

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
April 6, 2010**

A meeting of the Fayetteville City Council will be held on April 6, 2010 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

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the March 16, 2010 City Council meeting minutes. **APPROVED**
2. **Amend Resolution No. 138-06 Comprehensive Market Survey:** A resolution amending Resolution No. 138-06 to delay the requirement to perform a Comprehensive Market Survey from 2010 to 2012.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 48-10

3. **Pressure Point Control Tactics Training Class:** A resolution amending the 2010 City Budget by approving a budget adjustment to authorize expenditures and recognize revenue in a total amount of \$640.00 related to a Fayetteville Police Department Pressure Point Control Tactics Training Class.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 49-10

4. **Wildlife Hazard Assessment Grants:** A resolution authorizing application and approving acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$58,109.00 to fund a Wildlife Hazard Assessment at Fayetteville Executive Airport-Drake Field, and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 50-10

5. **Loomacres Wildlife Management:** A resolution approving a contract with Loomacres Wildlife Management in the amount of \$58,109.00 for the provision of a Wildlife Hazard Assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 51-10

6. **Kearney-National Inc. and/or Cooper Power Systems Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Kearney-National Inc. and/or Cooper Power Systems needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 52-10

7. **Amend Police Department Policies:** A resolution approving amendments to Fayetteville Police Department Policies 12.2.1, Policies Procedures & Rules Development and Review; 22.3 Secondary Employment; 52.1.1, Office of Professional Standards; 61.2 Collision Investigation and 71.1.1, Detainee Transport.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 53-10

8. **Fayetteville Forward Event:** A resolution to approve the attached budget adjustment of \$6,600.00 for the April, 2010 Fayetteville Forward Event.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 54-10

B. Unfinished Business:

1. **Amend Chapter §114.02 Farmers' Market:** An ordinance to amend §114.02 Farmers' Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events. *This ordinance was left on the First Reading at the March 16, 2010 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5309

C. New Business:

1. **Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$343,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 55-10

2. **Amend Chapter §97.086 Vending and Peddling:** An ordinance to amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers Market to operate in Lake Fayetteville Park.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5310

3. **C B & I, Inc. Bid #10-17:** A resolution awarding Bid #10-17 and approving a contract with C B & I, Inc. in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank, approval of a \$49,000.00 contingency, and approval of a budget adjustment in the amount of \$1,600,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 56-10

4. **Form-Based Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to modify existing and create new use units and Form-Based Zoning Districts that permit administrative development approval and to create design standards for said districts.

LEFT ON THE FIRST READING

5. **NEC, Inc. and H2 Engineering, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for sewer improvements at Veterans Memorial Park, approving a project contingency of \$4,404.00, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5311

Announcements:

1. **Form Based Code Workshop: April 5, 2010 Room 326 at 4:30 p.m.**

Adjournment: 8:58 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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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.

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

9-0

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

Subject:	Consent				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Lucas			
passed Minutes Approved 48-10 thru 54-10	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Mayor Jordan				

8-0

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

Subject:		Amend Chapter §114.02 Farmers' Market			
Motion To:		2nd Read	Amend Subsection A	Amend previous ord. City is decision-maker of rules & regulations of the Farmers Market.	
Motion By:		Gray	Cook	Rhoads	
Seconded:		Lucas	Thiel	No Second	
B. 1 Unfinished Business	Ferrell	✓	✓		
	Lucas	✓	✓	died	
	Lewis	✓	✓		
	Gray	✓	N	due to	
	Thiel	✓	✓	No Second.	
	Cook	✓	✓		
	Petty	✓	✓		
	Rhoads	✓	N		
	Mayor Jordan				

8-0

6-2

Subject:		Amend Chapter 114.02 Farmers' Market			
Motion To:		Amend - Disagreement between Farmers Market & City		3rd Read	Saturday Amend would only
Motion By:		Ferrell	City Admin prevails	Cook	Thiel
Seconded:		Rhoads		Ferrell	Ferrell
B.1. Unfinished Business	Ferrell	✓		✓	✓
	Lucas	✓		✓	✓
	Lewis	✓		✓	✓
	Gray	✓		✓	✓
	Thiel	✓		✓	✓
	Cook	✓		✓	✓
	Petty	✓		✓	N
	Rhoads	✓		✓	✓
	Mayor Jordan				

8-0

8-0

7-1

Subject:	Amend Chapter 114.02 Farmers' Market				
Motion To:		Pass			
Motion By:					
Seconded:					
B.I. Unfinished Business passed as amended 5309	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Mayor Jordan				

8-0

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

Subject:		Rock Street Parking, LLC			
Motion To:			<i>Amend dollar amount</i>	<i>Pass</i>	
Motion By:			<i>Thiel</i>	<i>Petty</i>	
Seconded:			<i>Petty</i>	<i>Cook</i>	
C. 1 New Business <i>passed</i> <i>55-10</i>	Ferrell	☒	<i>N</i>		
	Lucas	☒	<i>N</i>		
	Lewis	☒	☒		
	Gray	☒	☒		
	Thiel	☒	☒		
	Cook	☒	☒		
	Petty	☒	☒		
	Rhoads	☒	☒		
	Mayor Jordan				

8-0

6-2

Subject:		Amend Chapter §97.086 Vending and Peddling			
Motion To:			<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>
Motion By:			<i>Ferrell</i>	<i>Ferrell</i>	
Seconded:			<i>Thiel</i>	<i>Lucas</i>	
C. 2 New Business <i>5310</i>	Ferrell	☒	☒	☒	
	Lucas	☒	☒	☒	
	Lewis	☒	☒	☒	
	Gray	☒	☒	☒	
	Thiel	☒	☒	☒	
	Cook	☒	☒	☒	
	Petty	☒	☒	☒	
	Rhoads	☒	☒	☒	
	Mayor Jordan				

8-0

8-0

8-0

Subject:		C B & I, Inc. Bid #10-17			
Motion To:					
Motion By:			<i>Approve</i>		
Motion By:			<i>Cook</i>		
Seconded:			<i>Thiel</i>		
C. 3 New Business <i>Passed</i> <i>56-10</i>	Ferrell		✓		
	Lucas		✓		
	Lewis		✓		
	Gray		✓		
	Thiel		✓		
	Cook		✓		
	Petty		<i>Absent during the vote</i>		
	Rhoads		✓		
	Mayor Jordan				

7-0

Subject:		Form-Based Zoning Districts			
Motion To:					
Motion By:					
Seconded:					
C. 4 New Business <i>Left on the First Reading</i>	Ferrell				
	Lucas				
	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Mayor Jordan				

Subject:		NEC, Inc. and H2 Engineering, Inc.			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Thiel	Thiel	
Seconded:			Cook	Lucas	
C. 5 New Business passed 5311	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

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

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 7, 2010**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of April 6, 2010**

1. **Amend Resolution No. 138-06 Comprehensive Market Survey:** A resolution amending Resolution No. 138-06 to delay the requirement to perform a Comprehensive Market Survey from 2010 to 2012.
2. **Pressure Point Control Tactics Training Class:** A resolution amending the 2010 City Budget by approving a budget adjustment to authorize expenditures and recognize revenue in total amount of \$640.00 related to a Fayetteville Police Department Pressure Point Control Tactics Training Class.
3. **Wildlife Hazard Assessment Grant:** A resolution authorizing application and approving acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$58,109.00 to fund a Wildlife Hazard Assessment at Fayetteville Executive Airport-Drake Field, and approving a budget adjustment recognizing the grant revenue.
4. **Loomacres Wildlife Management:** A resolution approving a contract with Loomacres Wildlife Management in the amount of \$58,109.00 for the provision of a Wildlife Hazard Assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.
5. **Kearney-National Inc. and/or Cooper Power Systems Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Kearney-National Inc. and/or Cooper Power Systems needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport.

