and their children, (\$14,915). Taxi Program; to assist the elderly and low-to-moderate income residents by providing taxi coupons, (\$11,000). Transportation Program, to assist the low-to-moderate income residents by providing a monthly bus pass, (\$9,000). Yvonne Richardson Community Center, program funding of the transportation, education and recreation programs at the Center, (\$28,233). Public Facilities Program: YouCant, the replacement of all existing heat and air units in the building, (\$15,501). Youth Bridge, Inc., providing a recreational area for the youth living at the emergency shelter and at two transitional living homes for homeless youth, (\$62,651). Yvonne Richardson Community Center, funding provided for a storage room, a checkin/front desk area with a KidTrax system, (\$21,848).

FINDING OF NO SIGNIFICANT IMPACT

The City of Fayetteville, Community Development Division has determined that the projects will have no significant impact on the human environment; therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at the City of Fayetteville's Community Development Division; 125 W Mountain St., Fayetteville, AR 72701 can be reviewed, examined, or copied weekdays 8:00 A.M. to 5:00 P.M.

PUBLIC COMMENTS

Any individual, group, or agency, disagreeing with this determination or wishing to comment on the projects may submit written comments to the City of Fayetteville, Community Development Division, 113 W. Mountain St., Fayetteville, AR 72701. All comments received by November 14, 2008 will be considered by the City of Fayetteville prior to submission of a Request for Release of Funds. Comments should specify which Notice is being addressed.

RELEASE OF FUNDS

The City of Fayetteville certifies to the HUD/Arkansas that Dan Coody, in his capacity as Mayor consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD/Arkansas's acceptance of the certification satisfies its responsibilities under NEPA and allows the Community Development Division to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/Arkansas will accept objections to its release of funds and the City of Fayetteville's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if it is on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Fayetteville; (b) The City of Fayetteville has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient has incurred costs not authorized by 24 CFR Part 58 before approval of release of funds by HUD/Arkansas; (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to HUD/Arkansas Grant Administration Office at U.S. Department of Housing & Urban Development, TCBY Building Suite 1000, 425 W. Capitol Avenue, Little Rock, AR 72201. Potential objectors should contact HUD/Arkansas to verify the actual last day of the objection period.

Dan Coody, Mayor, City of Fayetteville

Wednesday, October 8, 2008

NORTHWEST ARKANSAS TIMES

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NO SIGNIFICANT IMPACT
AND NOTICE OF INTENT TO REQUEST
RELEASE OF FUNDS**

Fayetteville
ARKANSAS

October 5, 2008

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October 5 & 8, 2008

Publication Charge : \$337.60

Subscribed and sworn to before me
This 9 day of *October*, 2008.

Notary Public *Elizabeth A. Jarvis*

My Commission Expires: *May 6, 2012*

Do not pay from Affidavit, an invoice will be sent



2009 Consolidated Action Plan Citizen Participation Plan

Appendix C *Citizen Participation Plan*

2009 Consolidated Action Plan Citizen Participation Plan

CITIZEN PARTICIPATION PLAN

24 CFR 91 (SEC. 91.105)

APPLICABILITY

The legislation which created the Community Development Block Grant (CDBG) Program and regulation implementing it encourages citizens participation in planning, carrying out and evaluating local CDBG activities.

As the regulation gives maximum feasible priority to activities which benefit low-to-moderate income persons, this Participation Plan especially provide for and encourages participation of low-to-moderate income families and individuals in low and moderate income areas of the City of Fayetteville.

CITIZEN PARTICIPATION

The City will take whatever actions are appropriate to encourage its citizens including;

- (a) Minorities and non-English speaking persons
- (b) Persons with disabilities
- (c) Residents of public and assisted housing developments
- (d) Extremely low, very low, and low-to-moderate income individuals and families
- (e) Residents living in slum and blighted areas
- (f) Areas where CDBG funds are proposed to be uses
- (g) Residents in predominantly low-to-moderate income neighborhoods, along with other low income residents of the City,
- (h) Particularly residents in Southeast Fayetteville which is the targeted revitalization area.

The City encourages the participation of its residents in the process of developing the;

- (a) Consolidated Plan
- (b) Substantial amendments to the plan
- (c) The Performance Report
- (d) The Citizen Participation Plan and any amendments to the plan.

The City shall make an effort to provide information to the Fayetteville Housing Authority about the Consolidated Plan activities so the Housing Authority can make this information available at its annual public hearing.

The City will provided citizen with an opportunity to comment on any substantial amendments to the Citizen Participation Plan.

2009 Consolidated Action Plan Citizen Participation Plan

ACCESS TO INFORMATION

The City will make available to citizens, public agencies, other interested parties the amount of assistance the City expects to receive from grants and program-income.

The City will provide an estimated amount that will benefit persons whose income levels range from extremely low-to-low income levels.

Citizens, public agencies, and other interested parties, especially those most affected, will have the opportunity to receive information, review and submit comments on any proposed submission concerning the proposed activities.

COMMENT PERIODS

The City encourages its citizens to comment during the development of the Consolidated Plan and on the proposed Consolidated Plan.

A summary of all comments and views shall be attached to the final consolidated plan.

The comment period from citizens and groups will be 30 days after the date the proposed Consolidated Plan was published in the Northwest Arkansas Times & Noticias Libres.

The City will consider any comments or views of citizens received in writing or orally at the public hearings, in preparing the final Consolidated Plan. The City will provide timely written replies to complaints and grievances within 15 days when practical.

PUBLISHING

A summary of the proposed Consolidated Plan will be published in the Northwest Arkansas Times and Noticias Libres. The summary shall describe the contents and the purpose of the Consolidated Plan, and a list of the locations where the entire proposed Consolidated Plan, and a list of the locations where the entire proposed Consolidated Plan may be examined. Copies of the entire Consolidated Plan will be made available at the Community Development Office, City Clerk's Office, and a reasonable number of free copies of the plan will be made available to citizens or group that request it.

AMENDMENTS

The City shall amend its approved plan whenever it makes one of the following decision;

- (a) A change in its allocation priorities
- (b) A change in its method of distribution of funds
- (c) To carry out a new activity using funds, from any program covered by the Consolidated not previously described in the action plan
- (d) To change the purpose, scope, location, or beneficiaries of an activity.

2009 Consolidated Action Plan Citizen Participation Plan

The City encourages its citizens to comment on substantial amendments to the plan.

A substantial amendment is a change in the allocation of \$100,000.00 or greater and changes in the use of CDBG funds from one eligible activity to another.

The City shall make the amendment available to the public.

The comment period from citizens will be 30 days after the date the amendment was published in the Northwest Arkansas Times & Noticias Libres.

The amendment will not be implemented until the 30 day comment period has elapsed.

The City shall consider all comments or view of citizens on the amendment in writing or orally at public hearing if any.

A summary of all comments or views, and a summary of any comments or views not accepted and the reasons therefore, shall be attached to the substantial amendment of the Consolidated Plan.

The City shall notify the Department of Housing & Urban Development (HUD) that an amendment has been made. The letter transmitting the copy of any or all amendments shall be signed by the Mayor.

PERFORMANCE REPORTS

The City encourages its citizens to comment on performance reports.

The Performance Report will be made available to the public.

A notice will be published in the Northwest Arkansas Times & Noticias Libres, that the performance report is available for comment at the Community Development Office.

The Community Development Office will accept comments for 15 days, starting the days after the publication in the newspaper.

The City shall consider all comments or view of citizens in writing or orally at public hearing if any, on preparing the performance report.

A summary of all comments or views shall be attached to the Performance Report.

PUBLIC HEARINGS

The City will provide a minimum of two public hearing during each program year, with one held before the proposed consolidated plan is published for comment.

These hearings will be conveniently timed and located for people who might or will benefit from program funds.

The hearings will be held in an area that is accessible to people with disabilities.

The hearings will be adequately publicized.

2009 Consolidated Action Plan Citizen Participation Plan

The hearings will be held to obtain views of citizens, public agencies, and other interested parties that will or may be affected by program funds.

In the case of a public hearing where a significant number of non-English speaking persons are expected a bilingual (English/Spanish) speaking person shall be present at each public hearing.

PROGRAM YEAR

Fayetteville's CDBG Program year runs from January 1 through December 31.

The citizens participation planning process begins in July for the next year, approximately five months before the start of the program year to be planned.

It begins with an advertisement in the Northwest Arkansas Times and Noticias Libres, and leads to a public hearing by the Community Development Staff.

DISPLACEMENT

The City plans to minimize displacement of persons and will assist any persons displaced. The City expects no displacements to occur.

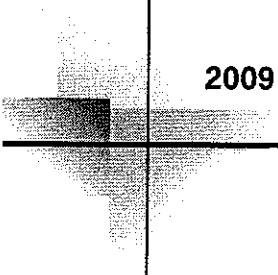
TECHNICAL ASSISTANCE

Will be provided to groups that request assistance in developing a proposal under the consolidated submission. The assistance shall be provided by the Community Development Division staff. A bilingual (English/Spanish) speaking person shall be made available to non-English speaking persons.

ADDRESS

All comments and complaints may be addressed to:

City of Fayetteville
Attn: Yolanda Fields
Community Resources Division
113 W. Mountain
Fayetteville, Arkansas 72701



2009 Consolidated Action Plan Project Listing

Appendix D *Project Listing*

2009 Consolidated Action Plan Project Listing

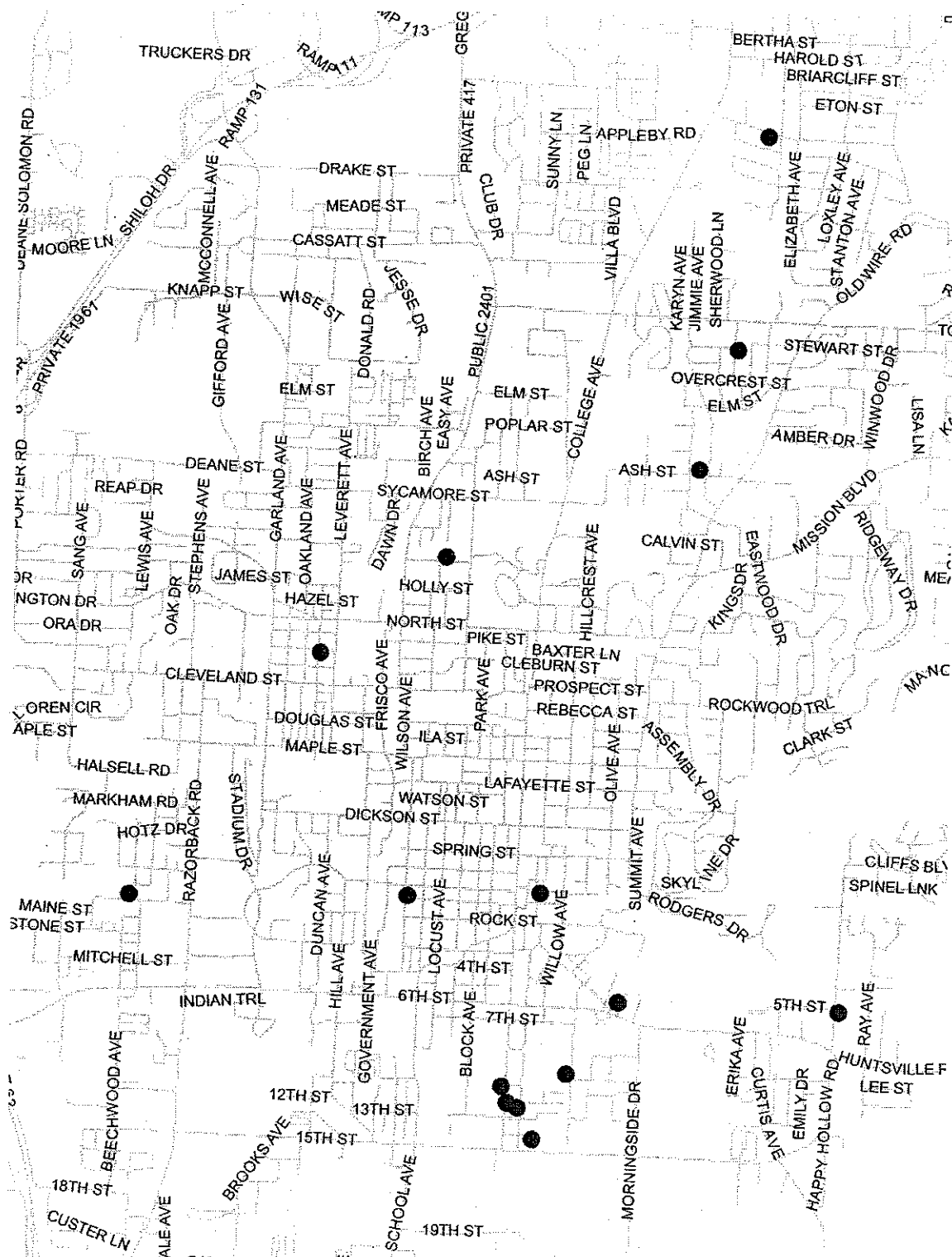
Community Development Block Grant | 2009 Project Listing

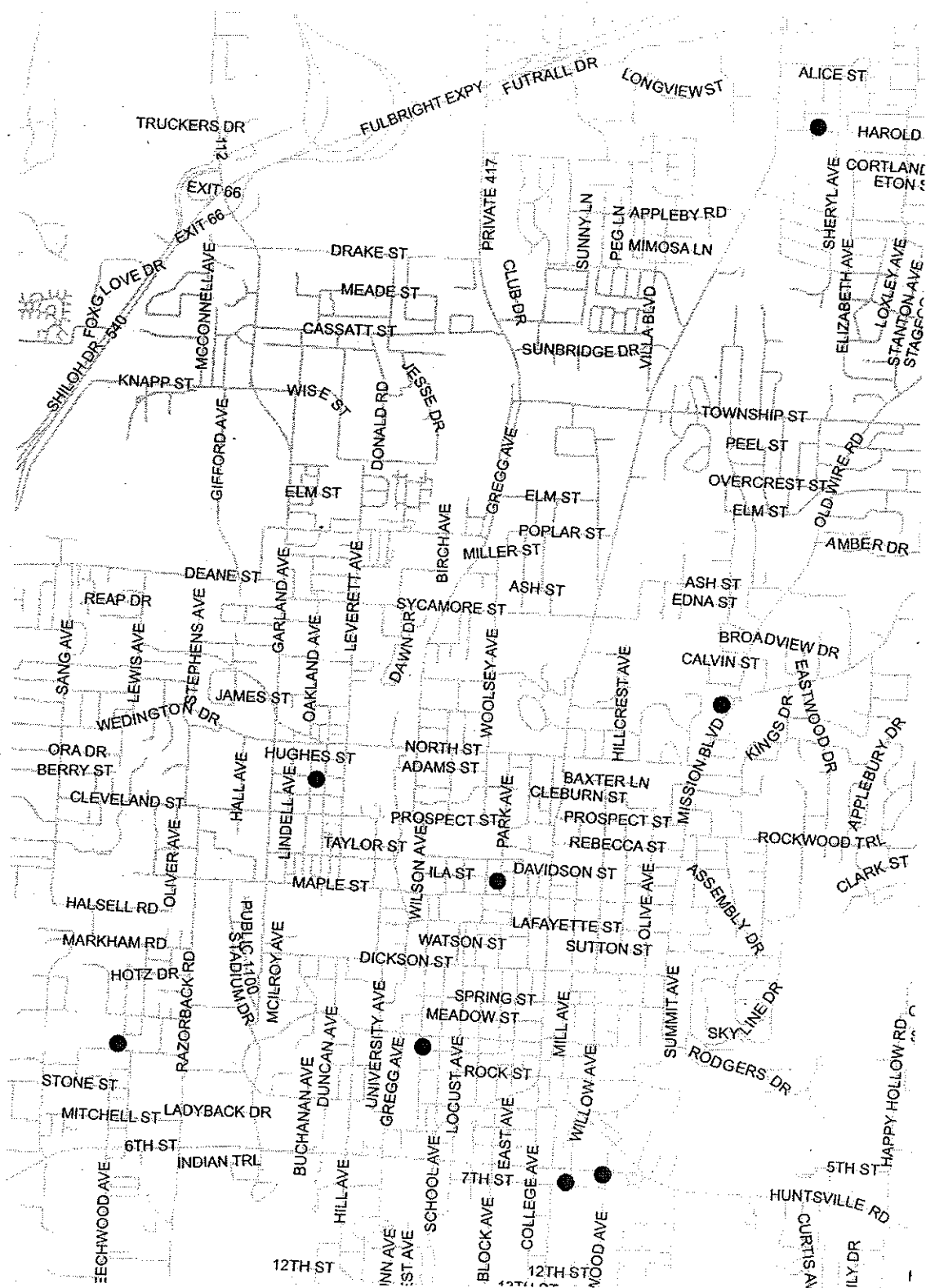
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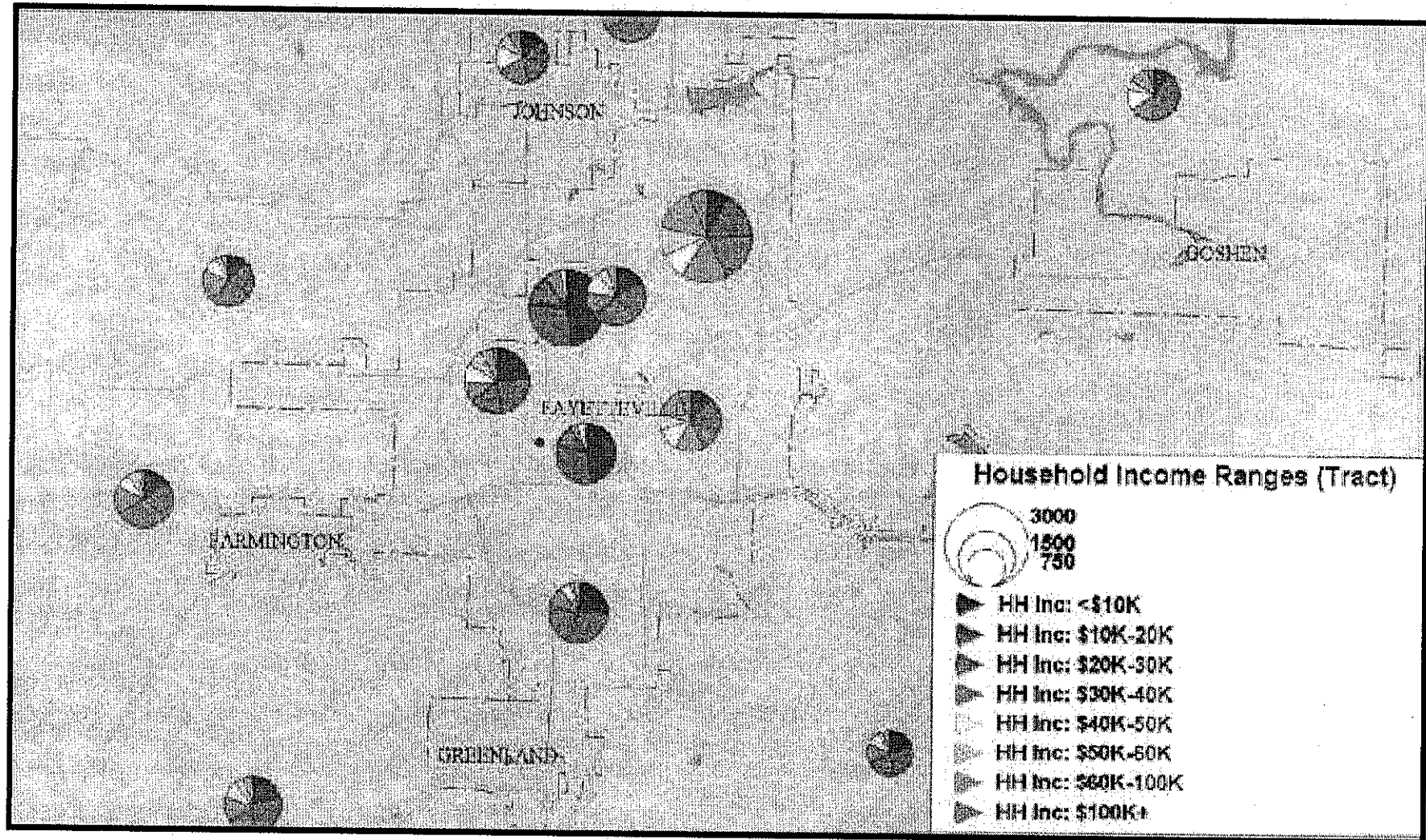
2009 Consolidated Action Plan Maps

Appendix E *Maps*

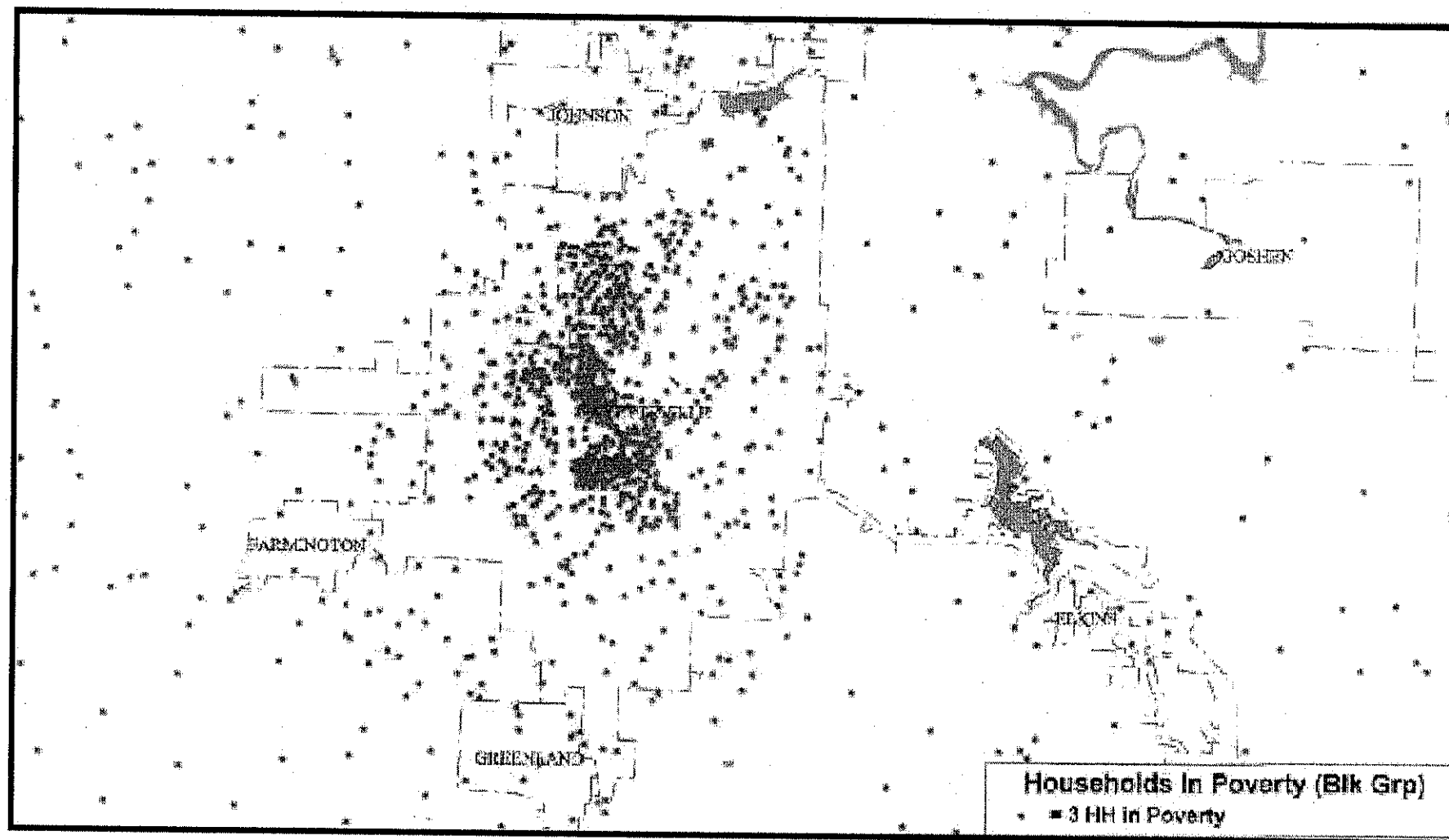




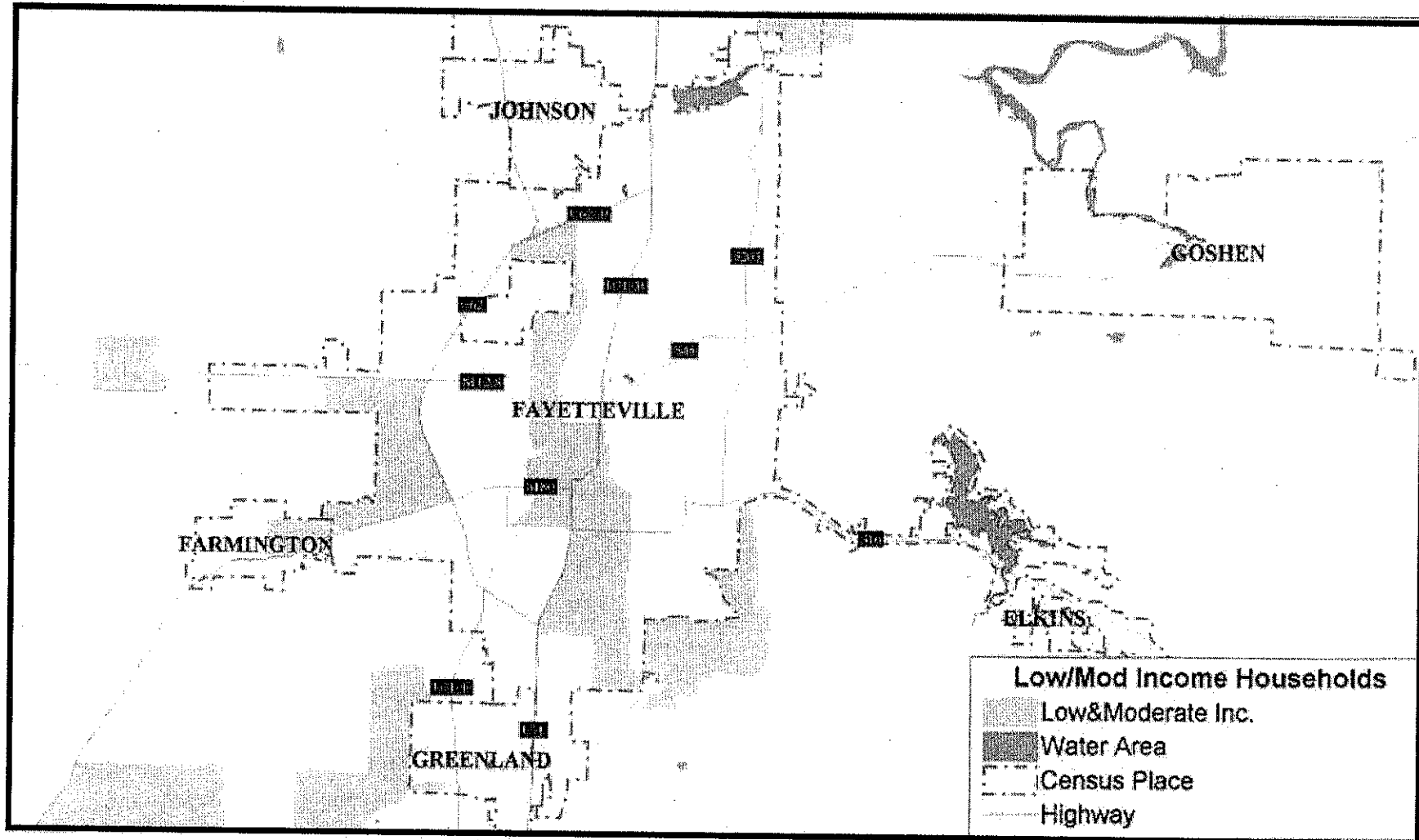
HOUSEHOLD INCOME RANGE



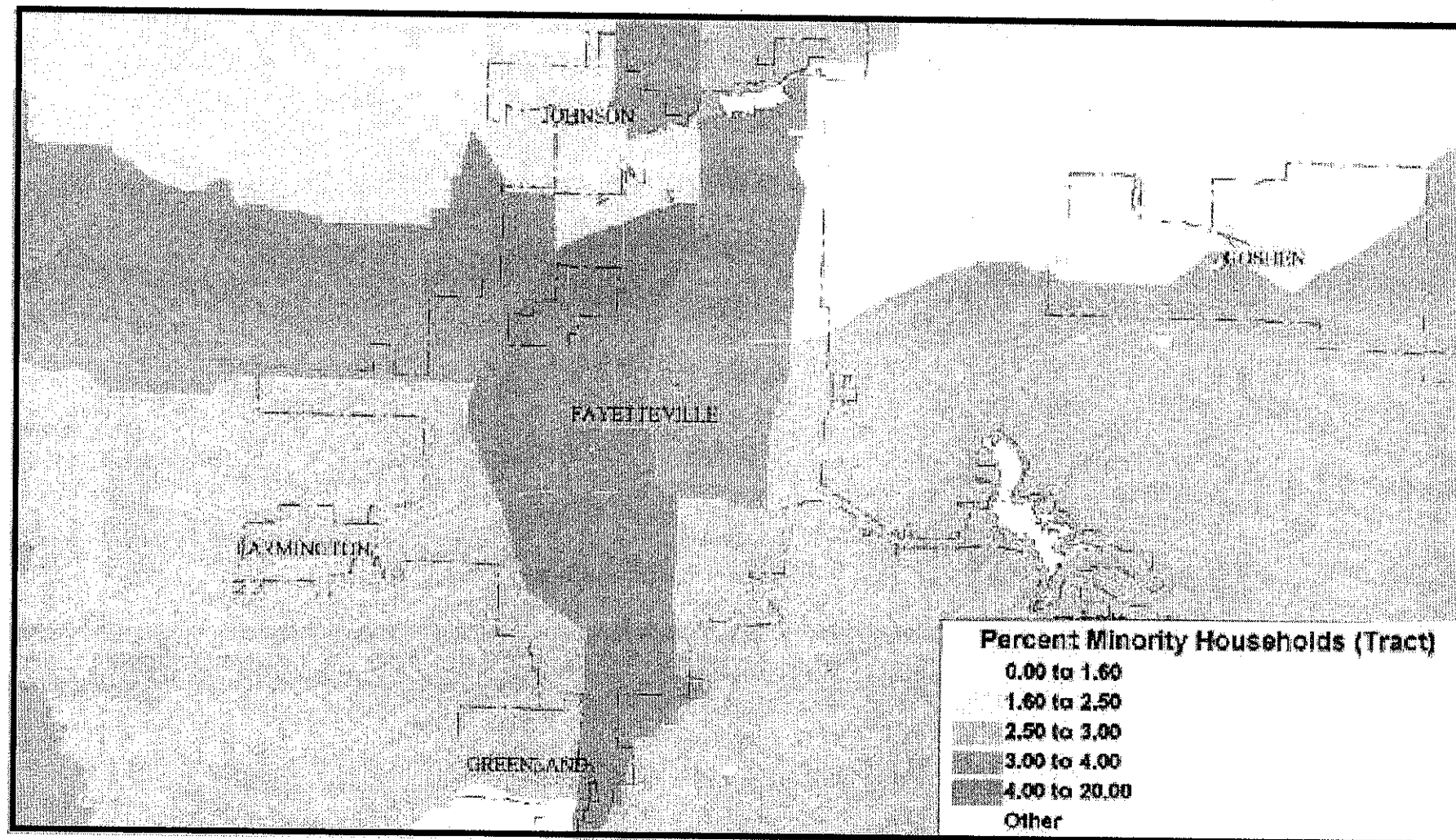
HOUSEHOLD IN POVERTY



LOW/MOD INCOME HOUSEHOLDS



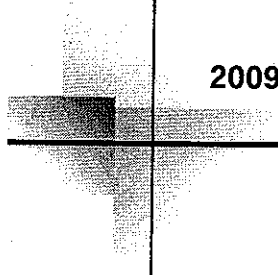
PERCENT MINORITY HOUSEHOLDS



2009 Consolidated Action Plan Comments

Appendix F *Comments*

No comments received during the comment period.



2009 Consolidated Action Plan Tables

Appendix G *Tables*



community resources
CITY OF FAYETTEVILLE

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

City of Fayetteville
Community Development Block Grant

Action Plan Public Comment Meeting
Sign-In Sheet

Name

Organization

Email

Olivia Hearn Fayetteville Housing Authority jdh@mha.com.net

Hugh Earnest

"

"

hughearnest2002@yahoo.com

Mary Hairston

Youth Bridge

Mhairston@youthbridge.com

George Highgate

ghighgate@yahoo.com

bob chapman - michigan

send first call registration sheet

City of Fayetteville Staff Review Form

A. 8
Operations Management International
(OMI) Amendment No. 16A
Page 1 of 6

**City Council Agenda Items
and
Contracts, Leases or Agreements**

7-Apr-09

City Council Meeting Date
Agenda Items Only

David Jurgens

Submitted By

Water/Wastewater

Division

Water/Wastewater

Department

Action Required:

Resolution approving Amendment Number 16A for \$61,819.73 with Operations Management International, Inc. for operational expenses incurred as a direct result of the January, 2009 ice storm.

\$ 61,819.73

Cost of this request

\$ -

Category / Project Budget

Water/Wastewater

Program Category / Project Name

5400.5100.5328.00

Account Number

\$ -

Funds Used to Date

Wastewater Treatment

Program / Project Category Name

09009

Project Number

\$ -

Remaining Balance

Water and Sewer

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

D. Jurgens
Department Director

25 MAR 09
Date

Previous Ordinance or Resolution # 94-94

Original Contract Date: 8/1/1994

Original Contract Number: 412

D. J. Whit
City Attorney

3/25/09
Date

Paul A. Besh
Finance and Internal Services Director

3-25-09
Date

Received in City
Clerk's Office

ENTERED
3-25-09

Jim Mann
Chief of Staff

5/25/09
Date

Received in
Mayor's Office

ENTERED
3/25/09
BEP

Donald Jordan
Mayor

3/25/09
Date

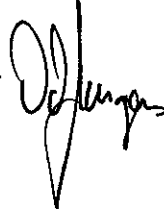
Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: David Jurgens, Public Utilities Director



Date: 24 March, 2009

Subject: Approval of Amendment Number 16A for \$61,819.73 with Operations Management International, Inc. for operational expenses incurred as a direct result of the January, 2009 ice storm.

RECOMMENDATION

Fayetteville City Administration recommends approval of Amendment Number 16A for \$61,819.73 with Operations Management International, Inc. for operational expenses incurred as a direct result of the January, 2009 ice storm.

BACKGROUND

OMI performed emergency operations during the ice storm, incurring emergency and unanticipated expenses, and also operated the debris disposal site at the West Side Wastewater Treatment Plant until the operation was turned over to the debris collection contractor.

DISCUSSION

In order to obtain FEMA reimbursement, these activities and the related expenses must be detailed from OMI identifying the actual costs of the work. This must be approved by the City Council in a separate resolution from the normal wastewater operations contract.

This amendment follows the exact format used in the previous flooding whereby the City was reimbursed by FEMA. It does not include facilities damage, which was submitted as an insurance claim and will be considered part of the normal operations contract with no changes required. This amendment only includes items deemed by pre-submission review to be FEMA reimbursable.

BUDGET IMPACT

These expenses shall be reimbursed at the same rates as other ice storm reimbursements.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NUMBER 16A TO THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF \$61,819.73 FOR OPERATIONAL EXPENSES INCURRED AS A DIRECT RESULT OF THE JANUARY 2009 ICE STORM.

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. 16A to the contract with Operations Management International (OMI) in the amount of \$61,819.73 for operational expenses incurred as a direct result of the January 2009 Ice Storm. A copy of Amendment No. 16A, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

AMENDMENT NO. 16 (A)

TO THE

AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT
SERVICES FOR THE CITY OF FAYETTEVILLE, ARKANSAS
WASTEWATER TREATMENT PLANTS

THIS AMENDMENT NO. 16(A) to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement") is made effective this ____ day of _____, 2009, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 (hereinafter "the City") and Operations Management International, Inc., with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 (hereinafter "OMI").

NOW THEREFORE, The City of Fayetteville and OMI agree to amend the Agreement as follows:

1. Recent ice storms during 2009 required out-of-scope services by OMI relating to emergency response efforts. Washington County was declared a disaster area and became eligible for FEMA assistance. Fayetteville included the out-of-scope expenses incurred by OMI as a result of the ice storms in its claims, receiving a portion of this amount in direct federal and state reimbursement.
2. Fayetteville must amend the 2009 contract to reflect the costs incurred by OMI and properly distribute the FEMA funds to the cost center incurring the losses. Accordingly, the fee paid to OMI for calendar year 2009 shall be increased by \$61,819.73 to account for the impacts of the ice storm emergency that occurred during 2009 and to correct the contract values for the costs approved and reimbursed by the Federal Emergency Management Agency (FEMA) relating to OMI's emergency and recovery costs. The fee increase reflects FEMA's eligible cost determination of sixty one thousand eight hundred nineteen ~~two~~ ²⁴ dollars and seventy three cents (\$61,819.73).
3. Such funds will be paid to OMI by the City of Fayetteville no later than December 31, 2009.

This Amendment No. 16(A), together with the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the

Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

**OPERATIONS MANAGEMENT
INTERNATIONAL, INC.**

CITY OF FAYETTEVILLE

Date: _____

Lioneld Jordan
Mayor
Date: _____

ATTEST:

Sondra Smith
City Clerk
Date: _____

Fayetteville Ice Storm Expenses Summary

Project Manager	TRAN, DUYEN T
Project Number	351227
Project Description	CITY OF FAYETTEVILLE
Task Name	2009 ICE STORM CY21
Task	21.WW.IC.00

Sum of Raw Cost Project Currency		
Expenditure Type2	Expenditure Type	Total
Direct Labor	LABOR-SITE	\$37,966.23
Direct Expense	EQUIPMENT-SUPPLIES	\$4,727.65
	RENTAL-MISCELLANEOUS	\$663.25
	TEMPORARY HELP AGENCY	\$9,032.47
Grand Total		\$52,389.60

18% Markup	\$9,430.13
Total Invoice for 21.WW.IC.00	\$61,819.73

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required: *an amended*

Action Required: A Resolution to apply for and accept a grant from the AR Dept. of Aeronautics, and signature of the Mayor on the Grant Application. Contact: John Knight, Director AR Dept Aeronautics, 1 Airport Dr, 3rd Floor, Little Rock, AR, 72202, 800-376-6781, e-mail Richard Mills: richard.mills@mail.state.ar.us

Approval of a Budget Adjustment.

REVENUE

\$102,000.00

Cost of this request

\$

-

Category / Project Budget

Airport HVAC Improvements

Program Category / Project Name

5550.0955.6805.00

Account Number

\$

-

Funds Used to Date

Airport Capital

Program / Project Category Name

08074 1

Project Number

\$

-

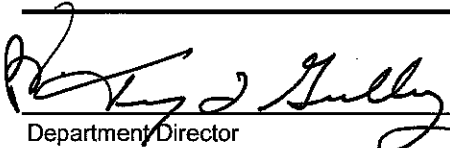
Remaining Balance

Airport Fund

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

X


 Department Director

3-20-09

Date

Previous Ordinance or Resolution # 5309


 City Attorney

3/23/09

Date

Original Contract Date:

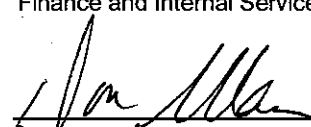
Original Contract Number:


 Finance and Internal Services Director

3-24-09

Date

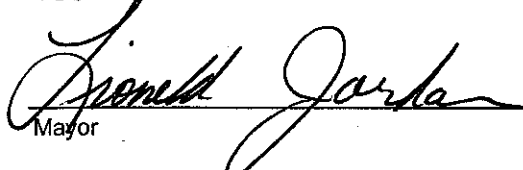
Received in City
Clerk's Office


 Chief of Staff

3/24/09

Date

Received in
Mayor's Office


 Mayor

3/24/09

Date

Comments:



AVIATION & ECONOMIC DEVELOPMENT
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan

THRU: Chief of Staff

THRU: Staff/Contract Review Committee

THRU: Terry Gully, Transportation Director *TG*

FROM: Ray M. Boudreaux, Aviation Director *RMB*

DATE: March 20, 2009

SUBJECT: Amend Arkansas Department of Aeronautics 80/20 Grant Amount to cover increased project cost for the Terminal Building HVAC Repair Project for a total estimated project cost of \$127,500.00

RECOMMENDATION:

Approve amended application and acceptance of Arkansas Department of Aeronautics 80/20 Grant for a total project amount estimated to be \$127,500 to fund the Terminal Building HVAC Repair Project and award of an acceptable bid received through the City Purchasing Department to complete the project. Approval of a Budget Adjustment and Signature of the Mayor.

BACKGROUND:

Bids for the Terminal HVAC Repair Project were received March 13, 2009 all exceeding the Engineer's estimate. Arkansas Department of Aeronautics were consulted and agreed to increase total project estimate by the amount of the low bid. The amended application was approved at the March 19, 2009 Arkansas Aeronautics Commission meeting for a 80/20 grant in the amount of \$127,500.00. State funding to be \$102,000.00. New bids are scheduled to be received March 31, 2009. A bid tab and recommendation for award will be presented at the March 31 agenda session.

BUDGET IMPACT: Funds are available in the Airport Fund to match the Grant proceeds. Total project cost estimate \$127,500.00 with 20% or \$25,500.00 local match.

Attachments: Staff Review Form
Budget Adjustment
Resolution 5309

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE EXECUTIVE AIRPORT STAFF TO APPLY FOR AND ACCEPT AN AMENDED 80/20 GRANT IN THE ESTIMATED AMOUNT OF \$102,000.00 FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND THE TERMINAL BUILDING HVAC REPAIR PROJECT; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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 the Fayetteville Executive Airport staff to apply for and accept an amended 80/20 grant in the estimated amount of \$102,000.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing the grant revenue.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 9
Arkansas Department of Aeronautics
Page 4 of 6

Budget Year 2009	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 4/7/2009	Adjustment Number
--------------------------------	--	---------------------------------------	-------------------

Project or Item Added/Increased: \$38,710 in the building maintenance acct. 34,110	Project or Item Deleted/Reduced: None. To recognize \$30,966 ^{31,768} in Arkansas Department of Aeronautics grant funding. None. To use \$7,742 ^{2,342} of the Airport's fund balance.
--	--

Justification of this Increase: Will provide an additional budget amount for repairs and modifications to the Airport Terminal HVAC control system.	Justification of this Decrease: The Department of Aeronautics will provide 80% cost reimbursement on the project. 20% local match is required on the project. The additional amount is needed due to the project expense estimate increase.
--	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Building & grounds maint	5550 3960 5400 00	34,110	08074 1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
State grants	5550 0955 6805 00	31,768	08074 1
Use of fund balance	5550 0955 4999 99	2,342	

Approval Signatures Requested By: Budget Manager: Department Director: Finance & Internal Services Director: Mayor: Date: 3/24/09 Date: 3-24-09 Date: 3-24-09 Date: 3/24/09 Date: 3/24/09	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Posted to Project Accounting Entered in Category Log Initial Date Initial Date Initial Date
---	---

RESOLUTION NO. 53-09

A RESOLUTION AUTHORIZING THE FAYETTEVILLE EXECUTIVE AIRPORT STAFF TO APPLY FOR AND ACCEPT AN 80/20 GRANT IN THE ESTIMATED AMOUNT OF \$87,790.00 FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND THE TERMINAL BUILDING HVAC REPAIR PROJECT; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

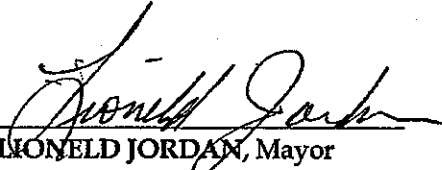
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of \$87,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

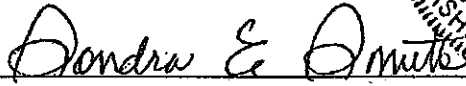
Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing the grant revenue.

PASSED and APPROVED this 3rd day of March, 2009.

APPROVED:

ATTEST:

By: 
LEONEL JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



City of Fayetteville Staff Review Form

B. 1
 Bid # 09-23 Drake Field HVAC
 Controls Upgrade
 Page 1 of 4

**City Council Agenda Items
 and
 Contracts, Leases or Agreements**

3/17/2009

City Council Meeting Date
 Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: A Resolution to award a contract to _____. Receipt of bid 09-23, Drake Field HVAC Controls Upgrade: 3/13/2009, 2:00 pm.

\$87,790 (estimated)

Cost of this request

\$

780.00

Category / Project Budget

Airport HVAC Improvements

Program Category / Project Name

5550.3960.5400.00

Account Number

\$

780.00

Funds Used to Date

Airport Capital

Program / Project Category Name

08074 1

Project Number

\$

-

Remaining Balance

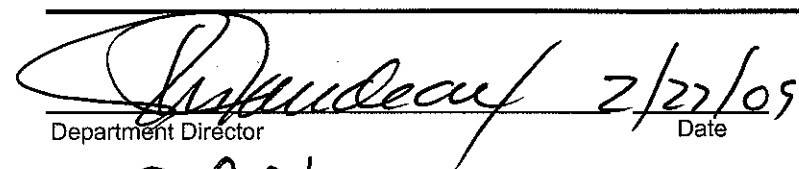
Airport Fund

Fund Name

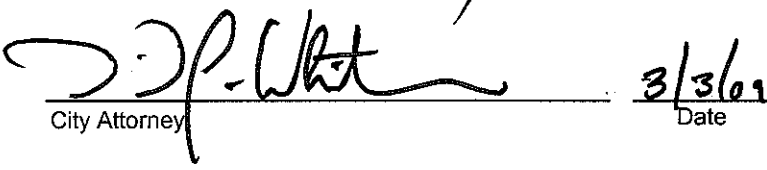
Budgeted Item

☒

Budget Adjustment Attached

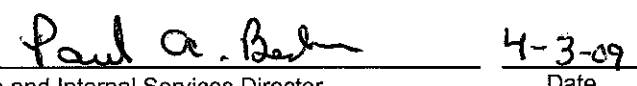
☐

 Department Director
2/27/09
Date

Previous Ordinance or Resolution # _____

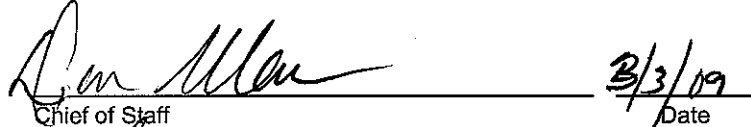
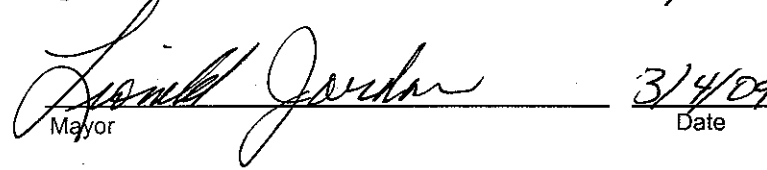

 City Attorney
3/3/09
Date

Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director
4-3-09
DateReceived in City
Clerk's Office

ENTERED


 Chief of Staff
3/3/09
DateReceived in
Mayor's OfficeENTERED
3/3/09
f.h.

 Mayor
3/4/09
Date

Comments: *Budget Adjustment submitted with previous Council Item - Consent Agenda #7 State Grant approval 3/3/09

Revised January 15, 2009

Removed from Consent: tabled to 4/17/09 mtg 3/17/09



AVIATION & ECONOMIC DEVELOPMENT
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan

THRU: Chief of Staff

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: February 20, 2009

SUBJECT: Approval to Award the Terminal Building HVAC Repair Project.

RECOMMENDATION:

Approve Award of the Terminal Building HVAC Repair Project.