6. **Amend Police Department Policies:** A resolution approving amendments to Fayetteville Police Department Policies – **12.2.1 Policies, Procedures & Rules Development and Review; 22.3 Secondary Employment; 52.11 Office Of Professional Standards; 61.2 Collision Investigation and 71.1.1 Detainee Transport.**
7. **Fayetteville Forward Event:** A resolution to approve the attached budget adjustment of \$6,600.00 for the April, 2010 Fayetteville Forward Event.
8. **Amend §114.02 Farmers' Market:** An ordinance to amend §114.02 **Farmers' Market** by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays, to ensure the public's free access to the sidewalks and to confirm that city laws and regulations prevail over Farmers' Market policies.
9. **Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$344,000.00.
10. **Amend §97.086 Vending and Peddling:** An ordinance to amend §97.086 **Vending and Peddling of Chapter 97 Parks and Recreation** of the Fayetteville Code to allow the Farmers' Market to operate in Lake Fayetteville Park.
11. **CB&I, Inc. Bid #10-17:** A resolution awarding Bid #10-17 and approving a contract with CB&I, Inc. in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank, approval of a \$49,000.00 contingency, and approval of a budget adjustment in the amount of \$1,600,000.00.
12. **NEC, Inc. & H2 Engineering, Inc.** An ordinance waiving the requirements of formal competitive bidding and approving contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for sewer improvements at Veterans Memorial Park, approving a project contingency of \$4,404.00 and approving a budget adjustment.

Aldermen

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Final Agenda City of Fayetteville Arkansas City Council Meeting April 6, 2010

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Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

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A. Consent:

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Left on the First Reading

C. New Business:

1. **Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$343,000.00.
2. **Amend Chapter §97.086 Vending and Peddling:** An ordinance to amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers Market to operate in Lake Fayetteville Park.

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Announcements:

1. **Form Based Code Workshop: April 5, 2010 Room 326 at 4:30 p.m.**

Adjournment:

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A.4.
Consent

City of Fayetteville Staff Review Form

A.4
Wildlife Hazard Assessment Grants
1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux
Submitted By

Aviation
Division

Transportation
Department

Action Required:

Action Required: **Approve Application** for and **Acceptance of grant funding** from DOT/FAA and the AR Dept of Aeronautics; \$55,204 FAA, \$2905 ADA.

Approve Budget Adjustment contingent on receipt of grant funding.

\$ 58,109.00
Cost of this request

\$ -
Category / Project Budget

Wildlife Hazard Assessment
Program Category / Project Name

5550.3960.7820.39
Account Number

\$ -
Funds Used to Date

D8100_AVED
Program / Project Category Name

10022 1
Project Number

\$ -
Remaining Balance

Airport
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

[Signature]
Department Director

3-29-10
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney

3-30-10
Date

Original Contract Date: _____

Original Contract Number: _____

[Signature]
Finance and Internal Services Director

3-30-2010
Date

Received in City
Clerk's Office



[Signature]

[Signature]
Chief of Staff

3-30-10
Date

Received in
Mayor's Office



[Signature]
Mayor

3/30/10
Date

Comments: This project is eligible for 100% funding by grants.



www.accessfayetteville.org

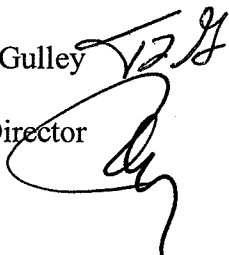
THE CITY OF FAYETTEVILLE, ARKANSAS

AVIATION DIVISION
4500 S School Ave, Ste F
Fayetteville, AR 72701
P (479) 718-7642

CITY COUNCIL MEMO

To: Mayor Jordan

Thru: Chief of Staff, Don Marr

Thru: Transportation Director, Terry Gulley 

From: Ray M. Boudreaux, Aviation Director 

Date: March 29, 2010

Subject: **Approve Application and Award of FAA and Arkansas Aeronautics Grants to fund a Wildlife Hazard Assessment to be conducted by Loomacres Wildlife Management.**

PROPOSAL: The FAA has directed that all Part 139 Airports conduct a Wildlife Hazard Assessment (WHA) and based on the results of the assessment, develop a Wildlife Hazard Management Plan. Our FAA Program Manager has reserved the funds for this project and is awaiting our application. This item requests approval to submit application to the FAA and receive the funding for the WHA. Arkansas Aeronautics funds the 5% match for all FAA grants awarded to airports within the State. This item also requests approval to apply to the State for the 5% grant and to receive the funding upon project completion. Loomacres Wildlife Management was selected on qualifications from 10 submittals utilizing the City purchasing procedures and selection process. The Airport Board approved this project and our request at their March 11, 2010 meeting.

RECOMMENDATION: Approve application and award of FAA and Arkansas Aeronautics Grants to fund a Wildlife Hazard Assessment and if directed by the FAA, develop a Wildlife Hazard Management Plan for Fayetteville Executive Airport Drake Field IAW FAA directive that all Part 139 Airports perform the assessment.

BUDGET IMPACT: This project is fully funded by Grants from the FAA (95%) and Arkansas Aeronautics (5%) in the total amount of \$58,109.00 for the Wildlife Hazard Assessment. Should a Wildlife Hazard Management Plan be deemed necessary by the FAA, a separate grant application will be initiated in the amount of \$4,671.00 or an amendment will be made by the FAA to the WHA grant. FAA is authorized to amend grants up to 15% of the original grant amount.

Attachments: Staff Review
Budget Adjustment
FAA Grant Application

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION AND APPROVING ACCEPTANCE OF GRANTS FROM THE FEDERAL AVIATION ADMINISTRATION AND THE ARKANSAS DEPARTMENT OF AERONAUTICS IN THE TOTAL AMOUNT OF \$58,109.00 TO FUND A WILDLIFE HAZARD ASSESSMENT AT FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD, 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 application and approves acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$58,109.00 to fund a Wildlife Hazard Assessment at Fayetteville Executive Airport-Drake Field.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$58,109.00, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein, recognizing the grant revenue, contingent on award of the grant funds.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

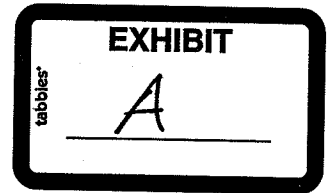
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.4
Wildlife Hazard Assessment Grants
4 of 12

Budget Year 2009	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expense	Date Requested 4/6/2010	Adjustment Number
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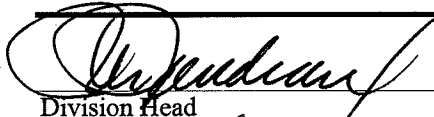
Project or Item Added/Increased: \$58,109 in the Wildlife Hazard Assessment project expense account	Project or Item Deleted/Reduced: None. Recognize federal and state grant revenue in the State Grants on Federal Projects account and the Wildlife Hazard Assessment project revenue account.
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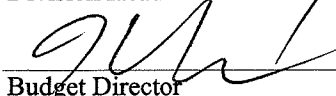
Justification of this Increase: Requested by the DOT/FAA. The project is eligible for 100% funding through federal and state grants.	Justification of this Decrease: Does not require the City to provide matching funds.
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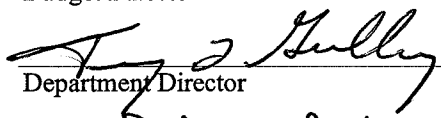


Increase Budget							
Account Name	Account Number				Amount	Project Number	
	5550	3960	7820	39	58,109	10022	1

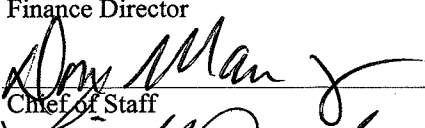
Decrease Budget							
Account Name	Account Number				Amount	Project Number	
State Grants on Federal Projects	5550	0955	6803	00	2,905	10022	1
	5550	0955	6820	39	55,204	10022	1

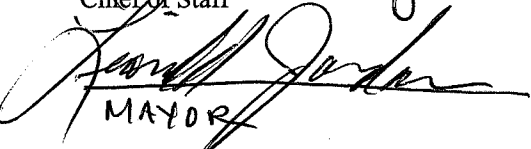

Division Head 3/25/10
Date


Budget Director 3-30-10
Date


Department Director 3-29-10
Date


Finance Director 3-30-2010
Date


Chief of Staff 3-30-2010
Date


MAYOR 3/30/10
Date

V.090403

Budget & Research Use Only

Type: A B C (D) E

Requested By _____

General Ledger Date _____

Posted to General Ledger _____

Initial Date

**APPLICATION FOR
FEDERAL ASSISTANCE**

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED April 6, 2010	Applicant Identifier FY082153
Pre-application ☐ Construction ☒ Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier 3-05-0020-039-2010
5. APPLICANT INFORMATION			
Legal Name: City of Fayetteville		Organizational Unit: Department: Transportation	
Organizational DUNS: 13439803		Division: Aviation	
Address: Street: 4500 S School Ave, Suite F		Name and telephone number of person to be contacted on matters involving this application (give area code)	
City: Fayetteville		Prefix: Mr.	First Name: Ray
County: Washington		Middle Name M	
State: AR		Last Name Boudreaux	
Zip Code 72701	Suffix: Director of Aviation		
Country: United States		Email: rboudreaux@ci.fayetteville.ar.us	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71-6018462		Phone Number (give area code) 479-718-7642	Fax Number (give area code) 479-718-7646
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) ☐ ☐		7. TYPE OF APPLICANT: (See back of form for Application Types) C Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): Airport Improvement Program (AIP) 20-106		9. NAME OF FEDERAL AGENCY: DOT / FAA SW Region	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Washington County, Arkansas		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Wildlife Hazard Assessment and Wildlife Management Plan PHASE I - Assessment	
13. PROPOSED PROJECT Start Date: May 2010		14. CONGRESSIONAL DISTRICTS OF: a. Applicant Third	
Ending Date: November 2011		b. Project Third	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$ 55,204.00	a. Yes ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON	
b. Applicant	\$.00	DATE:	
c. State	\$ 2,905.00	b. No ☐ PROGRAM IS NOT COVERED BY E. O. 12372	
d. Local	\$.00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
e. Other	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
f. Program Income	\$.00	☐ Yes If "Yes" attach an explanation. ☐ No	
g. TOTAL	\$ 58,109.00		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Authorized Representative			
Prefix Mr.	First Name Lioneld	Middle Name	
Last Name Jordan		Suffix	
b. Title Mayor		c. Telephone Number (give area code) 479-575-8330	
d. Signature of Authorized Representative		e. Date Signed	

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569
11/30/2007

PART II
PROJECT APPROVAL INFORMATION
SECTION A

Item 1. Does this assistance request require State, local, regional, or other priority rating?	Name of Governing Body Priority
☐ Yes ☒ No	
Item 2. Does this assistance request require State, local advisory, educational or health clearances?	Name of Agency or Board (Attach Documentation)
☐ Yes ☒ No	
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?	(Attach Comments)
☐ Yes ☒ No	
Item 4. Does this assistance request require State, local, regional, or other planning approval?	Name of Approving Agency Date / /
☐ Yes ☒ No	
Item 5. Is the proposed project covered by an approved comprehensive plan?	Check One: State ☐ Local ☐ Regional ☐ Location of plan
☐ Yes ☒ No	
Item 6. Will the assistance requested serve a Federal installation?	Name of Federal Installation Federal Population benefiting from Project
☐ Yes ☒ No	
Item 7. Will the assistance requested be on Federal land or installation?	Name of Federal Installation Location of Federal Land Percent of Project
☐ Yes ☒ No	
Item 8. Will the assistance requested have an impact or effect on the environment?	See instructions for additional information to be provided.
☐ Yes ☒ No	
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms?	Number of: Individuals Families Businesses Farms
☐ Yes ☒ No	
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated?	See instructions for additional information to be provided.
☐ Yes ☒ No	

INSTRUCTIONS

PART II

SECTION A

Negative answers will not require an explanation unless the Federal agency requests more information at a later date. Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions.

Item 1. – Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

Item 2. – Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval.

Item 3. – Attach the clearinghouse comments for the application in accordance with the instructions contained in Office of Management and Budget Circular No. A-95. If comments were submitted previously with a preapplication, do not submit them again but any additional comments received from the clearinghouse should be submitted with this application.

Item 4. – Furnish the name of the approving agency and the approval date.

Item 5. – Show whether the approved comprehensive plan is State, local or regional, or if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination and state whether this project is in conformance with the plan.

Item 6. – Show the Federal population residing or working on the federal installation who will benefit from this project.

Item 7. – Show the percentage of the project work that will be conducted on federally owned or leased land. Give the name of the Federal installation and its location.

Item 8. – Briefly describe the possible beneficial and/or harmful impact on the environment because of the proposed project. If an adverse environmental impact is anticipated, explain what action will be taken to minimize the impact. Federal agencies will provide separate instructions if additional data is needed.

Item 9. – State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions if additional data is needed.

Item 10. – Show the Federal Domestic Assistance Catalog number, the program name, the type of assistance, the status and amount of each project where there is related previous, pending, or anticipated assistance. Use additional sheets, if needed.

Paperwork Reduction Act Statement: The information collected on this form allows sponsors of public use airports or public agencies to apply for one or more projects in a form prescribed by the Secretary of Transportation.

Title 49, United States Code (U.S.C.), Section 47105, identifies the information required to apply for this program. The forms prescribed to meet this requirement are developed to provide a comprehensive format that allows sponsors to provide the data needed to evaluate the request for funds. The burden for each response is estimated to be 28 hours. Approved applications benefit the sponsor by providing Federal funding to protect the Federal interest in safety, efficiency, and utility of the Nation's airport system. No assurance of confidentiality can be given since these become public records. If you wish to make any comments concerning the accuracy of this burden estimate or any suggestions for reducing this burden, send to Federal Aviation Administration, ARP-10, 800 Independence Ave, SW, Washington, DC 20591. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number, which is 2120-0569 for this collection. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, ABA-20

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

The Sponsor has adopted Drake Field Ordinance, 2607 which regulated and restricts all land use activities in the vicinity of Fayetteville Municipal Airport, Drake Field. This Ordinance was adopted January 20, 1980 and as amended.

2. Defaults. – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. Possible Disabilities. – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. Consistency with Local Plans. – The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

5. Consideration of Local Interest. – It has given fair consideration to the interest of communities in or near where the project may be located.

6. Consultation with Users. In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

7. Public Hearings. – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project. Not Applicable

8. Air and Water Quality Standards. – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary. Not applicable

PART II – SECTION C (CONTINUED)

9. Exclusive Rights. – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

10. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Not applicable

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Not Applicable

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL

1. Federal Domestic Assistance Catalog No.
2. Functional or Other Breakout

SECTION B - CALCULATION OF FEDERAL GRANT

COST CLASSIFICATION	Use only for revisions		Total Amount Required
	Latest Approved amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other architectural engineering fees			58,109.00
6. Project inspection fees			
7. Land development			
8. Relocation expenses			
9. Relocation payments to individuals and businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			58,109.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			58,109.00
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			58,109.00
20. Federal Share requested of Line 19			55,204.00
21. Add Rehabilitation Grants Requested (100 percent)			
22. Total Federal grant requested (Lines 20 & 21)			55,204.00
23. Grantee share			
24. Other shares			2,905.00
25. Total project (Lines 22, 23, & 24)	\$	\$	\$58,109.00

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

SECTION C - EXCLUSIONS

26. Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	\$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. Total – Grantee Share	
28. Other Shares	
a. State	2,905.00
b. Other	
c. Total Other Shares	
29. TOTAL	\$

SECTION E - REMARKS

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PART IV - PROGRAM NARRATIVE (ATTACH – SEE INSTRUCTIONS)

PART IV
PROGRAM NARRATIVE
(Suggested Format)

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

PROJECT:
AIRPORT:
1. Objective: Wildlife Hazard Assessment and Wildlife Hazard Management Plan PHASE I - Assessment to determine if a WHMP is needed
2. Benefits Anticipated: Will provide for best approach to controlling wildlife hazards on the airfield.
3. Approach: <i>(See approved Scope of Work in final Application)</i> Year-long wildlife assessment iaw FAA requirements for a WHA, resulting in a WHMP tailored specifically for the airport.
4. Geographic Location: Washington County, Fayetteville, Arkansas
5. If Applicable, Provide Additional Information:
6: Sponsor's Representative: <i>(incl. address & tel. no.)</i> Same

*A.5. Consent*City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: **Approve Contract** with Loomacres Wildlife Management in the amount of \$58,109. Contact: Cody L Baciuka, President, PO Box 361, Warnerville, NY 12187; 607-760-8748; 518-234-8547 fax; www.loomacres.com.