BACKGROUND:

The Aviation and Economic Development Staff will open bids for the Terminal HVAC Repair Project March 13, 2009. A review of the bids will be done by the Engineer and a recommendation to award and bid tab will be presented to the City Council at their meeting March 17, 2009. Time is of the essence as the Arkansas Department of Aeronautics Grant revenue for this project must be spent and all paperwork filed by the end of this FY which is June 30, 2009.

BUDGET IMPACT: Funds are available in the Airport Fund to match the Grant proceeds. Total project cost \$87,790.00 with 20% or \$17,558.00 local match.

Attachments: Staff Review Form
Bid Tab to be provided

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #09-23 AND APPROVING A CONTRACT WITH _____ IN THE AMOUNT OF \$XX,XXX.XX FOR DRAKE FIELD HVAC CONTROLS UPGRADE.

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 #09-23 and approves a contract with _____ in the amount of \$XX,XXX.XX for Drake Field HVAC Controls Upgrade. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 17th day of March, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.

July 17, 2008

City of Fayetteville – City Council
113 W. Mountain Street
Fayetteville, AR 72701

RECEIVED

JUL 17 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: AMBERWOOD PLACE PZD

Dear Council Members,

On behalf of our client, JRJBCS, LLC, we would like to appeal the July 14, 2008 Planning Commission decision to deny R-PZD 08-2965. We are requesting that this item be put on the August 5, 2008 City Council Agenda.

Amberwood Place is being presented as a land use and zoning conceptual PZD. This project is located just south of Dot Tipton Road, east of Double Springs and west of 54th Street. This property was annexed into the city of Fayetteville last year, by the developer, with the encouragement of some the ward alderman who also had concerns and showed strong interest in the need for affordable housing in this area. This project has three planning areas as follows;

Planning Area #1: Single family, 102 units, 19.87 acres, 5.13 units/acre,
Planning Area #2: Single family, 41 units, 9.12 acres, 4.50 units/ acre
Planning Area #3: Single family, 39 units, 10.99 acres, 3.55 units/ acre
Total single family = 182 units on 39.98 acres; 4.55 units/acre

The current zoning is R-A and the surrounding zoning is RSF-1 and RSF-2 to the south with RSF-4 and RMF-6 due north..

This project was presented at the July 14, 2008 Planning Commission meeting and denied with only one vote for it. It seemed the Planning Commission in general liked the project layout and idea but were a little uneasy about the density and timing of the project. The general comments from the surrounding property owners that spoke at the meeting were about the side setbacks in planning area 3, which was simply a misprint in the PZD booklet, and the size of some of the homes in planning area 3. The developers are more than willing to work with the property owners on these issues and plan to be in contact with them before the August 5th meeting. The planning staff recommended denial of this project sighting that it doesn't meet all the goals of the City 2025 Plan. We however, feel that it does meet many of the goals and could be a very desirable and valuable project for this area now and in the future. We would like to stress that the developers build out date for this project could be up to 8 years with the first Planning Area being completed in the next 2-3 years. The driving force behind this project is creating attainable housing

• STRUCTURAL DESIGN • LAND DEVELOPMENT • WATER SYSTEMS • WASTEWATER SYSTEMS • LAND SURVEYING •

Tabled to
April 7, 2009
mtg - 3/12/09

Tabled to Mar. 17, 2009 - 3/3/09

This appeal was re-considered
on December 16, 2008 & tabled

Tabled to 3/3/09 mtg 2/3/09

FAILED 12/2/08

Tabled to 12/2/08 mtg 10/21/08

Left on the second reading 10/7/08

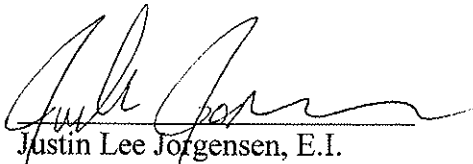
Tabled to Oct. 7, 2008 meeting 9/16/08

Tabled to Sept. 16, 2008 mtg 9/16/08

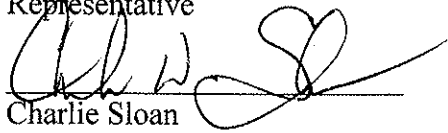
without losing focus on the City 2025 Plan and creating an isolated pocket of smaller homes.

Please contact us if you have any questions or would like more information regarding this project.

Sincerely,



Justin Lee Jorgensen, E.I.
Representative



Charlie Sloan
Developer/Owner



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: July 16, 2008

Subject: Residential Planned Zoning District for Amberwood Place (R-PZD 08-2965)

RECOMMENDATION

Planning Staff and Planning Commission recommend denial of an ordinance creating a Residential Planned Zoning District (R-PZD) for Amberwood Place, based on the findings that the proposed zoning is not consistent with the land use planning objectives, principles, and policies established by the City Council with the adoption of City Plan 2025 to make infill and revitalization our highest priority, and to discourage suburban sprawl; and finding that the proposed zoning is not compatible with surrounding existing agricultural and rural residential land uses and zoning.

BACKGROUND

The subject property, zoned R-A, Residential Agricultural, is located south and east of Double Springs Road on the south side of Dot Tipton Road. If City Council overturns the Planning Commission decision to deny, this action will establish a unique zoning district for a single-use project on approximately 39.98 acres. The proposal consists of 182 single family dwelling units and an overall density of 4.55 units/acre. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission.

DISCUSSION

The Planning Commission voted 6-1-0 (Commissioner Kennedy voting 'No') to deny this request on July 14, 2008. The Planning Commission stated agreement with staff findings that the project does not comply with main goals and policies of City Plan 2025 to discourage suburban sprawl, and that the relatively high density proposed is not compatible with surrounding rural residential and agricultural land uses.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2965, AMBERWOOD PLACE, LOCATED SOUTH AND EAST OF DOUBLE SPRINGS AND DOT TIPTON ROAD; CONTAINING APPROXIMATELY 39.98 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to R-PZD 08-2965 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

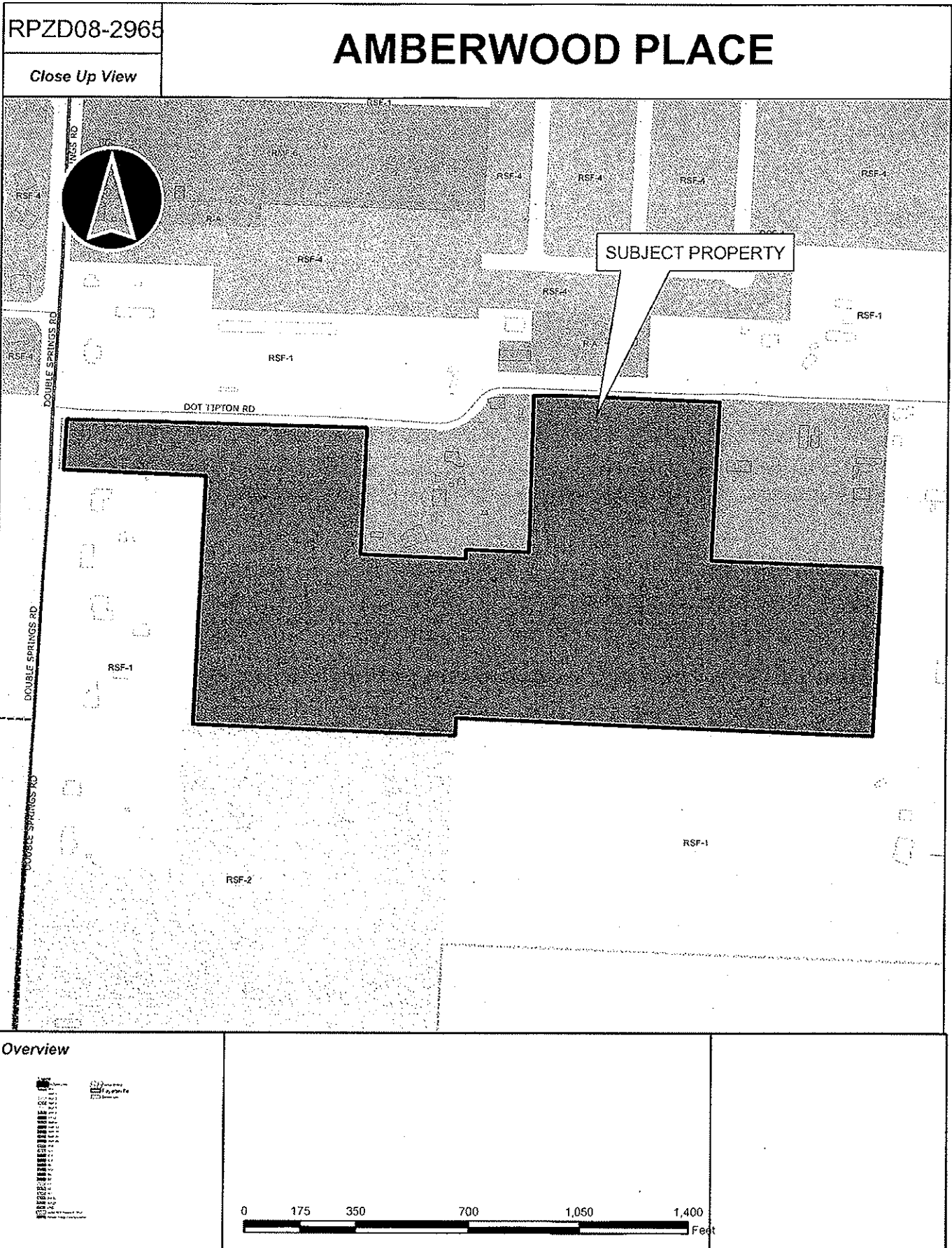


EXHIBIT "B"
R-PZD 08-2965

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 15 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 14 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE1/4, NE1/4 THENCE S89°46'03"W 825.57 FEET, THENCE N00°01'18"W 788.63 FEET, THENCE S89°52'44"W 448.54 FEET, THENCE N00°29'58"E 159.86 FEET, THENCE N88°55'29"E 947.20 FEET, THENCE S00°02'16"E 401.26 FEET, THENCE N89°57'44"E 328.25 FEET, THENCE N00°15'06"E 30.31 FEET, THENCE N89°56'37"E 196.61 FEET, THENCE N01°15'52"W 496.68 FEET, THENCE N87°12'01"E 84.38 FEET, THENCE N89°42'27"E 514.78 FEET, THENCE S00°07'57"W 502.35 FEET, THENCE N89°53'47"E 537.01 FEET, THENCE S00°11'49"W 536.03 FEET, THENCE S89°54'10"W 1320.92 FEET, THENCE S00°28'05"W 55.08 FEET TO THE P.O.B.; CONTAINING 39.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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Conditions of Approval for R-PZD 08-2965 (Amberwood Place)

1. The applicant shall be responsible for the following street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
 - a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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Project Phasing Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

22. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

24. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
28. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area.
 - d. Project Disk with all final revisions
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



Planning Commission Meeting
July 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: July 7, 2008 Updated July 16, 2008

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.
Planner: Andrew Garner

Findings:

Property: The subject property contains 39.98 acres, located southeast of the intersection of Double Springs/Dot Tipton Roads. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission. The immediately adjacent surrounding land use and zoning are listed in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Agricultural/rural residential	RSF-1; R-A
South	Agricultural/Dunnerstock Windsor Subdivision (not developed)	RSF-1; RSF-2
East	Agricultural/rural residential	RSF-1
West	Single family residential	Washington County Planning Area (1 unit/acre)

Proposal: The request is for rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 182 detached single family dwellings in three planning areas. Planning Area 1 is on the east side of the property and has 102 lots that are approximately 45' x 100' with a density of 5.13 units/acre. Planning Area 2 is in the middle of the property and has 41 lots that are approximately 60' x 100' with a density of 4.50 units/acre.

Planning Area 3 is on the west side of the property and will have 39 lots that are approximately 70' wide with a density of 3.55 units/acre. The development proposes 3.5 acres of public pedestrian trails and greenspace throughout the development to be built by the developer. The overall proposed density for the project is 4.55 units/acre.

If the PZD is approved as proposed the project would be required to go through subdivision/preliminary plat approval prior to development.

Access: Three access points to the site are provided from Dot Tipton Road to the north. Two street stub-outs are provided to the south and a street stub-out is also provided to the east. Vehicular access to the 182 single family residences is provided as follows:

- 84 lots - front loaded individual curb cuts
- 54 lots - front loaded shared driveways
- 44 lots - rear loaded off of alleys

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial), Dot Tipton Road (Local).

Right-of-way to be dedicated: 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

Connectivity: Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is proposed to the existing rural residential lots to the west. These lots are approximately two acre in size. The project proposes internal pedestrian connectivity with sidewalks on both sides of the streets and pedestrian trails in approximately 3.5 acres of dedicated greenspace. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line. *A potential improvement for future pedestrian connectivity would be to extend the greenbelt all the way to the southern property line to provide the opportunity for a greenbelt linkage to the south. Potential improvements to street connectivity include additional street stub-outs to the west in the vicinity of lots 12-14, to break up the block length between the north and south property lines and allow connectivity for future infill to the west, and to the 'out-parcel' along Dot Tipton Road that is surrounded on three sides by the proposed development, near lots 78/79.*

Parking: Parking is provided in attached and detached garages for all of the single family homes. 138 homes will have front-loaded garages, and 44 of the homes will have alley-loaded garages. 98 homes will have garages in the rear of the homes, and 84 homes will have garages in the front of the homes.

Phasing: Four phases are planned for Amberwood Place over the next several years as listed below and provided in the PZD Booklet. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

**Project Phasing
Amberwood Place R-PZD**

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Parks: The developer has met with City Parks staff and anticipates donating off-site land in lieu of payment of parks fees. This project will be required to go through Park Recreation Advisory Board prior to preliminary plat submittal.

Solid Waste Service: Solid waste service will be provided with standard curbside carts for each home as typical of single family residential development.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development. Tree canopy minimum of 25% shall be required.

Public Comment: City staff has received a phone call from an adjacent property owner opposed to the project citing concerns that the proposed density is too high and is not compatible with surrounding farms and rural-residential uses. He also discussed concerns with runoff issues. Staff also received several public comments opposed to other RSF-4 rezoning in this immediate vicinity. The applicant has also presented the project at a Street Committee and Ward 4 meeting to area residents, most specifically to discuss cost-sharing the improvements to Dot Tipton Road.

Recommendation: Finding that the proposed rezoning and development approval does not meet most of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, and primarily based on the compatibility/density of the development pattern in an area under-served by adequate infrastructure and service to support such a density, staff recommends denial of **R-PZD 08-2965**.

Should the Planning Commission forward this project to the City Council with a recommendation for approval, staff recommends the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street

improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*

- a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Planning Commission determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

**Project Phasing
Amberwood Place R-PZD**

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Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

22. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

24. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a

separation of no greater than 300 feet.

27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

28. Prior to the issuance of a building permit the following is required:

- a. Grading and drainage permits
- b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
- c. Separate easement plat for this project that shall include the tree preservation area.
- d. Project Disk with all final revisions
- e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action:

☐ Tabled ☐ Forwarded to C.C. (recommendation for approval) ☒ Denied

Motion: Myres

Second: Graves

Vote: 6-1-0 (Kennedy voting 'No')

Meeting Date: July 14, 2008

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 08-2965 (Amberwood Place at Fayetteville)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds that much of this application is in conflict with the criterion and policies established in City Plan 2025. The applicant conducted pre-application meetings with City Planning staff, who advised the applicant against a development of this type of density in this area at this time. Some of the issues discussed with the applicant in pre-application and at the technical plat review meetings included concerns that this development with a density 4.55 units/acre is not compatible with surrounding rural-residential/low density land uses. Staff also advised the applicant of the relatively recent zoning denial by the Planning Commission of adjacent property, to RSF-4. Staff has also discussed that this type of subdivision encourages suburban sprawl in an area without adequate infrastructure or non-residential services or employment centers in the vicinity. Traffic concerns already being discussed on surrounding roads, particularly Wedington, will likely be exacerbated, and the attainable housing element of the project is jeopardized due to the requirement of every resident to drive miles for any good or service.

Staff has concerns that this development does not meet several of the primary Goals of City Plan 2025, is incompatible with surrounding land uses as a re-zoning request, and is not served by adequate public services as discussed in the bulleted points below:

- **Goal 1: Infill and revitalization highest priority:** This site is a green field development on the west side of Fayetteville, surrounded by large rural residential lots and agricultural land. The project is not considered infill or revitalization.
- **Goal 2: Discourage suburban sprawl:** As discussed in City Plan 2025, sprawl makes people solely dependent upon the automobile to get from here to there, increasing traffic congestion. Based on the input from the community throughout the planning process, it is apparent Fayetteville residents want to maintain a high quality of life and support increased growth in the center of the city, or assess where services are provided, and limit growth on the edges of the city. The proposed development, while using a higher density development pattern, is not near urban service centers, and is solely auto-dependent, thereby placing a greater burden on not only adjacent streets, but others in the area. Development at the proposed density in this area may be appropriate at a later date; however, at this time, it is not supported by adequate levels of infrastructure or services. Examples of density and lot size of this nature currently in the city are the Washington/Willow, Wilson Park, and Ruppel Row neighborhoods, which contain high levels of connectivity and close proximity to

high-capacity streets, commercial services and goods.

- Goal 3: Make traditional town form the standard: This goal encourages a variety of uses, not just houses, to make a neighborhood. This goal encourages development with the provision of places to live and work in the same area with less daily vehicle trips on surrounding streets. While this development varies the size of lot/house, it does not contribute to or gain from a surrounding neighborhood of mixed uses at this time.
- Goal 6: Creating attainable housing: This plan aspires to this goal, which is a very positive aspect of this plan. However, attainable houses should not exist in isolation. Traditional, mixed-income neighborhoods should result in pedestrian-friendly environments, enabling households to save on transportation costs, which can affect their ability to obtain housing. By locating this project far from goods and services and the potential for jobs, additional burden, time, and expense is created for a future homebuyer to supply travel to and from the development for daily needs. Many case studies have proved that a mixed-use environment with these amenities is the only desirable and successful way to create attainable housing, as opposed to many failed projects that aspired to do so in single-use areas.
- This area is planned for Residential Neighborhood Areas on City Plan 2025. These areas are predominantly residential in land use, which is consistent with the uses proposed with Amberwood Place. This zone encourages traditional neighborhood development; developments should have a strong sense of connectivity where appropriate. New residential areas should be sited where they are accessible to roadways, alternative transportation nodes, community amenities, schools and infrastructure and retail goods and services. Staff has concerns that this development, while attempting to meet one of the City's goals to provide "attainable housing", is being located in an area that severely lacks infrastructure and services at a sufficient level to serve the future residents. There are no nearby services that can serve the planned neighborhood, thus requiring a greater density of residents to drive for common, daily needs.
- Harmonious relationship/degree of compatibility with adjacent land uses. Staff finds the surrounding land uses to be large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place with the surrounding rural character of the area.
- Demands on public facilities. The proposed density, at this time, will create a greater burden on existing infrastructure in the area; currently the site is accessed by way of gravel roads or recently paved county roads. Future residents will likely demand improvement of streets in the area by the City, at a level that is not viable at this time.
- Permitted/Conditional Uses. Staff finds the proposed single family residential land use is appropriate.

In summary, staff finds the proposal does not meet the goals of the City's adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be inconsistent with several of the applicable City policies. The application has been submitted in accordance with all statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer, in order to function at acceptable levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion and would place an undesirable load on police services. As discussed in Finding No. 1 this site is accessed by way of gravel roads or recently paved county roads. This development proposes to contribute \$150,000 for the City to pave Dot Tipton Road. In order for staff to find that the project would not adversely impact public facilities in the area, many more improvements than are recommended here would have to occur. However, staff does not find that this particular developer should bear the burden of all of those expenses, based on typical rational nexus calculations. This is ultimately one reason why staff has recommended denial of the application, finding that at this time, the project is not appropriate for the area.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: As discussed in Finding No. 1, the surrounding land uses are large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place and thus incompatible with the surrounding rural character of the area.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The 39.98-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while incompatible with surrounding land uses, could be suitable on the subject property at some time in the future, when adequate services have been extended and are available to this area.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development, which will allow for the construction of 182

dwelling units, will have a significant impact on surrounding infrastructure, all of which is substandard. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that while the surrounding roads would likely still be congested and inconvenient, the proposed development would not create a traffic danger. Staff does find that due to the number of units proposed in a low density agricultural/rural residential area, a burden on the existing road network would be created.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will not achieve a high level of compatibility with adjacent properties. Staff finds that the overall density of 4.55 units/acre is not appropriate when surrounded by rural-residential/agricultural land uses. Density within a project under a PZD is to be determined on the basis of the density of surrounding development, urban development goals, and the impact of a given density on the site and adjacent property. The City's urban development goals encourage a variety and mixture of densities within neighborhoods. However, the density of development must be supported with adequate infrastructure and services in order to create a viable, functioning neighborhood that contributes to the City as opposed to a separate "island" of development that is auto-

dependent for all goods and services. Staff finds this proposal to be located well away from supporting goods and services, and may adversely impact the character of surrounding low density residential and agricultural uses.

The site does not have any significant natural features to be incorporated into the subdivision, although approximately 3.5 acres of greenspace and pedestrian trails are provided. The developer also proposes to have all perimeter lots plant two trees in the backyard to help provide some vegetative screening around this subdivision.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed or required for this single family subdivision. Approximately 54% of the proposed lots (98 out of 182 lots) have garages at the rear of the homes to help create a pedestrian oriented streetscape and an attractive public realm. This development proposes 3.5 acres of landscaped greenspace and pedestrian trails and two trees planted in the backyard of each perimeter lot. A landscape plan showing street tree plantings, the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the

planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of two main public streets leading into the central portion of the project where the streets are slowed down by traffic circles and a north-south greenbelt crossing the streets. The lots in Planning Area 1 are accessed off of alleys or shared driveways with the garages in the rear of the homes. The lots in Planning Areas 2 and 3 are accessed directly off of the street with individual curb cuts and garages in the front of the homes. The street system provides a hierarchy of circulation that encourages an efficient flow of traffic. The external street system consists of two access roads, Double Springs Road, a minor arterial, and Dot Tipton Road, a local street, that is substandard and in need of improvements.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the single family residential uses shall apply. Two garage parking spaces are provided for each home.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The applicant proposes that each lot on the perimeter of the project plant two trees in the backyard of the homes. The project will comply with all open space requirements.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of preliminary plat to ensure compliance. In general the Master Development Plan provides for sidewalks along public streets, and interior pedestrian trails in the designated greenspace lots.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public streets at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for

such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The proposed project proposes public streets and alleys that comply with the adopted development standards.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development to comply with Chapter 167 of the UDC. The site has little existing tree canopy which should be incorporated into the design as much as possible.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. All proposed structures are single-family residential.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any

additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 - (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

- (A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.
- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
 - (2) Compatibility. Providing for compatibility with the surrounding land uses.
 - (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
 - (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
 - (5) No negative impact. Does not have a negative effect upon the future development of the area;
 - (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
 - (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
 - (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal does not meet some of the primary goals of the City Plan 2025, and the overall urban development goals of the City as discussed in Staff Finding No. 1. The proposed PZD provides a mix of lot and house sizes, rather than the typical RSF-4 single family lot size. The proposed development pattern is consistent with several of the goals of the PZD ordinance, Chapter 161, including providing a variety of housing types and providing usable and suitably located open space areas. However, an average density of 4.5 units/acre is not compatible with the surrounding rural residential/agricultural properties, with the lack of goods and services, schools or other amenities typically associated with urban development form. Development of surrounding properties, which could provide a higher level of compatibility with the Amberwood Place PZD, may require several years or even decades to occur. Furthermore, core public services, including schools, jobs and commercial services are not readily available to this area and are at least two miles away. Ultimately, the residents of the development will continue to be auto-dependent due to the current isolated location of the property.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 08-2965, with three (3) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending denial of this application, finding the proposed PZD does not meet the intent of the PZD ordinance and City Plan 2025 as noted above. Staff finds that the higher density single family land uses within the development do not consider abutting parcels of land. A harmonious relationship with surrounding properties does not exist, and will result in land use incompatibility, traffic congestion and inconvenience for existing and future residents, and encourage suburban sprawl and leap-frog development.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

- (a) The densities of surrounding development;
- (b) the densities allowed under the current zoning;
- (c) the urban development goals and other policies of the city's General Plan;
- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

FINDING: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 20 dwelling units on 39.98 acres. The applicants are requesting 182 dwelling units, a density of approximately 4.5 units per acre. While this is not a normally high density in much of the developed City, and in general the City's development goals and policies do support the development pattern proposed by Amberwood Place in a designated Residential Neighborhood Area, the density of the development is not appropriate in the rural landscape that it is proposed. Staff has communicated to the applicant that this project may be appropriate in other Residential Neighborhood Areas that have an adequate level of services and infrastructure for development.

- (2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums vary from 4,500 – 7,700 square feet, a little smaller than standard single family zoning districts; setbacks are not varied and are consistent with the RSF-8 zoning district setbacks. This project would provide for some variety in the size and mass of residential homes over this 39.98 acre subdivision with homes varying from 1,000 – 1,700 square feet. The structures are generally oriented to the street with 15-foot front setbacks, with the smaller lots in Planning Area 1 accessed off of either shared drives or alleys.

- (3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are a maximum of 45-feet, consistent with the height requirements of the surrounding zoning.

- (4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The proposed lot coverage varies from 25-30% compared with 40-50% lot coverage allowed under typical single family zoning. This indicates more greenspace on the lots than in a typical subdivision.

***Required Findings for Rezoning Request.**

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: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. As discussed in these previous findings, this project can be characterized as suburban sprawl as it: 1) is located on the fringe of an urbanized area; 2) “leap frogs” over large, undeveloped properties; 3) is auto-dependent due to isolation from core public services; 4) and is developed before necessary infrastructure improvements are made. Ultimately, the development is inconsistent with land use planning principles and policies to a degree that would not support the rezoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The subject property is just within the limits of the City and is adjacent to large agricultural and rural residential properties. Rezoning the property for 182 residential dwellings is not justifiable or needed at this time. The development will “leap frog” over and around many acres of undeveloped farmland and low density rural residential land uses, and will exacerbate the traffic congestion in the area. Improvements to Dot Tipton and Double Springs roads will facilitate future development in the area, including agricultural and rural residential land in the vicinity. Currently though, the development is too early based on existing infrastructure and inconsistent with the goals and policies adopted by the City Council for rezoning applications.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will likely increase traffic congestion and inconvenience, without several improvements to surrounding infrastructure. The Fayetteville

Police Department has commented that this project may create an appreciable increase in traffic danger and congestion, although a traffic study has not been completed. Overall, the area has a lack of infrastructure or services to serve a high density suburban development pattern, as proposed. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur. This project is several miles away from public services and employment centers, and would therefore contribute to congestion on main arterials, particularly to Wedington Drive.

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: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists to a great extent, and that the 182 residential units proposed would create additional demand on public services. The applicants have noted in the project booklet that water and sewer services are being constructed to serve the subject development. Therefore, an undesirable load on water and sewer services is not expected.

Engineering: Public water is located adjacent to the site. There is an 8-inch water main along Double Springs Road and one located through this site.

Sanitary sewer is available to the site. There is an 8-inch sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Road and Double Springs Road. Dot Tipton is an unimproved two lane gravel city street, with pavement near the intersection of Double Springs Road. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20-foot wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this R-PZD would substantially alter the population density, and would create an appreciable or undesirable increase in the load on police services. This R-PZD will possibly create an appreciable increase in traffic danger and congestion.

Fire: This property will be covered by Engine 7 located at 835 North Ruppel Road. It is 2.3 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 32 (20 EMS-12 Fire/other) calls for service each year once the development is completed and maximum build out has occurred. The Fire Department does not feel this development will affect calls for service or response time.

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: As discussed in the findings throughout this report, staff recommends denial of the requested R-PZD 08-2965, finding the proposal inconsistent with several adopted goals and policies of the City Plan 2025; finding the project encourages suburban sprawl in an area without adequate public services and infrastructure and incompatible with surrounding agricultural and rural residential land uses.



The City of Fayetteville Fire Department

303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 3, 2008
Re: April 9, 2008 Zoning Review

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

It is 2.3 miles from the station with an anticipated response time of 6.0 minutes to the beginning of the development and 7.0 minutes to the western edge.

The Fire Department anticipates 32 (20 EMS – 12 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

It is 1.3 miles from the station with an anticipated response time of 4.0 minutes to the beginning of the development. We do not figure calls for service on this type of development but typically this will not affect our response times.

RZN 08-2971: Rezoning (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., 15TH STREET AND S. SCHOOL AVE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), MSC, Main Street Center (19.94 acres) and P-1, Institutional (47.91 acres).

The fire department does not anticipate any additional calls for service or reduced response times on re-zoning these properties to the proposed re-zonings.

If you have any questions please feel free to contact me.

Honor, Commitment, Courage;
Our people make the difference!

ENGINEERING COMMENTS

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units. Planner: Andrew Garner

Public water is available to the property. There is an 8" water main along Double Springs Rd; and one located running through this site.

Sanitary sewer is available to the site. There is an 8" sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Rd. and Double Springs Rd.. Dot Tipton is currently an unimproved two lane gravel city street. Double Springs Rd. is currently an unimproved two lane paved city street. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial. Planner: Dara Sanders

Public water is available to the property. There is an 8" water main along across Old Farmington Road on the west side of this property.

Sanitary sewer is available to the site. There is an 8" sewer main along the north property line of this parcel. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Old Farmington Rd. and Sixth Street. Sixth Street is currently an improved five lane paved state highway. Old Farmington Rd. is an unimproved two lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 4/7/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **PZD 08-2965: (Amberwood Place 474 / 475): Submitted by Dave Jorgensen for property located at S & E of Double Springs Road and Dot Tipton Road**, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The **property contains approximately 39.98 acres.**

It is the opinion of the Fayetteville Police Department that this PZD will substantially alter the population density, and will possibly create an appreciable or undesirable increase in the load on police services. This PZD will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



PC Meeting of June 9, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission
From: Carole Jones, Interim Urban Forester
Date: June 3, 2008

ITEM #: C-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.



PC Meeting of July 14, 2008

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: July 8, 2008

ITEM #: R-PZD 08-2965--: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

**PLANNING COMMISSION MEETING MINUTES
JULY 14, 2008**

AMBERWOOD PLACE R-PZD 08-2965

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

Andrew Garner, Senior Planner, gave the staff report, describing surrounding properties, which is surrounded by rural, residential, and agricultural land uses. Dot Tipton along northern border of site is a partially paved and gravel road. Infrastructure for a now-abandoned subdivision to the south has been installed, but the development has been abandoned for some time. There have been rezoning applications for an adjacent site to RSF-4, which have been previously denied by the Planning Commission. The applicant is proposing rezoning and land use approval for a RPZD with 182 SF dwellings, overall density is 4.55 du/acre, 3 planning areas consist of different densities. PA 1 on east side with 102 lots that are 45'x100', PA 2 in the middle with 60'x100' ft lots, PA 3 has 39 lots, 79 feet wide. Access proposed is at three points from Dot Tipton to the north, two street stub-outs are provided to the south, and a street stub-out is provided to the east. Staff recommends additional connectivity to the west. Staff has received public comment from adjacent property owners opposed to the project, citing concerns with density and property not being compatible with surrounding rural residential uses. Staff finds that much of the application is in conflict with the goals and policies established with City Plan 2025. In addition, staff finds that the proposed density of 4.55 units/acre is not compatible with surrounding rural residential and low-density zoning. Staff has concern that this subdivision encourages suburban sprawl in an area without adequate infrastructure. City Plan 2025 discourages growth on the edges of the City. Development may be appropriate at a later date, when infrastructure is available. Staff does not recommend the rezoning as proposed, but instead recommends denial of the application.

Justin Jorgensen, applicant, described project. In 2006, when this was annexed, developer Charlie Sloan was encouraged by City Council to build attainable housing in the area. The applicant has worked with Water and Sewer Department to install a new pump station west of the detention pond, along with new water line, so there is already water and sewer within the subdivision. Goal of project was attainable housing. The applicant also wanted to create a traditional town form by focusing on goals of City Plan 2025. He cannot say this is the best example of infill, but it is within 1.6 miles of school and Boys and Girls Club, ½ mile from RSF-4. In time, the development will fit in to where it is at. Probably is not the ideal project for City Plan 2025, but in time it will fit in.

Public Comment:

Dave Yeomans, neighbor, stated he lives in corner house, affected in two sides by the subdivision. Built home in 1991. Many nearby homeowners, including owners of two-acre tracts adjacent to Double Springs Rd., are frustrated by the notification procedures. There is a lot of opposition to this. Homeowners will not accept anything less than what is built in Silverthorne Subdivision – 100x100' lots, big houses. Have worked hard for a nice home, find

Planning Commission

July 14, 2008

Page 10 of 12

myself fighting for that value. He does not have a problem with attainable housing, but this is not the area for it. He discussed concerns adjacent to property and a more ideal land-use arrangement for the area.

Maurice Rankin, neighbor, lives at 105 N. Double Springs Rd, directly across road from proposed development. She is concerned with Planning Area 3 on the property (west side). Cherishes the area for its view, but the proposal for 5' side setback allowances will destroy view of area – they will be looking at nothing but roofs and walls. City has received a number of awards, don't think any of them had to do with looking at roofs and houses, but instead involved the presence of greenspace.

No more public comment was received.

Commissioner Myres stated that a lot of what she likes about the site is the way it is laid out, but this density is not appropriate at this time and place. Stretching it a bit to consider it infill. Do not agree with this development and therefore will not support approval.

Commissioner Graves stated he will have to agree with Commissioner Myres. Typically he is supportive of development, voted in support of a number of the projects these developers have done on this side of the town, but I don't think I've seen any of them where it was proposed to drop something so dense in the middle of agricultural, one-acre, and two-acre property. May just be a matter of time when this is a typical zoning request, but it is not infill at this time since it is at the edge of the City, and surrounded by lower density property. Cannot support.

Commissioner Kennedy asked about building minimum differences throughout the phases of the development.

Jorgensen stated that PA 1 will be a 1200-1300 SF home, then moving up into PA 3 into 1700 SF homes

Commissioner Kennedy asked if 2400-2500 SF homes were completely out of the question.

Jorgensen stated that they were.

Commissioner Trumbo stated that the Planning Commission is seeing dense developments come through on the outskirts of town and are bringing up the word "sprawl" quite a bit, certainly wouldn't consider this project infill, but if we let it develop as RSF-4 or RSF-2, it will in turn down the road be all sprawl. I agree that at this time it is possibly too soon for this project, but I'm getting to the point where I need a better definition of sprawl just to clarify, if we are going to approve RSF-4 in 25 years it will be sprawl. Another issue is the traffic coming back east and west, other than Wedington, you're going to have to go to Farmington. There is Persimmon, but it is not developed all the way, it's a very small street. To have a lot more traffic on that road going to the school and the Boys and Girls club might be considered dangerous, and it might be too much traffic, so I would imagine most of these folks are going to come down Persimmon instead of going to Wedington. If Persimmon were built out to a wider degree I

Planning Commission

July 14, 2008

Page 11 of 12

might be more in support of this project.

Commissioner Winston stated he would encourage more mixed use. One of the problems we're seeing is that it's all housing, with no infrastructure to support daily needs. There is a lot of potential for the site, and something creative can happen. Would like to see something with more mixed use.

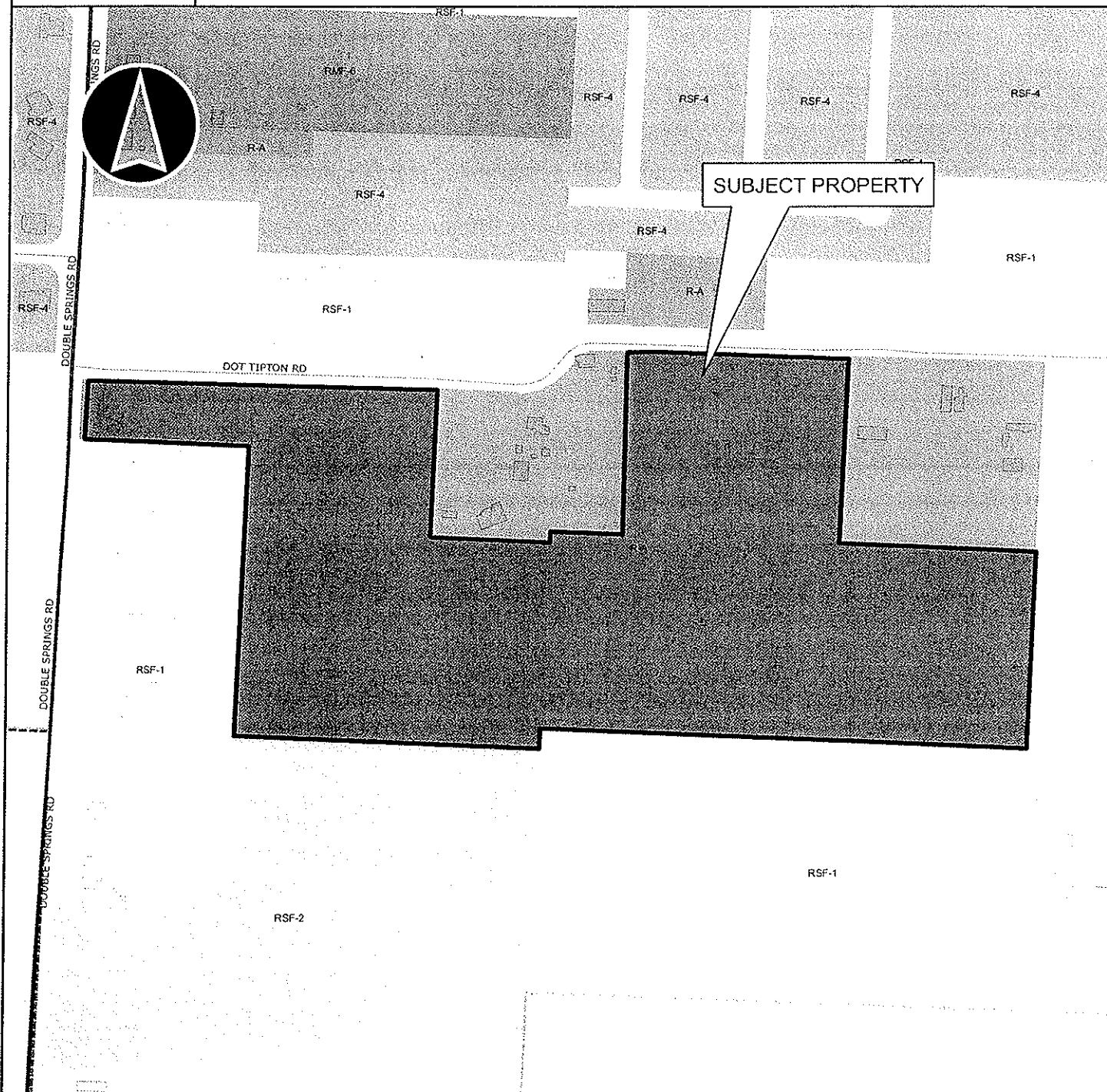
Motion:

Commissioner Myres made a motion to deny the request. **Commissioner Graves** seconded the motion. **Upon roll call the motion passed with a vote of 6-1-0, with Commissioner Kennedy voting no.**

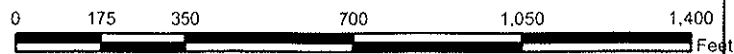
RPZD08-2965

AMBERWOOD PLACE

Close Up View



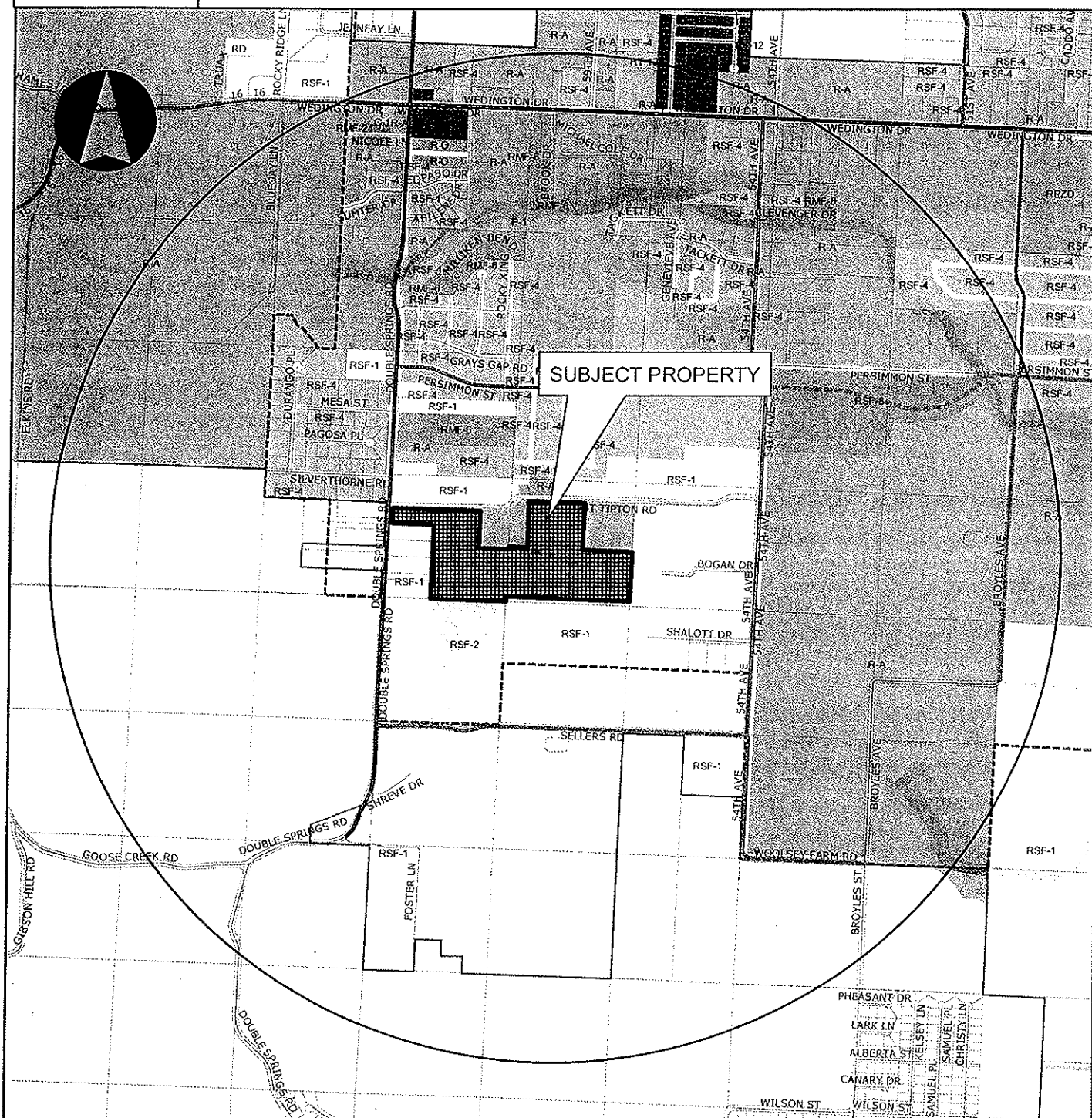
Overview



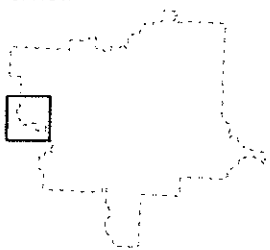
RPZD08-2965

One Mile View

AMBERWOOD PLACE



Overview



Legend

Subject Property

RPZD08-2965

Boundary

Planning Area

Overlay District

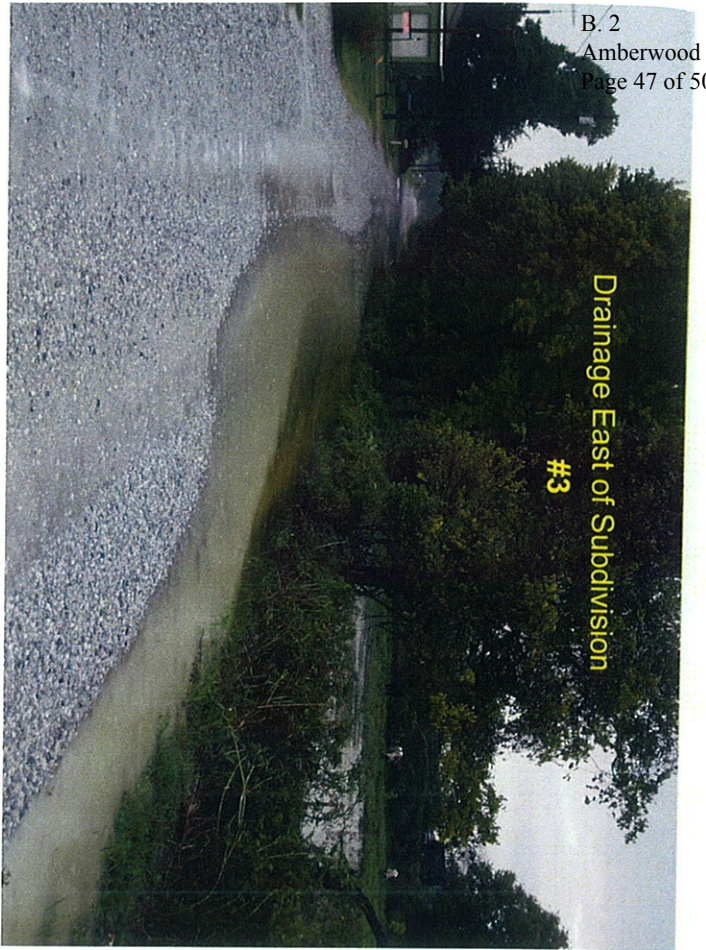
Outside City

Legend

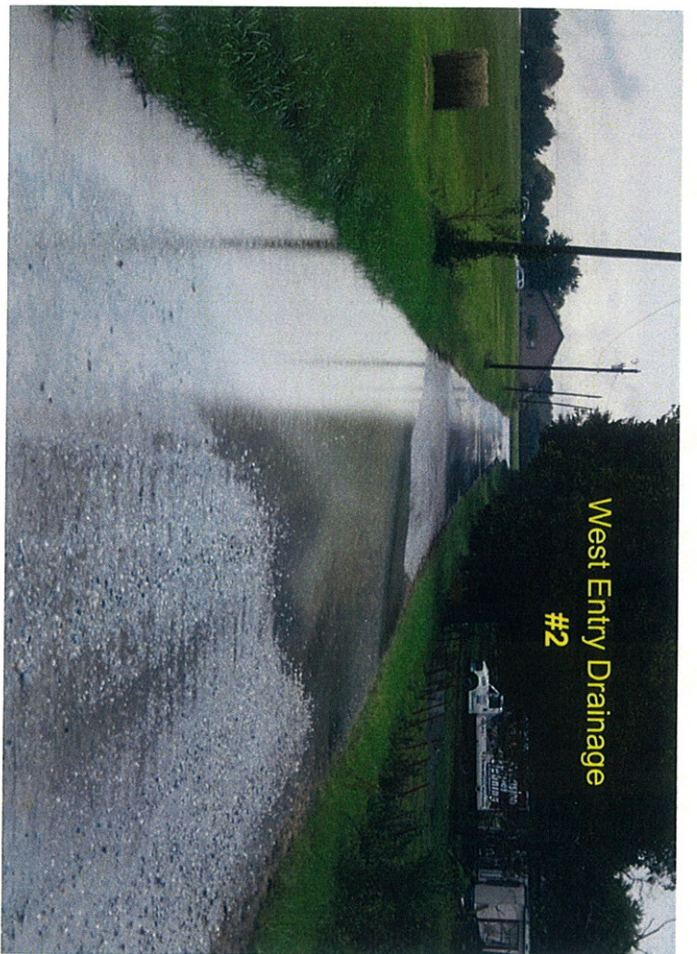
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

Drainage East of Subdivision
#3



West Entry Drainage
#2



Drainage East Entry
#1

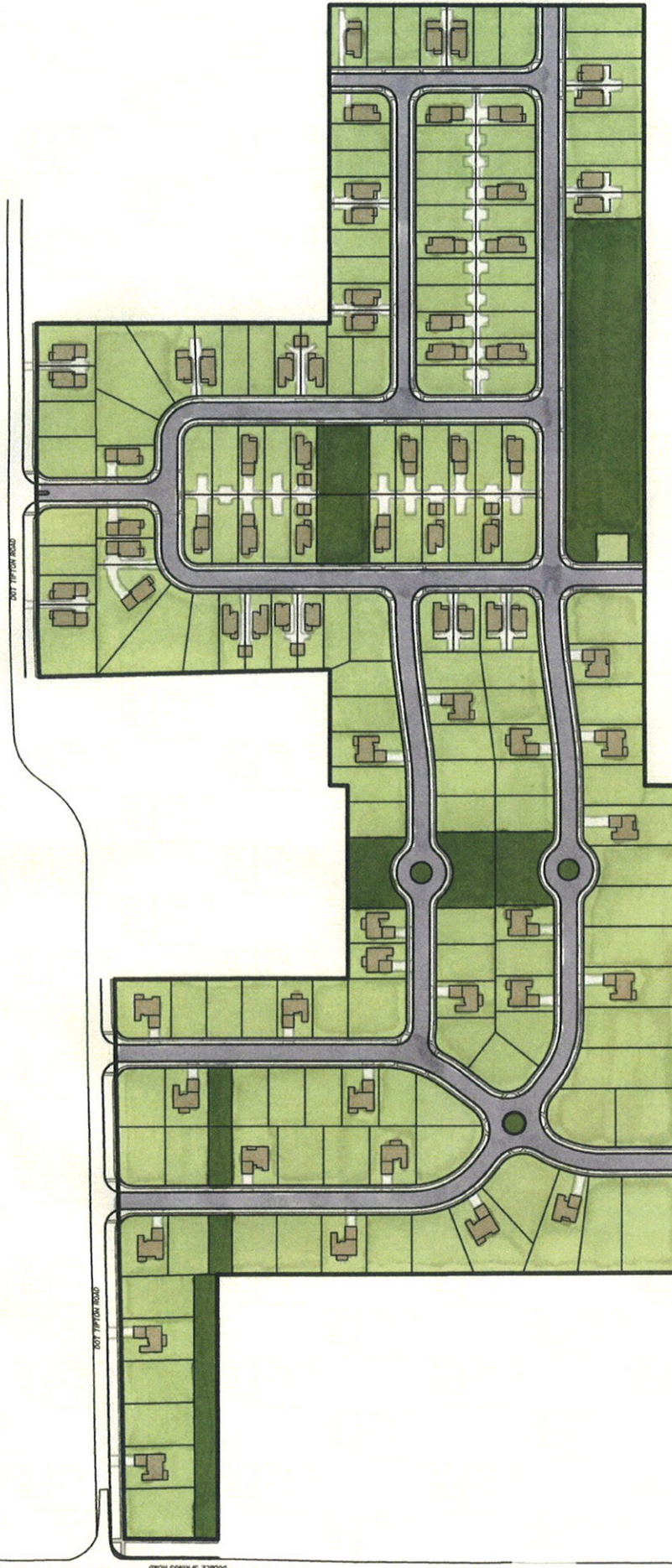


East Entry Drainage
to the West
#4



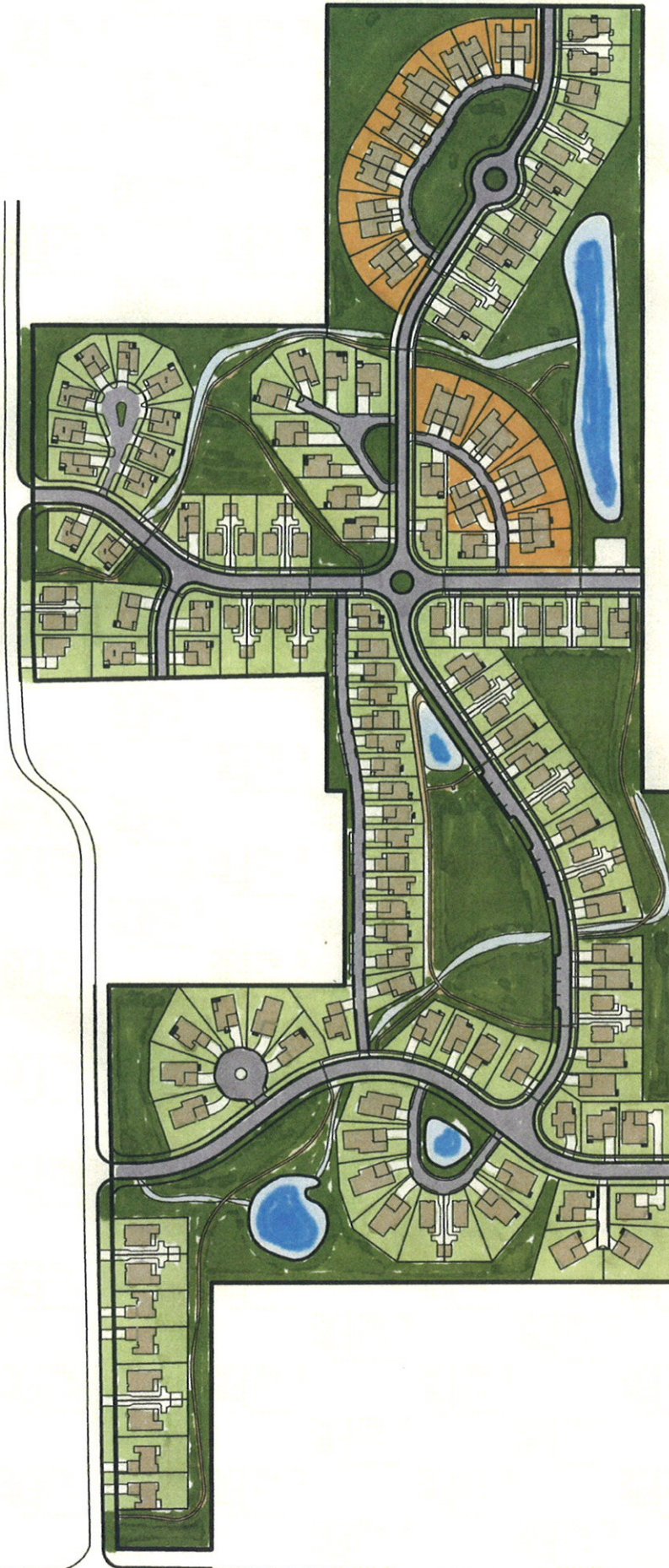
AMBERWOOD PLACE

ORIGINAL PZD



LAND USE TABLE				
SYMBOL	LAND USE	UNITS	ACRES	% OF TOTAL LAND (4.0 AC)
SF	SINGLE FAMILY	182	28	6.50
GS	GREEN SPACE	3.63		70.0
				9.0

AMBERWOOD PLACE



LAND USE TABLE				
SYMBOL	LAND USE	UNITS	ACRES	% OF TOTAL LAND (4.0 AC)
SF	SINGLE FAMILY	124	16.94	7.32
MF	MULTI FAMILY	24	2.59	9.26
GS	GREEN SPACE	14.0		35.0

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

1214 WEST LUMBERDALE, SUITE 100 • FAYETTEVILLE, ARKANSAS 72701 • (479) 422-0127 • FAX (479) 482-4805

SCALE: NTS
DATE: 3/3/09
CHECKED BY: DLJ
DRAWN BY: J. LUBBARD
J. LUBBARD 1200544

AMBERWOOD PLACE
CONCEPT DRAWING

AGENDA REQUEST

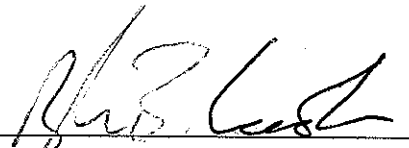
FOR: COUNCIL MEETING OF MARCH 17, 2009

FROM: ALDERMAN KYLE COOK

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Limit Newspaper Publishing To Only Legally Required Items

APPROVED FOR AGENDA:


Kyle Cook
Alderman

3-10-09
Date


Kit Williams
City Attorney (as to form)

3-2-09
Date

Tabled to 4/7/09 mtg 3/17/09

RESOLUTION NO. _____

**A RESOLUTION TO LIMIT NEWSPAPER PUBLISHING TO
ONLY LEGALLY REQUIRED ITEMS**

WHEREAS, the City of Fayetteville has been publishing many items such as City Council and Planning Commission Agendas which are not legally required to be published; and

WHEREAS, because of the national recession, city revenues are falling below budget forecasts; and

WHEREAS, reducing publication costs during this period of reducing revenues could help preserve city funds for other vital needs.

**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 requests that the City only publish those notices and ordinances required to be published by state law and that any necessary changes in the Fayetteville Code including the Unified Development Code that require additional publication be presented to the City Council to be amended to remove such non-statutorily required publication.

PASSED and APPROVED this 17th day of March, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

City Council Agenda Items
and
Contracts, Leases or Agreements~~3/17/2009~~ 4/7/2009City Council Meeting Date
Agenda Items OnlyJeremy Pate *X*
Submitted ByPlanning
DivisionOperations
Department

Action Required:

Approval of an ordinance consenting to the request by Steven and Sandra Tennant and Al and Yvonne Samples to simultaneously de-annex properties from the City of Fayetteville and annex said properties into the City of Farmington, as adopted by the the City of Farmington in Ordinance No. 2009-02.
5n/a
Cost of this requestn/a
Category / Project Budgetn/a
Program Category / Project Namen/a
Account Numbern/a
Funds Used to Daten/a
Program / Project Category Namen/a
Project Numbern/a
Remaining Balancen/a
Fund NameBudgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

n/a

City Attorney

Date

Original Contract Date:

n/a

Original Contract Number:

n/a

Finance and Internal Services Director

Date

Received in City
Clerk's Office

ENTERED

Chief of Staff

Date

Received in
Mayor's OfficeENTERED
2/27/09

Mayor

Date

Comments:

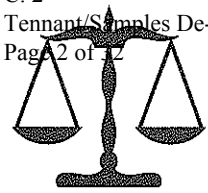
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

C. 2
Tennant/Samples De-annexation
Page 2 of 12



LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
City Council

CC: **Farmington City Clerk**

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to be 'Kit Williams', written over a horizontal line.

DATE: **March 17, 2009**

RE: **Simultaneous detachment to Farmington (second ordinance)**

Farmington has passed Ordinance No. 2009-05 on March 9, 2009 and provided a copy to Fayetteville. We have notified Farmington to publish the 15 day pre-hearing notice so that Fayetteville can conduct a hearing on this detachment during its April 7, 2009 meeting.

This decision is totally within your discretion. Please see the memos from Jeremy Pate and Steve Davis to explain why the two property owners are seeking this simultaneous detachment/annexation.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Director Current Planning *JP*

Date: 23 February 2009

Subject: Tennant / Samples De-annexation

RECOMMENDATION

The request is to adjust the the city's municipal boundary in order to allow Farmington's City Attorney to reside within the City of Farmington on property recently annexed by general election into the City of Fayetteville. Absent any specific policy directives from the City Council regarding deannexation, staff has evaluated the request and does not object to the proposed deannexation, finding that the unique circumstances surrounding this request of the Farmington City Attorney will not establish a precedent for future de-annexation requests from the City of Fayetteville, and finding that the reduction of agriculturally-zoned land in this area of the City will not have a great impact on future services or revenue.

BACKGROUND

The subject property contains three parcels totaling approximately 15 acres located within the City of Fayetteville. The property is accessed from Wilmoth Road, east of 85th Avenue, and currently contains a recently constructed single family home, accessory structures and agricultural land. The land is owned by the Tennants and Samples, all family members. The petitioner, Mr. Tennant, has served as the city attorney for the City of Farmington since 1998. Mr. Tennant has resided within the city limits of Farmington, until the completion of his family's new home on the subject property, which was in the unincorporated area of Washington County. The petitioner believed he could continue to serve as Farmington's elected city attorney while residing at the new location within Washington County, and to use the property for farming and hunting purposes, with the option to voluntarily annex into the City of Farmington at some later date. However, in 2006, this property was annexed into the City of Fayetteville by general election, which complicates the ability of Mr. Tennant to remain as city attorney for Farmington. The Attorney General recently opined that a city's attorney must reside at all times within the jurisdiction they represent (see attached AG opinion), which is applicable in this case. The options presented to Mr. Tennant are:

- 1) Attempt to sell the property and recently constructed home and reside in Farmington;
- 2) Resign as City Attorney, requiring Farmington to call a special election or contract for services
- 3) Request to de-annex from Fayetteville and annex into Farmington.

It is Mr. Tennant's desire to continue to serve as Farmington's city attorney, and live in the newly constructed home on his family's land. The intended use of the land is rural residential, a goal that is more consistent with nearby land use within Farmington than that of Fayetteville. Consequently, the applicant has petitioned the cities of Farmington and Fayetteville for a municipal boundary amendment. Pursuant to A.C.A. §14-40-2101, two contiguous municipalities may simultaneously detach and annex territory, subject to approval from the governing body of each municipality.

DISCUSSION

The City of Farmington has agreed to the petitioner's request, and accordingly adopted Ordinance No. 2009-02. In addition, the petitioner provided a summary of comments from Emergency Response providers of Farmington, which all supported this request. The unique circumstances of this particular petition demonstrate to staff that the request does not establish a precedent for future de-annexation in a similar manner.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE CONCURRING WITH FARMINGTON ORDINANCE NO. 2009-05, PROVIDING FOR THE VOLUNTARY DETACHMENT OF CERTAIN LANDS FROM THE CITY OF FAYETTEVILLE, AND ATTACHING SAID LANDS TO THE CITY OF FARMINGTON

WHEREAS, two property owners (Samples and Tennants) petitioned the Farmington City Council to be annexed into Farmington if the Fayetteville City Council agreed to detach their property described in Exhibit "A" from Fayetteville; and

WHEREAS, Farmington passed Ordinance No. 2009-02 on March 9, 2009 which states that if the Fayetteville City Council votes for the proposed detachment and annexation ordinance, then "a *prima facie* case for detachment and annexation (of the property described in Exhibit A) shall be established"; and

WHEREAS, the Fayetteville City Council held a public hearing on this subject as required by A.C.A. §14-40-201 on April 7, 2009, after Farmington published a notice for this public hearing at least fifteen (15) days before the hearing.

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 concurs with Farmington Ordinance no. 2009-05 providing for the simultaneous detachment from Fayetteville and annexation into Farmington of that property described in Exhibit "A".

PASSED and APPROVED this 21st day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

FILED

2009 MAR 13 AM 9:00

KAREN COMBS BRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK

ORDINANCE No. 2009-05

AN ORDINANCE TO REPEAL ORDINANCE 2009-02 AND ADOPT A NEW ORDINANCE SIMULTANEOUSLY DETACHING TERRITORY FROM THE CITY OF FAYETTEVILLE AND ANNEXING SAID TERRITORY INTO THE CITY OF FARMINGTON, PURSUANT TO A.C.A. 14-40-2101

WHEREAS, A.C.A.14-40-2101 provides a procedure for the simultaneous detachment of territory from one municipality and annexation of such territory into an adjoining municipality; and

WHEREAS, Steven and Sandra Tennant and Al and Yvonne Samples are desirous of detaching from Fayetteville into Farmington.

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

SECTION 1. That Farmington Ordinance 2009-02 is repealed and this ordinance is adopted in its stead.

SECTION 2. That certain territory presently within the corporate limits of the City of Fayetteville is contiguous to and adjoins the City of Farmington. The City of Farmington hereby calls for the simultaneous detachment and annexation of the lands that are described in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 3. That the proposed detachment and annexation of lands described in Exhibit A was requested by the owners of the subject property.

SECTION 4. That a copy of this ordinance shall be sent to the governing body of the City of Fayetteville. Within sixty (60) days of the date this ordinance was proposed, the governing body of the City of Fayetteville shall conduct a public hearing on the proposed detachment and annexation.

SECTION 5. That at least fifteen (15) days prior to the date of the public hearing, the Farmington City Clerk shall publish a legal notice of said public hearing, which shall also set out the legal description of the territory proposed to be detached and annexed.

SECTION 6. That at said public hearing, officials of both municipalities, as well and property owners within the area proposed to be detached and annexed, may appear and present their views on the proposal.

SECTION 7. That at the next regularly scheduled meeting of the Fayetteville City Council following the public hearing, said City Council may bring proposed ordinance up for a vote to concur in the detachment and annexation. If approved, a prima facie case for detachment and annexation shall be established, and the City of Farmington shall proceed to render services to the newly annexed area.

PASSED AND APPROVED THIS 9th DAY OF MARCH, 2009.



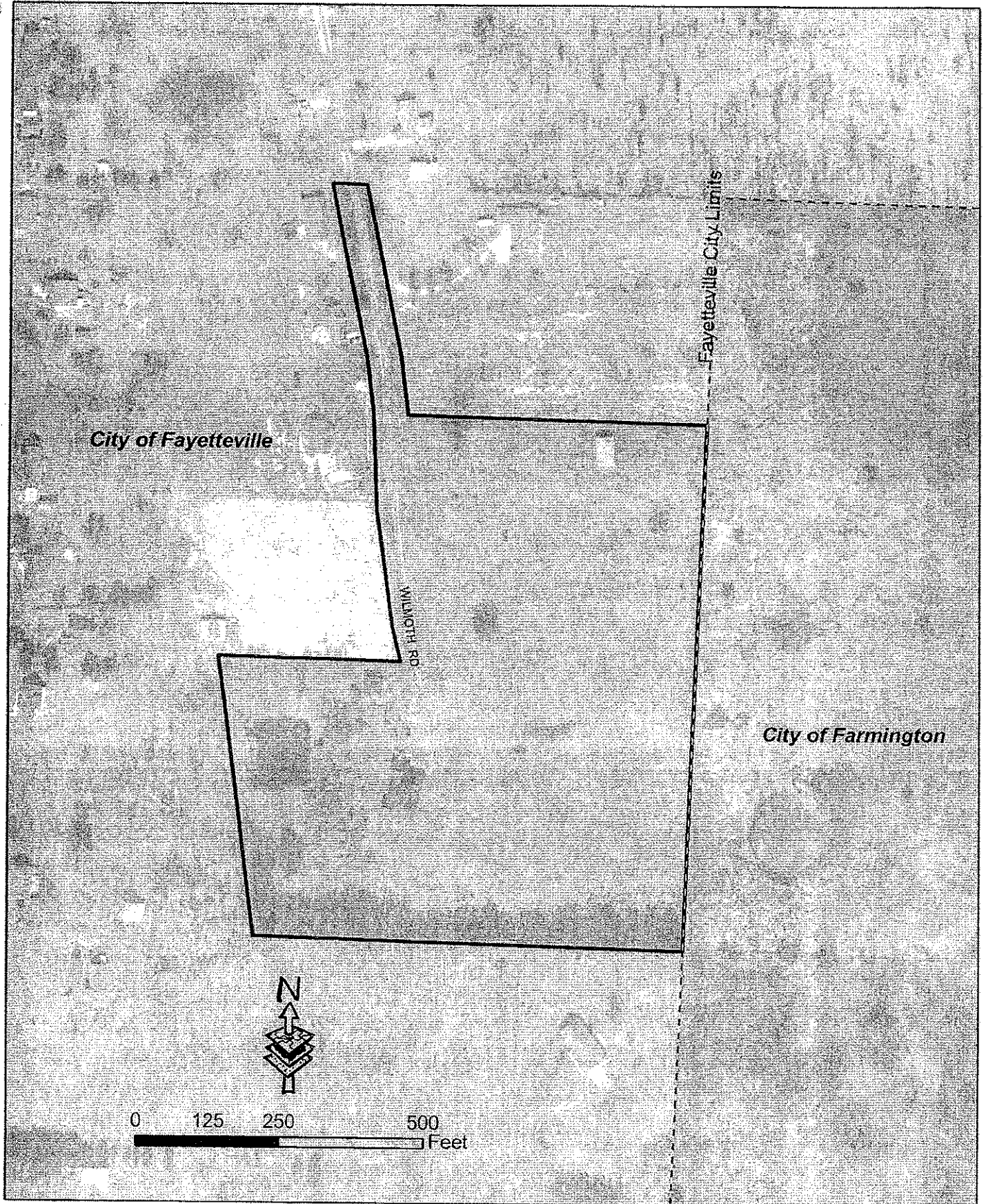
Kelly A. Thomas
Kelly Thomas, City Clerk

Ernie Penn, Mayor

EXHIBIT A
Tennant Detachment Legal Description

A part of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Sixteen (16), Township Sixteen (16) North, Range Thirty-one (31) West, described as beginning at a point which is N89°37'13"W 590.95 feet from the Northeast corner of said forty acre tract, said point being a found iron pin; thence N89°37'13"W 61.60 feet to a found iron pin; thence S13°20'00"E 310.13 feet to a found iron pin; thence S8°30'00"E 94.59 feet to a set iron pin; thence S03°40'00"E 169.90 feet to a set iron pin; thence S9°29'45"E 205.06 feet to a found iron pin; thence S15°19'30"E 64.13 feet to a found iron pin; thence S89°57'40"W 319.84 feet to a found iron pin; thence S9°01'00"E 496.80 feet to a found iron pin; thence along the South line of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ S89°43'03"E 762.00 feet; thence N0°43'02"W 923.77 feet to a set iron pin; thence N89°50'51"W 508.70 feet to a set iron pin; thence N8°30'00"W 104.70 feet to a found iron pin; thence N13°20'00"W 302.76 feet to the point of beginning, containing 15.01 acres, more or less, Washington County, Arkansas.

Exhibit B



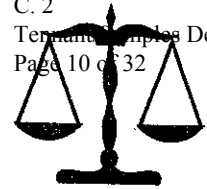
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

C. 2
Termination of De-annexation
Page 10 of 32



LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
Don Marr, Chief of Staff
Jeremy Pate, Current Planning Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **February 27, 2009**

RE: **Simultaneous detachment/annexation of two parcels from Fayetteville into Farmington**

Ordinance No. 2009-02 was passed by the Farmington City Council on January 12, 2009, and filed for record on January 30, 2009. By letter dated February 19, 2009, Davis Business Planning requested the Fayetteville City Council to agree with this simultaneous detachment/annexation and evidently supplied the ordinance and other documents including signatures of the property owners dated February 6th and 11th.

A.C.A. §14-40-2101 (b)(2) requires the governing body of the city where the lands are located to have a public hearing "within sixty (60) days of the proposal of the ordinance calling for detachment and annexation." This was January 12, 2009. However the statute also requires "(a)t least fifteen (15) days prior to the date of the public hearing, (Farmington) shall publish a legal notice" A.C.A. §14-40-2101 (b)(3)

Thus, we would have to schedule the public hearing early enough to allow Farmington to publish the 15 days notice. With the passage of the ordinance on January 12th, the last possible day the hearing could be held (within 60 days allowed by statute) is March 13th. Thus the notice would have to be published no later than February 27th (today).

Even if the City of Fayetteville was willing to have a special City Council meeting on Friday the 13th of March just for this public hearing, notice has not been published by Farmington, so we cannot legally hold such special meeting.

I see no solution to this timing mess, but for Farmington to pass another proposing ordinance and then send us this ordinance **PROMPTLY** so we can schedule the Public Hearing and notify Farmington so it can publish the 15 day prior notice in a timely fashion.



Davis Business Planning

P.O. Box 3381
Fayetteville, Arkansas 72702
Telephone Number: 479-935-4572
Fax Number: 479-935-4573
Web Site: Davisbusinessplanning.com



February 19, 2009

Fayetteville City Council
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Proposed Land Annexation from Fayetteville

Dear Council Members,

I am representing Steven and Sandra Tennant and Al and Yvonne Samples who request that the City of Fayetteville consider adjusting their city limits by allowing the detachment of their parcels #765-16159-930, #765-16159-900 and #765-16159-980 which currently lie within the city limits of Fayetteville.

This request is submitted for your review and consideration. The following discussion sets forth the options available to Mr. Tennant and his desire to continue to serve Farmington citizens as their elected City Attorney. The least disruptive solution for both Mr. Tennant and the City of Farmington is for Farmington and Fayetteville agree to a detachment of Steven and Sandra Tennant and Al and Yvonne Samples properties and for Farmington to agree to an attachment of their property.

The City of Farmington approved annexation of the subject property at its January 2009 City Council meeting with its passage of Farmington Ordinance 2009-002. Completion of the annexation is subject to Fayetteville's agreement to detach the subject parcels from its city boundaries.

The circumstances of this request are unique and do not lend themselves to establishment of any precedents. As you will note the remedy options available to Farmington and Mr. Tennant are very limited:

1. Mr. Tennant can petition to have his property detached from Fayetteville and attached to Farmington;
2. Mr. Tennant can continue to reside within the city limits of Farmington and not avail his family to their new home;
3. Mr. Tennant can resign as city attorney for Farmington and Farmington would have to seek another city attorney by special election; or,
4. If Mr. Tennant resigns, and no resident attorney is willing to serve as city attorney, then the Farmington City Council and Mayor would have to seek a qualified attorney residing in Arkansas to provide legal services by contract.

The petitioner is the incumbent city attorney for the City of Farmington and has served as Farmington's City Attorney since 1998. On January 18, 2008 Dustin McDaniel, State of Arkansas's Attorney General issued an AG's Opinion that states, in part, that city attorney's must reside at all times within the jurisdiction they represent. Mr. Tennant has been a continuous resident of Farmington until the completion of his family's new home on the subject property. Prior to the issuance of the AG's Opinion,

the petitioner believed he could continue to serve as Farmington's elected city attorney at least until the next scheduled election. It is Mr. Tennant's desire to continue to serve the City of Farmington in his capacity as city attorney. Fayetteville Building Inspection Division performed the final building inspection on January 16, 2009 and issued the certificate of occupancy.

The petitioner had intended for the subject property to remain in an unincorporated part of Washington County so that his property would have been governed by Washington County standards and would have enabled the petitioner to continue to use his property for farming and hunting purposes with a future voluntary annexation into Farmington. This option changed with the annexation vote by Fayetteville. Once Fayetteville announced the new boundaries of their proposed annexation, all voluntary annexations were held in abeyance pending the results of the election. The petitioner expected Fayetteville's annexation vote to fail as had previous annexation votes by Fayetteville. Prior to Fayetteville's annexation vote, the petitioner sought to sell the property but the real estate market began to soften making it impossible for the petitioner to recover his investment. The option left to Mr. Tennant was to begin the process of using the property as his personal residence with a future request for detachment-attachment.

Failure of Mr. Tennant to gain approval of this detachment/attachment request will pose a hardship on Mr. Tennant and the City of Farmington. The hardships faced by Mr. Tennant is that he will either have to give up residing in his new home or give up being the elected city attorney. The hardship faced by Farmington, if this detachment/attachment is not approved, will be the call of a special election or contracting for city attorney services. If Farmington had to seek another attorney by special election, and no residing attorney(s), qualified or not, chose to run for office, the Mayor and City Council would have to contract for services with a qualified attorney within the State of Arkansas. If Farmington had to contract with an attorney qualified in city government to provide legal services the citizens of Farmington would be deprived of a city attorney directly accountable to them.

Other factors that enter into the consideration of granting this request include the land use impact and impact on emergency service delivery. Below is a brief discussion of these impacts as they relate to this proposed action.

Contiguous Land Use

The parcels are contiguous to the current Farmington city limits boundaries and lie adjacent to property owned by Roy and Betty Hummel. The property owners began development of the property in 2003 with the construction of a pond, workshop and a well. The use of the property envisioned by the owners is to complete fencing of the property and begin raising calves which is a use that is more consistent to the surrounding parcels within Farmington than they are with the adjacent parcels in Fayetteville.

Emergency Response Services

Both Farmington Fire and Police departments have been contacted to determine what impact, if any, the attachment of these parcels would have on Farmington's emergency services. Mark Cunningham, Fire Chief, City of Farmington Fire Department advised that the Farmington Fire Department would have a better response time than Fayetteville based on location alone. Brian Hubbard, Farmington Police Chief, advised that this area is already patrolled by the Farmington Department. This is due to the location being right up against the end of their route and this road is used by his department as a turn-around.

To aid in your deliberation of this request I have attached maps of the parcels and copies of emails between my office and the City of Farmington's Police Department.

In closing, this application for detachment-attachment presents some unique circumstances that would limit its use as a precedent in any future detachment-attachment requests from either city. The petitioner thanks you for your consideration of this request. Representatives of my firm and the petitioner are available to answer any questions you might have regarding this request.

Respectfully,



Stephen Davis
Davis Business Planning

Attachments:

Farmington Ordinance

Farmington City Council Agenda Packet

Arkansas Attorney General Opinion 2007-302

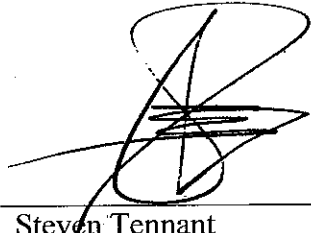
Arkansas Code 14-40-2101

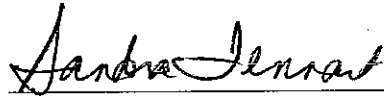
Location Maps

Copy of email from Farmington Police

We, Steven and Sandra Tennant and Al and Yvonne Samples, owners of parcels #765-16159-930, #765-16159-900 and #765-16159-980 petition the City of Fayetteville to detach our parcels so the detached parcels can be annexed into the City of Farmington.

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. *(If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)*

	2/6/09	Al Samples	2-11-09
Steven Tennant	DATE:	Al Samples	DATE:

	2/11/09	Yvonne Samples	2-11-09
Sandra Tennant	DATE:	Yvonne Samples	DATE:



Doc ID: 012682420003 Type: REL
 Recorded: 01/30/2009 at 02:32:12 PM
 Fee Amt: \$25.00 Page 1 of 3
 Washington County, AR
 Bette Stamps Circuit Clerk

File **2009-00002723**

ORDINANCE No. 2009-02

AN ORDINANCE SIMULTANEOUSLY DETACHING TERRITORY FROM THE CITY OF FAYETTEVILLE AND ANNEXING SAID TERRITORY INTO THE CITY OF FARMINGTON, PURSUANT TO A.C.A. 14-40-2101

WHEREAS, A.C.A.14-40-2101 provides a procedure for the simultaneous detachment of territory from one municipality and annexation of such territory into an adjoining municipality; and

WHEREAS, Steven and Sandra Tennant and Al and Yvonne Samples are desirous of detaching from Fayetteville into Farmington.

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

SECTION 1. That certain territory presently within the corporate limits of the City of Fayetteville is contiguous to and adjoins the City of Farmington. The City of Farmington hereby calls for the simultaneous detachment and annexation of the lands that are described in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 2. That the proposed detachment and annexation of lands described in Exhibit A was requested by the owners of the subject property.

SECTION 3. That a copy of this ordinance shall be sent to the governing body of the City of Fayetteville. Within sixty (60) days of the effective date of this ordinance, the governing body of the City of Fayetteville shall conduct a public hearing on the proposed detachment and annexation.

SECTION 4. That at least fifteen (15) days prior to the date of the public hearing, the Farmington City Clerk shall publish a legal notice of said public hearing, which shall also set out the legal description of the territory proposed to be detached and annexed.

SECTION 5. That at said public hearing, officials of both municipalities, as well and property owners within the area proposed to be detached and annexed, may appear and present their views on the proposal.

SECTION 6. That at the next regularly scheduled meeting of the Fayetteville City Council following the public hearing, said City Council may bring proposed ordinance up

KAREN CONNOR, CLERK
 CO. & PRO. CLERK
 WASHINGTON
 CO. ARK

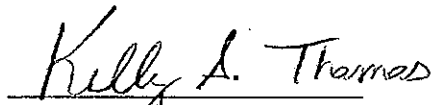
2009 JAN 30 PM 2:31

FILED

for a vote to concur in the detachment and annexation. If approved, a prima facie case for detachment and annexation shall be established, and the City of Farmington shall proceed to render services to the newly annexed area.

PASSED AND APPROVED THIS 12 DAY OF January, 2009.


Mayor


City Clerk



Davis Business Planning

P.O. Box 3381
Fayetteville, Arkansas 72702
Telephone Number: 479-935-4572
Fax Number: 479-935-4573
Web Site: Davisbusinessplanning.com



December 31, 2008

Farmington City Council
City of Farmington
354 W. Main
Farmington, AR 72730

Re: Proposed Land Annexation from Fayetteville

Dear Council Members,

I am representing Steven and Sandra Tennant and Al and Yvonne Samples who request that the City of Farmington consider adjusting their city limits thus allowing the annexation of their parcels #765-16159-930, #765-16159-900 and #765-16159-980 which lie inside the city limits of Fayetteville currently.

This request is submitted for your review and consideration. The following discussion sets forth the options available to Mr. Tennant and his desire to continue to serve Farmington citizens as their elected City Attorney. The least disruptive solution for both Mr. Tennant and the City of Farmington is for Farmington and Fayetteville agree to a detachment of Steven and Sandra Tennant and Al and Yvonne Samples properties and for Farmington to agree to an attachment of their property.

The circumstances of this request are unique and do not lend themselves to establishment of any precedents. As you will note the remedy options available to Farmington and Mr. Tennant are very limited:

1. Mr. Tennant can petition to have his property detached from Fayetteville and attached to Farmington;
2. Mr. Tennant can continue to reside within the city limits of Farmington and not avail his family to their new home;
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The petitioner is the incumbent city attorney for the City of Farmington and has served as Farmington's City Attorney since 1998. On January 18, 2008 Dustin McDaniel, State of Arkansas's Attorney General issued an AG's Opinion that states, in part, that city attorney's must reside at all times within the jurisdiction they represent. Mr. Tennant has been a continuous resident of Farmington until the completion of his family's new home on the subject property. The new home is scheduled for final inspection during mid-December 2008. Prior to the issuance of the AG's Opinion, the petitioner believed he could continue to serve as Farmington's elected city attorney at least until the next scheduled election. It is Mr. Tennant's desire to continue to serve the City of Farmington in his capacity as city attorney.

The petitioner had intended for the subject property to remain in an unincorporated part of Washington County so that his property would have been governed by Washington County standards and would have enabled the petitioner to continue to use his property for farming and hunting purposes with a future voluntary annexation into Farmington. This option changed with the annexation vote by Fayetteville. Once Fayetteville announced the new boundaries of their proposed annexation, all voluntary annexations were held in abeyance pending the results of the election. The petitioner expected Fayetteville's annexation vote to fail as had previous annexation votes by Fayetteville. Prior to Fayetteville's annexation vote, the petitioner sought to sell the property but the real estate market began to soften making it impossible for the petitioner to recover his investment. The option left to Mr. Tennant was to begin the process of using the property as his personal residence with a future request for detachment-attachment.

Failure of Mr. Tennant to gain approval of this detachment/attachment request will pose a hardship on Mr. Tennant and the City of Farmington. The hardships faced by Mr. Tennant is that he will either have to give up residing in his new home or give up being the elected city attorney. The hardship faced by Farmington, if this detachment/attachment is not approved, will be the call of a special election or contracting for city attorney services. If Farmington had to seek another attorney by special election, and no residing attorney(s), qualified or not, chose to run for office, the Mayor and City Council would have to contract for services with a qualified attorney within the State of Arkansas. If Farmington had to contract with an attorney qualified in city government to provide legal services the citizens of Farmington would be deprived of a city attorney directly accountable to them.

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The parcels are contiguous to the current Farmington city limits boundaries and lie adjacent to property owned by Roy and Betty Hummel. The property owners began development of the property in 2003 with the construction of a pond, workshop and a well. The use of the property envisioned by the owners is to complete fencing of the property and begin raising calves which is a use that is more consistent to the surrounding parcels within Farmington than they are with the adjacent parcels in Fayetteville.

Emergency Response Services

Both Farmington Fire and Police departments have been contacted to determine what impact, if any, the attachment of these parcels would have on Farmington's emergency services. Mark Cunningham, Fire Chief, City of Farmington Fire Department advised that the Farmington Fire Department would have a better response time than Fayetteville based on location alone. Brian Hubbard, Farmington Police Chief, advised that this area is already patrolled by the Farmington Department. This is due to the location being right up against the end of their route and this road is used by his department to turn around on.

To aid in your deliberation of this request I have attached maps of the parcels and copies of emails between my office and the City of Farmington's Fire and Police departments.

In closing, this application for detachment-attachment presents some unique circumstances that would limit its use as a precedent in any future detachment-attachment requests from either city. The petitioner thanks you for your consideration of this request. Representatives of my firm and the petitioner are available to answer any questions you might have regarding this request.

Respectfully,

Stephen Davis
Davis Business Planning

Attachments:

Arkansas Attorney General Opinion 2007-302

Arkansas Code 14-40-2101

Location Maps

Copy of email from Farmington Police

A part of the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section Six (6), Township Sixteen (16) North, Range Thirty-one (31) West, described as beginning at a point which is N89°37'13"W 590.95 feet from the Northeast corner of said forty acre tract, said point being a found iron pin; thence N89°37'13"W 61.60 feet to a found iron pin; thence S13°20'00"E 310.13 feet to a found iron pin; thence S8°30'00"E 94.59 feet to a set iron pin; thence S03°40'00"E 169.90 feet to a set iron pin; thence S9°29'45"E 205.06 feet to a found iron pin; thence S15°19'30"E 64.13 feet to a found iron pin; thence S89°57'40"W 319.84 feet to a found iron pin; thence S9°01'00"E 496.80 feet to a found iron pin; thence along the South line of the SW¼ of the NW¼ S89°43'03"E 762.00 feet; thence N0°43'02"W 923.77 feet to a set iron pin; thence N89°50'51"W 508.70 feet to a set iron pin; thence N8°30'00"W 104.70 feet to a found iron pin; thence N13°20'00"W 302.76 feet to the point of beginning, containing 15.01 acres, more or less, Washington County, Arkansas.



Opinion No. 2007-302

January 18, 2008

The Honorable Jack Critcher
State Senator
24 Rillington Drive
Batesville, Arkansas 72501-3711

Dear Senator Critcher:

I am writing in response to your request for an opinion on the following:

An attorney living inside the city limits of a first class city ran for office of City Attorney and was elected. During the term, the individual moved outside the city limits.

1. Under Article 19, Section 3 of the Arkansas Constitution, does an attorney seeking the office of City Attorney in a first class city have to live within the city limits where he is seeking office?
2. Under the same Article, once elected to the office of City Attorney in a first class city, does the individual have to continue living within the city limits throughout his or her term?
3. If the answer to the aforementioned question is yes, is Arkansas Code Annotated § 14-22-106^[1] in conflict with the state constitution?

¹ Arkansas Code Annotated § 14-22-106 is a provision of the county purchasing statutes that addresses certain purchases that are exempt from the requirement of soliciting bids. I assume that this reference is a typographical error and that you intended to ask about A.C.A. §§ 14-43-314, -315, & -319, which address the election or appointment of city attorneys in cities of the first class.

The Honorable Jack Critcher
State Senator
Opinion No. 2007-302
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RESPONSE

In my opinion, with respect to Question One, the answer is "yes" because Article 19, § 3 of the Arkansas Constitution requires elected municipal officers to reside within the political subdivision the officer serves. With respect to Question Two, absent legislative clarification or judicial interpretation to the contrary, in my opinion an elected city attorney for a city of the first class must continue to reside within the city throughout his or her term of office pursuant to Article 19, § 3. With respect to Question Three, in my opinion A.C.A. § 14-43-314 (Supp. 2007) does not conflict with the Arkansas Constitution.

Question One: Under Article 19, Section 3 of the Arkansas Constitution, does an attorney seeking the office of City Attorney in a first class city have to live within the city limits where he is seeking office?

In my opinion, Article 19, § 3 of the Arkansas Constitution requires elected municipal officers, such as the city attorney described in your request, to reside within the political subdivision the officer represents.

Article 19, § 3 states:

No persons shall be elected to, or appointed to fill a vacancy in, any office who does not *possess the qualifications of an elector*.

Id. (emphasis added).

Article 19, § 3 applies to city officers, and has been held to require the officer's residence in the political subdivision to be served by the official. *Thomas v. Sitton*, 213 Ark. 816, 212 S.W.2d 710 (1948); *see also Davis v. Holt*, 304 Ark. 619, 804 S.W.2d 362 (1991); and Op. Att'y Gen. 2002-105. A city attorney has been consistently referred to as an officer of the city or as an officer of the municipality. *See, e.g.,* Ops. Att'y Gen. 2007-059; 2006-113; 2002-209; and 97-038. As an officer of a city, a city attorney must meet the requirements set forth in Article 19, § 3 quoted above.

I have previously noted that the phrase "qualifications of an elector" in Article 19, § 3 includes a requirement of residency in the political subdivision to be served. *See* Op. Att'y Gen. 2007-055. In considering what standards for "residency" are

The Honorable Jack Critcher
State Senator
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required of a qualified elector, my immediate predecessor quoted with approval the following from an earlier opinion:

The Arkansas Supreme Court has interpreted the requirement of "qualifications of an elector" to include a requirement of residence in the political subdivision in question. *See Thomas v. Sitton*, 213 Ark. 816, 212 S.W.2d 710 (1948).

The court has recognized that the term "residence" can be rather nebulous, in that a person can conceivably have more than one residence, or can have a temporary residence. *See Davis v. Holt*, 304 Ark. 619, 804 S.W.2d 362 (1991). In construing the term "residence" for purposes of applying Article 19, § 3 of the Arkansas Constitution, however, the Arkansas Supreme Court appears to have equated "residence" with "domicile." *Davis, supra; Charisse v. Eldred*, 252 Ark. 101, 477 S.W.2d 480 (1972). The term "domicile" reflects the idea of both physical presence and an intent to remain permanently. *Davis, supra; Black's Law Dictionary* at 435 (5th ed., 1979); Op. Att'y Gen. No. 94-208.

It should be noted that the question of domicile (and therefore the question of residence in the context of Article 19, § 3) is one of fact that must be determined on the basis of all of the relevant factors. *Davis, supra; Charisse, supra*. One of the most important factors to be considered in determining a person's domicile (i.e., residence) is intent. *Id.* I have previously opined that other factors that are relevant to this consideration are location of residence ownership; voter registration information; location of the exercise of voting rights; location of personal property tax assessment; and other statements and conduct of the person involved. *See Op. Att'y Gen. 88-208.*

Op. Att'y Gen. 96-265 (quoted in Op. Att'y Gen. 2004-125); *see also* Op. Att'y Gen. 95-296 (equating "residence" with "domicile" for purposes of office-holding and opining that only a "resident" thus defined may serve on an Advertising & Promotion Commission).

Therefore, because Article 19, § 3 requires all elected office holders to possess the qualities of a "qualified elector," which includes being a "domiciliary" of the

The Honorable Jack Critcher
State Senator
Opinion No. 2007-302
Page 4

political subdivision, in my opinion an individual seeking to be elected city attorney must be "domiciled" within the city. Whether a particular individual is domiciled within a city is a question of fact that can only be properly determined by a court or other finder-of-fact reviewing all pertinent surrounding facts and circumstances.

Question Two: Under the same Article, once elected to the office of City Attorney in a first class city, does the individual have to continue living within the city limits throughout his or her term?

Absent judicial interpretation or legislative clarification to the contrary, in my opinion Article 19, § 3 should be interpreted to require the continued residence of a city attorney within the city he or she serves throughout his or her term.

My research has not revealed any specific precedent on whether Article 19, § 3 creates a constitutional requirement for a municipal officer to maintain residence in the political subdivision being served. As noted above, Article 19, § 3 applies to municipal officers. I have previously opined that Article 19, § 3 prohibits "any individual domiciled outside the city" from serving as an officer of a municipality. Op. Att'y Gen. 2007-055 at 8. The implication is that being a "qualified elector" is a qualification to hold office and if that qualification is absent, an individual would not be able to serve as an officer.² This common sense standard acknowledges that the Constitution requires a qualification to be eligible for office, and that it stands to reason that such qualification must continue to exist throughout the term for which the individual serves for the individual to remain eligible to fill the office. It would be absurd to require the residence of an individual in the municipality up to the day of his or her election but allow him or her to abandon the city's limits at some point thereafter.³

² Article 19, § 4 of the Arkansas Constitution specifically requires continued residence for State, county, and district officials, but is silent as to whether such a requirement also applies to municipal officers. An argument could be made that such exclusion indicates a lack of intent to apply such residency requirements to municipal officials; however the previous opinions of this office and statutory requirements persuade me otherwise.

³ I note that, while aldermen, the mayor, recorder, and treasurer are statutorily required to maintain a residence within a municipality throughout the term of office by A.C.A. § 14-42-201(c) (Supp. 2007), there is no such *statutory* requirement for a city attorney. An argument could be made that the General Assembly did not intend to limit a city attorney's residency by the exclusion of it from the requirements in A.C.A. § 14-42-201. However, as noted above, absent judicial interpretation or legislative clarification, in my opinion Article 19, § 3 of the Arkansas Constitution impliedly requires a continuing qualification of residency on all office holders supported by the language of A.C.A. § 14-43-314.

The Honorable Jack Critcher
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Opinion No. 2007-302
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I am bolstered in my opinion by the language of A.C.A. § 14-43-314 (Supp. 2007). In addressing the procedure for a municipality when no *resident attorney* is elected or there is no *resident attorney* to serve as city attorney, A.C.A. § 14-43-314 authorizes a municipality to contract with a licensed attorney or law firm for contract legal services "until such time as a *qualified* city attorney may be elected or appointed." *Id.* at (c)(2)(A) (emphasis added). In specifically addressing city attorneys and contingencies for a municipality that may not have an attorney residing there, the General Assembly has labeled resident city attorneys, either elected or appointed, as "qualified." This demonstrates, in my opinion, the continuing nature of the qualification of residence – one who is not residing within the city is not qualified.

In my opinion, implicit in the residency requirement of 19, § 3 is the requirement that the officer continue to reside within the political subdivision being served. In my opinion, the answer to your second question is therefore "yes."

Question Three: If the answer to the aforementioned question is yes, is [Arkansas Code Annotated § 14-43-314] in conflict with the state constitution?

In my opinion, A.C.A. § 14-43-314 does not appear to violate Article 19, § 3 of the Arkansas Constitution because it provides for contract legal services in the event that there is no qualified city attorney.

In pertinent part, A.C.A. § 14-43-413 states:

(a)(1) The city attorney in any city of this state having a mayor-council form of government and having a population of fifty thousand (50,000) or more inhabitants shall be elected by the qualified electors of the city in the same manner as other municipal officials are elected.

* * *

(c)(1) If no attorney residing in the city is elected as city attorney, the city council may select a resident attorney to fill the office for the remainder of the unfilled term.

The Honorable Jack Critcher
State Senator
Opinion No. 2007-302
Page 6

(2)(A) If no resident attorney of the city is willing to serve as city attorney or if no attorney resides within the limits of the city, the mayor and city council may contract with any licensed attorney of this state or the attorney's firm to serve as legal advisor, counselor, or prosecutor *until a qualified city attorney is elected or appointed*.

(B) The duties of a nonresident attorney under contract shall be prescribed by ordinance.

Id. (emphasis added).⁴

In assessing the constitutionality of a statute, the Arkansas Supreme Court has stated:

Statutes are presumed constitutional, and the burden of proving otherwise is on the challenger of the statute. *Ford v. Keith*, 338 Ark. 487, 996 S.W.2d 20 (1999); *ACW, Inc. v. Weiss*, 329 Ark. 302, 947 S.W.2d 770 (1997). If it is possible to construe a statute as constitutional, we must do so. *Jones v. State*, 333 Ark. 208, 969 S.W.2d 618 (1998). In construing a statute, we will presume that the General Assembly, in enacting it, possessed the full knowledge of the constitutional scope of its powers, full knowledge of prior legislation on the same subject, and full knowledge of judicial decisions under preexisting law. *McLeod v. Santa Fe Trail Transp. Co.*, 205 Ark. 225, 168 S.W.2d 413 (1943). We must also give effect to the legislature's intent, making use of common sense and giving words their usual and ordinary meaning. *Kyle v. State*, 312 Ark. 274, 849 S.W.2d 935 (1993).

Bunch v. State, 344 Ark. 730, 736, 43 S.W.3d 132 (2001).