\$ 58,109.00

Cost of this request

\$ -

Category / Project Budget

Wildlife Hazard Assessment

Program Category / Project Name

5550.3960.7820.39

Account Number

\$ -

Funds Used to Date

D8100_AVED

Program / Project Category Name

10022 1

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Received in City
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments: Budget Adjustment included with grant funding item associated with this Contract.

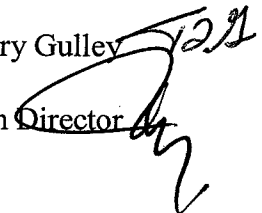


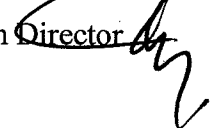
www.accessfayetteville.org

CITY COUNCIL MEMO

To: Mayor Jordan

Thru: Chief of Staff, Don Marr

Thru: Transportation Director, Terry Gulley 

From: Ray M. Boudreaux, Aviation Director 

Date: March 29, 2010

Subject: Award of Wildlife Hazard Assessment Contract to Loomacres Wildlife Management

PROPOSAL: The FAA directed that all Part 139 Airports conduct a Wildlife Hazard Assessment (WHA) and if deemed necessary following review of the assessment, develop a Wildlife Hazard Management Plan. This item requests authority to award the contract to Loomacres Wildlife Management for Phase I of their proposal which is to conduct a Wildlife Hazard Assessment. Loomacres Wildlife Management was selected on qualifications from 10 submittals utilizing the City purchasing procedures and selection process. The company is currently working at XNA performing their WHA. Our FAA Program Manager has reserved the funds for this project and is awaiting our application. Arkansas Department of Aeronautics pays the 5% match for FAA funded projects. We will give notice to proceed when the grants are assured. The Airport Board approved this project and our request at their March 11, 2010 meeting.

RECOMMENDATION: Approve contract award to Loomacres Wildlife Management for a Wildlife Hazard Assessment for Fayetteville Executive Airport, Drake Field. The Wildlife Assessment will cover twelve months of field work to document the type and quantity of wildlife present on and near the airport. Once documented, an analysis of the hazards will take two additional months with the report submitted to the Airport and the FAA for review and approval. Once approved, tasks will be assigned to airport staff and staff will receive training in the control of hazardous wildlife.

BUDGET IMPACT: This project is fully funded by Grants from the FAA (95%) and Arkansas Aeronautics (5%) in the amount of \$58,109.00. Should a Wildlife Management Plan be directed by FAA, a new grant application will be initiated for the Plan cost of \$4,671.00 or FAA may initiate a modification to the WHA Grant. FAA is authorized to amend grants up to 15% of the grant amount.

Attachments: Staff Review
Wildlife Hazard Assessment Agreement w/ Loomacres Wildlife Management (2 cys)
RFQ Wildlife Hazard Assessment

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH LOOMACRES WILDLIFE MANAGEMENT IN THE AMOUNT OF \$58,109.00 FOR THE PROVISION OF A WILDLIFE HAZARD ASSESSMENT AT THE FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD, CONTINGENT ON THE AWARD OF GRANT FUNDS FOR THE PROJECT

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 contract, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, with Loomacres Wildlife Management in the amount of \$58,109.00 for the provision of a Wildlife Hazard Assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

WILDLIFE HAZARD ASSESSMENT AGREEMENT

The agreement will be with the City of Fayetteville, Arkansas, and Loomacres Inc. for a project generally described as: Wildlife Hazard Assessment and Management Plan for the Fayetteville Executive Airport, Drake Field.

Consisting of: a Wildlife Hazard Assessment (Comprehensive Ecological Study), update/develop a Wildlife Hazard Management Plan, establish a Wildlife Hazard Monitoring Program, alert airport personnel of potential wildlife hazards, remove/reduce wildlife hazards on an as-needed basis, conduct FAA required Wildlife Hazard Training, assist airport personnel with the maintenance and renewal of wildlife permits.

ARTICLE 1. SCOPE OF SERVICES

BIOLOGIST will perform all all services as enumerated in the RFQ attached hereto Attachment I. A detailed listing of the scope of work is provided in the BIOLOGIST's proposal and response to RFP # 10-03, in Attachment I. The BIOLOGIST shall provide all necessary equipment and human resources that are required to fulfill the contract.

ARTICLE 2. COMPENSATION

OWNER will compensate BIOLOGIST as set forth in Attachment II.

ARTICLE 3. TERMS OF PAYMENT

OWNER will pay BIOLOGIST as follows:

3.1 Invoices and Time of Payment

BIOLOGIST will issue monthly invoices as outlined in Attachment II. Invoices are due and payable within 30 days of receipt.

3.2 Interest

In the event of a disputed billing, only the disputed portion will be withheld from payment, and OWNER shall pay the undisputed portion. OWNER will exercise reasonableness in disputing any bill or portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved.

ARTICLE 4. OBLIGATIONS OF BIOLOGIST

4.1 Standard of Care

The standard of care applicable to BIOLOGIST Services will be the degree of skill and diligence normally employed by professional biologists or consultants performing the same or similar Services at the time said services are performed. BIOLOGIST will reperform any services not meeting this standard without additional compensation. The tasks assigned shall be completed in a timely and efficient manner.

4.2 BIOLOGIST's Personnel at Airport Site

The presence or duties of BIOLOGIST's personnel on the airport property, whether as onsite representatives or otherwise, do not make BIOLOGIST or BIOLOGIST's personnel in any way responsible for those duties that belong to OWNER and/or other entities.

4.3 BIOLOGIST Insurance

BIOLOGIST will maintain throughout this AGREEMENT the following insurance:

(a) Workers compensation and employer's liability insurance as required by the state of Arkansas.

(b) Comprehensive automobile and vehicle liability insurance covering claims for injuries to member of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, nonowned, or hired vehicles, with \$1,000,000 combined single limits.

(c) Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act of omission of BIOLOGIST or of any of its employees, agents, or subcontractors, with \$1,000,000 per occurrence and in the aggregate.

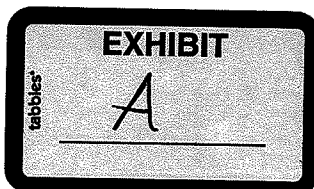
(d) Professional liability insurance of \$1,000,000 per occurrence and in the aggregate.

(e) OWNER will be named as an additional insured with respect to BIOLOGIST's liabilities hereunder in insurance coverages identified in items (b) and (c) and BIOLOGIST waives subrogation against OWNER as to said policies.

ARTICLE 5. OBLIGATIONS OF OWNER

5.1 OWNER-Furnish Data

OWNER will provide to BIOLOGIST all data in OWNER's possession relating to BIOLOGIST's services on the PROJECT. BIOLOGIST will



reasonably rely vice vise upon the accuracy, timeliness, and completeness of the information provided by OWNER.

5.2 Access to Facilities and Property

OWNER will make its facilities accessible to BIOLOGIST as required for BIOLOGIST's performance of its services.

5.3 Timely Review

OWNER will examine BIOLOGIST's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as OWNER deems appropriate; and render in writing decisions required by OWNER in a timely manner.

5.4 Prompt Notice

OWNER will give prompt written notice to BIOLOGIST whenever OWNER observes or becomes aware of any development that affects the scope or timing of BIOLOGIST's Services, or of any defect in the work of BIOLOGIST or construction contractors.

5.5 OWNER's Insurance

5.5.1 OWNER will maintain property insurance on all physical facilities.

5.6 Litigation Assistance

The Scope of Services does not include costs of BIOLOGIST for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by OWNER. All such Services required or requested of BIOLOGIST by OWNER, except for suits of claims between the parties to this AGREEMENT, will be subject to a separate agreement.

ARTICLE 6. GENERAL LEGAL PROVISIONS

6.1 Authorization to Proceed

Execution of this AGREEMENT by OWNER will be authorization for BIOLOGIST to proceed with the work.

6.2 Reuse of PROJECT Documents

All reports, drawings, specifications, documents, and other deliverables of BIOLOGIST, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is competed or not.

6.3 Force Majeure

BIOLOGIST is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of BIOLOGIST. In any such event, BIOLOGIST's contract price and schedule shall be equitably adjusted.

6.4 Termination

6.4.1 This AGREEMENT may be terminated for convenience on 30 days' written notice, or for cause if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete to correction thereafter.

6.4.2 On termination, BIOLOGIST will be paid for all authorized services performed up to the termination date.

6.5 Suspension, Delay, or Interruption of Work

OWNER may suspend, delay, or interrupt the Services of BIOLOGIST for the convenience of OWNER. In Such event, BIOLOGIST's contract price and schedule shall be equitably adjusted.

6.6 No Third-Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than OWNER and BIOLOGIST and has no third-party beneficiaries.

6.7 Indemnification

6.7.1 BIOLOGIST agrees to indemnify OWNER for any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, caused by the negligence or willful misconduct of BIOLOGIST, BIOLOGIST's employees, affiliated corporations, and subcontractors in connection with the PROJECT.

6.7.2 OWNER agrees to indemnify BIOLOGIST from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, caused by the negligence or willful misconduct of OWNER, or its employees or contractors in connection with the PROJECT.

6.8 Assignment

This is a bilateral personal Services AGREEMENT. Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of

or related to this AGREEMENT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire AGREEMENT are binding on the heirs, successors, and assigns of the parties hereto.

6.9 Waiver

6.9.1 No waiver by either party of any breach of this AGREEMENT, or of any warranty or representation hereunder, shall be deemed to be a waiver by the same party of any other breach of any kind or nature (whether preceding or succeeding the breach in questions, and whether or not of the same or similar nature).

6.9.2 No failure by a party to exercise any right it may have under this AGREEMENT or under law upon another party's default, and no delay in the exercise of that right, shall prevent it from exercising the right whenever the other party continues to be in default. No such failure or delay shall operate as a waiver of any default or as a modification of the provisions of this AGREEMENT.

6.10 Jurisdiction

The substantive law of the state of Arkansas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

6.11 Severability and Survival

6.11.1 If any of the Provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

6.11.2 Limitations of liability, indemnities, and other express representations shall survive termination of this AGREEMENT for any cause.

6.12 BIOLOGIST'S Deliverables

BIOLOGIST's deliverables, including record drawings, are limited to the sealed and signed hard copies. Computer-generated drawing files furnished by BIOLOGIST are for OWNER or others' convenience. Any conclusions or information derived or obtained from these electronic files will be at user's sole risk.

6.13 Dispute Resolution

The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options.

ARTICLE 7. ATTACHMENTS, SCHEDULES, AND SIGNATURES

This AGREEMENT, including its attachments, and schedules constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

Phase I: Wildlife Hazard Assessment:

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

Phase II: Wildlife Hazard Management Plan (If required by FAA):

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

Phase I: Wildlife Hazard Assessment:

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this 29th day of March, 2010

Signature [Signature] Signature Kristin Baciuska

Name (printed) Cody Baciuska Name Kristin Baciuska

Title President Title Vice President

Phase II: Wildlife Hazard Management Plan (If required by FAA):

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this 29th day of March, 2010

Signature [Signature] Signature Kristin Baciuska

Name (printed) Cody Baciuska Name Kristin Baciuska

Title President Title Vice President



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8289

RFP (REQUEST FOR PROPOSAL)

REQUEST FOR PROPOSAL: RFP, 10-03, Wildlife Hazard Assessment
DEADLINE: Wednesday, February 24, 2010 at 2:00 PM, 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
DATE OF ISSUE AND ADVERTISEMENT: Monday, February 08, 2010

REQUEST FOR PROPOSAL **RFP 10-03, Wildlife Hazard Assessment**

No late proposals will be accepted. RFP'S shall be submitted in sealed envelopes labeled "RFP 10-03, Wildlife Hazard Assessment", with the name and address of the Proposer.

RFP's shall be submitted in accordance with the attached City of Fayetteville specifications and RFP documents attached hereto. Each Proposer 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: _____

Contact Person: _____ Title: _____

E-Mail: _____ Phone: _____

Business Address: _____

City: _____ State: _____ Zip: _____

Signature: _____ Date: _____

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment
Advertisement

**City of Fayetteville, Arkansas
NOTICE: Request for Proposal
RFP 10-03, Wildlife Hazard Assessment**

The City of Fayetteville is requesting proposals from qualified firms or groups of firms interested in performing a Wildlife Hazard Assessment and a Wildlife Hazard Management Plan for the Airport. The City intends to select a firm to provide these services at Fayetteville Executive Airport, Drake Field. The consulting services will be administered by the Airport staff, and will commence following the execution of a Professional Services Contract with the selected respondent and approval by the Fayetteville City Council.

Interested parties should submit proposals to the Fayetteville Purchasing Division in City Hall, Room 306, 113 W. Mountain, Fayetteville, Arkansas, 72701. Proposals are due before **Wednesday, February 24, 2010 before 2:00 PM**, CST.

Copies of the requirements for RFP 10-03 can be obtained by visiting our website at www.accessfayetteville.org and clicking on "Business" then "Bids, RFP's and RFQ's" under the "Services" category (then click the RFP tab).

The City reserves the right to reject any proposal and to waive formalities deemed to be in the City's best interest.

"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
By: Andrea Foren, CPPB
Purchasing Agent
479.575.8220

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment
Terms and Conditions

- 1.) All Proposers shall be in compliance with all Federal, State, and Local requirements and regulations.
- 2.) No payments or Proposals may be based on time and material costs.
- 3.) Awarded Proposer shall submit invoices regularly. Payment terms shall be net 30 days from date of invoice.
- 4.) All contract amendments and modifications shall be made in writing and properly approved by the City of Fayetteville Mayor and City Council.
- 5.) Proposals shall be received at the address listed below and are due Wednesday, February 24, 2010 at 2:00 PM, CST.

City of Fayetteville
Attention: Andrea Foren – Room 306
Reference: RFP 10-03
113 W. Mountain
Fayetteville, AR 72701

- 6.) It is the responsibility of the Proposer to have its sealed proposal at the Purchasing Office **prior to the date and time of opening**. No late proposals will be accepted. Proposals received after the scheduled proposal deadline will remain unopened and will not be considered.
- 7.) The City of Fayetteville reserves the right to reject any or all proposals, waive formalities and make the award based on the best interest of the City.
- 8.) It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- 9.) Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Andrea Foren, City of Fayetteville, Purchasing Agent via e-mail (aforen@ci.fayetteville.ar.us) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- 10.) Any conditions or expectation on the part of the Proposer for performance by the City must be set forth in the proposal. The City is not obligated to consider the Proposer's post submittal terms and conditions.
- 11.) At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit an "Authorized Negotiator Information" form.**
- 12.) The City will not be responsible for misdirected proposals. Proposer should call the Purchasing Office at (479) 575-8220 to insure receipt of their proposal documents prior to opening time and date listed above.