⁴ I note that identical pertinent language is found in A.C.A. § 14-43-315 (Supp. 2007), addressing mayor-council cities with less than 50,000 residents and A.C.A. § 14-43-319 (Supp. 2007), addressing city attorneys in mayor-council cities of fewer than 5,000 residents. The analysis provided in this opinion, while solely referencing A.C.A. § 14-43-314, should be read as also applying to A.C.A. §§ 14-43-315 & -319. When addressing the election or appointment of city attorneys in cities of the second class, the General Assembly used significantly different language in A.C.A. § 14-42-112. Because your question concerns a city attorney in a city of the first class, I will therefore not address A.C.A. § 14-42-112. See Op. Att'y Gen. 98-041 for a discussion of the constitutionality of A.C.A. § 14-42-112.

The Honorable Jack Critcher
State Senator
Opinion No. 2007-302
Page 7

Looking to the plain and ordinary language of A.C.A. § 14-43-314, it is clear that the General Assembly has differentiated between the "office" of city attorney and a contract lawyer engaged to provide services while there is no "qualified city attorney." The statute specifies that the contracted attorney is only to be used until a "qualified city attorney" may be elected or appointed. The plain and unambiguous language of A.C.A. § 14-43-314 providing for a municipality to contract with a licensed attorney for legal work until a qualified city attorney may be elected or appointed does not make the contracted attorney the city attorney or represent an "office" to which article 19, § 3 is applicable.

In my opinion, because the attorney or firm under contract pursuant to A.C.A. § 14-43-314 does not hold the office of city attorney, there is no constitutional conflict with the residency requirement in Art. 19, § 3 of the Arkansas Constitution.

Assistant Attorney General Joel DiPippa prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:JMD/cyh

14-40-2101. Simultaneous detachment and annexation by two (2) cities.

- (a) When the boundaries of two (2) municipalities are contiguous to and adjoining one another, and one (1) municipality desires to detach and annex territory in another municipality, then the governing body of the municipality desiring to detach and annex territory may propose an ordinance calling for the simultaneous detachment of the lands from the one (1) municipality and the annexation of the lands into its municipal limits. The municipality desiring to annex land in the adjoining city, after the passage of the ordinance calling for detachment and annexation, shall send the ordinance to the governing body of the city or town in which the lands are located.
- (b) (1) The ordinance will provide a legal description of the lands proposing to be detached and annexed and describe generally the reasons for proposing the action.
- (2) The governing body of the city or town in which the lands are located shall conduct a public hearing within sixty (60) days of the proposal of the ordinance calling for the detachment and annexation.
- (3) At least fifteen (15) days prior to the date of the public hearing, the governing body of the proposing municipality shall publish a legal notice setting out the legal description of the territory proposed to be detached and annexed. Municipal officials of the proposing city or town, officials of the city or town in which the lands are located, and property owners within the area proposed to be detached and annexed may appear at the public hearing to present their views on the proposal.
- (c) (1) At the next regularly scheduled meeting following the public hearing, the governing body of the municipality in which the lands are located may bring the proposed ordinance up for a vote to concur in the detachment and annexation.
- (2) If a majority of the total number of members of the governing body vote for the proposed detachment and annexation ordinance, then a prima facie case for detachment and annexation shall be established, and the proposing municipality shall proceed to render services to the newly annexed area.
- (d) The decision of the municipal governing bodies shall be final unless suit is brought in the chancery court of the appropriate county within thirty (30) days after passage of the ordinance to review the mutual actions of the governing bodies.
- (e) (1) As soon as the ordinance proposing the detachment and annexation is final, the territory shall be deemed and taken to be a part and parcel of the limits of the city or town annexing it, and the inhabitants residing therein shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or town.

(2) The governing body of the annexing city or town shall direct the municipal clerk or recorder to duly certify one (1) copy of the plat of the annexed territory and one (1) copy of the proposing ordinance as adopted by both governing bodies to the county clerk.

(3) The clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.

History: Acts 1999, No. 988, § 1.



Message

Page 1 of 1

Joey Lockard

From: Brian Hubbard [BrianHubbard@cityoffarmington-ar.gov]
Sent: Tuesday, December 02, 2008 3:33 PM
To: 'Joey Lockard'
Subject: RE: Tennant Parcel #765-16159-900

MR. LOCKARD,

THE PARCEL OF LAND THAT YOU ARE SPEAKING ABOUT LIES AROUND GOOSECREEK RD. AND HARMON RD. WITH PART OF GOOSECREEK RD. ALREADY IN THE CITY LIMITS, WE PATROL THAT AREA FREQUENTLY. IF WE ARE NOT RESPONDING TO CALLS, WE ARE RUNNING RADAR OR JUST DRIVING THROUGH GOOSECREEK TO ACCESS OTHER PARTS OF THE CITY. IF THIS PARCEL OF LAND IS ANNEXED INTO THE CITY, THEN POLICE COVERAGE WOULD BE PROMPT. I THINK WE PATROL THAT STRETCH OF ROAD MORE THAN FAYETTEVILLE OR WASHINGTON COUNTY. I HOPE THIS LETTER HELPS IN REGARDS TO YOUR REQUEST. IF I NEED TO SEND SOMETHING IN LETTER FORM WITH MY SIGNATURE, JUST LET ME KNOW.

From: Joey Lockard [mailto:joeylockard@cox.net]
Sent: Tuesday, December 02, 2008 3:18 PM
To: brianhubbard@cityoffarmington-ar.gov
Subject: Tennant Parcel #765-16159-900

Mr. Hubbard,

We spoke on the phone a couple weeks ago about the Tennant property I am assisting Steve Davis in annexing into Farmington. I know you have told me that you already patrol this area due to it's location and where your officers turn around. I was hoping you could send me something in writing that I might attach to our proposal to that same extent. I greatly appreciate your assistance in this matter.

Joey Lockard

Davis Business Planning
PO Box 3381
Fayetteville, AR 72702

12/2/2008

City of Fayetteville Staff Review Form

C. 3

Westside Storage, Inc. Condemnation

Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Chris Brown

Submitted By

Engineering

Division

Development Services

Department

Action Required:

Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Westside Storage, Inc. that are necessary for the Ruppel Road Project.

\$ 92,545.00
Cost of this request\$ 500,000.00
Category / Project BudgetRuppel Rd (Wedington to Mt Comfort)
Program Category / Project Name4470.9470.5805.00
Account Number\$ 4,000.00
Funds Used to DateLand Acquisition
Program / Project Category Name06008.30
Project Number\$ 496,000.00
Remaining BalanceSales Tax Capital Improvements
Fund NameBudgeted Item ☒Budget Adjustment Attached ☐

Department Director

03.10.09
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

3/25/09
Date

Original Contract Number:

Finance and Internal Services Director

3-25-09
DateReceived in City
Clerk's OfficeENTERED
3-20-09
WHP

Chief of Staff

3/25/09
DateReceived in
Mayor's OfficeENTERED
3/25/09
BRP

Mayor

3/25/09
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director, Development Services Department

From: Chris Brown, Interim City Engineer

Date: March 19, 2009

Subject: Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Westside Storage, Inc. that are necessary for the Ruppel Road Widening Project.

RECOMMENDATION:

Staff recommends approval of a resolution authorizing the City Attorney to seek possession by condemnation of a portion of the property owned by Westside Storage, Inc. adjacent to Ruppel Road.

BACKGROUND:

On May 15, 2007 the City Council approved the Planned Zoning District for The Links Development located near the intersection of Wedington Drive and Ruppel Road. As a part of the approval, the developer was required to 1) Construct the eastern half of Ruppel Road to its Master Street Plan designation along the project frontage (two travel lanes and half a boulevard, 2.) Install new traffic signals on Ruppel Road and on Wedington, and 3) Widen Ruppel Road to the south of the development to Wedington Drive including all appropriate transition lanes and relocation of the existing signal. As a part of the approval, the City Council committed the City to acquire the right-of-way from the two existing property owners on the east side of Ruppel and south of The Links Development that are necessary to do the street widening.

DISCUSSION:

The owner of this property, Westside Storage, Inc. is represented by Dennis Caudle. The original offer letter dated February 13, 2008 to Mr. Caudle was \$22,365.00 for right-of-way and a general utility easement. After various discussions and meetings with Mr. Caudle, a second offer letter dated September 24, 2008 for \$74,045.00 was sent to Mr. Caudle for signature. This offer was accepted in writing on October 16, 2008 provided that an additional \$18,500.00 be added to the offer to pay for the additional expenses to move the entry gates that was not included in the estimate. It states on the estimate that the cost provided does not include the electrical wiring or conduit which is to be provided by the owner. Also, this is to help pay a portion of the expenses "incurred to pursue the PZD approval which has been extremely costly to us this far."

On November 6, 2008, City Council passed Resolution No. 209-08 approving a settlement with Westside Storage, Inc. in the amount of \$92,545.00 and releasing a provision of the Bill of Assurance. On January 6, 2009, City Council approved an Industrial Planned Zoning District with modifications for Westside Storage. Mr. Caudle finds the amended conditions of approval of his I-PZD unacceptable and is unwilling to sign the land acquisition documents.

Staff is in the process of ordering an appraisal and is confident that the appraised value will be less than the existing offer amount of \$92,545.00.

BUDGET IMPACT:

This payment for land acquisition will be made from the project budget of \$500,000 allocated for the Ruppel Road Widening Project which is funded by the Sales Tax Capital Improvements fund.

The agenda item staff review form indicates \$92,545.00 as the cost of this request. It should be noted that this is an estimate and that the final cost is subject to negotiations with the property owner or by court order. Once the City receives a property appraisal, it is anticipated that the appraised value will be deposited into the Registry of the Circuit Court as just compensation.

Attachments: Land Acquisition Exhibits
Resolution No. 209-08
City Council Agenda Memo dated October 17, 2008

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY WESTSIDE STORAGE, INC. NEEDED FOR THE RUPPLE ROAD PROJECT.

WHEREAS, the City of Fayetteville and Westside Storage, Inc. have been unable to agree on a fair price for the property owned by Westside Storage, Inc. that is needed for right-of-way and a general utility easement across a portion of Parcel No.765-16231-000; and,

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on improvements to Ruppel Road.

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 the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-16231-000 and owned by Westside Storage, Inc. that is needed for right-of-way and a general utility easement for improvements to Ruppel Road, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

RUPPLE ROAD

WESTSIDE STORAGE, INC.

WEDINGTON DRIVE

WESTSIDE STORAGE, INC.
VICINITY MAP

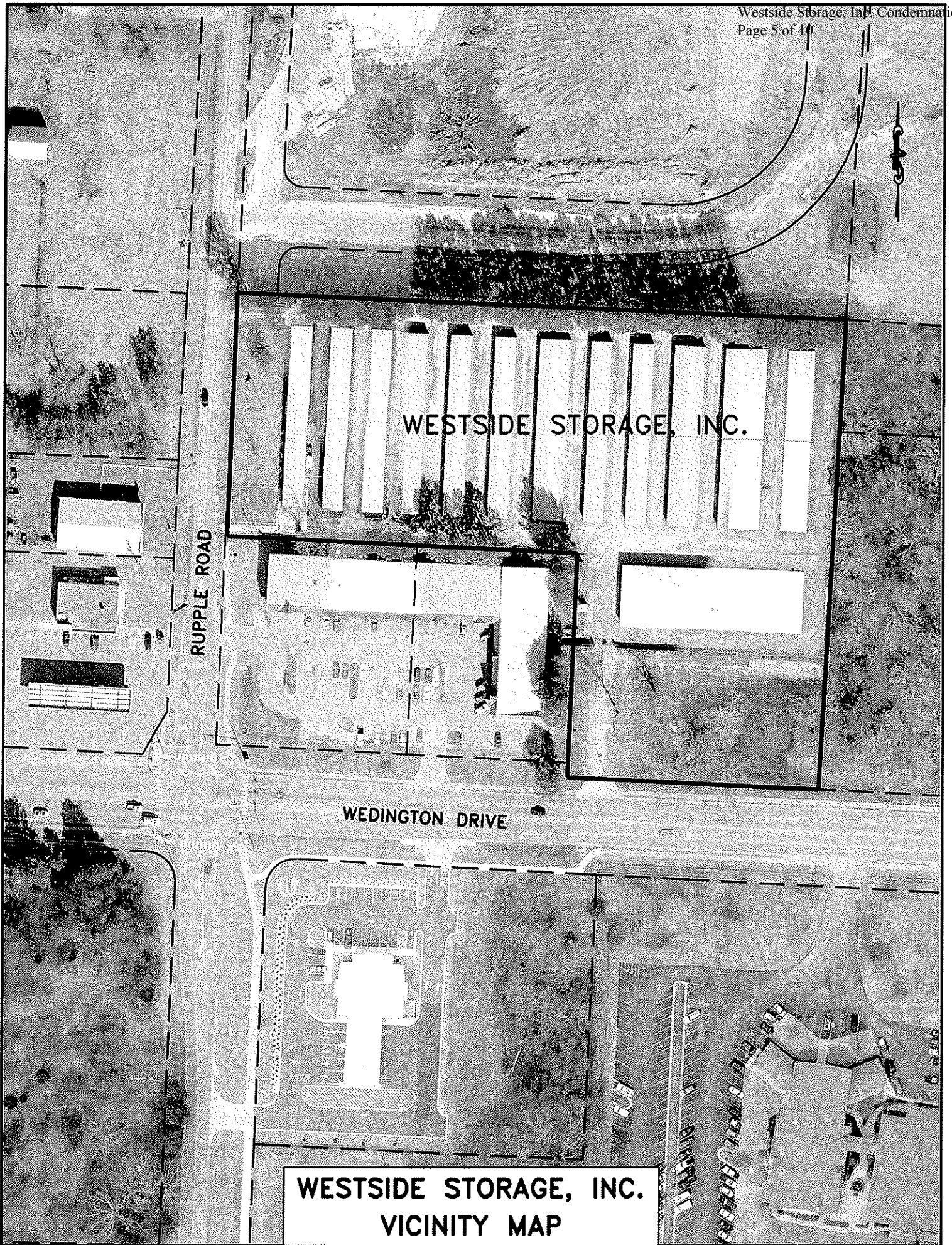


EXHIBIT A

WEST 632.10'

CURVE TABLE					
NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	DEGREE OF CURVE
C1	01°50'16"	140.00	4.49	2.25	40°55'32"
				CHORD DIRECTION	CHORD LENGTH
				S 01°30'21" W	4.49

PARCEL
765-16231-000
DEED 1420-568

47.88'

44.65'

POINT OF BEGINNING

EAST 375.10'

SW CORNER
SE 1/4 NE 1/4
12-16-31

WEDINGTON DRIVE

EAST 253.60'

765-16232-000
DEED 2001-22086

765-16233-000
DEED 2001-22086

S 00°10'00" E 267.00'

S 00°35'13" W 235.32'

N 00°10'00" E 239.80'

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C2	02°14'31"	120.00	4.70	2.35	47°44'47"	S 01°42'29" W	4.70

EAST 253.60'

10

Architects, Engineers & Surveyors

PROJECT NO.:

THIS RIGHT-OF-WAY SKETCH IS A REPRESENTATION OF THE SIZE, SHAPE, AND LOCATION OF THE RIGHT-OF-WAY TO WHICH IT IS ATTACHED; THIS DRAWING IS NOT A PLAT OF SURVEY.

RESOLUTION NO. 209-08

A RESOLUTION APPROVING A SETTLEMENT WITH WESTSIDE STORAGE, INC. IN THE AMOUNT OF \$92,545.00 FOR RIGHT-OF-WAY AND EASEMENT ACQUISITION FOR THE RUPPLE ROAD WIDENING PROJECT, AND TO RELEASE A PROVISION OF THE BILL OF ASSURANCE

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 settlement with Westside Storage, Inc. in the amount of \$92,545.00 for right-of-way and easement acquisition for the Ruppel Road Widening Project.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby releases the property owner from paragraph III of his July 10, 1990 Bill of Assurance: "Access for any development on the most northern 3.5 acres of said property shall be limited to Ruppel Road."

PASSED and APPROVED this 6th day of November, 2008.

APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

ATTEST:

By: *Amber Wood*
SONDRA E. SMITH, City Clerk/Treasurer
Deputy City Clerk



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: October 17, 2008

Subject: A resolution to approve a settlement with Westside Storage, Inc. in the amount of \$92,545 for right of way and easements for the Ruppel Road Widening Project.

RECOMMENDATION:

Staff recommends approval of the settlement with Westside Storage, Inc. in the amount of \$92,545 for right of way and easements for the Ruppel Road Widening Project.

BACKGROUND:

On May 15, 2007 the City Council approved the Planned Zoning District for The Links Development located near the intersection of Wedington Drive and Ruppel Road. As a part of the approval, the developer was required to 1) Construct the eastern half of Ruppel Road to its Master Street Plan designation along the project frontage (two travel lanes and half a boulevard, 2.) Install new traffic signals on Ruppel Road and on Wedington, and 3) Widen Ruppel Road to the south of the development to Wedington Drive including all appropriate transition lanes and relocation of the existing signal. As a part of the approval, the City Council committed the City to acquire the right-of-way from the two existing property owners on the east side of Ruppel and south of The Links Development that are necessary to do the street widening.

DISCUSSION:

On February 13, 2008 the City Engineering Staff sent an offer to acquire the necessary right-of-way and easements to Westside Storage, Incorporated based only on the acreage of the land to be purchased and the value of the property based on Washington County's appraised value. Several items that could be considered damages were brought up from the property owner during several onsite meetings. In general, the road surface for Ruppel Road is currently 67' to the edge of the first building in the development. This area currently contains the only parking for the facility. This first building contains the offices for the business and a keypad that vehicles must use to enter the facility is located at the southwest corner of the building. In order to use the keypad, a vehicle that is usually carrying a tow behind trailer must stop in this area between the building and the existing roadway.

The plans for the widening of Ruppel Road onto this property will bring the edge of the sidewalk within 28' of the building which would eliminate three of the five parking spaces. In addition, there will be insufficient room for vehicles towing trailers to utilize the existing key pad. This can best be seen on the aerial drawing that is included in this packet.

Several alternatives were examined to address these issues to the satisfaction of the business owner. After many discussions, the property owner decided that the only way that the business could continue was to relocate the entrance to access Wedington Drive and to build a new office at this entrance. The business owner has now submitted a conceptual PZD to be heard at the Planning Commission and tentatively scheduled for the November 18, 2008 City Council Meeting.

A second offer was submitted to Westside Storage on September 24, 2008 (see attached letter) subject to City Council approval which included payment of damages that includes moving the entry gates and driveway to access Wedington Drive and payment of six trees to be located in the proposed utility easement. It is important to note that the City Council must officially allow the connection to Wedington Drive since a Bill of Assurances dated July 10, 1990 (also attached) states that "Access for any development on the most northern 3.5 acres of said property shall be limited to Ruppel Road." This offer was accepted in writing (also attached) on October 16, 2008 provided that an additional \$18,500.00 be added to the offer to pay for the additional expenses to move the entry gates that was not included in the estimate. It states on the estimate that the cost provided does not include the electrical wiring or conduit which is to be provided by the owner. Also, this is to help pay a portion of the expenses "incurred to pursue the PZD approval which has been extremely costly to us this far."

BUDGET IMPACT:

There is currently \$500,000.00 in the Ruppel Road Capital Improvement Program account that was established in 2006 to acquire property and begin the engineering design for the widening of Ruppel Road between Mount Comfort Road and Wedington Drive. This project was placed on hold upon the submittal of The Links private development.

City of Fayetteville Staff Review Form

C. 4
Patrick J. Tobin – Ruppel
Road Project Condemnation
Page 1 of 8

City Council Agenda Items and Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Chris Brown

Submitted By

Engineering

Division

Development Services

Department

Action Required:

Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust that are necessary for the Ruppel Road Project.

\$ 20,000.00

Cost of this request

\$ 500,000.00

Category / Project Budget

Ruppel Rd (Wedington to Mt Comfort)

Program Category / Project Name

4470.9470.5805.00

Account Number

\$ 4,000.00

Funds Used to Date

Land Acquisition

Program / Project Category Name

06008.30

Project Number

\$ 496,000.00

Remaining Balance

Sales Tax Capital Improvements

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

03.20.09

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

3/24/09

Date

Original Contract Number:

Finance and Internal Services Director

3-25-09

Date

Received in City
Clerk's Office

ENTERED
3-20-09
LW

Chief of Staff

3/25/09

Date

Received in
Mayor's Office

ENTERED
3/25/09
BRP

Mayor

3/25/09

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director, Development Services Department X

From: Chris Brown, Interim City Engineer CB

Date: March 19, 2009

Subject: Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust that are necessary for the Ruppel Road Widening Project.

RECOMMENDATION:

Staff recommends approval of a resolution authorizing the City Attorney to seek possession by condemnation of a portion of the property owned by the Patrick J. Tobin Revocable Living Trust adjacent to Ruppel Road.

BACKGROUND:

On May 15, 2007 the City Council approved the Planned Zoning District for The Links Development located near the intersection of Wedington Drive and Ruppel Road. As a part of the approval, the developer was required to 1) Construct the eastern half of Ruppel Road to its Master Street Plan designation along the project frontage (two travel lanes and half a boulevard, 2.) Install new traffic signals on Ruppel Road and on Wedington, and 3) Widen Ruppel Road to the south of the development to Wedington Drive including all appropriate transition lanes and relocation of the existing signal. As a part of the approval, the City Council committed the City to acquire the right-of-way from the two existing property owners on the east side of Ruppel and south of The Links Development that are necessary to do the street widening.

DISCUSSION:

The owners of this property are represented by Patrick Tobin. The original offer letter dated February 27, 2008 to Mr. Tobin was \$10,140.00 for approximately 1,307 sq. ft. rights-of-way and 3,049 sq. ft. of general utility easement. After various discussions and meetings with Mr. Tobin, Mr. Tobin presented a verbal counter offer of \$20,000.00 to Ron Petrie, City Engineer. The City opted to accept this amount to allow the project to proceed, and a final offer letter dated November 4, 2008 for \$20,000.00 was sent to Mr. Tobin for signature.

On March 5, Mr. Tobin verbally conveyed to staff that he wanted more money (\$30,000) for the acquisitions. Staff is in the process of ordering an appraisal and is confident that the appraised value will be less than the existing offer amount of \$20,000.00.

BUDGET IMPACT:

This payment for land acquisition will be made from the project budget of \$500,000 allocated for the Ruppel Road Widening Project which is funded by the Sales Tax Capital Improvements fund.

The agenda item staff review form indicates \$20,000.00 as the cost of this request. It should be noted that this is an estimate and that the final cost is subject to negotiations with the property owner or by court order. Once the City receives a property appraisal, it is anticipated that the appraised value will be deposited into the Registry of the Circuit Court as just compensation.

Attachments: Land Acquisition Exhibits

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY THE PATRICK J. TOBIN REVOCABLE LIVING TRUST NEEDED FOR THE RUPPLE ROAD PROJECT.

WHEREAS, the City of Fayetteville and the Patrick J. Tobin Revocable Living Trust have been unable to agree on a fair price for the property owned by the Patrick J. Tobin Revocable Living Trust that is needed for rights-of-way and a general utility easement across a portion of Parcel No. 765-16232-000; and,

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on improvements to Ruppel Road.

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 the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-16232-000 and owned by the Patrick J. Tobin Revocable Living Trust that is needed for rights-of-way and a general utility easement for improvements to Ruppel Road, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



**TOBIN PROPERTY
VICINITY MAP**

EXHIBIT A

PARCEL 765-16231-000
DEED 1420-568

S 89°52'00" E 373.10'

765-16232-000
DEED 2001-22086

765-16233-000
DEED 2001-22086

S 00°00'00" W 267.00'

T16N,R31W

WEDINGTON DRIVE

N 89°52'00" W 373.10'

RUPPLE ROAD

N 00°00'00" E 267.00'

44.73'

S 00°44'10" W 119.49'

C1

S 00°00'27" E 75.26'

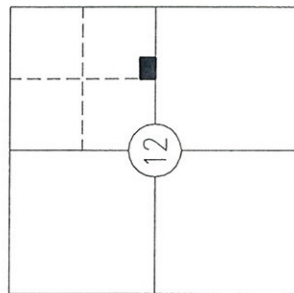
POINT OF BEGINNING

SW CORNER
SE 1/4 NE 1/4
12-16-31

55.00'



BASIS OF BEARING: ARKANSAS STATE PLANE
COORDINATE SYSTEM, NORTH ZONE, NAD 83
HORIZONTAL DATUM AND NGVD 29 VERTICAL DATUM
DETERMINED BY GPS OBSERVATION ON THE CITY OF
FAYETTEVILLE CONTROL MONUMENTS USING THEIR
PUBLISHED VALUES.



LINE TABLE

NUMBER	BEARING	DISTANCE
L1	S 41°33'54" E	18.96'
L2	N 89°52'00" W	55.75'

CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	DEGREE OF CURVE	CHORD DIRECTION	CHORD LENGTH
C1	00°44'37"	239.14	3.10	1.55	23°57'33"	S 00°21'52" W	3.10

THIS RIGHT-OF-WAY SKETCH IS A REPRESENTATION OF THE SIZE, SHAPE, AND LOCATION OF
THE RIGHT-OF-WAY TO WHICH IT IS ATTACHED. THIS DRAWING IS NOT A PLAT OF SURVEY.

LEGEND

PROPERTY LINE
PROPERTY LINE ADJOINER
RIGHT-OF-WAY PER THIS DOCUMENT
EXISTING RIGHT-OF-WAY

PROJECT NO: 068015-00

DATE: 02/25/2008

CHECKED: 1 OF 1



Crafton, Tull, Sparks & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756
479.636.4638 FAX: 479.631.6224
www.craftontullsparks.com

Architects, Engineers & Surveyors

EXHIBIT A

PARCEL 765-16231-000
DEED 1420-568

S 89°52'00" E 373.10'

765-16233-000
DEED 2001-22086

765-16232-000
DEED 2001-22086

S 00°00'00" W 267.00'

T16N,R31W

POINT OF BEGINNING

WEDINGTON DRIVE

N 89°52'00" W 373.10'

NUMBER	BEARING	DISTANCE
L1	N 41°33'54" W	18.96'
L2	S 89°52'00" E	15.00'
L3	N 89°52'00" W	2.43'

CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	DEGREE OF CURVE	CHORD DIRECTION	CHORD LENGTH
C1	00°44'37"	239.14	3.10	1.55	23°57'33"	N 00°21'52" E	3.10
C2	00°44'37"	224.14	2.91	1.45	25°33'45"	S 00°21'52" W	2.91

THIS RIGHT-OF-WAY SKETCH IS A REPRESENTATION OF THE SIZE, SHAPE, AND LOCATION OF THE RIGHT-OF-WAY TO WHICH IT IS ATTACHED. THIS DRAWING IS NOT A PLAT OF SURVEY.

LEGEND

PROPERTY LINE
PROPERTY LINE ADJOINER
EASEMENT PER THIS DOCUMENT
EXISTING RIGHT-OF-WAY
RIGHT-OF-WAY PER SEPARATE DOCUMENT

PROJECT NO: 068015-00

DRAWN: TW

DATE: 02/27/2008

SHEET: 1 OF 1

CHECKED:

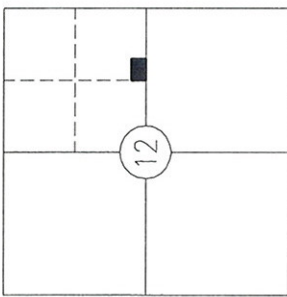


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901 N. 47th Street, Suite 200, Rogers, AR 72756
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www.craftontullsparks.com

Architects, Engineers & Surveyors



BASIS OF BEARING: ARKANSAS STATE PLANE
COORDINATE SYSTEM, NORTH ZONE, NAD 83
HORIZONTAL DATUM AND NGVD 29 VERTICAL DATUM
DETERMINED BY GPS OBSERVATION ON THE CITY OF
FAYETTEVILLE CONTROL MONUMENTS USING THEIR
PUBLISHED VALUES



RUPPEL ROAD

N 00°00'00" E 267.00'

S 89°52'00" E 55.75'

55.00'

SW CORNER
SE 1/4 NE 1/4
12-16-31

L2

C1

C2

L3

N 00°44'10" E 119.42'

S 00°00'27" E 89.68'

L1

City of Fayetteville Staff Review Form

C. 5
 Patrick J. Tobin – Township Street
 Widening Condemnation
 Page 1 of 8

City Council Agenda Items
 and
 Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
 Agenda Items Only

Chris Brown

Engineering

Development Services

Submitted By

Division

Department

Action Required:

Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust that are necessary for the Township Street Widening Project.

\$ 25,000.00

Cost of this request

\$ 2,080,000.00

Category / Project Budget

Township St (Gregg to N College)

Program Category / Project Name

4470.9470.5805.00

Account Number

\$ 243,111.00

Funds Used to Date

Land Acquisition

Program / Project Category Name

04017.30

Project Number

\$ 1,836,889.00

Remaining Balance

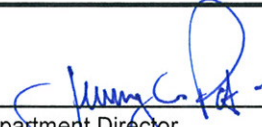
Sales Tax Capital Improvements

Fund Name

Budgeted Item

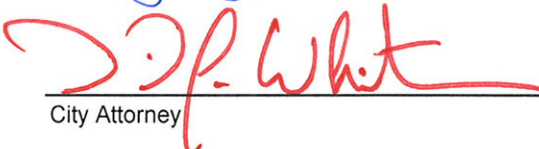
☒

Budget Adjustment Attached

☐

 Department Director
03-25-09
Date

Previous Ordinance or Resolution #

Original Contract Date:


 City Attorney
3/25/09
Date

Original Contract Number:


 Finance and Internal Services Director
3-25-09
DateReceived in City
Clerk's Office


 Chief of Staff
3/25/09
DateReceived in
Mayor's Office

 Mayor
3/25/09
Date


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director, Development Services Department *JP*

From: Chris Brown, Interim City Engineer *CB*

Date: March 19, 2009

Subject: Approval of a Resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Patrick J. Tobin Revocable Living Trust that are necessary for the Township Street Widening Project.

RECOMMENDATION:

Staff recommends approval of a resolution authorizing the City Attorney to seek possession by condemnation of a portion of the property owned by the Patrick J. Tobin Revocable Living Trust adjacent to Township Street.

BACKGROUND:

The Township Street Widening Project is one of the projects to be constructed under the Transportation Capital Improvements Program. This project consists of reconstructing & widening approximately 2100 linear feet of Township Street to 3 lanes from Gregg Avenue to N. College Ave. (Hwy 71B), the installation of an underground storm drainage system including a double 10'x8' reinforced concrete box culvert, the construction of 6 foot sidewalks on both sides of the roadway, and the installation of an 8" waterline on the north side as approved by the City Council and Street Committee.

Right of way and/or easements are required from 14 property owners on the Township Street Widening Project. City staff has acquired the necessary easements and rights-of-way from 12 of the 14 owners with a verbal agreement on the 13th property which is just a very small temporary construction easement adjacent to a side ditch. The Tobin property is the only remaining property of significance to acquire for this project.

DISCUSSION:

The owners of this property are represented primarily by Patrick Tobin with participation from his wife, Darlene. Mr. Tobin has expressed many concerns regarding the road widening project and is not willing to sign the acquisition documents due to these concerns.

Since the edge of the existing roadway does not have any controls such as curb & gutter, vehicles can access the buildings from any point along Township Street and park wherever they choose with some parking occurring regularly in the City's rights-of-way. Staff has presented Mr. Tobin with several alternate plans to accommodate parking after the widening. Staff recommends a plan with diagonal parking and 2 driveways (1 shared with adjacent property owner) as the safest plan with the best ease of accessing the proposed parking stalls.

Mr. Tobin also objects to the requested drainage easement and the general utility easement.

Staff has met with Mr. Tobin several times to negotiate the monetary compensation, the parking layout, the number of driveways, the drainage easement, the shared driveway, the relocation of electric poles, constructing portions of a new concrete parking area, etc. without any indication that an agreement can be achieved.

BUDGET IMPACT:

This payment for land acquisition will be made from the project budget of \$2,080,000 allocated for the Township Street Widening Project which is funded by the Sales Tax Capital Improvements fund. The agenda item staff review form indicates \$25,000 as the cost of this request. It should be noted that this is an estimate and that the final cost is subject to negotiations with the property owner or by court order. It is anticipated that the appraised value of \$14,000 (subject to an updated appraisal) will be deposited into the Registry of the Circuit Court as just compensation.

Attachments: Land Acquisition Exhibits
Proposed Parking Plan

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY THE PATRICK J. TOBIN REVOCABLE LIVING TRUST NEEDED FOR THE TOWNSHIP STREET WIDENING PROJECT.

WHEREAS, the City of Fayetteville and the Patrick J. Tobin Revocable Living Trust have been unable to agree on a fair price for a portion of the property owned by the Patrick J. Tobin Revocable Living Trust that is needed for right-of-way and easements across a portion of Parcel Nos. 765-16031-000 & 765-16032-000; and,

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on improvements to Township Street.

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 the City Attorney to file suit to seek court ordered possession of a portion of Parcel Nos. 765-16031-000 & 765-16032-000 and owned by the Patrick J. Tobin Revocable Living Trust that is needed for right-of-way and easements for improvements to Township Street, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Scale: 1"=50'



TOBIN PROPERTY
VINCINITY MAP

765-16024-000
TOP CAT ENTERPRISES

S03°00'00"W 1.72'

P.O.B. - D.E.

EXT. R/W

N03°00'00"E
68.22'

C.5
Patrick J. Tobin - Township Street
Widening Condemnation
Page 6 of 8

Scale: 1"=50'

765-16031-001
PATRICK & DARLENE
TOBIN

$\Delta = 00^{\circ}20'59"$
 $R = 12,964.00'$
 $L = 79.13'$
CHORD:
S84°08'57"E
79.13'

SATCITE
25.00'

S03°00'00"W 84.91'

S83°58'27"E
30.00'

45.57'
N12°24'43"E

55.64'
N16°30'49"E

PERMANENT
DRAINAGE
EASEMENT
(11,836 S.F.)

306.66'

STREET

TOWNSHIP

EXISTING

40' EXISTING R/W PER
DEED BK. 972, PG 465

T-17-N
T-16-N

711.63'

PROPOSED R/W
1,711 S.F.

765-16031-000
PATRICK & DARLENE
TOBIN

10' GENERAL
UTILITY EASEMENT

765-16032-000
PATRICK & DARLENE
TOBIN

36'

30'

99.96'

N84°34'56"W

S03°00'00"W
9.72'

S87°00'00"E

EXT. R/W

S87°00'00"E
305.31'

N03°00'00"E 76.76'

P.O.B.
R/W PED.

N03°00'00"E
12.70'

765-16029-000
T & P ENTERPRISES

PROP. R/W

SW CORNER
35-17-30

LEGEND

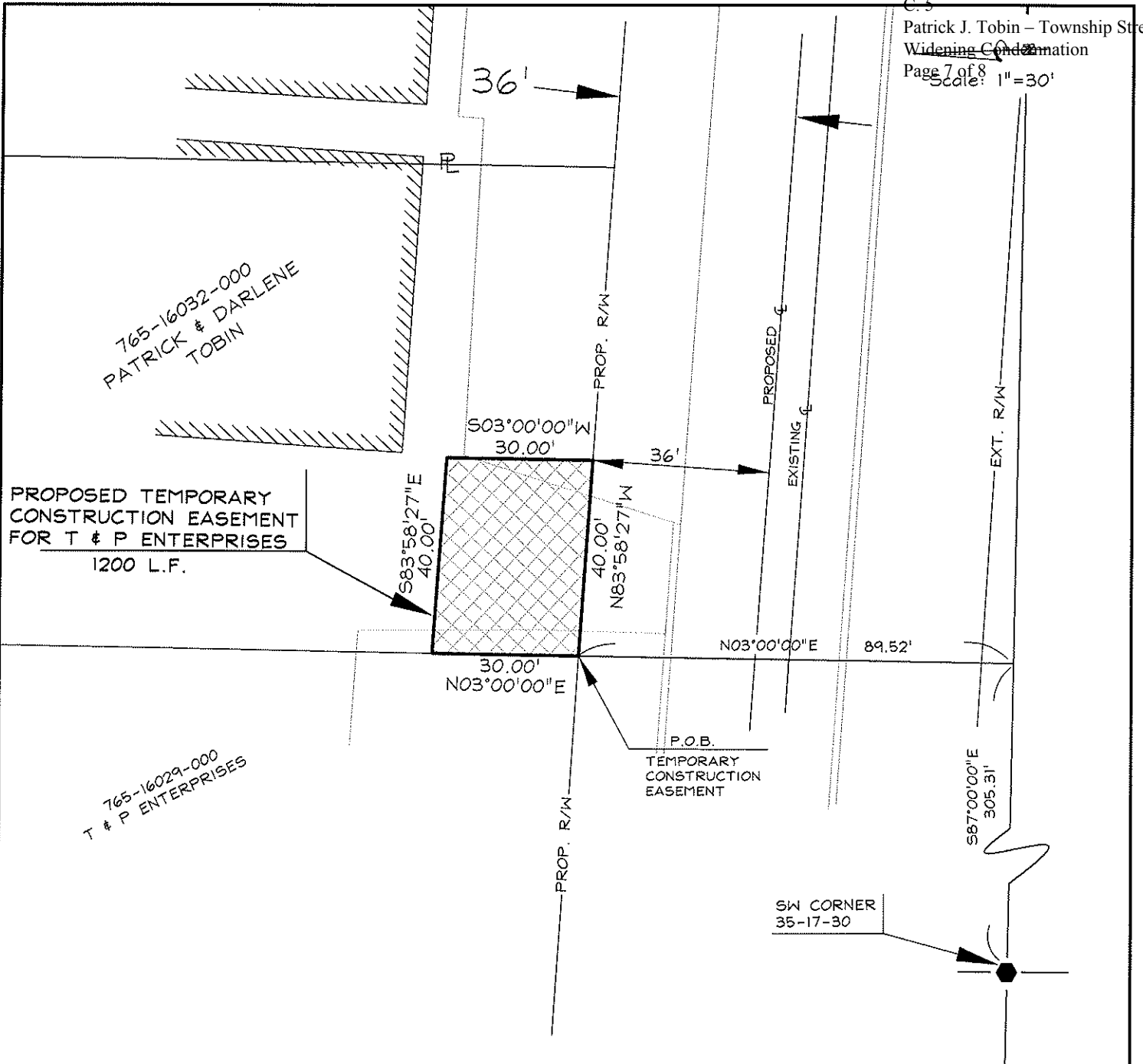
- FOUND STATE MONUMENT
- ▨ PROP. RIGHT-OF-WAY
- ▩ PROP. DRAINAGE EASEMENT

EXHIBIT "A"

APR. 2007

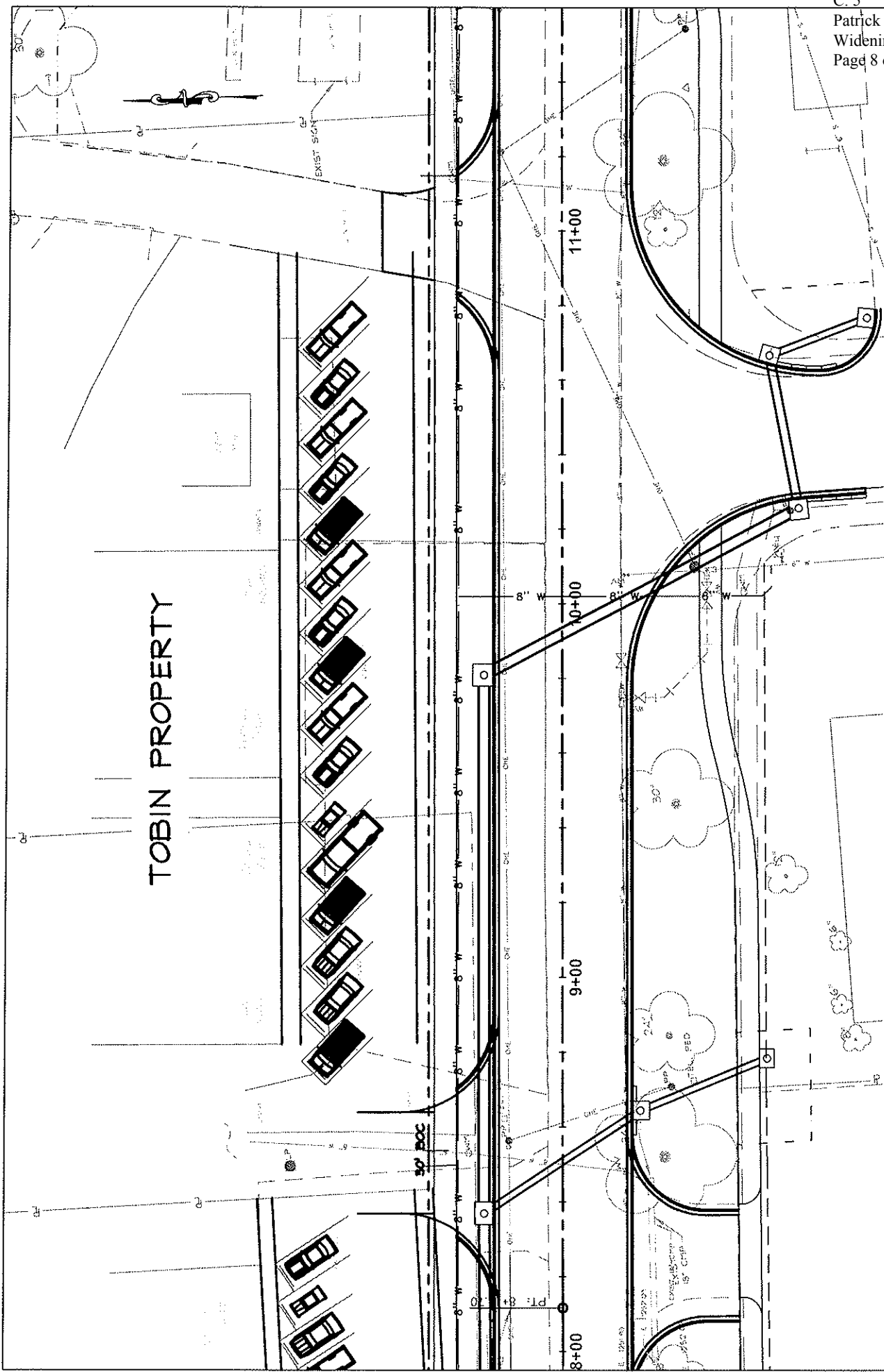
FEB. 2009: Revised D.E.

LAND ACQUISITION AND
EASEMENTS FOR
PATRICK & DARLENE TOBIN



LEGEND
● FOUND STATE MONUMENT
▨ PROP. TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "A"
SEPT. 2006
MAR. 2009: Revised Easement
TEMPORARY CONSTRUCTION EASEMENT FOR PATRICK & DARLENE TOBIN



**TOWNSHIP ST. WIDENING PROJECT
PROPOSED PARKING LAYOUT
TOBIN PROPERTY**

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Karen Minkel

Submitted By

Division

Strategic Planning/Internal Consult.

Department

Action Required:

Approval of a resolution adopting the proposed Fayette Junction Master Plan vision document and illustrative master plan (ADM 09-3211).

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Karen Minkel

Department Director

03-19-09

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

3/19/09

Date

Paul A. Bahr

Finance and Internal Services Director

3-20-09

Date

Received in City
Clerk's OfficeENTERED
3-19-09
WON

Chief of Staff

3/20/09

Date

Received in
Mayor's OfficeENTERED
3/19/09
PH

Mayor

3/23/09

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Karen Minkel, Strategic Planning and Internal Consulting Director *K.M.*

Date: April 7, 2009

Subject: Administrative item to pass a resolution adopting the Fayette Junction Master Plan vision document and illustrative master plan (ADM 09-3211).

RECOMMENDATION

Planning Staff and the Fayetteville Planning Commission recommend approval of a resolution to adopt the Fayette Junction Master Plan vision document and illustrative master plan.

BACKGROUND

The Fayetteville Planning Commission voted unanimously to recommend approval of the Fayette Junction Master Plan on February 23, 2009. City Plan 2025 set a goal of using a charrette process to generate a complete neighborhood plan once a year for the next five years for key areas of the City, and was adopted by the City Council on July 17, 2006. These plans were intended to incorporate key principles of City Plan 2025, including appropriate infill and revitalization, traditional neighborhood development, a green network and attainable housing. The Fayette Junction planning area was selected by the City Council on June 3, 2008 as the second complete neighborhood plan project.

The criteria used to select an area included: 1) Meets the City's goals as outlined in the City Council's Strategic Plan and City Plan 2025; 2) Is experiencing development pressure; 3) Has a high percentage of vacant or underutilized land; 4) Has potential partners in the design process; and 5) The Plan would be developed concurrently with road improvement projects. The Fayette Junction area met all these criteria.

City Goals: The Strategic Plan adopted by the City Council specifically mentions the need for revitalization and greater commercial development in South Fayetteville that would offer a variety of places to shop and eat. City Plan 2025 states, "We will make appropriate infill and revitalization our highest priorities." This area offered multiple opportunities for addressing all the goals outlined in City Plan 2025, with infill and revitalization remaining the highest priority.

Development Pressure: Development in this area of South Fayetteville is inevitable over the next several years. The proximity to the Arkansas Research and Technology Park as well as the development of companies such as BioBased Technologies and the wealth of existing infrastructure made this area a likely candidate for development and

RESOLUTION NO. _____

**A RESOLUTION TO ADOPT THE FAYETTE JUNCTION
MASTER PLAN VISION DOCUMENT AND ILLUSTRATIVE
MASTER PLAN.**

WHEREAS, The City of Fayetteville developed City Plan 2025 through a collaborative planning process in 2006; and

WHEREAS, City Plan 2025 calls for a comprehensive neighborhood master plan to be prepared every year; and

WHEREAS, the Fayette Junction Master Plan is the second neighborhood plan to be prepared by City Staff and reflects the guiding principles outlined in City Plan 2025; and

WHEREAS, the Fayette Junction Master Plan was developed through an intensive and inclusive charrette process involving all stakeholders;

**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 a resolution to adopt the Fayette Junction Master Plan vision document and Illustrative Master Plan.

PASSED and APPROVED this the 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

redevelopment. The Fayette Junction Master Plan creates a vision that directs new development toward the creation of complete, compact and connected neighborhoods. The desired outcome is a vision that meets the goals of City plans and policies and promotes economic development.

Vacant or Underutilized Land: Approximately 30 percent of the planning area is developable land that is vacant or underutilized, indicating opportunities for infill and revitalization.

Potential Partners in the Process: This area of South Fayetteville offered multiple resources and partners in the design process. The Long Range Planning Division worked closely with the University of Arkansas, the two established residential neighborhoods, developers and existing businesses located within the area.

Street Projects: The Arkansas Highway Department will begin the 15th Street Improvement project sometime after 2009. Construction on the Cato Springs Street Improvement project is scheduled to begin in late 2009. Both these projects will add to or improve the existing infrastructure in the proposed master plan area.

DISCUSSION

Over 100 citizens offered input on the vision for the Fayette Junction Master Plan area September 13-18. The charrette included a presentation from local historian Denele Campbell at a kick-off at Staybridge Suites on September 4, a Hands-on Design session on September 13, an Open Design Studio, an Open House and a Work-in-Progress session at the Arkansas Research and Technology Park. Ninety-four percent of the attendees at the Work-in-Progress session who completed a survey thought that the plan was “on the right track.” During the charrette process, the diverse voices and opinions of the residents, business owners and other stakeholders converged to shape three guiding principles.

The extensive floodplains and significant hillsides that flank the entrance into Fayetteville from I-540 necessitate a careful *integration of the natural and built environments*. Stakeholders repeatedly mentioned protection of the floodplains and the need for effective and innovative stormwater management techniques, and staff from the University of Arkansas stressed the importance of preserving the viewshed to Old Main, Fayetteville’s iconic building. The second guiding principle speaks to a regional concept of sustainable economic development. The Illustrative Plan envisions a *clean tech cluster*, which capitalizes on the presence of ARTP, BioBased Companies and stakeholders’ desire to see an advertisement for “Green Valley” at the entrance to Fayetteville. The envisioned clean tech cluster represents a firm commitment to sustainability by encouraging clean tech industry to locate in Fayette Junction. *Multi-modal transit* also plays a significant role in tying employment centers and residential areas together both within the Fayette Junction area and throughout the region. A trail network links ARTP to the larger university campus as well as to residential

neighborhoods within the planning area and the proposed clean tech cluster. Fayette Junction is envisioned as a transit hub, potentially evolving from a park-and-ride to a rail stop and demonstrating how transit-oriented development can become a reality.