- 13.) Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and test requirements, but is not intended to limit a RFP's content or to exclude any relevant or essential data.
- 14.) The RFP and any addenda issued may be obtained from www.accessfayetteville.org and clicking "Bids, RFP's and RFQ's" under the "Businesses" category then tab titled "RFP's". Proposers are at liberty and are encouraged to expand upon the details, qualifications and proposals to give additional evidence of their ability to perform and provide a system as described in this RFP. All updates and changes to the RFP will be posted on the website and Proposers are encouraged to check daily for new information or updates. Each Proposer is required before submitting a proposal to be thoroughly familiar with the requirements and specifications listed in this RFP. Additional allowances will not be made due to Proposers lack of knowledge relating to the terms, conditions and specifications contained within this RFP. It is the responsibility of the Proposer to determine if any component(s) of this specification do not meet the required standards of applicable federal, local, state law or specifications.
- 15.) The proposal must contain the signature of a duly authorized officer or agent of the Proposer's company empowered with the right to bind and negotiate on behalf of the Proposer for the amounts and terms proposed.
- 16.) *****The Proposer is required to submit one (1) original and five (5) copies of the proposal. In addition, one (1) electronic copy of all submitted documents shall be submitted on a properly labeled CD. The use of Adobe (PDF) is highly recommended but not mandatory. All electronic copies shall be compatible with Adobe and Microsoft Windows applications.**
- 17.) It is intended that the all documents pertaining to this request for proposal shall define and describe the complete services to which they relate.
- 18.) The Proposer is advised to examine all documents and current parameters of the services in becoming fully informed as to their conditions. This includes the conformity with specific standards and the character, quality and quantity of the reports and services required. Failure to examine these areas will not relieve the successful Proposer of his obligation to furnish all deliverables and services necessary to carry out the provisions of the contract.
- 19.) The City of Fayetteville will consider the degree to which each Proposer has submitted a complete proposal without irregularities, excisions, special conditions, or alternative proposals for any item unless specifically requested in the RFP.
- 20.) Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be prevailed by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- 21.) The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

- 22.) The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment

Authorized Negotiator Information – TO BE SUBMITTED WITH ALL PROPOSALS

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number (preferably a cell phone number) where the City selection committee can call for clarification or interview via telephone.**

PART I: Primary Contact Information:

Name of Firm: _____

Name of Primary Contact: _____

Title of Primary Contact: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

PART 2: Contact for Legally Binding Contracts:

Is the primary contact (listed in Part I) able to legally bind contracts? YES NO (circle one)

If no, please list contact that can legally bind a contract for the firm: _____

Name: _____

Title: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

Date: _____

Signed: _____

PART 3: Name of assigned Wildlife Damage Management Biologist (primary if multiple):

Name: _____

Does this person have professional training or extensive experience in wildlife hazard management operations? YES NO (circle one)

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment
Project Information

The City of Fayetteville is requesting proposals from qualified firms or groups of firms interested in performing a Wildlife Hazard Assessment and a Wildlife Hazard Management Plan for the Airport. The City intends to select a firm to provide these services at Fayetteville Executive Airport, Drake Field. The consulting services will be administered by the Airport staff, and will commence following the execution of a Professional Services Contract with the selected respondent and approval by the Fayetteville City Council.

Federal Aviation Administration (FAA) Advisory Circular No: 150/5100-14D provides guidance to the Airport in the selection and employment of these services.

Deadline for submittals is Wednesday, February 24, 2010 before 2:00 PM, CST.

I. SCOPE OF SERVICES FOR WILDLIFE HAZARD ASSESSMENT

Aircraft collisions with birds and other wildlife are a serious economic and public safety problem. The City of Fayetteville seeks a Professional Consulting firm to conduct a Wildlife Hazard Assessment in accordance with 14 CFR 139.337. The City of Fayetteville is seeking:

- (1) A wildlife hazard assessment, conducted by a **qualified wildlife damage management biologist having experience in wildlife hazard management in airports.** Such assessment must include at least the following:
 - a. An analysis of the events or circumstances that prompted the assessment.
 - b. Identification of the wildlife species observed and their numbers, locations, local movements, and daily and seasonal occurrences.
 - c. Identification and location of features on and near the Airport that attract wildlife in consultation with local, state, and federal jurisdictions and authorities.
 - d. A description of wildlife hazards to air carrier operation.
 - e. Recommended actions for reducing identified wildlife hazards to air carrier operations.
 - f. The wildlife hazard assessment must be submitted to the FAA.
- (2) Since the FAA has previously determined that a wildlife hazard management plan is needed, when the wildlife hazard assessment is approved by the FAA, the consultant will be required to formulate a wildlife hazard management plan using the wildlife hazard assessment as a basis.

The wildlife hazard management plan must provide measures to alleviate or eliminate wildlife hazards to air carrier operations and must include at least the following:

- a. A list of the individuals having authority and responsibility for implementing each aspect of the plan.
- b. A list prioritizing the following actions identified in the wildlife hazard assessment and target dates for their initiation and completion:
 - i. Wildlife population management;
 - ii. Habitat modification; and
 - iii. Land use changes.
- c. Requirements for and, where applicable, copies of Local, State, and Federal wildlife control permits.
- d. Identification of resources that the Airport will provide to implement the plan.
- e. Procedures to be followed during air carrier operations that at a minimum include
 - i. Designation of personnel responsible for implementing the procedures;
 - ii. Provisions to conduct physical inspections of the aircraft movement areas and other areas critical to successfully manage known wildlife hazards before air carrier operations begin;
 - iii. Wildlife hazard control measures.
 - iv. Ways to communicate effectively between personnel conducting wildlife control or observing wildlife hazards and the air traffic control tower;
 - v. Measures to notify pilots and other relevant agencies, person or agencies of potential wildlife threats to aviation; and

- vi. Measures to coordinate wildlife control with relevant local, state, and federal jurisdictions and authorities.
 - f. Procedures to review and evaluate the wildlife hazard management plan every 12 consecutive months or following an event in which an air carrier aircraft experiences multiple wildlife strikes, substantial damage from striking wildlife, engine ingestion of wildlife; or wildlife of a size or in numbers, capable of causing one of the above events is observed to have access to any Airport flight pattern or aircraft movement area. These procedures should include:
 - i. The plan's effectiveness in dealing with known wildlife hazards on and in the Airport's vicinity and
 - ii. Aspects of the wildlife hazards described in the wildlife hazard assessment that should be reevaluated
 - g. A training program conducted by a qualified wildlife damage management biologist to provide Airport personnel with the knowledge and skills needed to successfully carry out the wildlife hazard management plan.
- (3) Before the plan is accepted by City of Fayetteville it must be approved by the FAA.
- (4) The Wildlife Damage Management Biologist(s) conducting the Wildlife Hazard Assessment and conducting the training program for airport personnel involved in controlling Wildlife Hazards at the Airport must be qualified according to AC 150/5200-36.
- (5) The consultants will comply with all FAA Advisory Circulars in the 150 series including those that contain standards and procedures for wildlife hazard management at airports and the current version of the FAA/USDA document-Wildlife Hazard Management at Airports.

II. ADDITIONAL PROJECT CONSIDERATIONS

This project will be partially financed by grants administered by the Arkansas Department of Aeronautics and the FAA. This project is contingent upon receipt of such a grant(s) or other grants along with the securing of other required approvals.

Because the professional services may necessitate access to the secure areas of the airfield, it will be necessary for the selected respondent to coordinate activities with the Airport Administration Office.

III. PROJECT APPROACH AND SELECTION CRITERIA

To be considered to provide Wildlife Hazard Assessment services, a Letter of Interest containing a concise but detailed narrative indicating the proposed approach to providing the required services must be submitted, in addition to the other information described below. Each interested firm must present its qualifications for hazardous wildlife studies. The approach may be structured in any way deemed to be responsive to the needs of the City of Fayetteville as generally described herein as the Scope of Services. The "Project Approach" section should demonstrate an understanding of the project and provide an explanation of previous experience with airport hazardous wildlife studies and/or similar Wildlife Hazard Assessment efforts. Firms should explain any proposed coordination between the prime and proposed sub-consultants as well as explain coordination with the Airport's operational needs, and provide any other information that may assist the Selection Committee in making a selection. The criteria and the weighted values to be used by the Selection Committee in evaluating responses for the selection of a firm(s) to perform this service(s) are listed below. Each point value is adjacent to the criterion and totals 100 points. Please address each criterion in your Project Approach.

- 1) 30% **Qualifications in Relation to Specific Project to be Performed:** Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization. Firm's demonstrated ability to meet requirements within 14 CFR 139.337. ****REQUIREMENT:** Proposal documents shall list ALL Wildlife Damage Management Biologists who would be assigned to this project that have professional training or experience in wildlife hazard management in airports.

- 2) 20% **Experience, Competence, and Capacity for Performance:** Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used to supplement your staff.
- 3) 20% **Proposed Method of Doing Work:** A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of work. Include with this the amount of work presently underway. This criteria includes anticipated participation due to the desire of the City to work with Disadvantaged Business Enterprises.
- 4) 20% **Past Performance:** Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with the City and others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom we can contact for information.
- 5) 10% **Price**

IV. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

The City of Fayetteville, in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d et. seq. and 49 CFR Part 26 issued pursuant to The Airport and Airway Development Act, affords Disadvantaged Business Enterprises (DBEs) full opportunity to submit an indication of interest in response to this invitation and will not discriminate against any interested firm on the ground of race, creed, color, sex, age, or national origin in a contract award. In addition, the City of Fayetteville has established annual goals for DBE participation on Airport projects. Prospective consultants should review the Airport's DBE Program and 2010 Goal Update documents during their preparation of a response to this Request for Proposal (RFP).

The City of Fayetteville, in order to encourage the use of DBE firms, has set a DBE participation goal of 2.3% for this contract. The Airport desires to achieve, to the greatest extent possible, quality participation by certified DBE firms in order to achieve its 2010 updated goal. Although DBE participation is not a requirement for this contract, respondents are challenged to present a creative and responsive plan that provides for DBE participation that is commercially meaningful and useful. The Airport encourages and favors the following arrangements to ensure quality participation: (1) Participation as a prime consultant, (2) Joint Venture, (3) Partnership, and (4) Sub-consultant. Proposals will be evaluated, in part, on the respondent's stated intention to ensure quality participation. **The DBE firm(s) that may be participating in this project must be certified by the State of Arkansas.**

DBE Proposals at the time of submittal. Joint ventures and partnerships must be in existence at the time of submittal. The identity of the proposed certified DBE participant(s) and their participation percentage shall be indicated.

At least ten (10) days prior to award, the successful respondent shall provide the City of Fayetteville with copies of executed subcontracts, certified copies of articles of incorporation, partnership agreements, *and/or* joint venture agreement if a DBE (minority or woman) is a shareholder/officer, partner or one of the ventures.

The DBE firm(s) participating in this project must perform a commercially useful function. The failure of a DBE firm(s) to perform a commercially useful function, as defined in 49 CFR Part 26, shall constitute grounds for the City of Fayetteville to impose appropriate legal remedies.

The respondent is required to perform and submit documentation of Good Faith Efforts as described in the City of Fayetteville's DBE Program, Subpart C, and 49 CFR Part 26.53 in order to secure DBE participation.

The City of Fayetteville affords no preference based upon the geographical area in which a DBE firm is located.

V. SUBMITTAL OF PROPOSAL

An interested firm must provide references showing relevant capabilities and experience for the preceding 3 years. Elaborate qualifications statements and brochures are not desired.

Any sub-consultants proposed to be used, including DBE sub-consultants, must also submit references containing information pertinent to the work to be performed. The prime firm must specify which areas of work will be accomplished by each sub-consultant and the percentage of the total contract this work effort will constitute. Please ensure that an organizational chart is included.

The Letter of Interest that supplements the references should discuss the extent of the firm's experience in the disciplines of hazardous wildlife studies especially at air-carrier airports. If an association or joint venture of firms is contemplated, the expertise of each individual firm in hazardous wildlife studies should be clearly defined as well as the level of involvement of each firm in the services and the proposed means of coordination between firms. A joint venture will be considered a "firm".

Respondents are required to adhere to the FAA's Wildlife Hazard Assessment procedures and systems and the mitigation program currently utilized by the Airport.

Only timely received proposals, meeting the requirements of this RFP, will be considered. No Proposals will be considered or accepted that are submitted by a firm that is in default under the terms of any existing agreement with the Airport or other similar agency, or has failed to perform its obligations faithfully under any previous agreement with the Airport or other similar agency. Each lead consultant firm or lead member of a joint venture shall submit only one Proposal. Sub-consultant or sub-joint venture firms may submit their proposals with more than one lead consultant firm and/or joint venture. A Proposal will be rejected if there is any evidence of collusion with another firm/joint venture. **A firm that responds as a prime or as a partner in a joint venture responding as a prime cannot as a sub-consultant submit its qualifications to another responding prime. Furthermore, a firm that responds as a prime or as a partner in a joint venture team responding as a prime cannot be a partner in a joint venture that submits its qualifications as a sub-consultant to another responding prime.** Proposals shall be signed by an authorized representative of the firm.

Submission Requirements

Elaborate qualifications statements, proposals, and brochures are not desired. Clarity and concise, orderly treatment are important and must contain the following:

- a. Letter of Interest indicating proposed approach to the required professional services, previous experience, approach to project coordination, list of DBE participants and percentage participation, and responses to each of the Selection Criteria. Each interested firm must present its qualifications for hazardous wildlife studies.
- b. Complete 3 year reference listing for each prime firm, joint venture firm, and sub-consultant and an organizational chart.
- c. Statement of Agreement to background investigation and criminal history record check.
- d. A "Project Approach" that identifies the suggested structure of the organization and management methods.
- e. A description and identification of the firm's relationship to or with other firms (Subsidiary of another firm, Partner in Joint Venture, etc.). Also include the Primary Location, Address, Telephone, Email, and Facsimile numbers of the organization.
- f. Identification of the key personnel assigned to this project. At a minimum, identify the Principal-in-Charge and any other key personnel you see fit. Provide a biographical sketch of these individuals describing their relevant background. Also provide the following for each individual, Employer – if different than firm (i.e., parent company or consulting firm), Address – if different than firm, Telephone, Email, Fax.
- g. Description of your cost management systems and their relationship. Your proposal should exhibit the means and mechanisms to be used in the management and verification/monitoring of construction and schedule information for the program.
- h. Limit submission to 20 pages- resumes may be included as an appendix.
- i. **The Proposer is required to submit one (1) original and five (5) copies of the proposal. In addition, one (1) electronic copy of all submitted documents shall be submitted on a properly**

labeled CD. The use of Adobe (PDF) is highly recommended but not mandatory. All electronic copies shall be compatible with Adobe and Microsoft Windows applications. All proposal documents shall be received prior to the deadline stated in this document.

Courier/Hand Delivery:

Mail Delivery:

Any response that is received after the stated deadline will not be considered by the City of Fayetteville. The time will be tracked according to the City of Fayetteville's electronic clock located in the Purchasing Division. Furthermore, any submission that fails to include all required documentation may be considered non-responsive. Faxed or e-mailed responses will not be accepted.

VI. QUESTIONS ON SCOPE OF SERVICES

Questions concerning elements described in the Scope of Services section of the RFP should be addressed in writing to Andrea Foren via e-mail at aforen@ci.fayetteville.ar.us. Questions shall be directed as soon as possible.

VII. SELECTION OF CONSULTANT

Following receipt of the Proposals, a Selection Committee will review all responses and recommend an applicant(s) to the City of Fayetteville. The Selection Committee may schedule interviews with the most qualified firms in order to make a final selection. The City of Fayetteville will accept or reject the Selection Committee's recommendation. The City of Fayetteville reserves the right to cancel this RFP, accept or reject any/all submissions, waive any technicalities and/or informalities or re-advertise, for any reason, particularly, when deemed in the best interest of the City of Fayetteville.

The law of the State of Arkansas shall govern the Agreement. Any disputes relating to this RFP or related agreement must be resolved accordingly.

In the process of developing a scope and fee for these services, the selected consultant, each sub-consultant and/or sub-contractor, and/or member of a joint venture may be asked to submit a statement of auditable overhead expenses, certified by the consultant's auditor, the Airport's auditor, a state auditor, or a federal government auditor. The statement shall be in accordance with Federal Acquisition Regulation 48 CFR Part 31, Contract Cost Principle and Procedures, and be based on an audit performed within the consultant's last two fiscal years.

VIII. PREPARATION COST OF QUALIFICATION

Costs associated with preparation of each submittal shall be borne by the applicant(s). The City of Fayetteville is not responsible for any costs with responding to this RFP and considers all submittals accepted as non-returnable.

IX. PROPOSAL SUBMITTAL CHECKLIST

Please be sure that all items listed below are included in the response to this RFP and are fully completed and properly executed. **If any of these items are not included or are partially completed or not properly executed, the Selection Committee can declare the response not responsive or request clarification, and may remove the submittal from further consideration.**

- 1. Letter of Interest.** Each submittal shall include a letter of interest as outlined in Sections III and V of this RFP. A duly authorized representative of the prime firm should sign the letter.
- 2. Project Approach.** Each response should include a detailed project approach section. Limit project approach to 5 pages. See Sections III and V.