The vision document provides implementation steps for the short-term (0-5 years), mid-term (6-10 years) and long-term. While the Illustrative Plan captures a vision for final build-out, the action steps provide a roadmap for achieving the vision. Short-term recommendations are those that require little capital investment and collaboration among different groups. The long-term recommendations require more significant capital investment or collaboration.

Short-term recommendations are to:

- Seek zoning changes along the Razorback Road corridor from I-540 to 15th Street;
- Amend the Master Street Plan to include key street connections;
- Amend the Future Land Use Map to reflect transit-oriented development at the historic Fayette Junction; and
- Establish a riparian buffer ordinance.

Mid-term recommendations are to:

- Preserve the Ogden Hillside at Razorback Road and I-540; and
- Add or repair sidewalks along existing streets within the neighborhood.

Long-term recommendations are to:

- Extend the Razorback Road boulevard cross-section from 15th Street to I-540.

The draft vision document and illustrative plan were made available to the public on January 26, 2009 and a final community presentation was given at BioBased Companies on February 5, 2009. Over 75 residents and stakeholders attended the presentation.

The Planning Commission unanimously forwarded the Fayette Junction Master Plan to the City Council with a recommendation for approval with a vote of 9-0-0, with significant street amendments to the Illustrative Plan and a minor change to the vision document. The Commission requested that staff add text regarding the benefits of riparian buffers in the short-term recommendation statement, which was changed accordingly. The Commission also added the Research and Technology Park's existing property master street plan to the Illustrative Plan in order to provide context, which staff now shows in the Plan.

The other street amendments to the Illustrative Plan have been divided into multiple exhibits for the Council to consider separately. Staff disagreed with a majority of the recommendations either because the change was not philosophically aligned with what the public expressed during the charrette and/or existing City policy or the change will require significant redesign work without the transparency of the design studio and without any substantive benefit.

The following exhibits are provided for Council discussion:

- 1) Exhibit A: This version of the Illustrative Plan incorporates two of the changes recommended by the Planning Commission and is the version staff recommends that the City Council adopt.
- 2) Exhibit B: This map shows all the changes recommended by the Planning Commission in red.
- 3) Exhibit C: The Planning Commission recommended roads “a,” “b,” and “c” to provide a significant east-west connection and two additional connections to 15th Street. Planning staff opposes connections “a” and “b” because they are entirely within the 100-year floodplain. One concern is environmental. The floodplains provide wildlife habitat and natural greenspace. The second concern is feasibility. Staff currently does not recommend approval of development within floodplains. The likelihood of this proposed road getting built without development paying for its construction is limited. This road would be added to the Master Street Plan as a collector street. Whether or not the City philosophically supports the construction of collector roads with a right-of-way requirement of 59 feet within floodplains is a significant policy decision. Road “c” could be built outside of the floodplain and staff could add the road to the Illustrative Plan, although it would require removing an existing building.
- 4) Exhibit D: The Planning Commission recommended road “a,” which extends from what was originally a stub-out, implying a north-south connection. Meetings with Campus Planning and the Athletics Department during the charrette led the charrette team to believe that the university has no intention of selling or developing this property into anything other than Road Hog Park. During the past month, staff discovered that the floodplain within the current university property is actually in a permanent conservation easement, which makes this connection impossible to build. Staff recommends showing a trail connection to the existing street network and leaving the stub-out at Garland on the map in anticipation of future development.
- 5) Exhibit E: The Planning Commission recommended an overpass or underpass at 18th Street and I-540. The Illustrative Plan currently shows an overpass at 15th Street. Both of these streets would be identified in the Master Street Plan. Staff’s concern with this recommendation is the feasibility of funding for construction of two highway crossings; if only one were possible, Staff would recommend the crossing at 15th Street.

Exhibits C-E are substantive policy decisions in staff’s opinion because they will be proposed as amendments to the Master Street Plan and/or conflict with staff’s recommendation. Exhibit C was proposed by a Commissioner during the charrette process and not included for the reasons stated above; whether or not to show roads entirely within the floodplain in a policy decision that needs to be resolved by the City Council.

Exhibits F-H, however, are design questions. The challenge with master plans, particularly in areas with greenfield or brownfield development rather than smaller infill projects, is that they can be designed with myriad configurations. Contrasted with areas like the Downtown or Walker Park Neighborhood where the skeletal infrastructure is well-defined, Fayette Junction lacks the narrow range of decisions about where proposed roads should be constructed. Instead, the design team is given a blank canvas in some areas.

The concern that staff has with the following exhibits is not the design proposals themselves. The concern is that the proposals will not substantively affect the overall Fayette Junction Master Plan concepts and will not affect the Master Street Plan, but they will require significant staff time to redesign. The concepts have also not been vetted by the public for the past six months. The intent of the charrette process is to “design in public,” which is why the design team invites key stakeholders, including elected and appointed officials to participate in special meetings during the charrette week. This participation ensures that design preferences are integrated into the Plan early in the process, enabling all stakeholders to comment on the product during the charrette events.

- 1) Exhibit F: The Planning Commission recommended frontage roads along the east and west sides of the railroad tracks and the other road segments called out in the exhibit to add additional street connections within this area. The design team also considered frontage roads along the railroad tracks (roads “b” and “c”) but chose to instead provide an option for a railroad spur. For example, if a solar panel company wanted to utilize freight transportation, it could capitalize on the railroad line adjacent to its facilities.

The charrette team consistently attempts to honor master plans created by current property owners within the planning area’s boundaries. This recognition is why the charrette team left Road Hog Park as it exists and why ARTP was excluded from the proposed boundaries. The design team treated the BioBased property similarly, limiting additional public roads to one north-south connection between Treat Street and Cato Springs Road in order to facilitate truck traffic in and out of the proposed clean tech park. Roads “a,” “e,” and “b” would add significant costs to the development of the property. Staff could support adding segment “a” to the Illustrative Plan, but would not support segment “e.”

Road “d” runs through the floodplain, which has the same problems described in Exhibit C. This particular segment had a vote of 8-1-0. Commissioner Winston preferred the original design, which had a terminating vista that he thought provided an appropriate transition between the urban environment and natural greenspace.

- 2) Exhibit G: The Planning Commission recommended the redesign of this hub, which would eliminate the floodplain crossing shown in the original design. Staff’s objection to this recommendation is the significant amount of redesign work involved. The Fayette Junction hub is an illustration of one of the guiding

principles: support multi-modal transit. The vision document often references this area, showing build-out over time, and the Sketch-up model is based on the illustration created by the charrette team. Redesigning this area would affect all these components, taking approximately two members of staff and two weeks worth of time to complete. Staff's concern is that this time and effort would be outside of the public view and would not substantively affect policy. If the property owner chose to redevelop this land tomorrow, the Illustrative Plan would serve as a conceptual reference only.

- 3) Exhibit H: The Planning Commission recommended adding a road to the proposed pocket park so that homes fronted onto the street adjacent to the park, similar to the Wilson Park design. Staff agreed to the conceptual change. The redesign took approximately two-and-a-half days to complete and changed the park acreage from 2.4 to 1.72 acres; the overall density did not change significantly. This example highlights how even minor redesigns take significant time. Staff believes illustration 3b is a better design; however, the redesign has little payoff in terms of policy changes.

If the City Council chooses to incorporate some of the significant changes recommended by the Planning Commission, staff would prefer to complete the redesigns and bring the Illustrative Plan back to the stakeholders before coming before the City Council for consideration. Staff anticipates that the Plan would not come before City Council again for another 3-4 months if all the Planning Commission recommendations are incorporated.

BUDGET IMPACT

None.

EXHIBIT "A"



EXHIBIT "B"

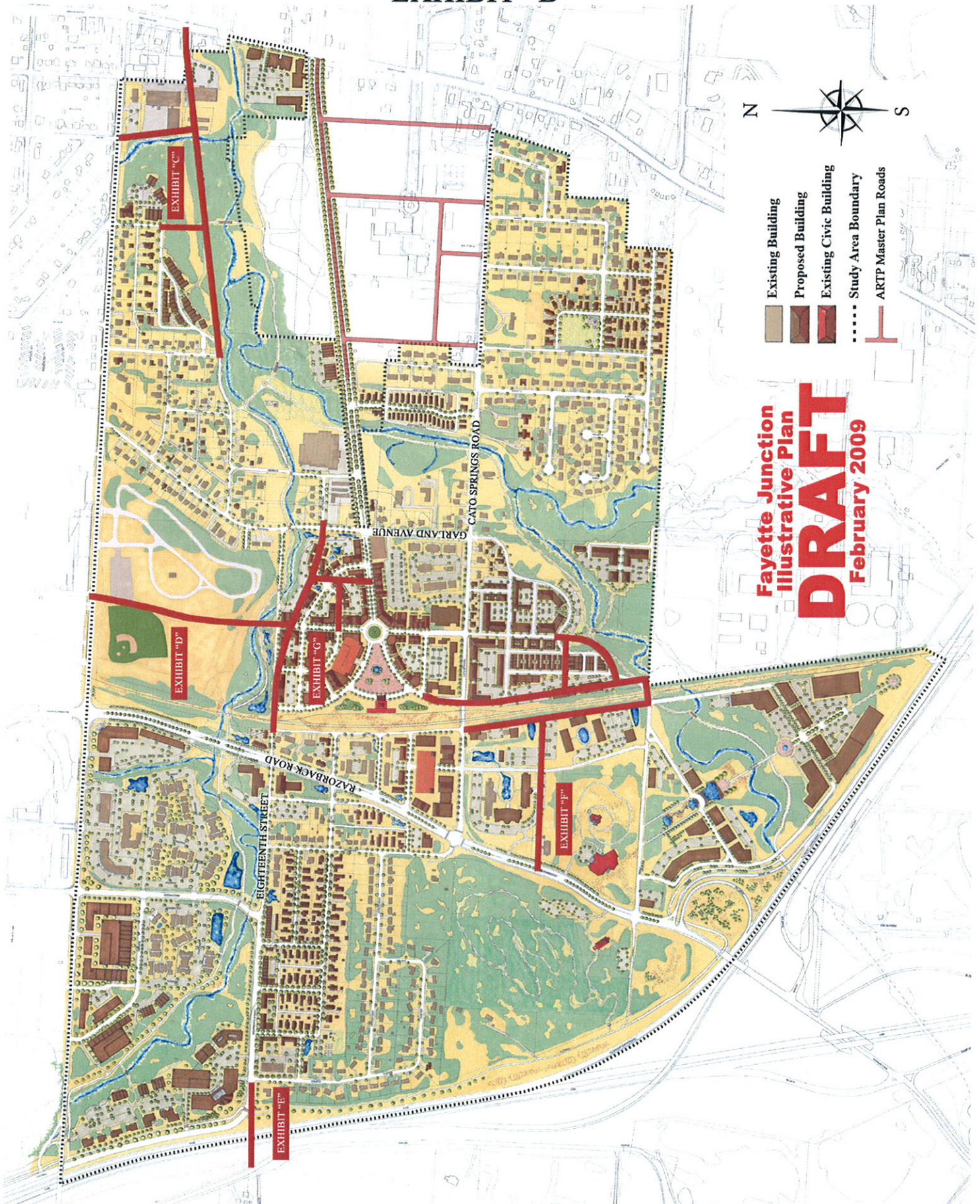


EXHIBIT "C"



EXHIBIT "D"

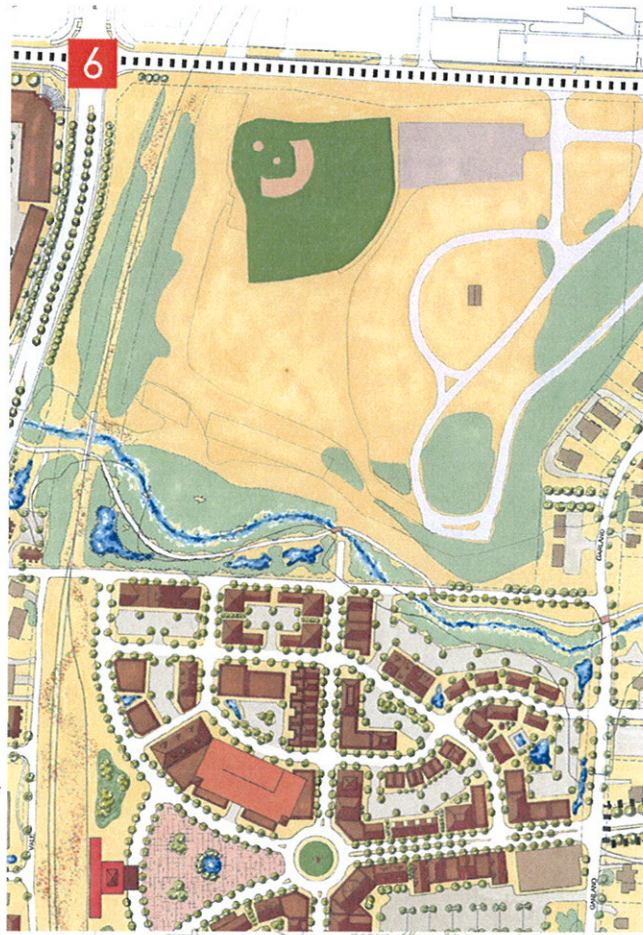


EXHIBIT "E"



EXHIBIT "F"



EXHIBIT "G"

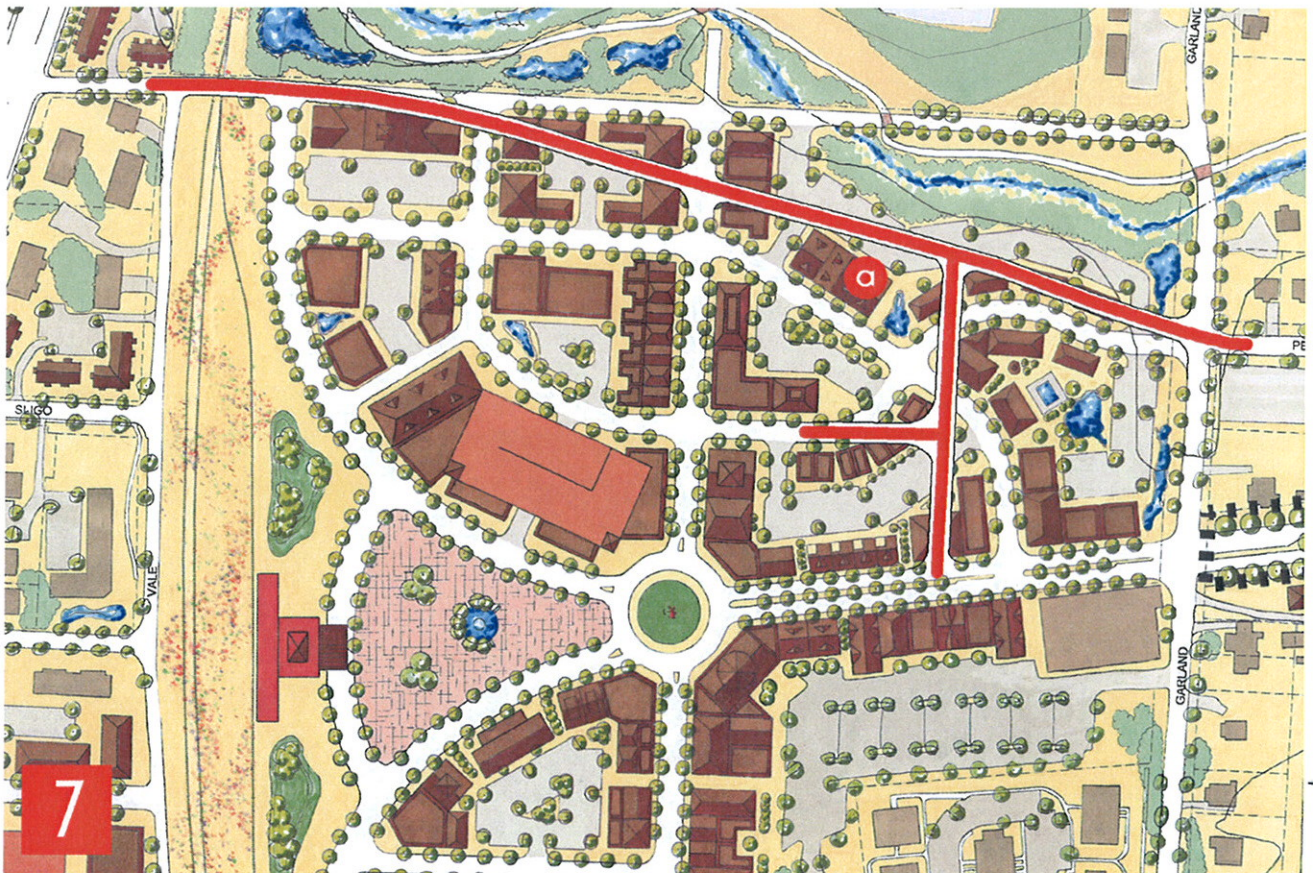
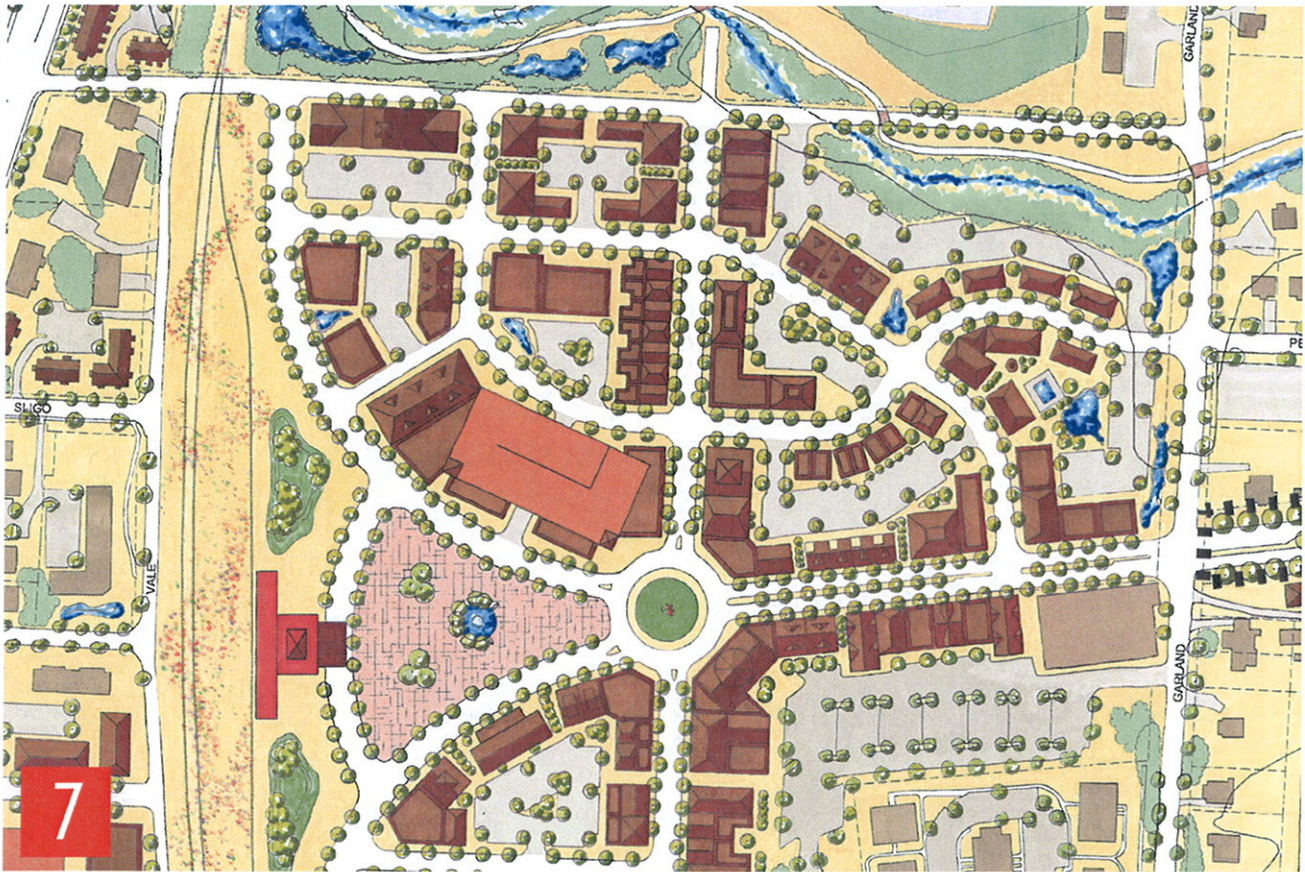


EXHIBIT "H"





Fayette Junction Master Plan



DRAFT
April 7, 2009



Fayette Junction

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Special thanks to...

Arkansas Research and Technology Park
Community Design Center
Denele Campbell
Fayetteville Chamber of Commerce
Fayetteville Economic Development Council
Fayetteville Engineering Division
Foghorn's
Mark Boyer
Pig-N-Whistle
Staybridge Suites
University of Arkansas Campus Planning



Master Plan

Fayette Junction

Executive Summary

Why Plan?

The Fayette Junction Master Plan area summarizes the notable opportunities for development and revitalization in south Fayetteville. This area was once a hub for the lumber and canning industries, which led to the development of modest residential areas. Newer developments include the addition of the Crowne apartments, BioBased Companies and Bungalows at Cato Springs. Many of the recent changes have been beneficial to the area but have occurred more or less in isolation from one another. These developments, the proximity to the Arkansas Research and Technology Park (ARTP), a significant conservation easement and the entrance into Fayetteville from I-540 suggest that a comprehensive plan for this area would provide a tapestry that weaves these developments and opportunities together, creating a whole that is greater than the sum of its parts. Planning enables stakeholders to shape the form of future development by setting forth a vision that encourages a sustainable development pattern.

Guiding Principles

Over 100 citizens offered input on the vision for the Fayette Junction Master Plan September 13-18, 2008. During the charrette process, the diverse voices and opinions of the residents, business owners and other stakeholders converged to shape three guiding principles.

The extensive floodplains and significant hillsides that flank the entrance into Fayetteville from I-540 necessitate a careful **integration of the natural and built environments**. Stakeholders repeatedly mentioned the need for effective and innovative stormwater management techniques, and staff from the University of Arkansas stressed the importance of preserving the viewshed to Old Main, Fayetteville's iconic building. The second guiding principle speaks to a regional concept of sustainable economic development. The Illustrative Plan envisions a **clean tech cluster**, which capitalizes on the presence of ARTP, BioBased Companies and stakeholders' desire to see an advertisement for "Green Valley" at the entrance to Fayetteville and a firm commitment to sustainability by encouraging clean tech industry to locate in Fayette Junction. **Multi-modal transit** also plays a significant role in tying employment centers and residential areas together both within the Fayette Junction area and throughout the region. A trail network links ARTP to the larger university campus as well as to residential neighborhoods within the planning area and the proposed clean tech cluster. Fayette Junction is envisioned as a proposed transit hub, potentially evolving from a park and ride to a rail transit stop and demonstrating how transit-oriented development can become a reality.

Implementation

The vision document provides implementation steps for the short-term (0-5 years), mid-term (6-10 years) and long-term. While the illustrative plan captures a vision for final build-out, the action steps provide a roadmap for achieving the vision. Some of the short-term goals include rezoning along the Razorback Road corridor, creating a riparian buffer ordinance and adding the proposed streets to the Master Street Plan. Mid-term goals include adding or repairing existing sidewalks and preserving the Ogden hillside at the entrance to Fayetteville from I-540. Long-term goals include extending the principal arterial boulevard from 15th Street to the I-540 entrance along Razorback Road.

The ultimate vision will only become a reality through collaboration and cooperation among different stakeholder groups and partnerships between the public, private and non-profit sectors. Some of the short-term goals, including rezoning Razorback Road, can be initiated by the City, but the development of Fayette Junction will only occur through coordinated efforts between the public and private sectors.

This Plan serves as a guide for building upon the strengths of the Fayette Junction area and seizing opportunities that promote sustainable development patterns. Its implementation depends upon a firm commitment and concerted efforts from all relevant stakeholder groups.

Master Plan

Fayette Junction

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Master Plan

Fayette Junction

How the plan was created

City Plan 2025, Fayetteville's comprehensive land use plan, was adopted by the City Council unanimously on July 17, 2007. One of the stated objectives in City Plan 2025 was to produce a complete neighborhood plan each year using a *charrette* process in order to maximize public participation. The Fayette Junction area was chosen and approved by the City Council on June 3, 2008. Long Range Planning staff headed a team composed of City staff from the Engineering and Current Planning divisions, the City's Sustainability Coordinator, and three local designers to facilitate an open public participation process for the Fayette Junction area. Over the course of several months and a seven-day intensive *charrette*, more than 100 community residents, business owners, University of Arkansas faculty and staff, and elected and appointed officials offered input for the neighborhood vision.

Charrette Preparation

Staff began gathering information three months prior to the *charrette*, meeting with groups that live or work within the neighborhood boundary, including business owners, neighborhood residents, and staff from the University of Arkansas Research and Technology Park. The *charrette* team compiled a series of analysis maps that showed environmental constraints, land use, property ownership and existing right-of-way, and listened to two experts discuss hydric soils in the area and water and sewer infrastructure. Mark Boyer, a Landscape Architecture professor at the University of Arkansas, shared his knowledge about hydric soils and the implication for development, and David Jurgens, the City's Water and Wastewater Treatment Director, provided information on the water and sewer infrastructure in the southwest corner of Fayette Junction.

Staff sought to maximize public participation by sending save-the-date postcards to each resident and property owner within the neighborhood and providing yard signs to residents and businesses. Flyers were distributed in English and Spanish to the neighborhood Head Start program. Staff also publicized the *charrette* through presentations at Ward 1 and Ward 4 meetings, a Lions Club meeting, and a business owner meeting co-sponsored by the Fayetteville Economic Development Council and the Chamber of Commerce. A public service announcement aired on the Government Channel three weeks prior to the *charrette*, and ads were published in the *Northwest Arkansas Times* and the *Free Weekly* magazine.

WHAT IS A CHARRETTE?

Charrette is a French word that translates as "little cart." At the leading architecture school of the 19th century, the École des Beaux-Arts in Paris, students would be assigned a tough design problem to work out under pressure of time. They'd continue sketching as fast as they could, even as little carts—*charrettes*—carried their drawing boards away to be judged and graded. Today, "*charrette*" has come to describe the rapid, intensive, and creative work session in which a design team focuses on a particular design problem and arrives at a collaborative solution.

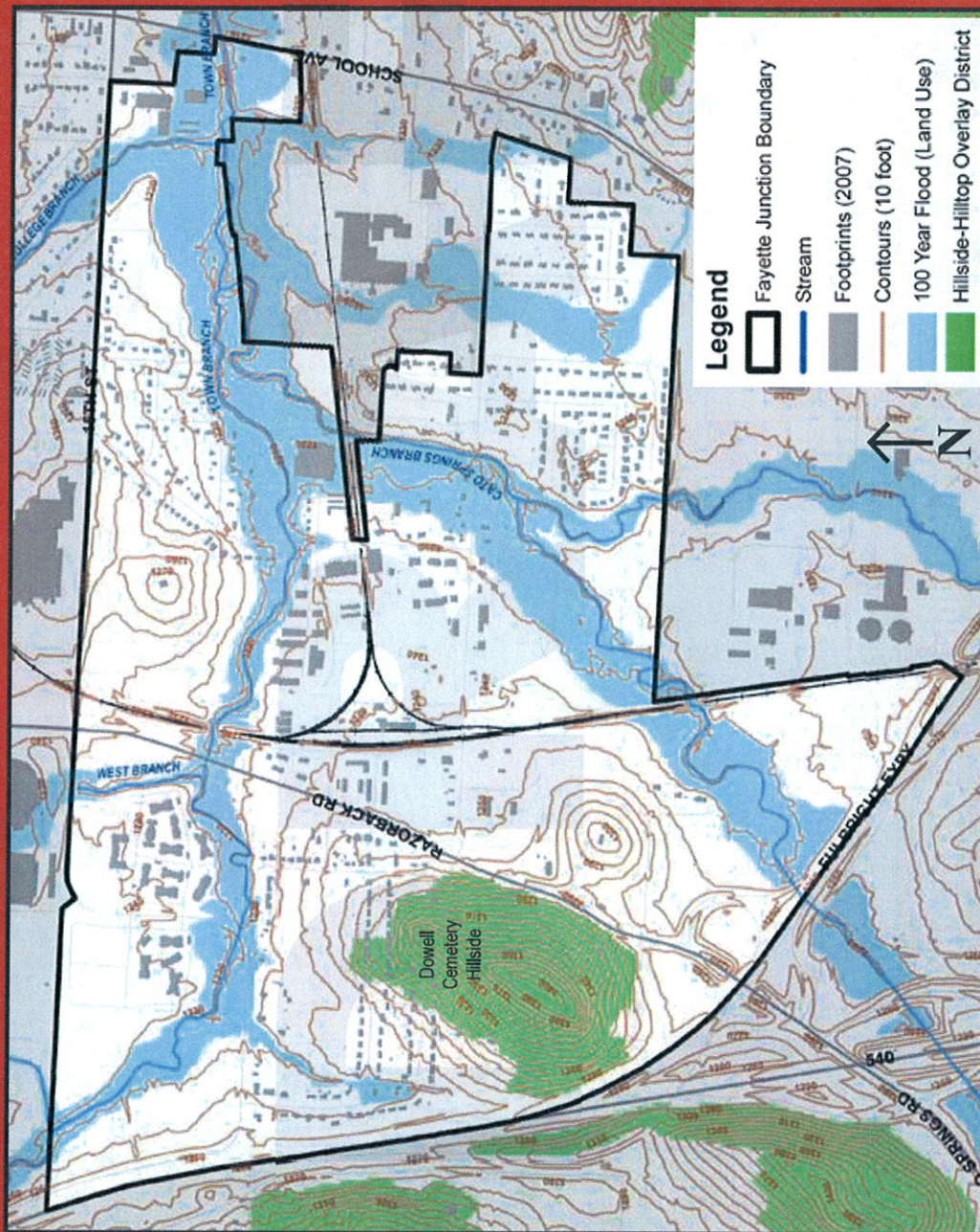


Illustration Source:
National Charrette Institute

Master Plan

Fayette Junction

Analysis Maps



Hillside. The Dowell Cemetery hillside is the largest and most easily recognizable landform in the Fayette Junction area. Its steeply forested slopes give the area character and provide a sense of scale. The conservation easement placed on the Dowell Cemetery hillside provides stakeholders in the area with the knowledge that this important piece of natural green space will endure for future generations.

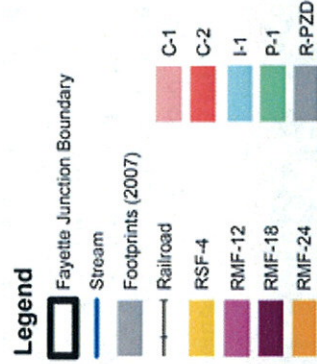
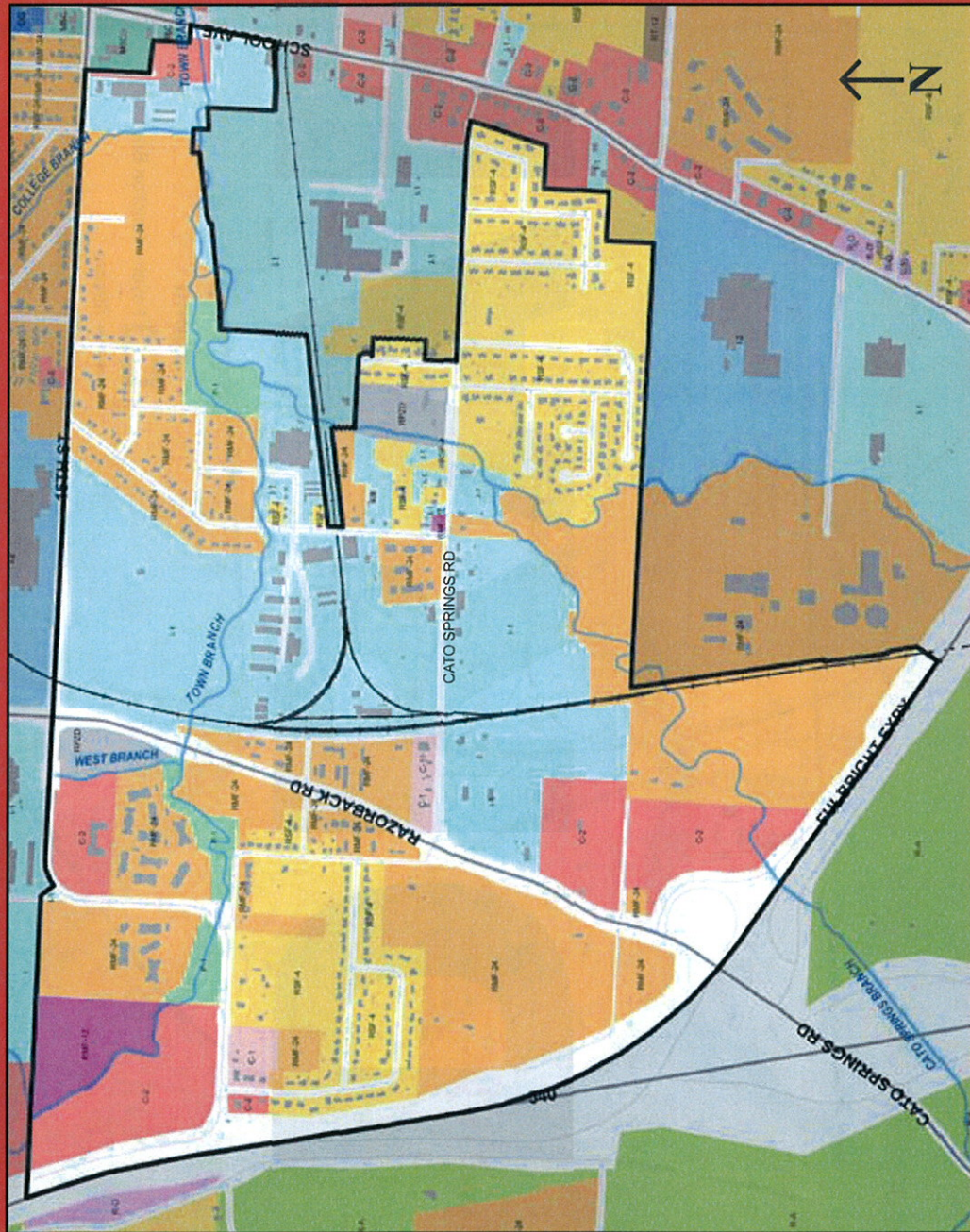
Riparian Areas. The Fayette Junction master plan area is bisected by two significant streams, the Cato Springs Branch and the Town Creek Branch. These streams are part of the larger White River Watershed that ultimately flow into Beaver Lake, which is the drinking water source for the Northwest Arkansas Region. Future development in close proximity to these, and the other smaller branches within the Fayette Junction area, needs to be particularly careful in the treatment and release of stormwater runoff.

Master Plan

Fayette Junction

Current Zoning and Existing Development Pattern

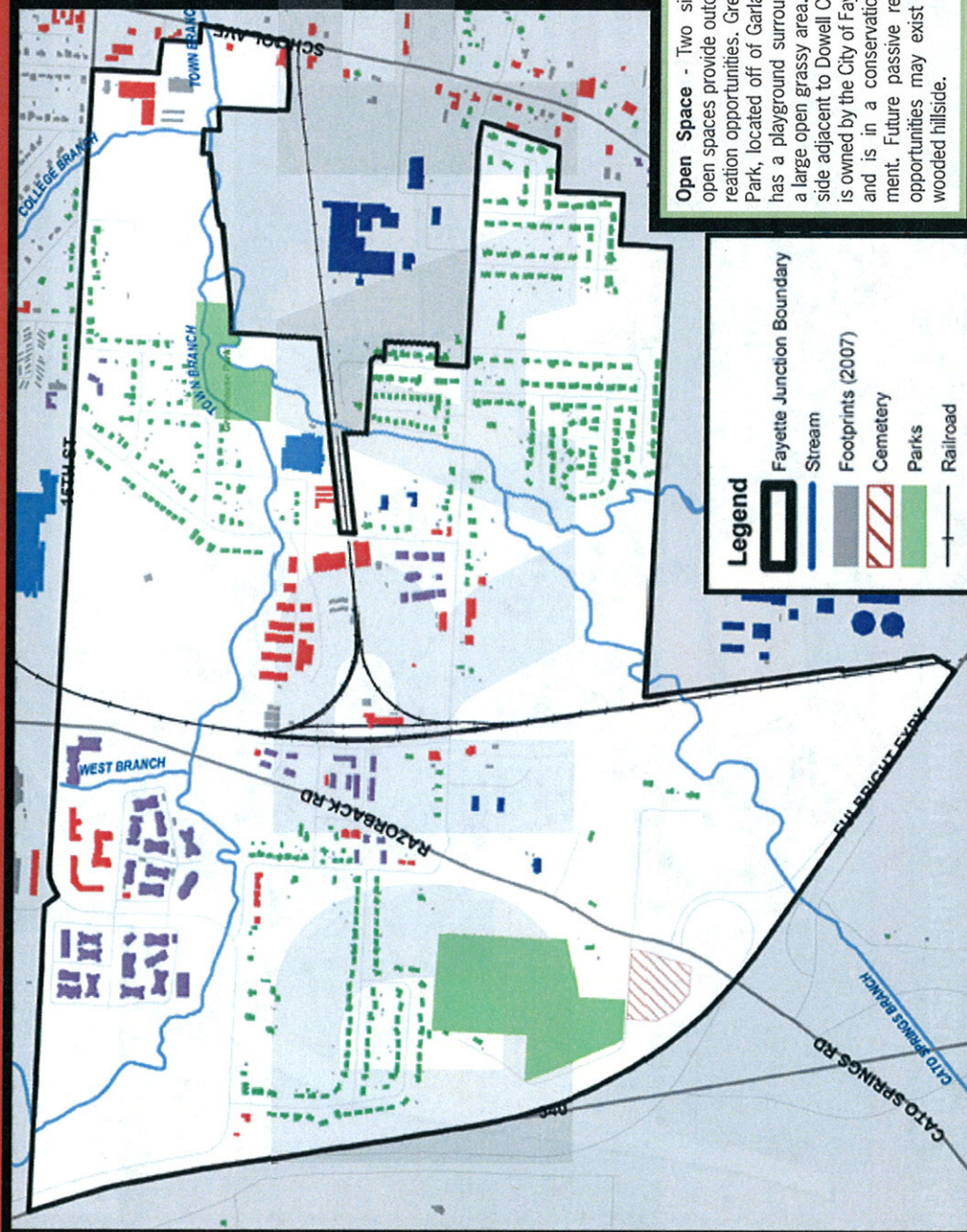
Current Zoning and Existing Development Pattern:
 Like much of historic Fayetteville the traditional development patterns have located primarily on the flattest and most easily developable lands. The location of the railway line and wye spurred the early development in this area along the Town Branch. Subsequent residential and modern industrial land uses have occurred more or less hodgepodge on the remaining flat lands.



Master Plan

Fayette Junction

Existing Land Uses



Single Family Housing - There are three distinct residential neighborhoods that are primarily single family in nature. Located north, south and west of the Fayette Junction, these existing subdivisions provide a stable and cohesive residential component within the planning area.

Multi-Family Housing - Recent development in the Fayette Junction area has been primarily multi-family residential, the largest being the Crowne Apartments on 15th St. Close proximity to the UA, existing infrastructure such as water, sewer and streets, and relatively level topography make much of this area prime for medium density residential and mixed-use.

Commercial - The Fayette Junction area has a limited amount of commercial uses. The University Village development in front of the Crown Apartments is the newest commercial activity in the area and it has a mixture of hotel, restaurant and commercial uses. An assortment of commercial uses is located at the corner of 15th St. and South School Avenue.

Industrial - While a large portion of the area is zoned industrial, there are only a few industrial activities ongoing. This would include the cement plant on Cato Springs Road, BioBased Companies located at the corner of Cato Springs Rd. and Razorback and the old Levi Strauss plant on Garland Ave., which is currently used for storage and equipment rentals.

Open Space - Two significant open spaces provide outdoor recreation opportunities. Greathouse Park, located off of Garland Ave, has a playground surrounded by a large open grassy area. The hillside adjacent to Dowell Cemetery is owned by the City of Fayetteville and is in a conservation easement. Future passive recreation opportunities may exist for this wooded hillside.

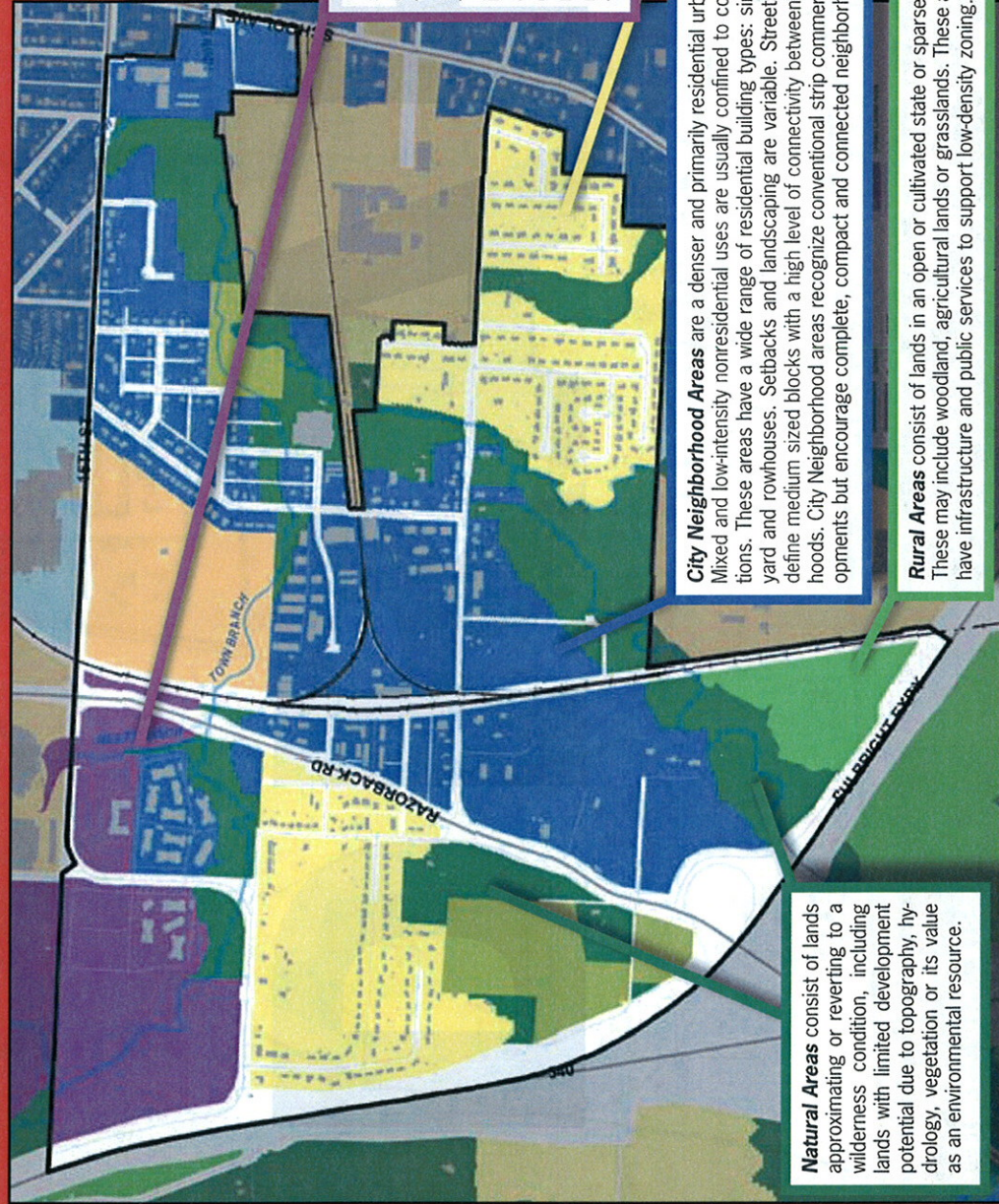
Legend

- Fayette Junction Boundary
- Stream
- Footprints (2007)
- Cemetery
- Parks
- Railroad

Master Plan

Fayette Junction

City Plan 2025: Future Land Use



Future Land Use: Fayette Junction has a diverse mix of land use types envisioned in the future. Land uses vary from natural and rural areas to urban centers. The large percentage of vacant and underutilized land provides opportunities for varying degrees of residential densities and commercial intensities while preserving significant open space.

Urban Center Areas are the equivalent of a main street, including building types that accommodate retail, offices, rowhouses and apartments. They are usually a tight network of streets, with wide sidewalks, consistent street planting and buildings set close to lot frontages. These areas contain taller buildings and have the most intense and dense development patterns within the City, as well as the greatest variety of buildings, with unique civic buildings in particular. Urban Center Areas recognize conventional strip development, but encourage the redevelopment of these existing properties for more efficient use of the land.

City Neighborhood Areas are a denser and primarily residential urban fabric. Mixed and low-intensity nonresidential uses are usually confined to corner locations. These areas have a wide range of residential building types: single, side-yard and rowhouses. Setbacks and landscaping are variable. Streets typically define medium sized blocks with a high level of connectivity between neighborhoods. City Neighborhood areas recognize conventional strip commercial developments but encourage complete, compact and connected neighborhoods.

Rural Areas consist of lands in an open or cultivated state or sparsely settled. These may include woodland, agricultural lands or grasslands. These areas only have infrastructure and public services to support low-density zoning.

Residential Neighborhood Areas are almost exclusively residential in nature with naturalistic planting and conventional setbacks. This zone recognizes conventional subdivision development but encourages traditional neighborhood development that incorporates low-intensity non-residential uses. Developments should have a strong sense of connectivity where appropriate.

Natural Areas consist of lands approximating or reverting to a wilderness condition, including lands with limited development potential due to topography, hydrology, vegetation or its value as an environmental resource.

Master Plan

Fayette Junction

History

One of the oldest roads in Fayetteville crosses the Fayette Junction Master Plan area. Brooks Street served as an early route for the Butterfield Stage Line, which began running in 1858 between Tipton, Missouri and San Francisco, CA. The Frisco Rail Line arrived in Fayetteville in 1881, and in 1886, "... a switch was installed on the Frisco main line about a mile south of Fayetteville, and the spot was named Fayette Junction." (Campbell 2005).

Fayette Junction soon became the hub of a thriving lumber industry in the late 1800s, and multiple hardwood milling operations located nearby. The Sligo Wagon Wood Company and Brown Veneer, two of the original structures, still have building remnants at Fayette Junction. Neighborhoods developed in the area to house mill workers.

From the 1930s-1950s, the canning industry dominated the area. Tom Hargis operated Hargis Canneries as a brokerage for approximately 30 small canneries in Washington and Madison counties. His vegetables and fruits were canned at the Sligo mill before shipping to wholesalers.

The area began to decline in the 1970s as the Sligo mill deteriorated. City Lumber used the Sligo mill for storage until abandoning the site in the early 1990s. After 100 years of use, the Burlington Northern Railroad sold off all its land in Fayette Junction except for the right-of-way. The area became home to primarily industrial uses. However, the extension of Razorback Road south of 15th Street created new development opportunities, and the area is beginning to see some new neighborhoods such as the Bungalows at Cato Springs and the Crowne Apartments.



Photo of Sligo Wagon Wood Company employees, located at Fayette Junction, taken May 11, 1925.
Courtesy of the Shiloh Museum of Ozark History / Sligo Wagon Co. - Collection P-3725

Fayette Junction

Neighborhood Tours

The charrette team organized a driving tour with neighborhood residents and Ward 1 and Ward 4 aldermen. This driving tour enabled the team to capture photos of the varied uses within the Fayette Junction area, identify potential infill areas and note the existing network of streets and blocks. Residents identified unique characteristics of the neighborhood as well as areas of concern.

The Charrette

The charrette began on September 4, 2008 with a Kick-off event at Staybridge Suites. The event featured local historian Denele Campbell who presented to the crowd of approximately 50 people an overview of the history of Fayette Junction, which began as a hub for the timber industry in Fayetteville in the late 1800s and later served as an important stop for transporting canned goods in the 1960s. Mayor Dan Coody and Alderwoman Brenda Thiel also encouraged citizens to get involved with the Master Plan process and showcased the progress that has been made with other master plans such as the Downtown Master Plan and the Walker Park Neighborhood Master Plan.

Attendees also completed a survey at the Kick-off that asked about the challenges and opportunities in Fayette Junction. The challenges most frequently identified were truck traffic, eyesores and access to I-540. The top opportunities identified were tech industrial growth, creating walkable neighborhoods and providing usable greenspace.



Denele Campbell shares the history of Fayette Junction at the Kick-off.

Save the date.

Fayette Junction

Complete Neighborhood Plan

Sep. 4	Kick-off	5:30 p.m.	at Staybridge Suites
Sep. 13	Hands-on Design Workshop	9:00 a.m. - noon	
Sep. 14-18	Open Design Studio	9:00 a.m. - 5:00 p.m.	
Sep. 15	Open House	5:00 p.m. - 8:00 p.m.	
Sep. 18	Work-in-Progress	6:30 p.m. - 8:00 p.m.	

Sep. 13-18 events held at the Arkansas Research & Technology Park

For more information: Planning Division 479.575.8267
<http://cityplan2025.accessfayetteville.org/>

participate • planning • process

Master Plan

PROCESS: HOW THE PLAN WAS CREATED

Fayette Junction

Community members gathered at the Genesis Center at the Arkansas Research and Technology Park (ARTP), September 13, 2008 for the hands-on design workshop. Approximately 40 people attended for the three-hour session. Dara Sanders, Current Planner, began the workshop with a visual preference survey, which gave the participants common visual images that they could use in their small group discussions. Karen Minkel, Interim Director of Long Range Planning, then offered a "Food for Thought" presentation that highlighted traditional planning practices, community planning and smart growth principles. Participants then worked in groups of 6-8 people to reach a consensus about the things they would most like to see included in a vision for the Fayette Junction area and used markers and sticky notes to render their vision for Fayette Junction on the maps provided at each table.

At the end of the session, each of the five groups chose a representative to present the group's ideas to the entire assembly. Common elements quickly emerged. Among the ideas repeated most frequently were:

- "Razorback Road—turn into a boulevard"
- "Low-impact development—address drainage problems and provide green roof incentives"
- "Connectivity with trails, bike lanes, sidewalks"
- "Clean green industry"

The hands-on design session forged an initial consensus, and the maps and ideas generated served as a key tool for the charrette team as they began to create an illustrative map based on the citizen input.



Fayette Junction stakeholders share their vision for the area during the Hands-on Design Workshop.

Master Plan

Fayette Junction

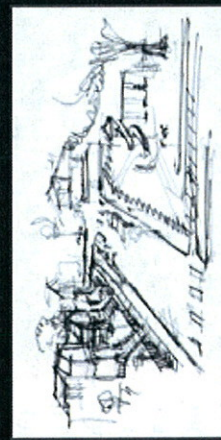
The charrette team held an Open Design Studio at the Innovation Center at ARTP through Thursday, encouraging interested community members to check the status of the plan and look over the designers' shoulders to make sure their ideas were represented in the master plan. The citizen maps from the hands-on design session lined the hallway and rough sketches that showed the evolution of different design concepts were posted throughout the studio. Approximately a dozen people per day stopped by to talk with the design team and view the drafts.

In addition to the open design studio, the charrette team held an Open House on September 15, 2008 and offered different scenarios for residential neighborhood designs from which participants could choose. Attendees provided feedback through a short survey. Four areas were highlighted at the Open House: 1) Fayette Junction; 2) Red Arrow neighborhood; 3) the residential area just south of 15th Street; and 4) the residential area south of Cato Springs Road, across from ARTP.

Charrette team members also met with specific stakeholder groups at the studio for feedback on designs. City engineers reviewed infrastructure proposals, University of Arkansas campus planning and ARTP staff discussed the interaction between ARTP and the surrounding areas, and local business owner Mike Muccio of BioBased Companies, Steve Rust with the Fayetteville Economic Development Corporation and Phil Stafford with ARTP offered input on the potential for a clean tech concentration within the 640 acres.



Designers and stakeholders refine concepts in the Design Studio.

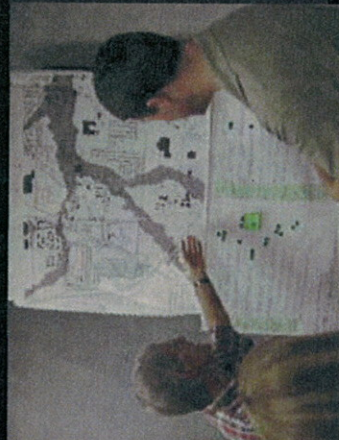


Fayette Junction

A Work-in-Progress presentation on September 18, 2008 in the Genesis building concluded the charrette. Approximately 40 people came to hear the charrette team's proposals and view the illustrative plan. Karen Minkel reviewed the week's events and then shared the three main goals developed by the charrette team based on citizen input. The presentation gave citizens a "tour" of the Fayette Junction area in the future and summarized initial regulatory ideas that would enable the Plan to become a reality. A survey was distributed to all attendees in order to gauge the community's reaction to the ideas. Ninety-four percent of the surveys received at the Work-in-Progress session thought that the plan was "on the right track."

After the Charrette

Over a period of 14 weeks, the charrette team refined the illustrative plan and drafted a vision and Master Plan document to be presented for adoption to the Planning Commission and City Council.



Stakeholders view the draft Illustrative Plan.

Master Plan

PROCESS: HOW THE PLAN WAS CREATED

Fayette Junction

Plan Fundamentals

The Guiding Principles are:

1. Integrate the built and natural environments
2. Create a clean tech cluster
3. Support Multi-modal transit



Master Plan

Fayette Junction

Integrate the built and natural environments.

The Fayette Junction Neighborhood Plan area has a wide variety of topography, landform types, soil classifications, floodplain and wetlands. In the past, a substantial amount of development occurred in the floodplain, such as the old Levi Strauss Plant. Negative impacts of floodplain development can include diminished property value and environmental damage to the stream system. The new development shown in the Fayette Junction Illustrative Plan is intentionally placed outside of the 100-year floodplain. The steep hillside areas have reforested and have generally been left undisturbed. These diverse landforms present both opportunities and challenges that have been addressed in the Illustrative Plan.

Shining Gateway

The intersection of Razorback Road and I-540 provides a prime opportunity to preserve and enhance the southern gateway into the City. Razorback Road is flanked on the east by a smaller hillside that provides a distinctive vantage point opposite the Dowell Cemetery hillside. Development on this site could potentially impair the terminated vista of the iconic Old Main. The University of Arkansas Facilities Management Planning Group expressed the desire to keep this site unobstructed for this important viewshed.

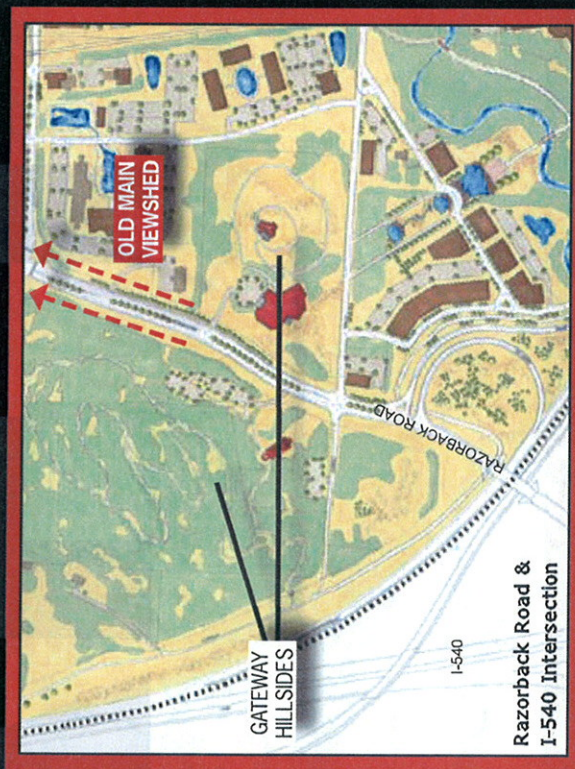
The Fayette Junction Illustrative Plan shows this gateway with a small church or civic building constructed above Dowell Cemetery with parking that could be shared with visitors to the adjacent city owned open space. Across Razorback Road on the smaller hilltop, a civic building is illustrated that could be associated with the clean tech cluster envisioned in this area.

The hillsides reflect the natural beauty of the Ozarks, serving as sentinels to the City. The preservation of these two hillsides adjacent to the development of a clean tech park would symbolize the City's commitment to sustainability and the attention to balance between preservation and development. The opportunity to preserve this most dramatic of gateways is in the near future - before development pressures make it cost prohibitive.

WHAT IS A 100-YEAR FLOODPLAIN?

Flooding is a natural and recurring event for a river or stream. Flooding occurs when heavy or continuous rainfall exceeds the absorptive capacity of soil and the flow capacity of the river or stream, causing a watercourse to overflow its banks onto adjacent lands. Floodplains are, in general, those lands most subject to recurring floods, situated adjacent to rivers and streams. Floodplains are therefore "flood-prone" and are hazardous to development activities if the impact of those activities exceeds an acceptable level.

Floods are usually described in terms of their statistical frequency. A "100-year flood" or "100-year floodplain" describes an event or an area subject to a 1% probability of a certain size flood occurring in any given year.



Master Plan

Fayette Junction

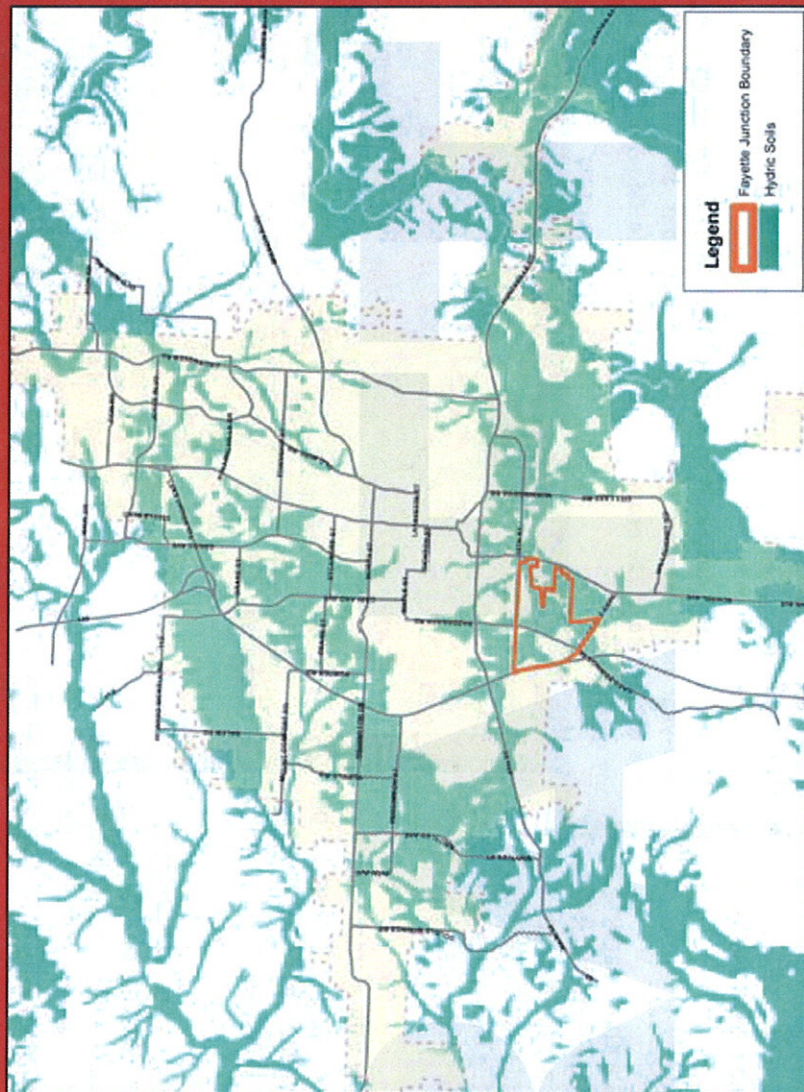
Soils and Stormwater Infiltration

Future development should be carefully planned and built with best management practices that minimize negative impacts on the watershed. Excessive stormwater runoff from impervious surfaces will create increased volumes and velocities during major rain events. The integration of the natural and built environment is possible with careful utilization of mitigation measures.

A large part of the Fayette Junction Master Plan area has soils that are categorized as "hydric". As a general rule hydric soils are not particularly conducive to stormwater infiltration. This is a common soil type throughout the City of Fayetteville and large areas with hydric soil types have been developed in the past. For instance, much of the area around the CMN business park has hydric soils, and many Fayetteville neighborhoods have been built in areas with hydric soils.

The soils in the Fayette Junction area are primarily a variety of sandy loams that have a very fine texture and have been laid down by alluvial processes. Stormwater will have a tendency to stand on these types of soils and percolate downward very slowly. Untouched virgin lands of this type mainly consisted of seasonal wetlands prior to early urbanization and agriculture. Very few fragments of this wet prairie type still exist today, and much of the Fayette Junction area has been altered at some point in time over the last 150 years of settlement.

Additionally, the groundwater table is in close proximity to the surface in many areas. Development of areas with a high water table is extremely challenging. Individual sites in areas with known high water tables should be investigated thoroughly prior to development to mitigate negative impacts.



Fayette Junction

Recommended Development Practices

An analysis of the 100-year floodplain map shows that a notable amount of the undeveloped area in the Fayette Junction Master Plan is near or adjacent to the floodplain and riparian areas. Consideration should be given to Low Impact Development Management Practices as these areas build out. These could include:

- **Low-impact Development (LID) Streets**

LID streets utilize a natural swale or ditch adjacent to the roadway to allow runoff to infiltrate into the ground. The conventional pipe and pond engineering is replaced with gravel substrate lined swales. The filtration of the stormwater occurs as the water percolates downward into the subsurface. In areas with drainage or infiltration problems, due to soil type or geology, innovative combinations of conventional and LID engineering solutions should be utilized. A LID street is shown in the Illustrative Plan as an extension of Boone Street to Treat Street because it partially falls in the floodplain.

- **Elevated Structures**

The use of elevated structures can be a useful tool for development that falls outside of regulated flood zones but is still in areas that could be considered vulnerable to flooding. Construction techniques for elevated structures have been designed and built recently in the Gulf Coast region and are depicted in a rendering that shows development bordering a floodplain.



- **Green Corridors for Alternative Transportation**

The Cato Springs and Town Branches provide the opportunity to expand the City's alternative transportation trail system within their floodplains. The illustrative plan shows these linkages both within the riparian areas and adjacent to likely residential, commercial, and recreational nodes. The trails system currently being planned, designed, and built provides a vital transportation alternative to vehicular transportation that enhances the overall walkability and livability of Fayetteville. Due to its location and existing infrastructure, the Fayette Junction area could be a major hub in the future for the convergence of multiple transportation alternatives. The proximity of the trail to the riparian area has the added benefit of preserving a natural buffer area along the waterway.

- **Natural Habitat Linkages**

The riparian areas in the Fayette Junction Neighborhood link to the larger City and will contribute to a green infrastructure corridor that allows for natural habitat linkages. These linear corridors are conducive to allowing the migration of wildlife. Also, the availability of accessible and meaningful green space is vitally important to ensuring that the built environment does not dominate the natural environment. Increased density and intensity needs to be designed to allow for human interaction within the preserved natural habitat.



Several trails in Fayetteville are built along stream corridors and riparian areas linking green space and parks.

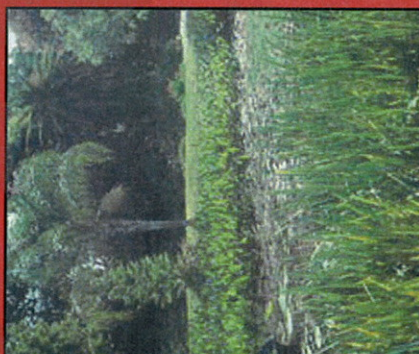
• Stormwater Detention and Retention

Conventional engineering practices capture stormwater runoff by piping its flow to a catch or detention basin that is designed to release the flow capacity at a rate equal to or less than the runoff rate of the undeveloped land. Stormwater detention in this form is evident in most projects that have been built in the last three decades. Alternative techniques, such as retention basins, are beginning to change how engineers design and construct stormwater structures.

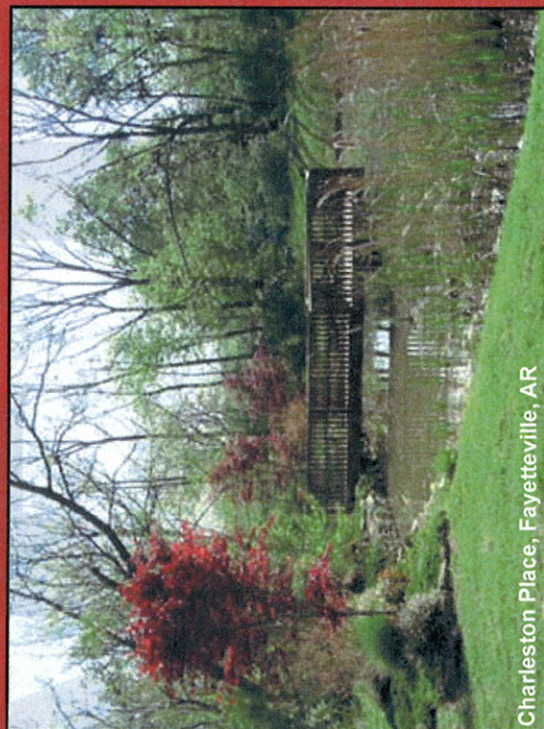
Retention basins differ in that they are designed to capture runoff and store it at a desired elevation before releasing it to the next basin downslope. This allows aquatic plant life to establish itself and provide filtration of stormwater pollutants, such as motor oil from a parking lot. Retention basins also retain relatively stable water levels, providing opportunities for wildlife and recreational openspaces.



Aquascaping in Tampa, FL
Photo by Vic Ranney
Copyright 2004 Univ. Florida



Retention ponds naturally filter stormwater pollutants.



Charleston Place, Fayetteville, AR

- **Cisterns, Rainbarrels and Other Stormwater Capture Techniques**

Rooftop impervious surfaces provide an excellent opportunity for rainwater capture. Historically, the capture and storing of rainwater provided a valuable renewable water resource. This was true for most of human history and only recently, with the advent of modern water distribution systems, has its importance in the built environment diminished.

Fortunately, cisterns, rainbarrels and underground storage vaults are re-emerging as solutions for mitigating the increased stormwater runoff caused by the built environment. These applications can be applied to small scale projects, like a single-family home, or large scale projects such as a commercial or industrial project. Stored rainwater is most often used to irrigate landscape elements, but can also be designed to provide non-potable water for interior uses such as toilets. Ultimately, the capture of rainwater is a design element that should be utilized widely and is especially important in areas that are near or adjacent to riparian areas and flood zones.



Photo Source: Water Environment Research Foundation www.werf.org

Green roofs and cisterns are effective methods of managing stormwater runoff.



Photo Source: Heifer International, Little Rock, AR www.construction.com



Photo Source: Martin Soil and Water Conservation District, Fairmont, MN www.martinswcd.net



Fayette Junction

• Green Roofs

A green roof is a building roof covered by vegetation. This has environmental advantages for reducing stormwater runoff and absorbing carbon dioxide from the air. Much of the innovation with green roofs in the U.S. has occurred in Chicago, and the Chicago Center for Green Technology recognizes the following benefits:

- Reduction in rainfall runoff impacts
- Reduction of carbon dioxide and air pollution
- Reduction of heat island effect
- Reductions in building heating and cooling loads
- Lengthened roof life
- Removal of nitrogen pollution in stormwater runoff

Source: City of Chicago Green Roof Fact Sheet.



Photo Source: Calhoun School, New York www.designshare.com



Photo Source: University of North Carolina www.sustainability.unc.edu



Photo Source: Chicago City Hall www.greenroofs.com



Photo Source: Des Moines Public Library www.ia.nrcs.usda.gov

Fayette Junction

The Urban Transect

Planners use a visual tool called the transect to describe the variations in intensity of the built environment. The transect is also used to illustrate the demarcation lines between differing degrees of urban density and intensity.

In the Fayette Junction Illustrative Plan, the variations of intensity and density can be seen as commercial nodes, such as the Junction, which give way to mixed-use, multi-family, and ultimately single-family detached development patterns. The area directly north of the existing Red Arrow Subdivision east of Razorback Road exemplifies this concept. A large piece of underdeveloped land exists between 15th Street and the Red Arrow Subdivision. The current zoning here would allow a build out of 24 units per acre of multi-family dwellings. The existing density and zoning for the Red Arrow Subdivision is currently single-family 4 units per acre. The illustrative plan shows how new development could transition from 4 units per acre in Red Arrow, to 8 units per acre for several blocks and then ultimately to multi-family and mixed use buildings along the minor arterial 15th Street. The other side of the street advances this progression with a large hotel development. The gradual transition of density and intensity allows for an orderly and acceptable pattern while still allowing the land owner to maximize the overall development potential of the land.



Master Plan

Fayette Junction

Create a clean tech cluster.

The expansion of the Arkansas Research and Technology Park, the construction of BioBased Companies headquarters and the development of the Crowne Apartments serve as harbingers for the potential of the Fayette Junction area. Connecting this area to downtown and ultimately Northwest Arkansas not only serves as a catalyst for economic development, but encapsulates the principles of a sustainable community.

"Green Valley"

An ambitious coalition composed of local businesses, the University of Arkansas and the Fayetteville Economic Development Council formed in 2007 to promote a cluster of businesses that focus on sustainability technology. Similar to the founders of Silicon Valley or Research Triangle in North Carolina, the Green Valley Network envisions an internationally significant cluster, primarily in Northwest Arkansas. The area already serves as a home to the following:

- o The highest concentration of plant scientists in the world
 - o Wal-Mart, the largest funnel for global consumer demand and the largest proponent of sustainability on Earth
 - o The largest pre-existing supplier cluster with 1,300 consumer goods companies
 - o One of America's largest oil and gas energy centers
 - o The world's busiest cargo airport
 - o One of America's largest agri-business centers with biofuel and eco-tourism opportunities
- www.greenvalleynetwork.org (2008)

The Green Valley Network founders believe these facts leave Northwest Arkansas poised to successfully recruit businesses that offer technological jobs while promoting a sustainable environment. The City of Fayetteville offers an ideal home for knowledge-based companies that emphasize sustainability. The University of Arkansas' Research and Technology Park (ARTP) is located in Fayetteville, the City offers cultural amenities that employees of knowledge-based companies desire, and the City engages in sustainable practices that are reflected in myriad policies and programs.



Bird's Eye view of Fayette Junction

Fayette Junction

University of Arkansas Research and Technology Park (ARTP)

The Fayette Junction boundary is adjacent to ARTP, which currently serves as a research incubator for clean tech companies. Fayette Junction offers an opportunity to promote the concept of "Green Valley" with shovel-ready land for clean tech companies that mature and want or need additional facilities apart from ARTP such as Biobased Companies.

The official case for a research and technology park was made in 2001 by the 2010 Commission assembled by the University of Arkansas. The 2010 Commission envisioned a "physical space where links between high quality academic research and business ideas [could] be formed to the benefit of all" (Center for Business and Economic Research, 2002).

The expected value of the total impact of operating ARTP is nearly \$720 million (The Teller 2003). Currently, ARTP is home to 31 public private affiliates and employs approximately 350 people. Since assuming management responsibility in November of 2004, the University of Arkansas Technology Development Foundation has grown the partnership base at ARTP from 13 to 31 public/private affiliates working to develop a broad array of technologies. In addition to the growing number of for-profit companies, ARTP is also home to a number of not-for-profit companies that provide complimentary services to University affiliates including the Small Business Administration, University of Arkansas Office of Technology Licensing, Arkansas Capital Corporation and Innovate Arkansas. Since January of 2005, affiliates of the ARTP have secured over \$46 million in federal grants and contracts.



Innovation Center
at ARTP



Biobased Companies

Master Plan

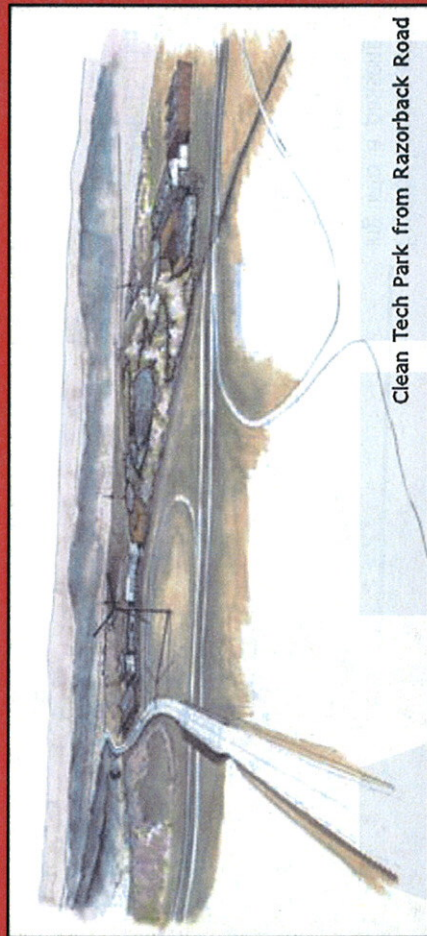
Fayette Junction

Capturing "Green Valley" in Fayetteville's southern gateway

The vision for "Green Valley" has become a shared vision in Fayetteville among industry leaders, the University of Arkansas and City government. The southern gateway into Fayetteville from I-540 currently lacks defining features but has potential to become a striking entrance into the city, highlighting the "Green Valley" concept and building upon the strengths of ARTP.

The potential for a grand entrance into the City of Fayetteville exists first in the natural landscape. Dowell Cemetery Hillside lies to the west of the entrance. A smaller hill and undeveloped land lie to the east. The two hillsides frame a view of the University's Old Main, serving as sentinels into the city. Extending the boulevard south along Razorback Road to I-540 as envisioned in the Illustrative Plan would enhance the streetscape at Fayetteville's southernmost exit. This boulevard would also limit curb cuts onto Razorback Road, limiting the starts and stops in traffic flow caused by vehicles entering and exiting onto the arterial.

The Illustrative Plan envisions a clean tech park located at the undeveloped land southeast of the I-540 exit with a focus on fabrication and manufacturing, complementing rather than competing with the research and development activities at ARTP. Clean tech labs or offices within the identified park or east of BioBased Companies could also utilize the existing rail line for deliveries by constructing a spur. Locating clean tech industries on the undeveloped land just east of this entrance accomplishes two things: 1) Close proximity to ARTP and BioBased Companies allows a cluster of companies to take advantage of material and intellectual resources; and 2) Clean tech companies that employ "green" building techniques such as those envisioned in the Illustrative Plan create an advertisement and announcement for "Green Valley" with Fayetteville as its epicenter.



Clean Tech Park from Razorback Road



GATEWAY HILLSIDES

Southern entrance into city

Master Plan

Fayette Junction

Support multi-modal transit.

Multi-modal transit is a key component of a sustainable community.

Charrette participants shared a vision for connected sidewalks, additional trails and the future potential for light rail during the Hands-on Design Workshop. Their preferences reflect a desire to have multiple modes of transit available for commuting to work as well as shopping for daily goods. Multi-modal transit not only provides more options for travel, but is an integral part of a sustainable community. Reductions in vehicle miles traveled leads to decreased air pollution and traffic congestion, which is consistent with the definition of a sustainable transportation system.

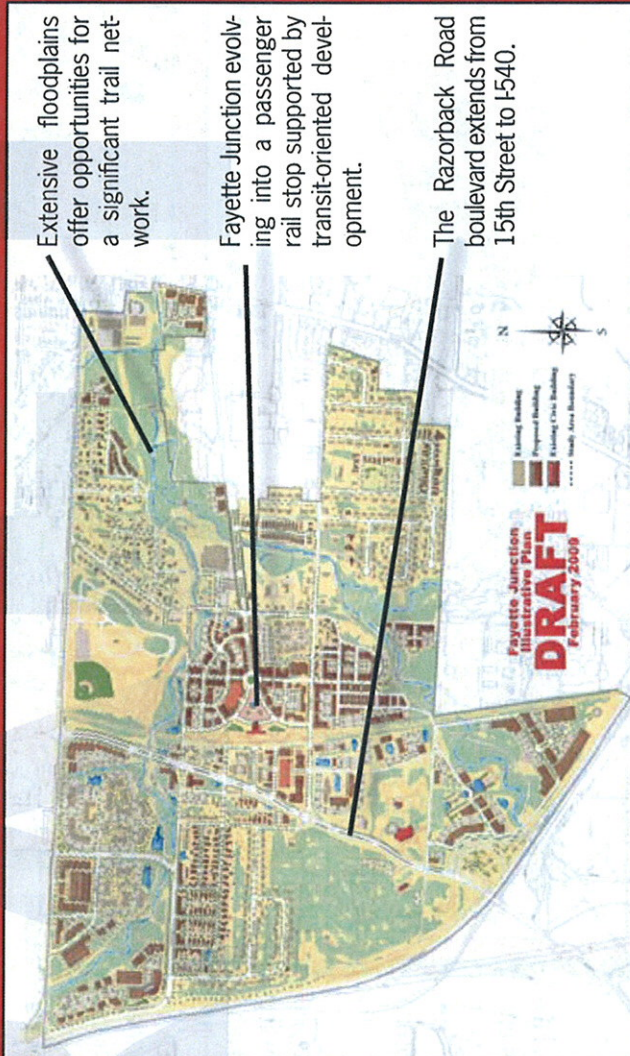
City Plan 2025 reflects this principle with the stated goal that Fayetteville will "grow a livable transportation system." Constructing a trail network, providing pedestrian and cyclist options on all streets, and supporting regional mass transit are critical components of this tenet.

The Fayette Junction Illustrative Plan exemplifies this principle of City Plan 2025. The extensive floodplains in the master plan area offer opportunities for a significant trail network. The transformation of Razorback Road into a boulevard will accommodate pedestrians and cyclists as well as vehicle traffic, and the Plan envisions Fayette Junction evolving into a passenger rail stop supported by transit-oriented development.

WHAT IS A SUSTAINABLE TRANSPORTATION SYSTEM?

- Allows the basic access needs of individuals and societies to be met safely and in a manner consistent with human and ecosystem health, and with equity within and between generations;
- Is affordable, operates efficiently, offers choice of transport mode, and supports a vibrant economy; and
- Limits emissions and waste within the planet's ability to absorb them, minimizes consumption of non-renewable resources, limits consumption of renewable resources to the sustainable yield level, reuses and recycles its components, and minimizes the use of land and the production of noise.

- Defining Sustainable Transport, Centre for Sustainable Transportation, March 31, 2005



Master Plan

Fayette Junction

Transportation constraints and opportunities

Multiple transportation constraints confront the Master Plan. First, the extensive floodplains make the construction of north/south and east/west roads cost prohibitive. Trail networks that extend to other parts of the City, however, show that floodplains also present an opportunity for expanding multi-modal transit opportunities. Trails such as Mud Creek Trail and Scull Creek Trail are constructed partially within floodplains, providing an alternative transportation option for pedestrians and cyclists.

The Fayette Junction Master Plan continues this approach by showing a trail system that runs parallel to Town Branch and Cato Springs Branch. The Fayette Junction trail system will enable a resident of Crowne Apartments to commute to the Arkansas Research and Technology Park and an employee of ARTP to visit a colleague at the clean tech park on Razorback Road without having to use a motorized vehicle. The pedestrian linkages shown throughout the Fayette Junction area will ultimately become connections to the greater citywide trail system.



**Fayette Junction
Illustrative Plan
DRAFT**

Trail system throughout Fayette Junction

Master Plan

Fayette Junction

The second major challenge confronting connectivity is the railroad line. The Arkansas and Missouri Railroad limits the number of crossings allotted to a municipality so that if a new crossing is granted, one must be forfeited. Crossings also come at an additional expense. The builder has to pay for a construction team to work rapidly, often in one night, to complete the crossing.

The Fayette Junction Master Plan shows two additional railroad crossings—one at 18th Street and one at Treat Street—in order to improve east/west connectivity. A conversation with the General Superintendent of the Arkansas Missouri Railroad, Jim Seratt, confirmed the general policy of giving one crossing up in order to get another, although he added that there could be exceptions to this rule. Recent history also indicates that the costs are not strictly prohibitive; a developer constructed a new crossing at Quality Lane in order to provide access to a multifamily development.

Fayette Junction

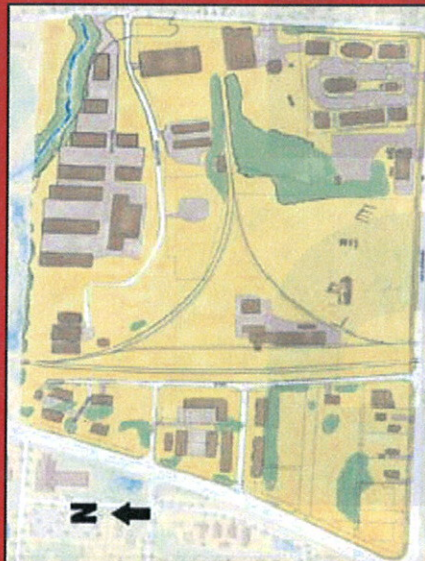
The greatest potential for providing sustainable, multi-modal transit comes from the railroad right-of-way. The railroad currently has 100-200 feet of right-of-way along the existing rail line, which runs through the heart of the downtown areas of the four major cities along the Northwest Arkansas corridor. Building a parallel track for public transit within the existing railroad right-of-way or utilizing a system on the existing track would provide cost-savings worth millions of dollars in right-of-way acquisition.

The University of Arkansas Community Design Center makes a compelling argument for Northwest Arkansas as a candidate for federal rail transit dollars in its 2007 study. The region, formed by a linear string of cities, is made up of a population that meets the density threshold necessary to support transit and that is likely to use rail transit, including University students, inter-city commuters, and retirees. These facts make the region a competitive candidate for New Start dollars, federal funding allocated for fixed guideway systems designed for the exclusive use of mass transportation. (UACDC, 2007)

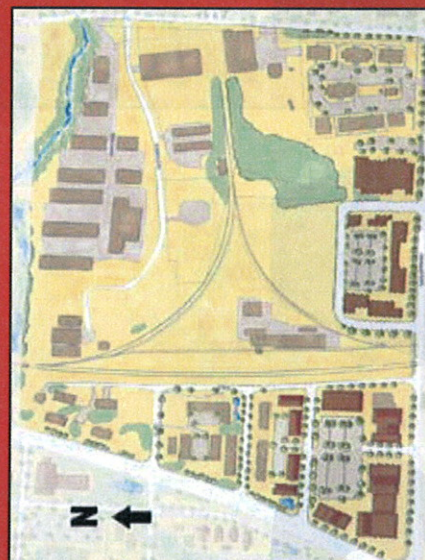


Fayette Junction

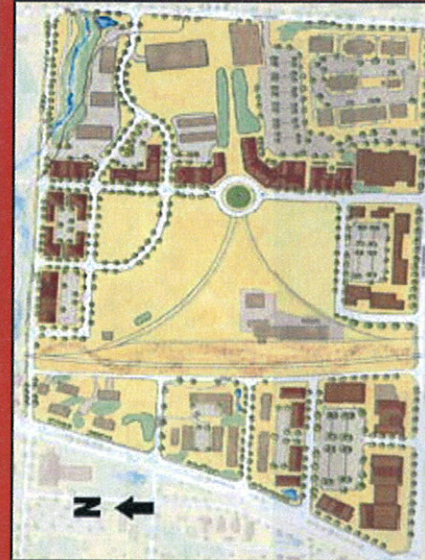
Creating a transit hub that can evolve over time will enable the Fayette Junction area to transition to a transit-worthy urban destination.



Existing



0-10 years—Density 4 units per acre



10-15 years—Density 8-10 units per acre



16-20 years—Density 12 units per acre



21-30 years—Density 15-20 units per acre

This series of graphics envisions how the Fayette Junction railroad wye would transform and build out over time into a transit-oriented development hub. Currently the Fayette Junction wye consists of a large open space being utilized as a concrete manufacturing facility. The 0-10 year build-out centers new development at the intersection of Cato Springs Road and Razorback Avenue. The 10-15 year graphic illustrates the addition of north-south and east-west streets with accompanying residential and commercial growth. In 16-20 years, the area becomes a transit hub with a large central plaza, parking deck, commercial, residential and green technology uses. The final illustration is the full build-out of a complete transit-oriented neighborhood with a density of 20 units per acre.

WHAT IS TRANSIT-ORIENTED DEVELOPMENT?

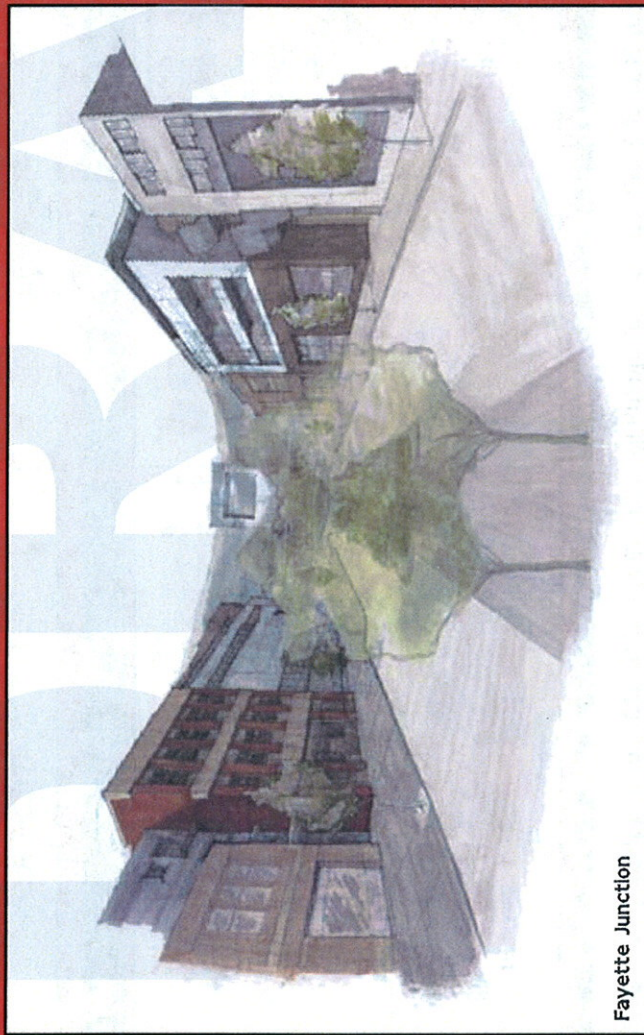
...It's building a place, not just a transportation system. The creating of an engaging public realm beyond mere engineering of a transportation project is critical to rail transit feasibility.

...It's a regional planning instrument for developing land uses that consume less land per capita, conserve sensitive natural areas, and revitalize urban areas.

...It's creating a pedestrian-oriented urban district within a half-mile radius around a rail transit station.

...It's about guiding growth, rather than creating it. Unlike highway development, good transit design can capture sustained economic value from the triangulation of transportation efficiencies, community redevelopment, and shifting consumer habits due to "agglomeration efficiencies."

- NWA Rail Visioning Rail Transit in Northwest Arkansas: Lifestyles and Ecologies, UA Community Design Center 2007



Fayette Junction

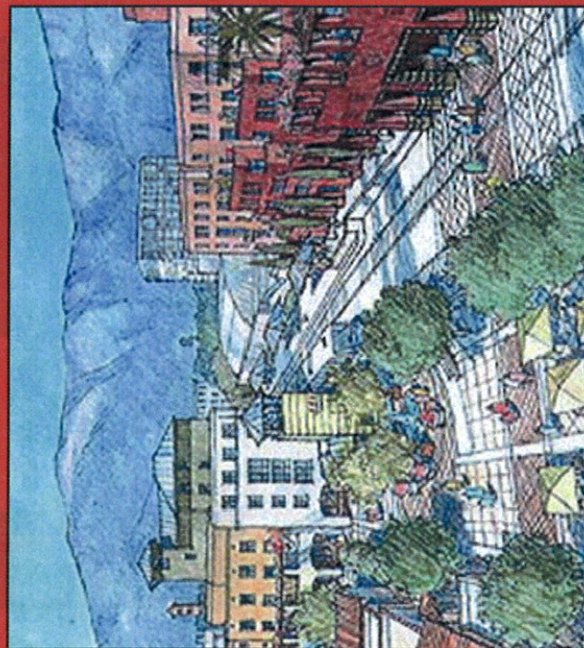
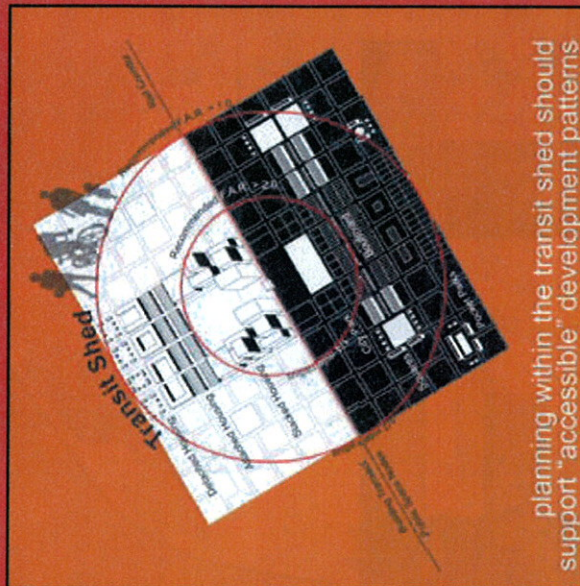


Image Source: www.terrain.org

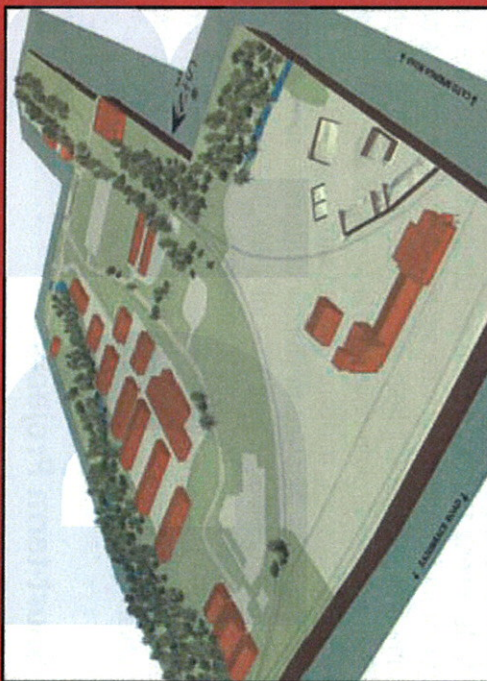
Fayette Junction

The Fayette Junction Illustrative Plan combines the concept of a passenger rail system parallel to the existing railroad line with the transit-oriented development needed to support an urban transit hub. The Illustrative Plan utilizes the concept of a transit shed, or a half-mile radius around the transit stop that supports significant pedestrian traffic by creating a destination urban hub complete with retail, offices and high-density housing options. An appropriate density for supporting a rail stop is approximately 15-20 units per acre, which is the density suggested in the Illustrative Plan. The current density of the Fayette Junction Neighborhood is closer to 3-4 units per acre.

Image Source: UA Community Design Center



planning within the transit shed should support "accessible" development patterns



Existing Fayette Junction area (above) and proposed Fayette Junction area from Illustrative Plan Sketch-up Model (right)



Master Plan

Fayette Junction

Implementation

The ultimate success of any planning document depends upon the willingness and capacity of all stakeholder groups to implement the vision. The implementation of the Fayette Junction Master Plan will only occur through cooperative efforts among the City, residents, business owners, the non-profit sector and the private sector. The following steps outline projects that will help achieve the goals of the Master Plan and are broken down into a series of short-term projects (0-5 years), mid-term projects (6-10 years) and long-term projects. Short-term steps include regulation changes and projects that require little infrastructure or cost. Long-term projects are those that require more significant capital investment. The ultimate timing of implementation will reflect the overall commitment to the realization of the vision developed by the community.

Short-term Projects

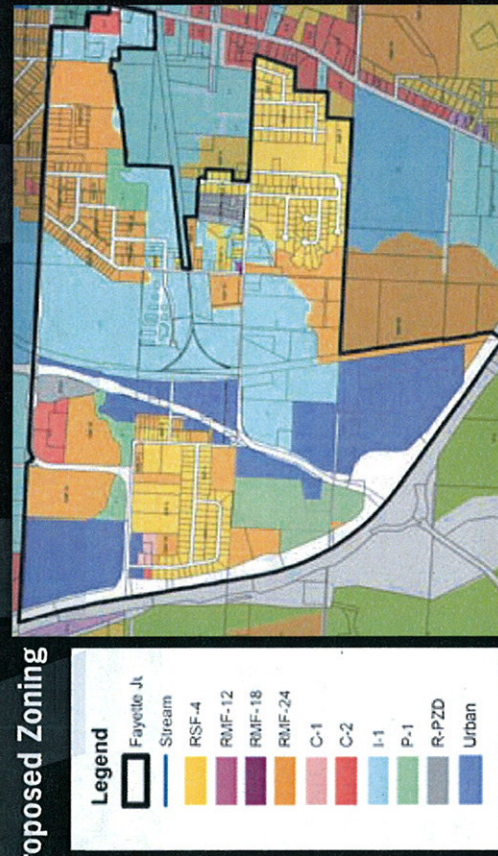
1. Seek zoning changes along the Razorback Road corridor from I-540 to 15th Street.

Development along the Razorback Road corridor forms a first impression of Fayetteville. The form of this development will affect property values and contribute to Fayetteville's identity. The Master Plan recommends preserving the hillsides at the entrance and zoning for an urban development form along the rest of the corridor. This zoning will promote continuous frontage of buildings near the street, contributing to a pedestrian-friendly environment that enhances property values and promotes infill development where infrastructure can support urban densities and intensities.

Current Zoning



Proposed Zoning



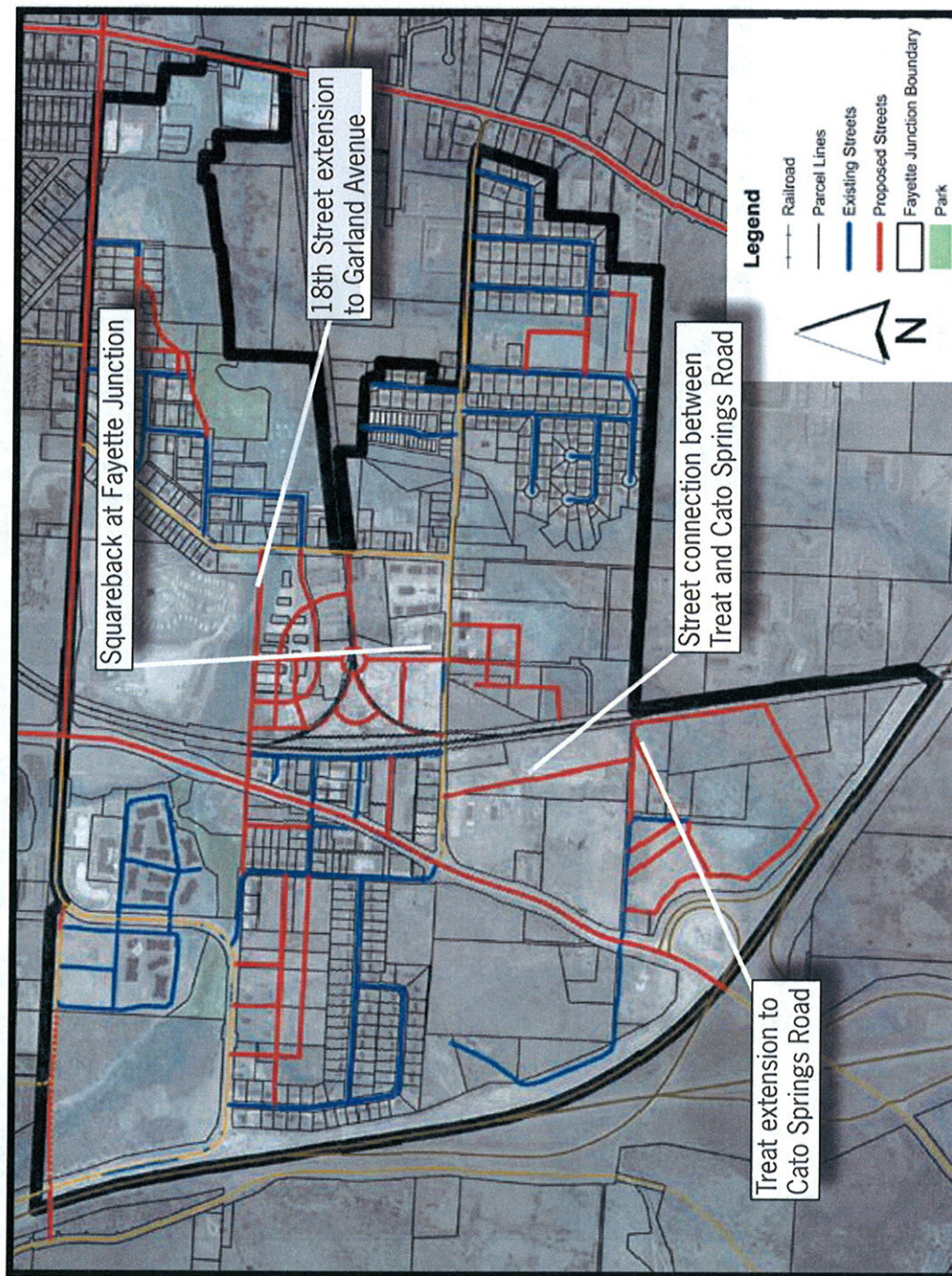
Master Plan

Fayette Junction

2. Amend the Master Street Plan to include the key proposed street connections.

Including the proposed streets in the Master Street Plan will ensure that these connections are completed when new development occurs. Multiple connections are shown in the Illustrative Plan, and may change as concrete projects are proposed. However, several connections significantly facilitate traffic flow and should be added to the Master Street Plan:

- Squareback at Fayette Junction, which includes the wye geometry
- 18th Street extension to Garland Avenue
- Street connection between Treat and Cato Springs Road
- Treat extension to Cato Springs Road

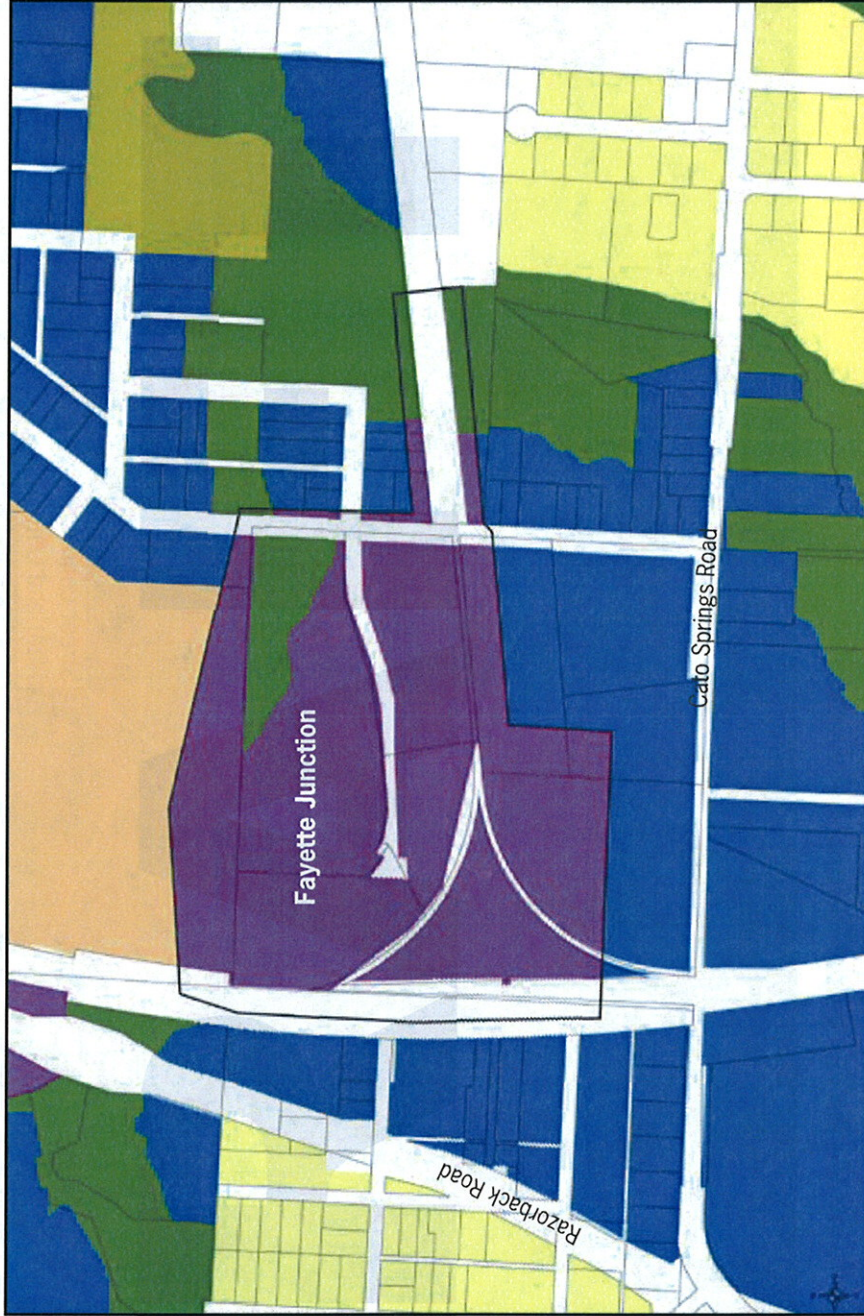


Master Plan

Fayette Junction

3. Amend the Future Land Use Map to reflect the transit-oriented development at the historic Fayette Junction.

The Fayette Junction area is currently designated as City Neighborhood on the City's Future Land Use Map. Staff proposes amending the future land use map by designating the area around the Fayette Junction as Urban Center. The Urban Center designation allows for a more intense and dense pattern of land use, encouraging a diverse mix of residential, commercial and office uses within the Fayette Junction Area. Multi-modal transit hubs have been shown to work best when a variety of employment and housing options are located within a half-mile transit shed.



The Existing Future Land Use Map of Fayette Junction Master Plan area is shown on page 8 of this document.

Master Plan

4. Establish a riparian buffer ordinance.

Both the Cato Springs Branch and Town Branch are part of the riparian ecosystem that feeds into the White River, which drains into Fayetteville's water source, Beaver Lake. This ecosystem needs protection in order to maintain the integrity of Fayetteville's most valuable water resource. Municipalities often use riparian buffer ordinances to ensure that riparian ecosystems continue to provide all the benefits that occur naturally. A riparian buffer ordinance is a useful tool for protecting the built environment of neighboring properties from erosion and flooding while also providing environmentally valuable open space. The Environmental Protection Agency states that these ordinances accomplish the following:

1. Restore and maintain the chemical, physical, and biological integrity of the water resources;
2. Remove pollutants delivered from urban stormwater;
3. Reduce erosion and sediment entering the stream;
4. Stabilize stream banks;
5. Provide infiltration of stormwater runoff;
6. Maintain base flow of streams;
7. Contribute the organic matter that is a source of food and energy for the aquatic ecosystem;
8. Provide tree canopy to shade streams and promote desirable aquatic organisms;
9. Provide riparian wildlife habitat; and
10. Furnish scenic value and recreational opportunities.



Examples of riparian zone buffer used as trails and open space.
Photo Source: <http://www.stormh2o.com>



Mid-term Projects

1. Preserve the Ogden hillside at Razorback Road and I-540.

The Razorback Road entrance to the City presents the unique opportunity to establish a natural gateway to the City. The large Dowell Cemetery hillside has been preserved through City ownership and a conservation easement. The smaller hillside located across Razorback Road is in private ownership. This land is owned by the Joyce Ogden Family Trust and comprises a 10-acre parcel. The University of Arkansas has expressed interest in acquiring this land in order to preserve the viewshed of Old Main and the Fayetteville downtown skyline. The Illustrative Master Plan depicts this land as being utilized for a welcome or visitor's center.

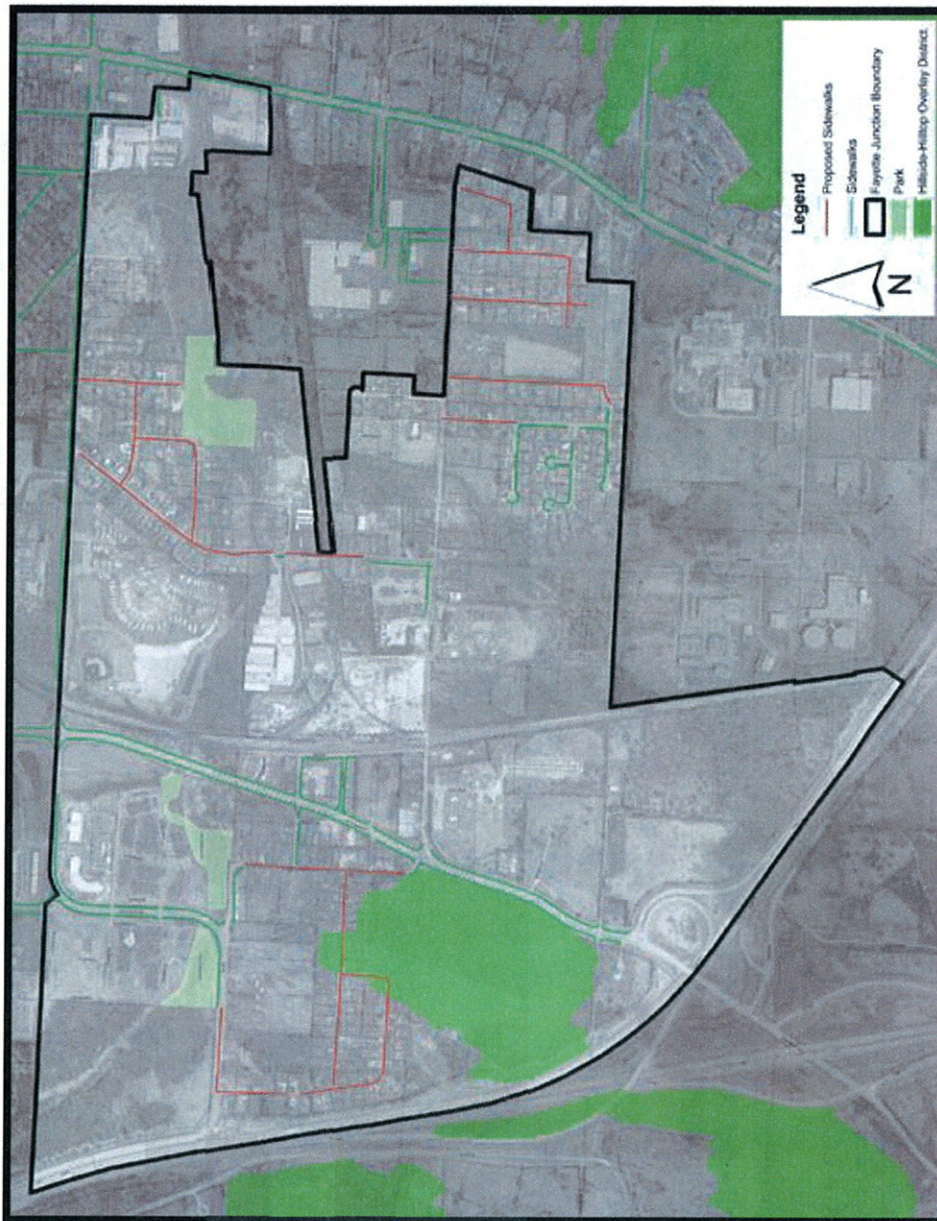
The City of Fayetteville in partnership with the University of Arkansas should work to acquire the Ogden land either through ownership or a conservation easement. A conservation easement separates the ownership of the land from the development rights. The landowner relinquishes these development rights but can continue to use and enjoy the land while protecting it from further development in perpetuity. An easement assures property owners that their heirs and successors will maintain the land in uses consistent with open space purposes and the landowner's wishes. A variety of tax benefits may be available to landowners who place their land in a conservation easement. These may include deductions in income, property and estate taxes.

Fayette Junction

2. Add or repair sidewalks along existing streets within the neighborhood.

The City Transportation Division and Sidewalks and Trails Committee have committed to ensuring that all existing streets have a sidewalk on at least one side of the street. Each year, new sidewalks are constructed based on a prioritized list that balances the construction of new sidewalks in different parts of the City, first addressing streets where no sidewalks exist. The following streets in Fayette Junction lack sidewalks on both sides of the streets and should be added to the sidewalk construction list:

Clover Drive (north of Eden Circle)
Laverne Avenue
Coleman Avenue
Laura Lee Street
Emma Avenue
Selle Drive
Brooks Avenue
Boone Street
Price Avenue
Duncan Avenue
Walker Street
Arrowhead Street
Custer Lane
Ashwood Avenue
18th Street



Master Plan

Long-term Projects

1. Extend the Razorback Road boulevard cross-section from 15th Street to I-540.

Redeveloping Razorback Road as an extension of the boulevard between 15th Street and Martin Luther King, Jr. Boulevard will take significant infrastructure investment. This type of project will occur as capital funds become available and development occurs along the Razorback Road corridor to merit the investment.



Conclusion

The Fayette Junction Master Plan vision document and Illustrative Plan sets forth an ambitious effort for tying disparate parts of the area together to create a comprehensive plan that maximizes opportunities. This vision captures the main goals expressed by stakeholders such as protecting the floodplains, providing multi-modal transit opportunities and promoting clean tech development.

The vision document also identifies policies and programs to help achieve these goals. Razorback Road has the potential to become a “great address” and shining entrance into the City as it transitions from a five-lane road to a boulevard that is capable of accommodating both vehicles and pedestrians. Rezoning this corridor to a zoning district that encourages an urban form will encourage Razorback Road’s transformation. Modifying the Master Street Plan and building a trail network will increase connectivity throughout the area. Finally, the Illustrative Plan provides a visual design of how this area can develop in such a way that protects the natural beauty and environmentally sensitive areas prevalent throughout the area, respects existing residential neighborhoods and encourages appropriate infill development.

The overall implementation process will take the mutual cooperation of multiple sectors, both public and private over a period of decades, but the recommendations also include measurable steps that will begin the process of implementing the community’s vision.

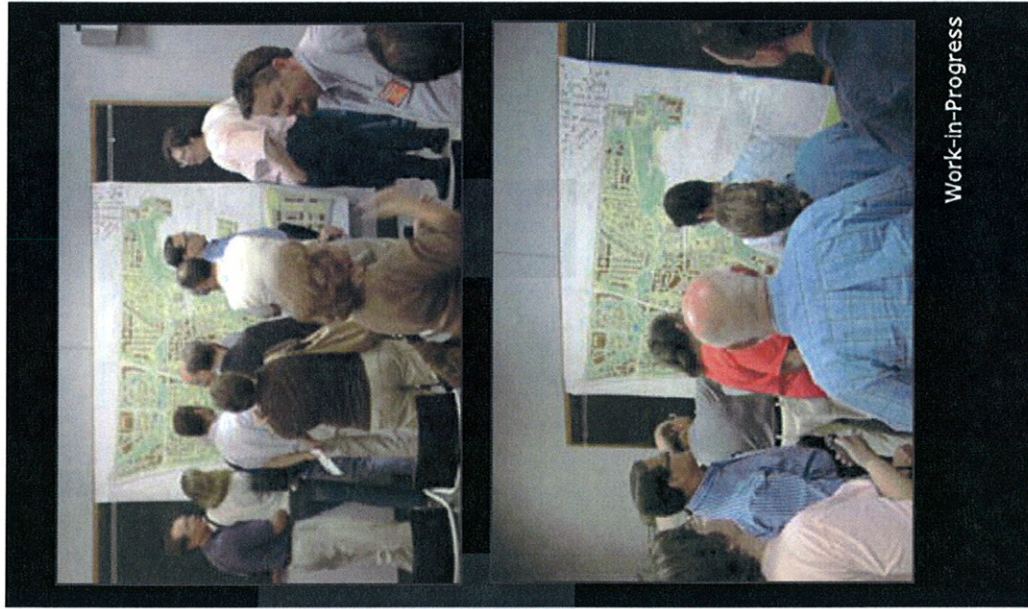
Work-in-Progress Survey

These survey results represent approximately 40 participants who attended the Work-in-Progress presentation. Over 100 community members participated during the entire charrette, but the Work-in-Progress session served as a culmination of the week's work and events and provided an opportunity for written feedback.

Appendix: Work-in-Progress Presentation

What events did you participate in during the charrette?

Attended only the Work-in-Progress Presentation	12%
Attended the Work-in-Progress Presentation and one charrette event	29%
Attended the Work-in-Progress Presentation and two charrette events	41%
Attended the Work-in-Progress Presentation and three charrette events	18%
Attended all charrette events	0%



Master Plan

Fayette Junction

Appendices

Of the many ideas you heard tonight, which idea should be made a top priority?

1. Stormwater Management (30%)

2. Multi-modal transit (20%)
3. Sustainability/clean tech concepts (20%)
4. Greenspace (20%)
5. Infrastructure (5%)
6. The housing (high density) adjacent to Greathouse Park—the target group being seniors (5%)
7. Street grid—this neighborhood can't function until it's connected. It's the necessary first step (5%)

Stormwater management (30%)

- Drainage
- Trails system—floodplain greenspaces
- Run-off water
- Drainage—Cato Springs Road, along Selle Drive
- Approaching runoff and drainage issues from a potential asset point of view, rather than assuming these issues as a liability
- Managing floodplain and runoff

Multi-modal transit (20%)

- I like the transportation hub
- Transit hub/development
- Light rail (Is there a way to pressure Cong. Boozman to do his part, or at least not sabotage those efforts?)
- Trails

Greenspace (20%)

- I like the community area, trails, parks and greenspace
- Keep and expand useful green areas
- Park on Laverne
- Trails system—floodplain greenspaces

Sustainability/Clean Tech concepts (20%)

- Green Valley
- Partnership w/U of A
- LEED
- Density management integrating clean tech and residential

Master Plan

Fayette Junction

Appendices

Are there any elements of your vision for the future of the Fayette Junction Neighborhood we might have missed?

- New developments having an increased number of retention ponds; make sure mosquito control is included so as to not add to the existing problem
- Put time limits for new construction to eliminate half-completed buildings sitting for numerous months or years
- Some areas are too dense
- Suggest using normal setbacks on new construction instead of zero lot lines
- Ensure new development that is built in low-lying areas have proper drainage and not drain on existing residents causing flooding
- Make sure there is adequate parking for new development as to alleviate parking on the street
- The area S. of Cato by Laverne should definitely be park/greenspace
- I don't think placing buildings—even beautiful ones—on top of the hills/knolls as you enter Fayetteville is a good idea. Can we not preserve the hilltops as forest and build in way that doesn't gash the natural landscape so visibly.
- Plenty of street trees/boulevards to slow entry traffic from I-540 and new development to SW
- Sidewalks along Cato Springs Road
- A formal involvement from the UA
- Fayette Junction neighborhood association
- Any issues with truck traffic to industrial areas?

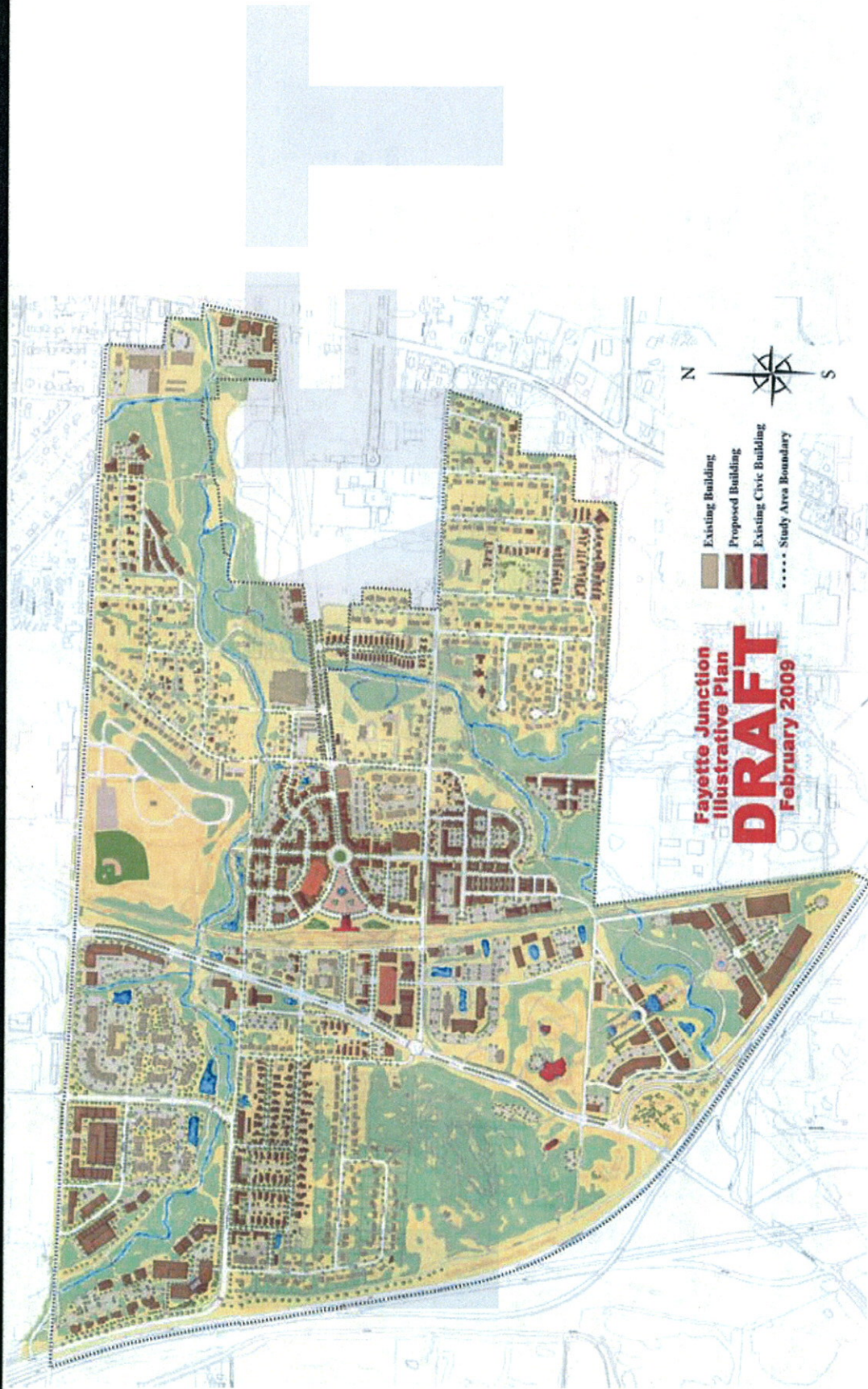
Do you think the plan
is on the right track?

Yes (94%)

No (6%)

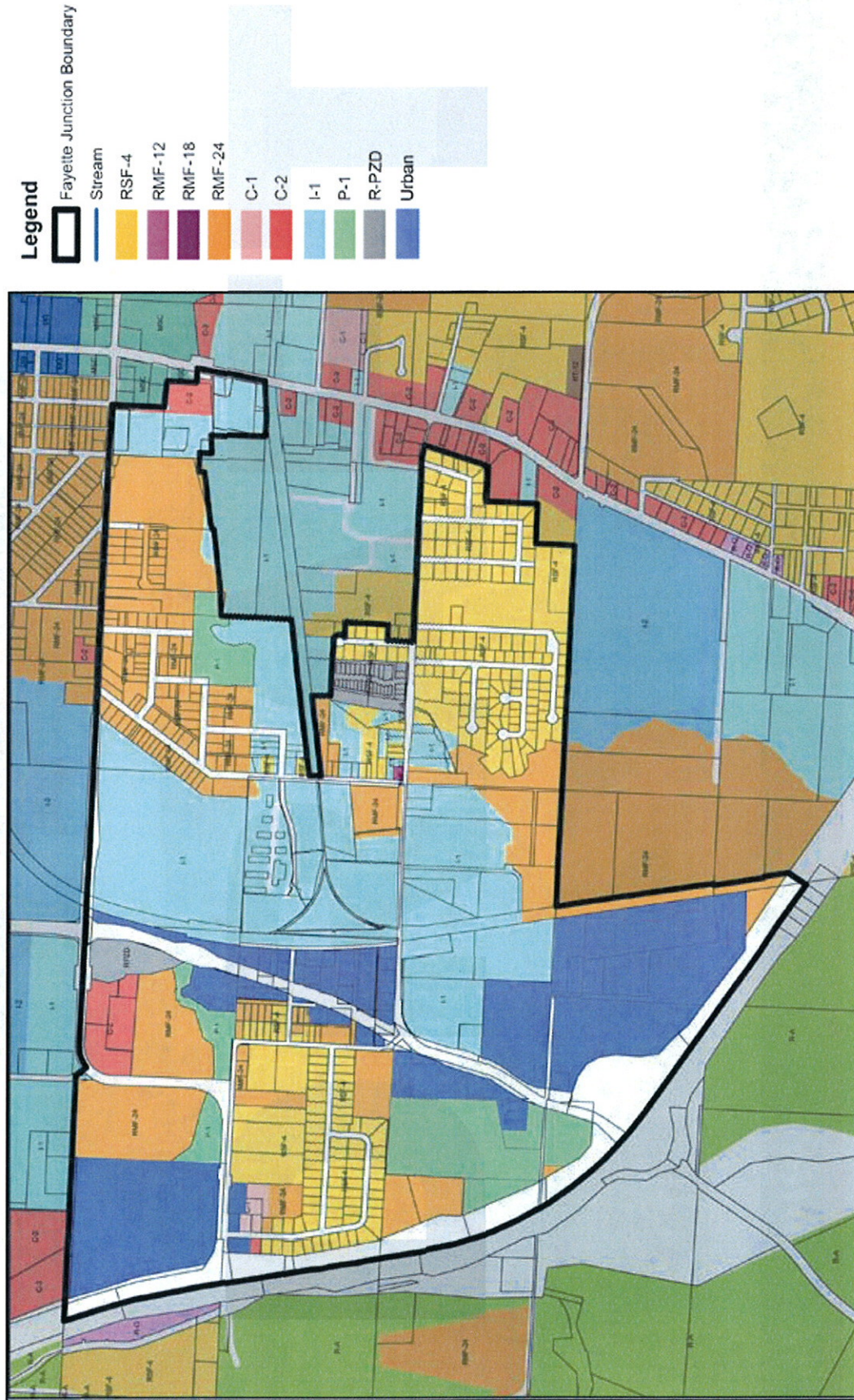
Fayette Junction

Appendices



Master Plan

Appendices



Appendices

Resources:

Campbell, Denele Pitts. "Fayette Junction: Hub of Washington County's 1885 - 1935 Timber Boom". *Flashback, Winter 2005*. Washington County Historical Society

City of Chicago Green Roof Fact Sheet.

http://egov.cityofchicago.org/webportal/COCWebPortal/COC_ATTACH/Green_Roof_Fact_Sheet.pdf

City Plan 2025, Fayetteville

<http://cityplan2025.accessfayetteville.org>

Downtown Master Plan, 2004, Fayetteville

<http://www.accessfayetteville.org/planning/>

The Centre for Sustainable Transportation

<http://cst.uwinnipeg.ca/>

University of Arkansas Community Design Center

<http://uacdc.uark.edu/>

University of Arkansas - Facilities Management Planning Group

<http://planning.uark.edu/>

Urban Land Institute

<http://www.uli.org>

City Council Agenda Items
and
Contracts, Leases or Agreements

7-Apr-09

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

CS

Division

Development Services

Department

Action Required:

Staff recommends the establishment of an Animal Services Advisory Board

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

03/10/09

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

3/19/09

Date

Finance and Internal Services Director

3-19-09

Date

Received in City
Clerk's Office

ENTERED

3/10/09

Chief of Staff

3/19/09

Date

Received in
Mayor's Office

ENTERED

3/19/09

Mayor

3/24/09

Date

Comments: Approval of the Animal Services Advisory Board

CITY COUNCIL AGENDA MEMO

To: Mayor and Council

Thru: Jeremy Pate, Director of Development Services

From: Yolanda Fields, CS Director

Date: March 6, 2009

Subject: Establishment of an Animal Services Advisory Board

RECOMMENDATION

Staff recommends the establishment of an Animal Services Advisory Board.

BACKGROUND

The Animal Services Division provides essential animal services to the City of Fayetteville. The division strives to provide a sanitary and humane facility for the handling of animals. Animal Services personnel assist the public and animal owners with reclaiming impounded stray or abandoned animals, adoption services and responsible animal ownership education. Regular veterinary care is provided for shelter animals and those injured or sick animals picked up by compliance officers. Funds provided by the City of Fayetteville are supplemented by public donations and contracts for service with Washington County and surrounding municipalities.

The division's primary objectives are to educate citizens to be responsible animal owners; to place adopted animals into responsible, caring homes; to return lost animals to their owners; and to reduce the number of animals that must be humanely euthanized.

DISCUSSION

With the growth in the population of the city has come a growth in the pet challenges we face as a community. It has become clear that we need to establish a process for more community involvement to cope with the challenges ahead. The creation of an Animal Services Advisory Board would provide a structure for the involvement of the community to meet the challenges. The Animal Services Advisory Board would act in an advisory capacity to the Animal Services Superintendent, the Mayor, and the City Council on all policy matters pertaining to the Animal Services Division activities. The member shall provide advice regarding the animal shelter and animal welfare. Members would work to stimulate and encourage communication with all members of the community to ensure that programs, goals, and objectives are consistent with community needs and desires.

The Board would consist of nine residents appointed by the City Council: one licensed veterinarian; one member shall own, operate or otherwise be employed by or in a business related to the production, sale, distribution or care of animals or livestock; one member shall represent the county, one member with a finance background, two members shall represent a nonprofit animal interest group or groups whose membership is comprised primarily of citizens of the City and whose primary interest is the health and welfare of animals; and, the remaining three members shall be residents of the City and need not have any other affiliation, membership or association.

BUDGET IMPACT

None

RESOLUTION NO. _____

**A RESOLUTION ESTABLISHING AN ANIMAL SERVICES
ADVISORY BOARD.**

**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 establishes the Animal Services Advisory Board (ASAB) and sets forth the purpose and composition of its membership as follows:

A. The ASAB shall act in an advisory capacity to the Animal Services Superintendent, the Mayor, and the City Council on all policy matters pertaining to Animal Services Division activities, and work to stimulate and encourage communication with all members of the community to ensure that the programs, goals and objectives of the Animal Services Division are consistent with community needs and desires.

B. The ASAB shall be composed of the following nine (9) members to be appointed by the City Council:

1. One (1) licensed veterinarian;
2. One (1) owner, operator or employee of a business related to the production, sale, distribution or care of animals or livestock;
3. One (1) representing Washington County;
4. One (1) with a background in finance;
5. Two (2) members shall represent a nonprofit animal interest group or groups whose membership is comprised primarily of citizens of the City, and whose primary interest is the health and welfare of animals;
6. Three (3) residents of the City of Fayetteville, who need not have any other affiliation, membership or association.

PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville Staff Review Form

D. 3
RZN 09-3218 (Life Styles)
Page 1 of 18

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 09-3218: (Life Styles, 363): Submitted by Bates and Associates for property located north of the Sycamore Street and Saddlehome Avenue intersection. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 1.27 acres. The request is to rezone the subject property to P-1, Institutional.

_____	\$ _____	_____
Cost of this request	Category / Project Budget	Program Category / Project Name
_____	\$ _____	_____
Account Number	Funds Used to Date	Program / Project Category Name
_____	\$ _____	_____
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

03-13-09
Date

Previous Ordinance or Resolution # _____

City Attorney

3-13-09
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Babin
Finance and Internal Services Director

3-16-09
Date

Chief of Staff

3/16/09
Date

Mayor

3/16/09
Date

Received in City
Clerk's Office

ENTERED
3-13-09

Received in
Mayor's Office

ENTERED
3/16/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy C. Pate, Director of Development Services JP

From: Dara Sanders, Current Planner

Date: March 10, 2009

Subject: Rezoning for Life Styles (RZN 09-3218)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property, located at the northeast corner of Sycamore Street and Saddlehorn Avenue, from RSF-4, Residential Single-Family, 4 units/acre to I-1, Institutional.

BACKGROUND

The property, containing approximately 1.27 acres, is currently vacant and located at the corner of Sycamore Street and Saddlehorn Avenue, adjacent to I-540. The applicant proposes to rezone the property from RSF-4, Residential Single-Family, 4 units/acre, to P-1, Institutional in order to develop the property as an expansion of the Life Styles College for Living, an adult education program for individuals with developmental disabilities. Currently, Life Styles is located at the southwest corner of Sycamore Street and Porter Road, just two properties southeast of the subject property. Development of this property will be subject to the I-540 Design Overlay District and Commercial Design Standards.

DISCUSSION

This item was heard at the regular Planning Commission meeting on March 9, 2009. The Planning Commission voted 9-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

While the proposed use of the subject property is classified as Use Unit 4, a use allowed in the underlying RSF-4 zoning district only by Planning Commission approval of a conditional use permit, staff recommends in favor of the rezoning request, finding that any future expansion of the facility would require a new conditional use permit application to be reviewed by the Planning Division and the Planning Commission. Staff finds that rezoning the property to P-1, Institutional, which allows only city-wide uses, cultural and recreational facilities, and government facilities as permitted uses, is appropriate as the underlying zoning district would accurately reflect the use and govern the development of the property with regulations established and adopted for this type of use.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 09-3218, FOR APPROXIMATELY 1.27 ACRES, LOCATED NORTH OF THE SYCAMORE STREET AND SADDLEHORNE AVENUE INTERSECTION FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO P-1, INSTITUTIONAL

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single-Family, 4 units per acre to P-1, Institutional, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2009.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

"Exhibit A"

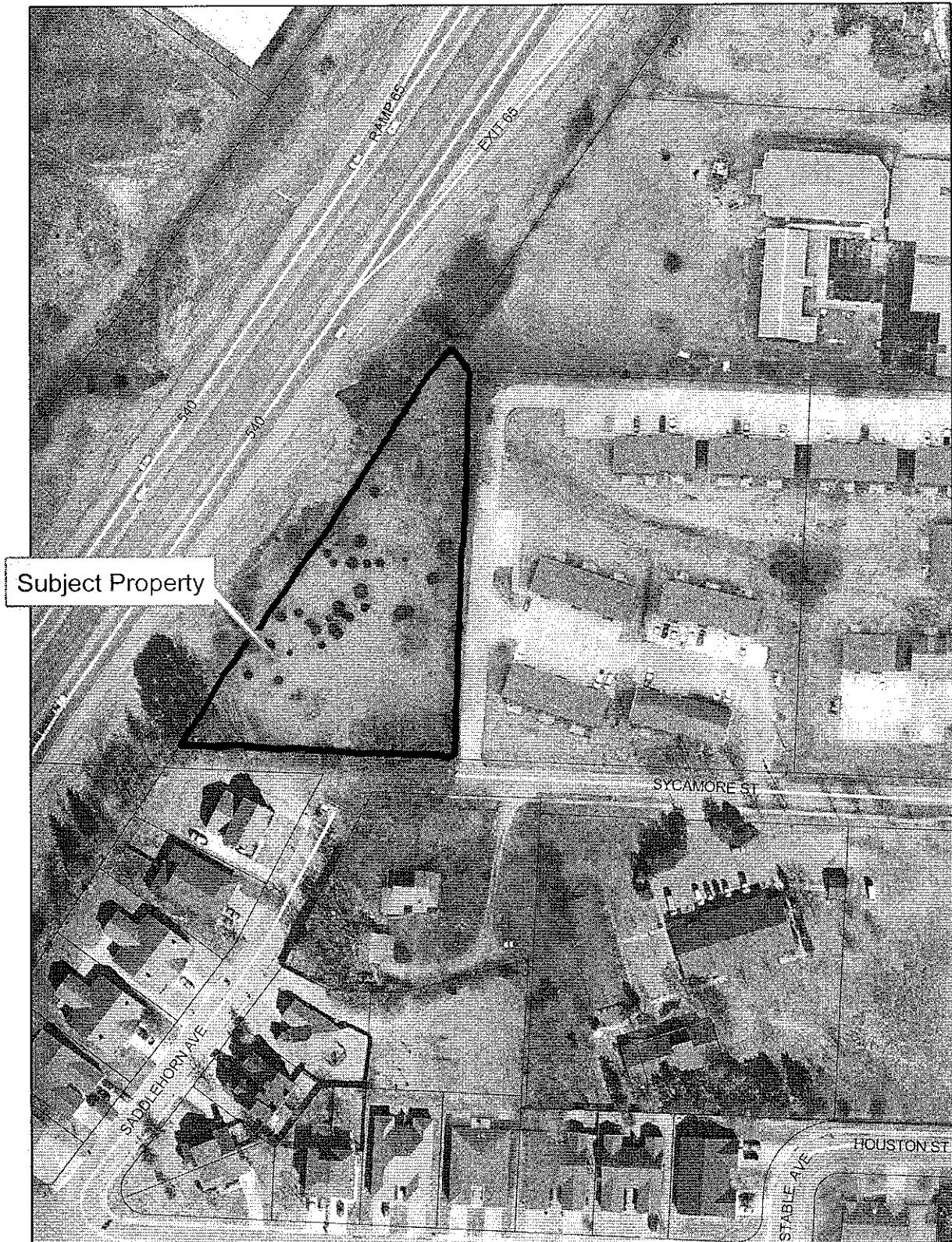


EXHIBIT "B"
RZN 09-3218

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND IRON PIN THAT IS N01°26'44"E 399.83' AND N88°53'22"W 662.18' FROM THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S01°53'25"W 375.84' TO THE NORTH RIGHT-OF-WAY OF SYCAMORE STREET, N88°32'36"W 260.26' ALONG SAID RIGHT-OF-WAY TO THE RIGHT OF WAY OF U.S. INTERSTATE #540, THENCE ALONG SAID RIGHT OF WAY: N31°28'34"E 13.38', N32°59'40"E 451.03', THENCE LEAVING SAID RIGHT OF WAY S44°00'42"E 28.75' TO THE POINT OF BEGINNING, CONTAINING 1.27 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD, IF ANY.



PC Meeting of March 9, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 2, 2009~~ Updated March 11, 2009

RZN 09-3218: (LIFE STYLES, INC., 363): Submitted by BATES AND ASSOCIATES for property located at NORTH OF THE SYCAMORE ST. AND SADDLEHORNE AVENUE INTERSECTION. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.27 acres. The request is to rezone the subject property to P-1, Institutional.

Planner: Dara Sanders

BACKGROUND:

Property Description: The property, containing approximately 1.27 acres, is currently vacant and located at the corner of Sycamore Street and Saddlehorne Avenue, adjacent to I-540. Both Sycamore Street and Saddlehorne Avenue have not been constructed at this location, but adequate right-of-way exists for construction of both public streets and to provide the necessary frontage and access to accommodate development of the property.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	I-540	None
South	Residential	RT-12, Residential Transitional, 12 units/acre, RSF-4, Residential Single Family, 4 units/acre
East	Residential	RMF-24, Residential Multi-Family, 24 units/acre
West	I-540	None

Proposal: The applicant proposes to rezone the property from RSF-4, Residential Single-Family, 4 units/acre, to P-1, Institutional in order to develop the property as an expansion of the Life Styles College for Living, an adult education program for individuals with developmental disabilities. Currently, Life Styles is located at the southwest corner of Sycamore Street and Porter Road, just two properties southeast of the subject property (see attached map). Development of this property will be subject to the I-540 Design Overlay District and Commercial Design Standards.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding the rezoning request to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>	
	☐ Tabled	☒ Forwarded		☐ Denied
Motion: Anthes	Second: Myres	Vote: 9-0-0		
CITY COUNCIL ACTION:		Required	<u>YES</u>	
	☐ Approved			☐ Denied
Date:				

INFRASTRUCTURE:

- Streets:** The site has access to Sycamore St. and Saddlehorn Ave. Both are fully improved paved two lane City streets, but there is a gap separating them. Street improvements will need to be evaluated at the time of development.
- Water:** Public water is available to the property. There is a 4" main along Sycamore Street. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.
- Sewer:** Sanitary sewer is available to the site. There is an 8" public main across this property. Sewer may need to be extended through the property at the time of development. The capacity of the existing main may need to be evaluated at the time of development.
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.
- Fire:** This development will be protected by Engine 2 located at 708 N. Garland. It is 2 miles from the station with an anticipated response time of 6 minutes to the beginning of the development. The Fayetteville Fire Department does not feel this development will affect our calls for service or response times.
- Police:** It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will not create an appreciable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as Residential Neighborhood Area, which recognizes conventional subdivision development but encourages traditional neighborhood development that incorporates low-intensity non-residential uses.*

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: The proposed P-1 zoning is consistent with the City's Residential Neighborhood Area land use designation to encourage traditional neighborhood development that incorporates low-intensity non-residential uses. Based on current planning objectives and principles of development and land use, staff finds that the subject property, adjacent to Interstate 540, on a University of Arkansas Razorback transit service route, and surrounded by other low-intensity non-residential uses and a variety of housing types and densities, would be more appropriately developed under the P-1 zoning district than the current low-density, single-family residential zoning designation.

Staff finds that the proposal fulfills Goal 1 of the City Plan 2025, to make appropriate infill and revitalization our highest priorities, and Goal 3, to make traditional town form the standard. The subject property is currently vacant and bound by I-540 to the north and west and by a neighborhood with a variety of residential and non-residential uses and sprawling characteristics to the east and south. Staff finds that rezoning the subject property to P-1 will minimize the sprawling nature of the neighborhood by working to fill-in a vacant property in an existing neighborhood with a low-intensity non-residential use that has proven to be compatible 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: Life Styles has provided a unique and community-wide service for persons with disabilities since 1976. Staff finds that the proposed zoning is justified and needed to accommodate an expansion for the facility to continue serving persons with disabilities in a growing community. While the proposed use of the subject property is classified as Use Unit 4, a use allowed in the underlying RSF-4 zoning district only by Planning Commission approval of a conditional use permit, staff recommends in favor of the rezoning request, finding that any future expansion of the facility would require a new conditional use permit application to be reviewed by the Planning Division and the Planning Commission. Staff finds that rezoning the property to P-1, Institutional, which allows only city-wide uses, cultural and recreational facilities, and government

facilities as permitted uses, is appropriate as the underlying zoning district would accurately reflect and govern the use and development of the property with regulations established and adopted for the specific use. Furthermore, development of the property will be subject to the requirements and regulations of the I-540 Design Overlay District and Commercial Design Standards.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: It is expected that a rezoning from RSF-4 to P-1 may create an increase in traffic compared with that allowed under the existing zoning. A majority of the students currently enrolled at the facility, which is located two properties southeast of the subject property, walk or bike to the Life Styles campus or utilize the Razorback bus service. Additionally, the facility provides van transportation for students to and from the campus. Staff anticipates that expansion of existing services to the subject property would not result in a noticeable increase in traffic due to the variety of transportation options available to the current and future students of the Life Styles campus.

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.

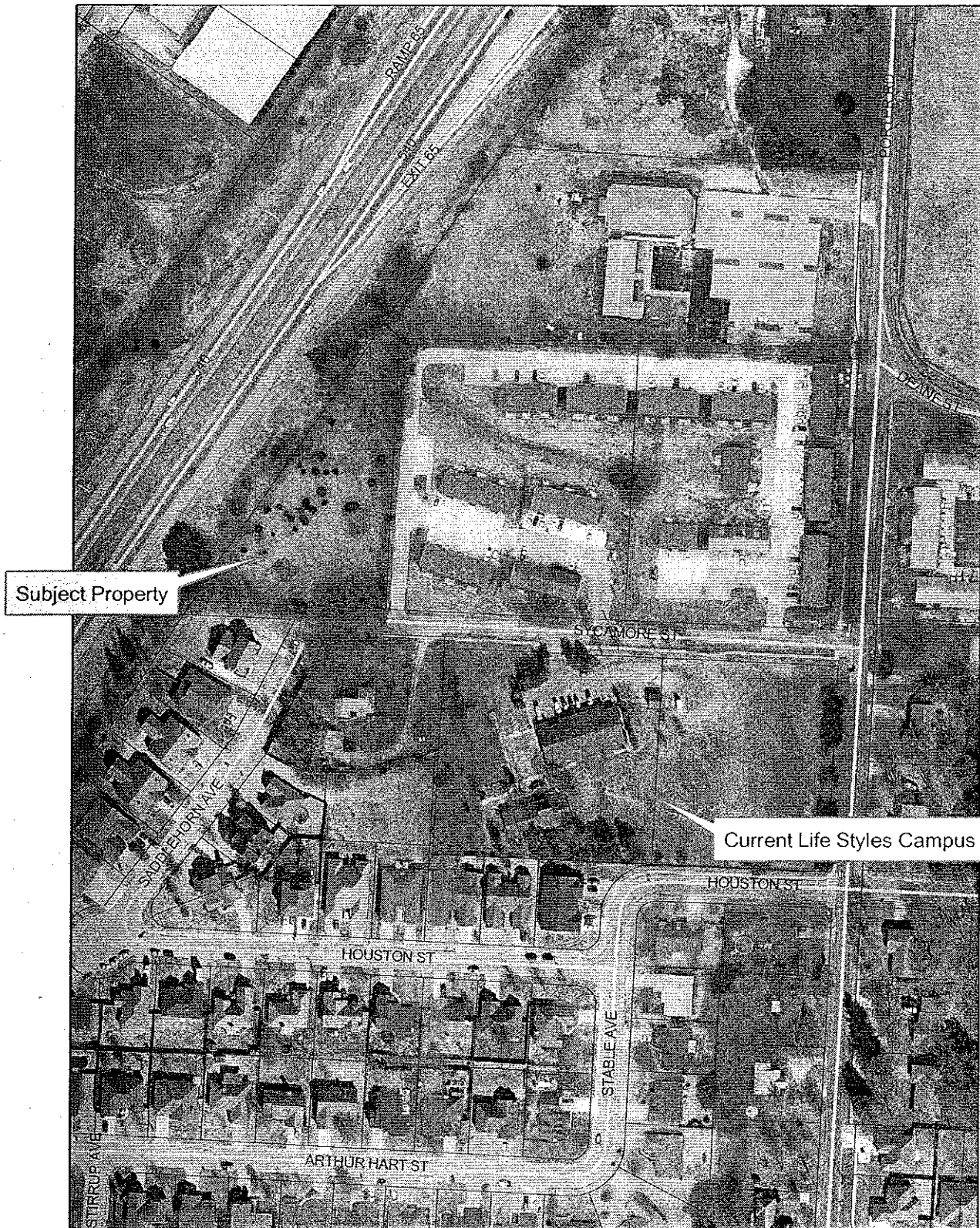
Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments are included in this report.

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: Not applicable. Staff recommends in favor of the requested zoning.

RZN 09-3218 (Life Styles, Inc)



Bates & Associates, Inc.

Civil Engineering & Surveying

3561 N. College / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

D. 3
RZN 09-3218 (Life Styles)
Page 11 of 18

January 20, 2009

Jeremy C. Pate, APA, ASLA
Director of Current Planning
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Life Styles College Rezoning

Dear Mr. Pate,

This letter is to fulfill the requirements of item 5 on the rezoning application.

- a. The property owner is Life Styles, Inc. and there are no pending or proposed property sales.
- b. The zoning change is needed in order to develop the Life Styles College for Living. A school is not allowed in the current RSF-4 zoning and the P-1 zoning is the most compatible zoning for this type of development.
- c. The property will be compatible with the surrounding properties. Interstate 540 is to the west, apartments are to the east and townhouses to the south. The traffic will increase slightly but most students will travel by van. The signage will be the maximum allowed by the P-1 zoning. The building materials will blend with the surroundings and the owner wants the development to be LEED certified.
- d. Water and sewer is adjacent to the site. An 8" sewer main is located on the property and a 6" water main runs along Sycamore and an 8" runs along Saddlehorne.

If you have any questions or require additional information, please feel free to call.

Sincerely

Bates & Associates, Inc.



Geoffrey H. Bates, P.E.
President of Engineering

Bates & Associates, Inc.

Civil Engineering & Surveying

3561 N. College / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

D. 3
RZN 09-3218 (Life Styles)
Page 12 of 18

January 20, 2009

Planning Commission
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Life Styles College Rezoning

Dear Commissioners,

This letter is to fulfill the requirements of item 6 on the rezoning application.

- a. The 2025 plan shows this property as residential. However, this type of development will have a low impact on the surrounding properties. This type of school will be good for the surrounding properties and may bring families into the adjoining residential developments.
- b. The zoning change is needed in order to develop the Life Styles College for Living. A school is not allowed in the current RSF-4 zoning and the P-1 zoning is the most compatible zoning for this type of development.
- c. The majority of the students will travel by van. Therefore, the traffic will only increase slightly.
- d. The proposed development will NOT alter the population density or undesirably increase the load on public services.
- e. The proposed development is located in close proximity to their existing facility off Sycamore. The property is too small to make residential development feasible and there are not any permissible uses under the current zoning that will work with the proposed development.

If you have any questions or require additional information, please feel free to call.

Sincerely

Bates & Associates, Inc.



Geoffrey H. Bates, P.E.
President of Engineering

Engineering Division Comments

RZN 09-3218: (LIFE STYLES, INC., 363): Submitted by BATES AND ASSOCIATES for property located NORTH OF THE SYCAMORE ST. AND SADDLEHORNE AVENUE INTERSECTION. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.27 acres. The request is to rezone the subject property to P-1, INSTITUTIONAL. Planner: Dara Sanders

Public water is available to the property. There is a 4" main along Sycamore Street. Water may need to be extended through the property at the time of development to provide domestic service and fire protection.

Sanitary sewer is available to the site. There is an 8" public main across this property. Sewer may need to be extended through the property at the time of development. The capacity of the existing main may need to be evaluated at the time of development.

The site has access to Sycamore St. and Saddlehorn Ave. Both are fully improved paved two lane City streets, but there is a gap separating them. Street improvements will need to be evaluated at the time of development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 2/19/09

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 09-3218: (Life Styles, Inc., 363): Submitted by Bates and Associates for property located North of Sycamore St. and Saddlehorn Avenue intersection would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 1.27 acres.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



The City of Fayetteville Fire Department

303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
From: David Williams
Date: February 20, 2009
Re: RZN 09-3218: (LIFE STYLES, INC., 363

This development will be protected by Engine 2 located at 708 N. Garland. It is 2 miles from the station with an anticipated response time of 6 minutes to the beginning of the development. The Fayetteville Fire Department does not anticipate any increase of call volume or response times with the rezoning of this project.

If you have any questions please feel free to contact me.

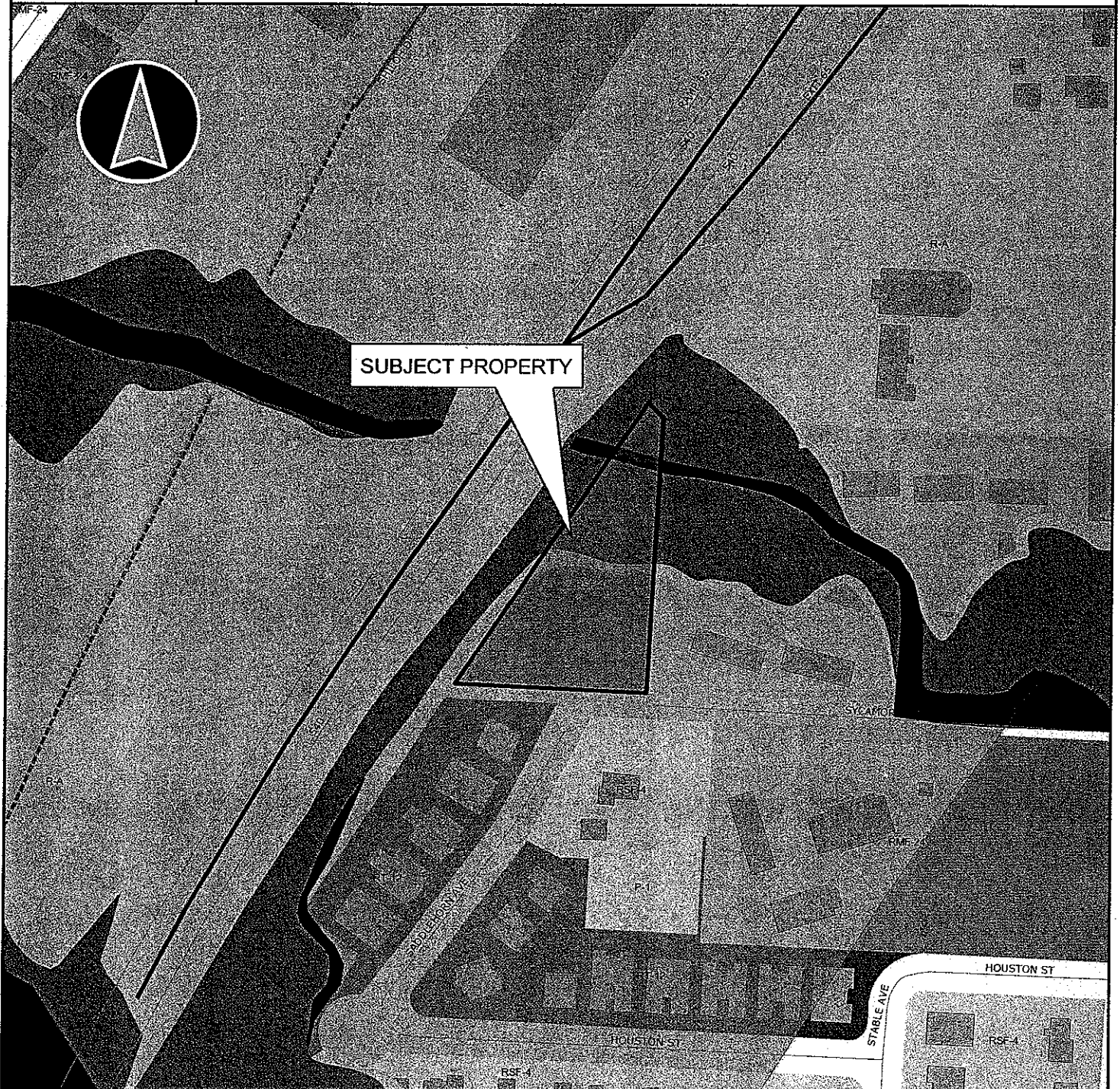
David Williams

Fire Marshal
Fayetteville Fire Department

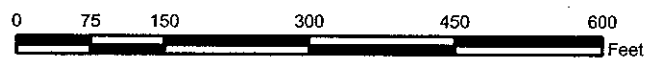
RZN09-3218

LIFE STYLES, INC.

Close Up View



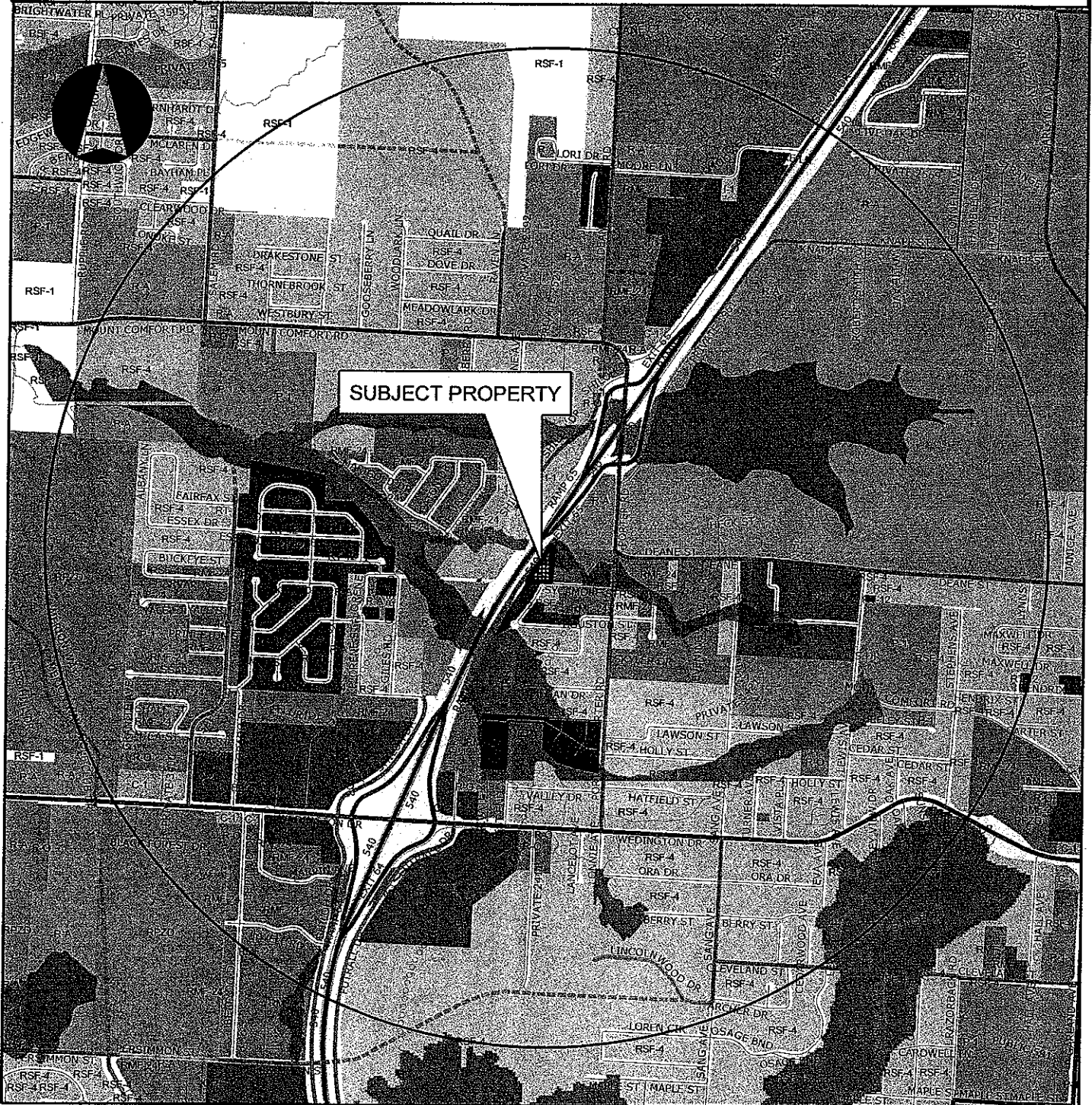
Overview



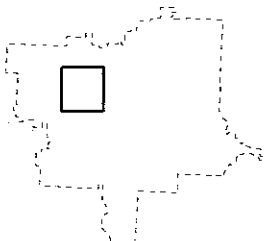
RZN09-3218

One Mile View

LIFE STYLES, INC.



Overview



Legend

Subject Property

RZN09-3218

Boundary

Planning Area

Overlay District

Outside City

Legend

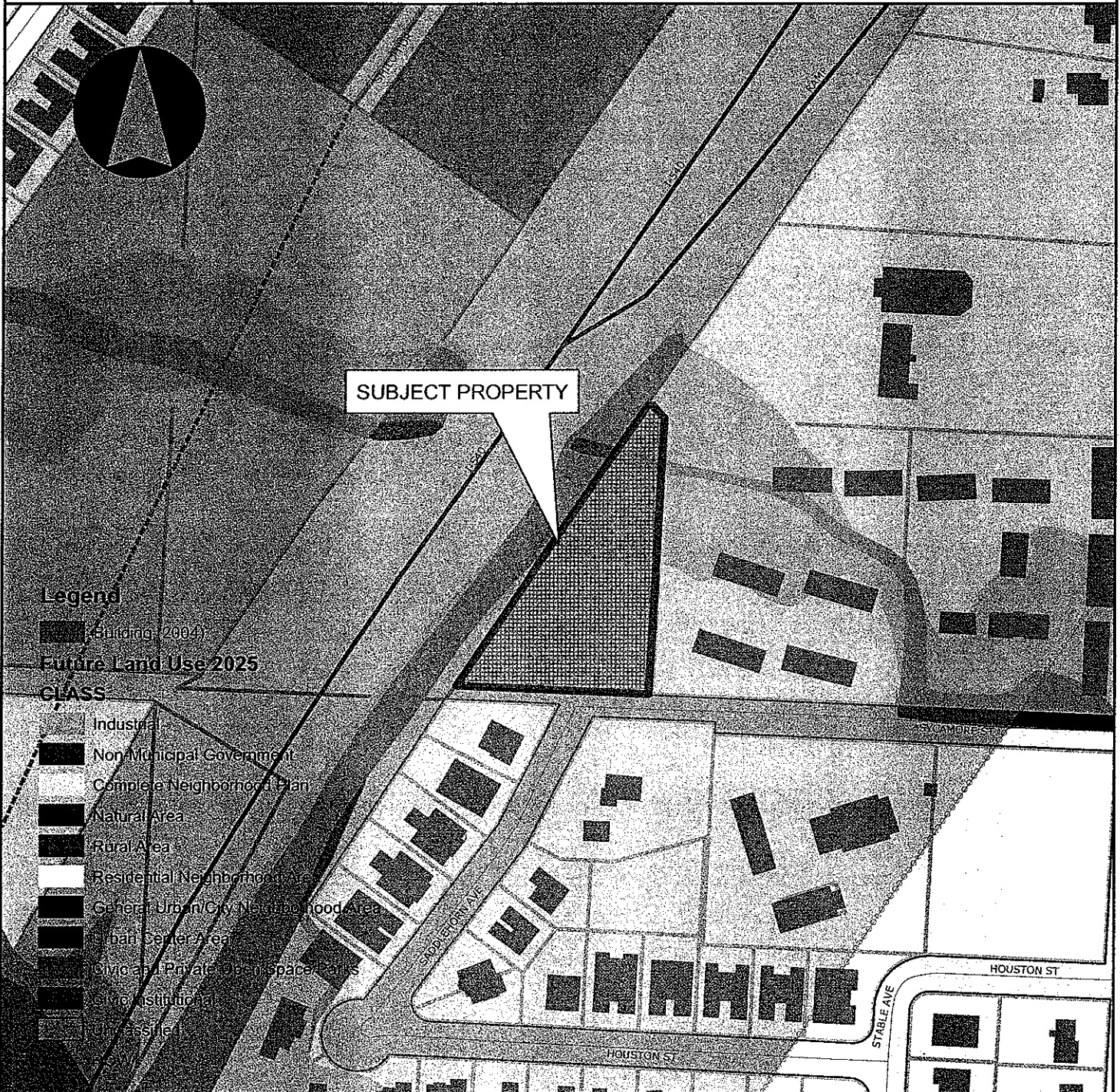
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

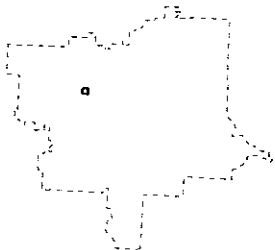
RZN09-3218

LIFE STYLES, INC.

Future Land Use



Overview



Legend

Subject Property

RZN09-3218

Boundary

Planning Area

Overlay District

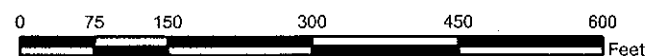
Outside City

Streets

Existing

Planned

Legend



City of Fayetteville Staff Review Form

D. 4
ADM 09-3219 Amend Chapter 166
Page 1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

4/7/2009

City Council Meeting Date
Agenda Items Only

Andrew Garner
Submitted By

Planning
Division

Development Services
Department

Action Required:

ADM 09-3219 (UDC Ch. 166.12 Structures Not Allowed Over Public Easements): An ordinance amending Ch. 166.12 of the Unified Development Code to clarify what types of structures are permitted in easements, and to establish consistent guidelines for the installation of structures in easements.

Cost of this request

n/a
Category / Project Budget

Program Category / Project Name

Account Number

n/a
Funds Used to Date

Program / Project Category Name

Project Number

n/a
Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

03-13-09
Date

Previous Ordinance or Resolution #

City Attorney

3-13-09
Date

Original Contract Date:

Original Contract Number:

Chief of Staff

3/16/09
Date

Received in City
Clerk's Office

ENTERED
3-13-09

Received in
Mayor's Office

ENTERED
3/16/09

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Director of Development Services 

From: Andrew Garner, Senior Planner

Date: March 13, 2009

Subject: UDC Ch. 166.12 Amendments - Structures Not Allowed Over Public Easements (ADM 09-3198)

RECOMMENDATION

On March 9, 2009 the Fayetteville Planning Commission and staff recommended in favor of an ordinance to amend the Fayetteville Unified Development Code (UDC) to clarify what type of structures are and are not permitted in public utility easements. After the Planning Commission meeting the City Attorney provided a memorandum to Planning Staff with some recommendations on the proposed ordinance changes. These recommendations are consistent with staff and Planning Commission's intent of the ordinance changes and have generally been incorporated into the proposed ordinance.

BACKGROUND

City of Fayetteville Unified Development Code chapter 166.12 prohibits the installation of any structures over easements. This ordinance is intended to prevent permanent immovable structures from impeding the installation or maintenance of utilities and to allow utilities to continue and expand their specific utility services in the easement. However, there are numerous instances where signs, trash enclosures, and other structures have been placed over public utility easements, with or without permission of the City and or utility providers. In certain cases, more "temporary" or "movable" structures can be installed in easements and not restrict or impede the use of the easement for utility provision. The lack of a clear direction in the code to allow such structures leads to a wide interpretation of what should and should not be permitted. Planning staff proposes amending UDC Chapter 166.12 to more clearly define what types of structures are and are not permitted within a public easement, and to clearly describe that certain structures that are difficult to move, such as brick or stone fences, must obtain written permission from utility companies and the City and file a legal recorded document prior to installation. The proposed ordinance change would allow applicants more flexibility in the development of their property, while maintaining the integrity of the easement. The proposed modifications to the code would provide utility companies assurance that any damage or relocation of utilities, or damage/removal of certain structures by utility companies would be at the owner/developer's expense. In addition, the decision to allow the identified structures would be entirely at the discretion of the utility service providers and the City. This policy is not intended to be directly applicable to encroachments within public rights-of-way or Master Street Plan setbacks.

DISCUSSION

This item was heard at the regular Planning Commission meeting on March 9, 2009 and forwarded by vote of 9-0 with a recommendation for approval to the City Council. The proposed ordinance modification was discussed by the utility companies and City staff at the February 11, 2009 Technical Plat Review meeting, and briefly discussed at the March 3, 2009 Board of Adjustment meeting. Neither the utility companies nor the Board of Adjustment voiced any objection to the proposed amendments. After the Planning Commission meeting, staff has incorporated additional changes suggested by the City Attorney, which are consistent with the intent of the proposal.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE SUBSECTION 166.12: STRUCTURES NOT ALLOWED OVER PUBLIC EASEMENTS, TO CLARIFY WHAT TYPES OF STRUCTURES ARE PERMITTED IN EASEMENTS, AND TO ESTABLISH CONSISTENT GUIDELINES FOR THE INSTALLATION OF STRUCTURES IN EASEMENTS.

WHEREAS, landowners are allowed to use their property within an easement as long as such use does not damage or impede the easement owner's use of the easement; and

WHEREAS, certain structures do not damage or impede the use of an easement and should be permitted within said easement; and

WHEREAS, additional regulations are necessary to clarify what types of structures are permitted in easements, and to establish consistent guidelines for permitting structures within easements;

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 repeals and replaces §166.12 Structures Not Allowed Within Public Easements, with the following language:

"§166.12 Structures Not Allowed Within Public Easements"

- (A) No portion of any building including in-ground pools or other immovable structure shall be built within a public utility easement.
- (B) Walls, brick or stone fences (with or without metal portions), monument or pole signs, and other difficult to move structures may only be built within public easements if permitted by the Zoning and Development Administrator after written approval by all utilities that could access the easement.

The written documentation shall be filed of record in the Washington County Circuit Clerk's office. Any related damage or relocation of utilities or the structure in the easement shall be at the owner/developer's expense.

- (C) Readily movable fences (field fence, barbed wire, chain link, woodboard privacy, etc.) may encroach upon non-drainage public easements, but the owner is responsible at their own expense to promptly remove any portion of the fence blocking the easement if a utility company or the City needs access. A utility company or the City may remove such fence itself to avoid delaying necessary installation, maintenance or repair work without liability to the property owner who may reinstall the fence at his own expense once the installation, repair or maintenance work is finished.
- (D) No fences may be installed in any drainage easement if such installation could impede the drainage through the easement.

PASSED and APPROVED this day of , 2009.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



PC Meeting of March 9, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 3, 2009~~ *Updated March 11, 2009*

ADM 09-3219: (UDC AMENDMENT CH. 166.12, DEVELOPMENT): The request is to modify the Fayetteville Unified Development code Section 166.12 to permit yard accessories over public easements if written permission is provided by utility companies.

Planner: Andrew Garner

BACKGROUND

City of Fayetteville Unified Development Code chapter 166.12 prohibits the installation of any structures over easements. This ordinance is intended to prevent permanent structures from impeding the installation or maintenance of utilities and to allow utilities to continue and expand their specific utility services in the easement.

However, there are numerous instances where signs, trash enclosures, and other small yard accessories have been placed over public utility easements, with or without permission of the City and or utility providers. In certain cases, small yard accessories can be installed in easements and not restrict or impede the use of the easement for utility provision. In past instances where owners have proposed to install a small yard accessory in a utility easement, but do not want to vacate the easement, staff has required the property owner to obtain written permission from all affected utility companies to ensure their rights of access/maintenance and use of the easement are not impeded. However, the lack of a clear direction in the code to allow such accessories leads to a wide interpretation of what should and should not be permitted.

Planning staff proposes amending UDC Chapter 166.12 to permit customary yard accessories within a public easement if the applicant can provide written permission to the City by all affected utility companies. This would allow applicants more flexibility in the development of their property, while maintaining the integrity of the easement. The proposed modifications to the code would provide utility companies assurance that any damage or relocation of utilities, or damage/removal of the yard accessory by utility companies would be at the owner/developer's expense. This policy is not intended to be directly applicable to encroachments within public rights-of-way or Master Street Plan setbacks.

The proposed ordinance modification was discussed by the utility companies and City staff at the February 11, 2009 Technical Plat Review meeting. The utility companies discussed that they were comfortable with the proposed ordinance changes with the understanding that principal structures such as a residence or building would not be allowed in easements, that written permission would be required by all utility companies prior to construction in an easement, and that any relocation or damage of utilities or the applicant's accessory structure would be at the owner/developer's expense. This item was also briefly discussed at the March 3, 2009 Board of Adjustment meeting. The Board of Adjustment did not voice any objections to the proposed amendment, but did recommend that the written permission form signed by utility companies get filed of record so that the deed for the property will show that the structure is allowed over the easement.

RECOMMENDATION

Planning Staff recommends approval of ADM 09-3219 to amend Chapter 166.12 of the UDC to permit customary yard accessories within utility easements if written approval by utility companies is provided.

Planning Commission Action: ☒ Forwarded to C.C. ☐ Denied ☐ Tabled

Motion: Cabe

Second: Winston

Vote: 9-0-0

Meeting Date: March 9, 2008

Comments: _____

Fayetteville Code of Ordinances

Commission, the Planning Commission may require the subdivider to reserve sites for public use that are indicated within the boundaries of the proposed subdivision which are indicated on an officially adopted plan, to permit the public board, commission, or body having jurisdiction, or financial responsibility, the opportunity to acquire said sites.

- (2) The subdivider at his option may provide such areas or may be required to make them available for acquisition by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved.

(C) *Future acquisition.* The Planning Commission may require the subdivider to establish building lines to allow for future acquisition of right-of-way for arterial streets.

(Code 1965, App. A., Art. 8(10.1); Ord. No. 1747, 6-29-70; Ord. No. 3073, 3-19-86; Code 1991, §160.119; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4919; 9-05-06)

166.12 Structures Not Allowed Over Public Easements

No portion of any structure shall be built over any public utility easement. However, customary yard accessories including but not limited to walls, fences, posts, poles, ornaments, fabric canopies, ground level decks, furniture, rain barrels, and other similar items may be permitted within an easement if written approval is provided by appropriate utility service providers and the Planning Division. The written documentation shall be filed of record at the Washington County Circuit Clerk's office. Any related damage or relocation of utilities and/or the customary yard accessory within the easement shall be at the owner/developer's expense.

166.13 Underground Utility Wires

- (A) In the new residential developments requiring Planning Commission approval and new commercial developments all utility wires, lines, and/or cable in said developments utilized by electric and/or telecommunications companies shall be placed underground.
- (B) *Waiver.* In case of hardships, (including but not limited to financial, geological, environmental, or regulatory) unique to the subject property, the Planning Commission may grant a waiver, on a permanent or temporary basis, to allow the erection, construction, installation, maintenance, use or operation of poles and overhead wires and associated overhead structures.

(C) *Exemptions.* The following shall be exempt from the requirements of this section:

- (1) Overhead wires, supporting structures, and associated structures of a temporary nature which provide temporary service. A permit obtained from the Zoning and Development Administrator for said temporary service, addressing the nature and duration of said service, shall be required.
- (2) Existing lines of 12Kv and above.
- (3) A single power pole near the exterior boundary of a development shall be allowed to provide connections for underground service.

(D) Nothing herein shall be construed to usurp the authority of the Arkansas Public Services Commission and in all instances of conflict, the rules and regulations of said Arkansas Public Service Commission shall prevail.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4169, §1, 6-16-99)

166.14 Commercial Design And Development Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
- (3) To protect and preserve the scenic resources distributed throughout the city which have contributed greatly to its economic development, by attracting tourists, permanent part-time residents, new industries, and cultural facilities.
- (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
- (5) To address the issues of traffic, safety, and crime prevention.
- (6) To preserve property values of surrounding property.
- (7) To provide good civic design and arrangement.

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 151: DEFINITIONS

Setback. (Zoning) A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure 30 inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture yard accessories may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Structure or building. (Zoning) Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, billboards and poster panels carports, sheds, etc.

Yard accessories. An ancillary structure set firmly in or below the ground surface and usually not attached to a principal or accessory structure. Yard accessories include walls, fences, posts, poles, ornaments, fabric canopies, ground level decks, furniture, rain barrels, and other similar items that are assumed to be readily removed.

SAMPLE UTILITY PERMISSION FORM

December 3, 2008

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

To Whom It May Concern:

The Washington County Farm Bureau Insurance company has constructed a new office building at the northwest corner of Wedington Drive/Meadowland Drive. We have applied for a sign permit from the City of Fayetteville for a new monument sign ten (10) feet off of the Wedington Drive right-of-way. There is a utility easement and utilities in this vicinity of the site. Because the sign is proposed to be located within a utility easement, the City requires written sign off from all utility providers prior to issuance of a sign permit.

We request that you sign the signature block below indicating no objection to the sign installation, with the understanding that any damage or relocation to existing utilities or the sign, will be at the owner/developer's expense.

Sincerely,

Vince Massanelli

Farm Bureau Insurance
Agency Manager

Attachments: (1) site plan indicating sign and utility location; and (2) picture of the proposed sign

The sign is approved as indicated in this letter and attachments:

Electric Service: Ozark Electric

Signature: _____

Gas Service: Arkansas Western Gas

Signature: _____

Water Service: City of Fayetteville

Signature: _____

Sewer Service: City of Fayetteville

Signature: _____

Telephone Service: AT&T

Signature: _____

Cable Service: Cox Communication

Signature: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

D. 4
ADM 09-3219 Amend Chapter 166
Page 11 of 12



LEGAL DEPARTMENT

TO: **Jeremy Pate**, Director of Current Planning

FROM: **Kit Williams**, City Attorney

DATE: **March 10, 2009**

RE: **Amendment to §166.12**

I think your proposed amendment to **§166.12 Structures Not Allowed Over Public Easements**, needs some work to make it more clear and to prevent unnecessary regulation. "Structure" is defined in the UDC as "anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground." (Chapter 151, UDC) Of all the things you proposed to have listed in §166.12 for which property owners would have to apply for a permit after approval of all utilities (including the City), only "walls" and "fences" are mentioned in the definition as a "structure."

"Furniture" is defined in Merriam-Webster's Collegiate Dictionary, 10th Edition as "**movable** articles used in readying an area (as a room or patio) for occupancy or use." (emphasis added) Thus, under your new §166.12, a homeowner would have to fill out an application (pay a fee?), obtain written approval of all utility service providers, and file the document in the Circuit Clerk's Office if they wanted to place an easily movable lawn chair or table within a public easement. I guess a new permit would be needed for each new chair or table or if the land owner wanted to move his lawn furniture within the easement.

I thought the City wanted to encourage citizens to use rain barrels. The ones I have seen are pretty mobile (especially if drained). This ordinance change would place a bureaucratic process in the way for any homeowner seeking to follow our advice to get a rain barrel if that barrel might encroach upon an easement.

In normal property law, a landowner is allowed to use his property within the easement conveyed to another party as long as such use does not damage or impede the easement owner's use of the easement. Thus, easements (except ingress and egress) always allow fences across them even though the easement owner may order the portion of the fence in the easement removed if it is necessary to work on the buried pipe or overhead line permitted by the easement.

When the City purchased or condemned easements for the new sewer pipelines in the Fayetteville Waste Water Improvement Project, we sometimes crossed fenced pastures. We

rebuilt those fences across our easements when construction was completed. If we had not allowed the fences to be reconstructed, we would have drastically devalued the whole pasture. (And we would have had to pay fair compensation for this taking.)

Let me suggest possible wording for a revised §166.12.

“§166.12 Structures Not Allowed Within Public Easements

“(a) No portion of any building including any elevated deck, in-ground pools or other immovable structure shall be built over a public utility easement.

“(b) Walls, brick or stone fences (with or without metal portions), above ground swimming pools, monument or pole signs, ‘portable’ storage buildings, ground level decks, and other difficult to move structures may only be built within a public easement if permitted by the Director of Current Planning after written approval by all utilities that could access the easement. The written documentation shall be filed of record in the Washington County Circuit Clerk’s Office.

“(c) Readily movable fences (field fence, barbed wire, chain link, etc.) may encroach upon non-drainage public easements, but the owner is responsible at the owner’s expense to promptly remove any portion of the fence blocking the easement if a utility company or the City needs access. A utility company or the City may remove such fence itself to avoid delaying necessary installation, maintenance or repair work without liability to the property owner who may reinstall the fence at his own expense once the installation, repair or maintenance work is finished.”

“(d) No fences may be installed in any drainage easement if such installation could impede the drainage through the easement.

As you see, I do not think any references to furniture, ornaments, fabric canopies or rain barrels should be made, nor should any permit be required for such items.

AGENDA REQUEST

FOR: COUNCIL MEETING OF APRIL 7, 2009

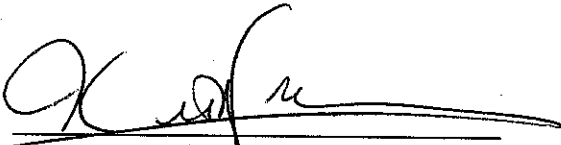
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

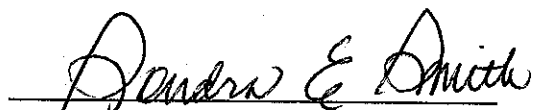
An Ordinance To Amend §33.001 City Organizational Chart Of The Code Of Fayetteville

APPROVED FOR AGENDA:


KIT WILLIAMS
City Attorney

MARCH 25, 2009
Date

ENTERED
3-25-09
USP

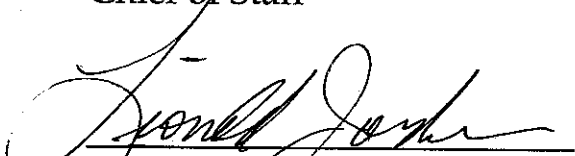

SONDRA SMITH
City Clerk/Treasurer

3/25/09
Date


DON MARR
Chief of Staff

3/25/09
Date

ENTERED
3/25/09
SRP


LIONELD JORDAN
Mayor

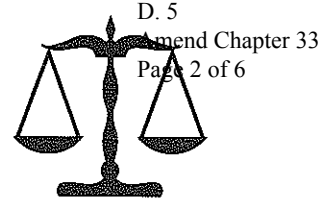
3/25/09
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
City Council
Sondra Smith, City Clerk/Treasurer
Don Marr, Chief of Staff

FROM: **Kit Williams**, City Attorney

DATE: **March 25, 2009**

RE: **§33.001 City Organizational Chart**

Having a detailed City Organizational Chart enacted as part of the Code of Fayetteville is probably a holdover from our previous City Manager/Board of Directors form of government that was replaced in 1992 with the Mayor/Council form of government. Under the City Manager form of government, the City Board had both legislative **and executory (administrative) power**. Thus, the City Board had the power to determine how the administration would be organized and function. Under this power, the City Board approved and enacted a City Organizational Chart.

Under our current form of government, the City Council's statutory power is primarily limited to legislative power while the Mayor is the chief executive officer responsible for the efficient administration of city government. The City Council uses its power to determine budgetary matters including numbers and costs of city personnel. However, within the confines of the budget, the Mayor has the statutory power to organize his or her administration for efficiency and service.

The current City Organization Chart was enacted on April Fool's Day of 2003 and became out of date within a year or two. I really do not know how many major or minor "reorganizations" the City has had over the last six years. It is clear that none were presented as an amendment to the April 1, 2003 organizational chart.

I recommend that the §33.001 **CITY ORGANIZATIONAL CHART** be amended and that the chart published in the Fayetteville reflect only the unchanging statutorily required organization. Both the Police Chief and Fire Chief report by statutory requirement to the Mayor just as the City Prosecutor reports to the City Attorney and the District Court reports to the District Judge.

For purposes of the Fayetteville Code, I recommend that the broad term "Administration" be substituted for the detailed and ever-changing department and division mix employed in previous organizational charts enacted into the Fayetteville Code. The Mayor would then publish (and easily change if situations or conditions require modification) the detailed Administration Organization Chart on the City's web page and in other ways so our citizens will have accurate and up-to-date knowledge of our city government's organization.

I recommend this amendment to §33.001 of the Fayetteville Code.

ORDANINCE NO. _____

**AN ORDINANCE TO AMEND §33.001 CITY ORGANIZATIONAL
CHART OF THE CODE OF FAYETTEVILLE**

WHEREAS, the Mayor has the right to organize and reorganize the administration of the City to provide the most efficient service possible for our citizens as long as the Mayor stays within approved budget (including the approved number of personnel); and

WHEREAS, the Organizational Chart within the Code of Ordinances has often been out of date and not reflective of the actual current organizational structure of city departments; and

WHEREAS, it would be preferable for the City Organizational Chart adopted as part of the Fayetteville Code to include only those departments which are statutorily set (and thus unlikely to change) while including only the generic term "Administration" under the Mayor who can then determine the most efficient organization for the administration.

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 repeals §33.001 **CITY ORGANIZATIONAL CHART** in its entirety and enacts the replacement §33.001 **CITY ORGANIZATIONAL CHART** in its stead as shown below:

"§33.001 CITY ORGANIZATIONAL CHART

"The basic City Organizational Chart shown on the following page is hereby adopted. The Mayor shall further detail the organization of the Administration in a chart that shall be available to the citizens of Fayetteville through the city's web page and other media."

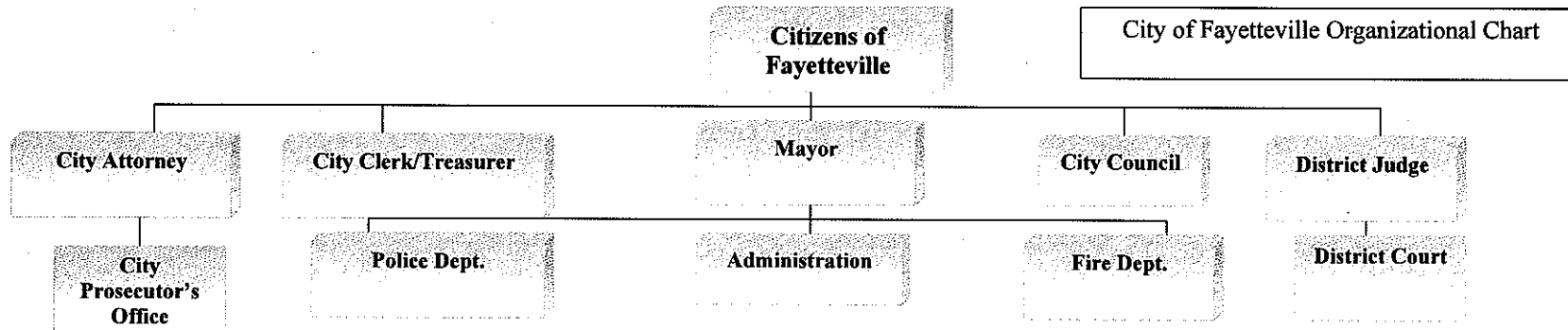
PASSED and APPROVED this 7th day of April, 2009.

APPROVED:

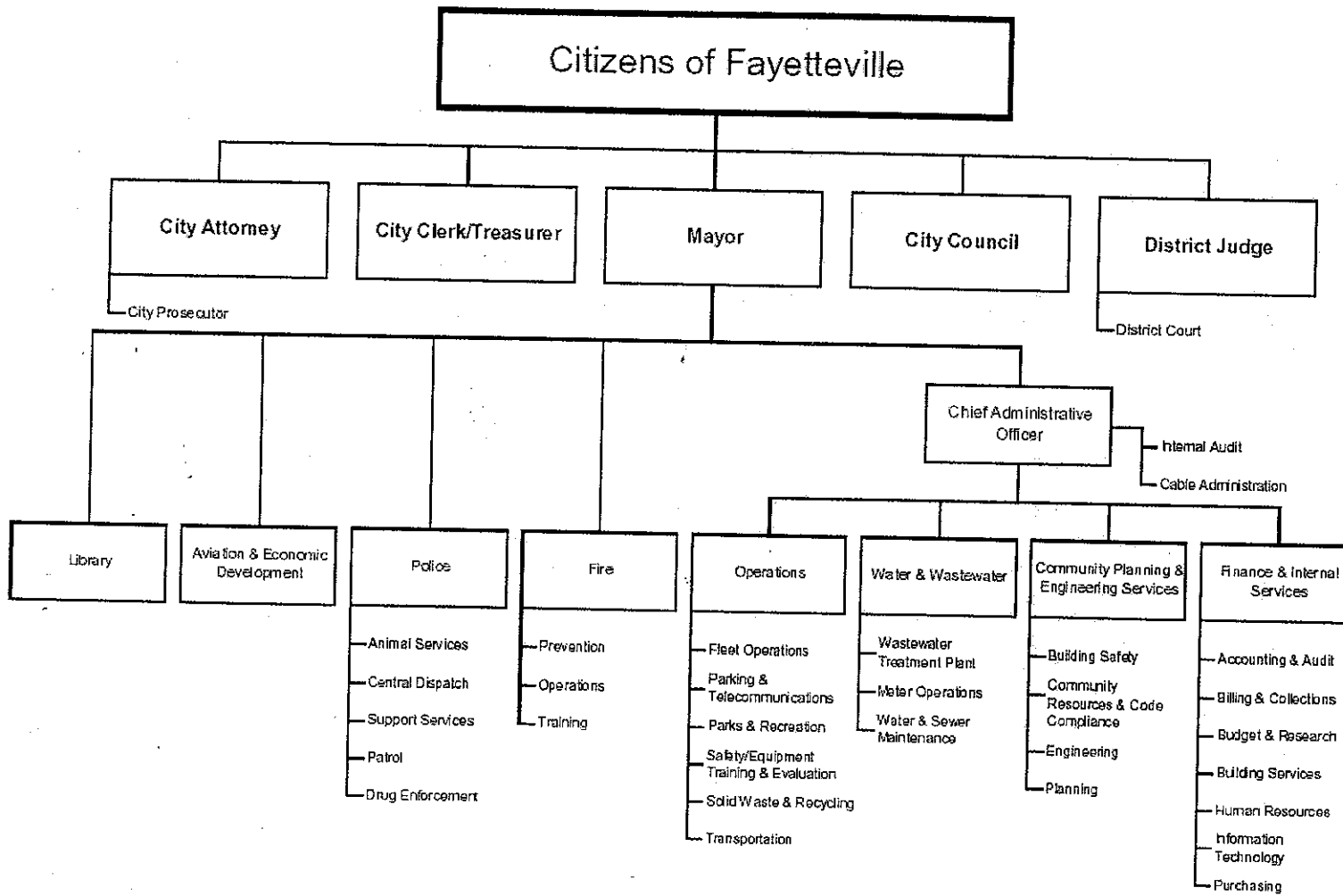
ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



City of Fayetteville, Arkansas Organizational Chart



FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

Current Chart in Code

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville, Arkansas
City Council Meeting
April 7, 2009**

A meeting of the Fayetteville City Council will be held on April 7, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Fayetteville Bulldogs Congratulations Resolution

Agenda Session Presentations:

1. Courts Building Progress – Lynn Hyke, Construction Project Manager
2. Sales Tax Update – Paul Becker, Finance and Internal Services Director
3. Stimulus Act – Officer Hiring Opportunity – Greg Tabor Added after Tentative Agenda was published.

Mayor's Announcements, Proclamations and Recognitions:

1. Fayetteville Bulldogs Proclamation

Presentations, Reports and Discussion Items:

1. Botanical Gardens of the Ozarks Annual Report

A. Consent:

1. Approval of the March 17, 2009 City Council meeting minutes.
2. **Bid # 09-14 Rick Pershall Building Co.:** A resolution awarding Bid # 09-14 to Rick Pershall Building Co. in the amount of \$23,632.30 for replacement of the Solid Waste Transfer Station tipping floor; and approving a contingency in the amount of \$5,000.00.
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1. **Bid # 09-23 Drake Field HVAC Controls Upgrade:** A resolution awarding Bid # 09-23 and approving a contract with _____ in the amount of \$XX,XXX.XX for Drake Field HVAC Controls Upgrade.

This resolution was Tabled at the March 17, 2009 City Council meeting to the April 7, 2009 City Council meeting.

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1. **A Public Hearing regarding the issuance of Series 2009 Water and Sewer Revenue Bonds in the approximate amount of \$8.5 million – David Jurgens, Utilities Director**
2. **Tenant/Samples De-annexation:** An ordinance concurring with Farmington ordinance No. 2009-05, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.
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D. New Business:

1. **Fayette Junction Master Plan:** A resolution to adopt the Fayette Junction Master Plan vision document and Illustrative Master Plan.
2. **Animal Services Advisory Board:** A resolution establishing an Animal Services Advisory Board.
3. **RZN 09-3218 (Life Styles):** An ordinance rezoning that property described in rezoning petition RZN 09-3218, for approximately 1.27 acres, located north of the Sycamore Street and Saddlehorn Avenue intersection from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.
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5. **Amend Chapter 33:** An ordinance to amend §33.001 City Organizational Chart of the Code of Fayetteville.

Agenda Additions:

Add: (c) Solid Resources

Announcements:

(c) DRC Emergency Services

1. City Council Tour: ~~April 6, 2009~~

NONE

(c) Cops Grant

Adjournment:

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3/25/09
Pre-Agenda Meeting

Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville, Arkansas
City Council Meeting
April 7, 2009**

A meeting of the Fayetteville City Council will be held on April 7, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

- Fayetteville Bulldog Congratulations - Resolution - Email to Council

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2. — *Sales Tax Update*

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— Fayetteville Bulldog Pro.

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Agenda
Additions **Announcements:**

1. **City Council Tour: April 6, 2009**

Adjournment:

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **April 8, 2009**

RE: **Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of April 7, 2009**

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16. Animal Services Advisory Board: A resolution establishing an Animal Services Advisory Board;

17. Amend Chapter 33: An ordinance to amend §33.001 **City Organizational Chart** of the Code of Fayetteville.

From: "Wilbourn, Gordon M." <Gordon.Wilbourn@KutakRock.com>
To: 'Paul Becker' <pbecker@ci.fayetteville.ar.us>, Sondra Smith <:ssmith@ci.f...
Date: 4/1/2009 8:30 AM
Subject: RE: Public Notice

Notice is ok. Hearing on the 7th is fine.

Gordon M. Wilbourn
Kutak Rock LLP
124 West Capitol Avenue, Suite 2000
Little Rock, Arkansas 72201
501.975.3101 (phone)
501.975.3001 (fax)
gordon.wilbourn@kutakrock.com

-----Original Message-----

From: Paul Becker [mailto:pbecker@ci.fayetteville.ar.us]
Sent: Wednesday, April 01, 2009 8:26 AM
To: Sondra Smith; Wilbourn, Gordon M.
Subject: Re: Public Notice

Good Morning Gordon

I know you were on vacation last week but I had asked Sondra to send a copy of the public notice to you to insure it was OK. Since you haven't told me of a problem with it I assume it is OK and we can go ahead with the meeting on 4/7/2009. We will then do the ordinance on 4/21/2006 as we discussed.

Thanks

Paul

>>> Sondra Smith 3/25/2009 4:06 PM >>>

Hello Gordon

Paul Becker asked that I email you a copy of the attached Public Notice that will be published regarding the Series 2009 Water and Sewer Bonds. Have a great day!

Sondra E. Smith CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

#####

ANY FEDERAL TAX ADVICE CONTAINED IN THIS MESSAGE SHOULD NOT BE USED OR
REFERRED TO IN THE PROMOTING, MARKETING OR
RECOMMENDING OF ANY ENTITY, INVESTMENT PLAN OR ARRANGEMENT, AND SUCH ADVICE IS
NOT INTENDED OR WRITTEN TO BE USED,
AND CANNOT BE USED, BY A TAXPAYER FOR THE PURPOSE OF AVOIDING PENALTIES UNDER
THE INTERNAL REVENUE CODE.

#####

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that is privileged, attorney work product or otherwise protected by applicable law. If you have received this

message in error, please notify the sender at 402-346-6000 and delete this E-mail message.
Thank you.

#####

Lisa Branson - Courts Building

From: Lynn Hyke
To: Lisa Branson; Paul Becker; Peggy Bell
Date: 3/24/2009 10:12 AM
Subject: Courts Building

Lisa

Could you put me on the 3/31/09 agenda for a report on the Courthouse Progress. This will be done by me.
Thanks

Lynn A. Hyke
Construction Project Manager
lhyme@ci.fayetteville.ar.us
(479) 601-1079

RECEIVED

APR 07 2009

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

P. O. BOX 1607

FAYETTEVILLE, AR 72702

PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville – Final Agenda

April 5, 2009

Publication Charge : \$252.86

Signed: _____

Cathy Wiles

Subscribed and sworn to before me

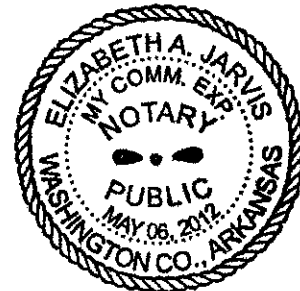
This *17* day of *April*, 2009.

Notary Public _____

Elizabeth A. Jarvis

My Commission Expires: *May 6, 2012*

Do not pay from Affidavit, an invoice will be sent



RECEIVED

APR 07 2009

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE, ARKANSAS
CITY COUNCIL MEETING
APRIL 7, 2009**



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