3. Organizational Chart. The response should include an organizational chart illustrating project organization and areas of responsibility by firm and person-in charge. The chart should be clear and concise with individuals identified. See Section V.

4. Three Year Reference List. Each prime and each sub-consultant (including sub-consultant to a sub-consultant) must provide City of Fayetteville with a list of references for similar projects completed in the past 3 years. This must be completed and signed by a duly authorized representative of the firm. If the prime and/or any sub-consultants fail to submit these references, the response will be declared non-responsive. See Section V.

NOTE: A Joint Venture is considered a "firm" and requires submission of only one reference list; however, experience and project history for all joint venture partners must be outlined. If the Joint Venture has any sub-consultants, these sub-consultants must submit separate reference lists.

5. DBE Certification: All identified DBE sub-consultants must be Arkansas DBE certified at the time the response is submitted. If any identified DBE sub-consultants are not Arkansas certified, they must submit their complete certification package to the State of Arkansas to become certified.

6. Letter of DBE Certification. All identified DBE sub-consultants must include the most current DBE Certification/Re-certification letter for each currently certified DBE sub-consultant to be used on the project.

X. PROPOSAL SUBMITTAL CHECKLIST FORM

	Yes	No
1. Authorized Negotiator Info. Form	~	~
2. Letter of Interest	~	~
3. Project Approach	~	~
4. Organizational Chart	~	~
5. Three Year Reference List	~	~
6. DBE Certification Submit	~	~
7. Letter of Current DBE Certification (Encouraged, but not required)\	~	~

Phase I: Wildlife Hazard Assessment:

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

Phase II: Wildlife Hazard Management Plan (If required by FAA):

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

Attachment I:

LOOMACRES **Wildlife Management**

“Bringing wildlife management to a higher level”™

*Proposal to Conduct
a Wildlife Hazard Assessment
and Wildlife Hazard Management Plan
for the
Fayetteville Executive Airport, Drake Field*

.....
**PO Box 361
Warnerville, NY 12187**

Warnerville, NY ▪ Gainesville, TX ▪ Worland, WY

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -

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LOOMACRES Wildlife Management

February 15, 2010

City of Fayetteville
Attn: Andrea Foren- Room 306
113 W. Mountain
Fayetteville, AR 72701

RE: RFP 10-03 Wildlife Hazard Assessment

Ladies & Gentlemen,

It is with great pleasure that I introduce our company, Loomacres Wildlife Management Inc. Loomacres Wildlife was the first private company to be approved by the FAA to perform Wildlife Hazard Management services on airports. Since 2005 Loomacres Wildlife Management's primary mission has been to provide government agencies, municipalities, and the private sector with the highest quality of environmental consulting available. Loomacres Inc. was created by Airport Wildlife Biologists and thus focuses solely on Airport Wildlife Management. We at Loomacres feel that it is essential to have a qualified airport wildlife biologist performing all services at all times. Our qualified airport wildlife biologists are able to immediately react to any unforeseen wildlife hazards with success. Loomacres Wildlife Management is a company that understands the needs of airport managers to provide a safe environment for the operation of aircraft. Loomacres staff also understands the requirements that animals need. Often these problems collide creating an unsafe environment for people and wildlife. Our employees utilize their extensive experience and training in order to provide the utmost quality in wildlife management. They use sound, ethical practices to help alleviate the risk to human health and safety. Loomacres' foundation is based upon three basic principles: **professionalism, ethics, and reliability.**

Ethics: Loomacres Wildlife Management sets the standard for ethics in the industry. Loomacres efficiently serves our clients with safe, ethical, and innovative solutions that work.

Reliability: Loomacres Wildlife Management provides reliable service by consistently reacting to unforeseen conditions.

Professionalism: Our staff has the experience and credentials to meet the high standards that are required by the FAA and your airport. Only the most professional company can provide quality services in the unique environment found on airports.

Wildlife are attracted to an area depending on several circumstances. Some of these include the availability of food, water and cover or more geographically significant features such as large bodies of water, mountain ranges or migratory routes. Each of these factors will have an effect on the type of species, their numbers and the time of year that they occur in your location. Being able to identify these conditions and the species associated with them is just the first step in our multilevel approach to wildlife

management. Loomacres takes an integrated approach to wildlife management often referred to as Integrated Wildlife Management. Loomacres combines both active and passive management techniques. Through data collection, onsite observations, and other sources of information and with the cooperation of airfield staff; Loomacres will carry out a Wildlife Hazard Assessment and create a Wildlife Hazard Management Plan as per the requirements of FAA 14 CFR 139.337.

In addition to passive and active management techniques utilized on site, Loomacres also assists airports with offsite wildlife management to ensure, as per FAA AC 150/5200-33A *Hazardous Wildlife Attractants on or near airports* and AC 150/5200-34 *Construction or establishment of landfills near public airports*, that wildlife attractants within 5 miles of the airfield are limited.

Through regular communication, monthly reports and quarterly meetings with the staff at Fayetteville Executive Airport, Drake Field, Loomacres will be able to keep all informed of the success of the project and will be able to address any issues, concerns or updates.

Loomacres Inc. is not a certified disadvantaged business enterprise however, to assist the airport in reaching their DOT 49 CFR Part 26 DBE Participation Goal, Loomacres is able to utilize the services of ETC Engineers & Architects Inc. ETC Inc. is a certified DBE based out of Little Rock, AR and will be able to provide up to 3% of the work in this project. Specifically, ETC Inc. will provide GPS, GIS & habitat mapping services for this contract.

Detailed descriptions of all above information can be found in the following proposal. Loomacres Wildlife Management looks forward to establishing a relationship with the City of Fayetteville and Fayetteville Executive Airport, Drake Field.

Sincerely,

Cody L. Baciуска
President & Airport Wildlife Biologist
Loomacres Wildlife Management
PO Box 361
Warnerville, NY 12187
607-760-8748
www.loomacres.com

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -
Loomacres Wildlife Management • P.O. 361 • Warnerville, NY 12187
Phone: 607-760-8748 • Fax: 518-234-8547
www.Loomacres.com • info@loomacres.com

Key Personnel & Organizational Chart

Loomacres Inc. puts its reputation in the selection and the performance of our employees. Loomacres Inc. is proud that it has more FAA qualified wildlife biologists on staff than any other firm in the country. Loomacres Inc. currently utilizes the skills of four FAA Qualified Airport Wildlife Biologists. Loomacres Wildlife Management's biologists include the first non- governmental wildlife biologist qualified by the FAA, Cody L. Baciуска, who will be the supervisory airport wildlife biologist overseeing all services to be provided to the Fayetteville Executive Airport, Drake Field (FYV). All of the personnel that will be operating on FYV have extensive experience conducting wildlife conflict resolution at airports. In addition, the personnel that will be assigned to FYV are trained on the safety and security procedures that must be followed at all times while working on airports. Loomacres Inc. is willing to provide extensive details on personal and company backgrounds and agrees to submit to criminal history record checks.

Our employees work under the direct supervision of the lead Wildlife Biologist and President of Loomacres Inc., Mr. Cody Baciуска. Mr. Baciуска has conducted Wildlife Hazard Assessments, developed Wildlife Hazard Management Plans, and has conducted numerous airport related research studies. Mr. Baciуска has provided wildlife hazard mitigation for some of the largest airports in the United States; including John F. Kennedy International Airport, Nashville International Airport and LaGuardia International Airport. In addition to being a FAA qualified Airport Wildlife Biologist, Mr. Baciуска is a member of the National Wildlife Control Operators Association, the Wildlife Society and is the current president of the NYS Wildlife Management Association. In addition, Mr. Baciуска is a certified National Rifle Association firearms instructor. Mr. Baciуска will be the primary Biologist overseeing all services offered to FYV. Mr. Baciуска exceeds the requirements outlined in AC No: 150/5200-36. Please see appendix I. for more information regarding the qualifications of Mr. Baciуска.

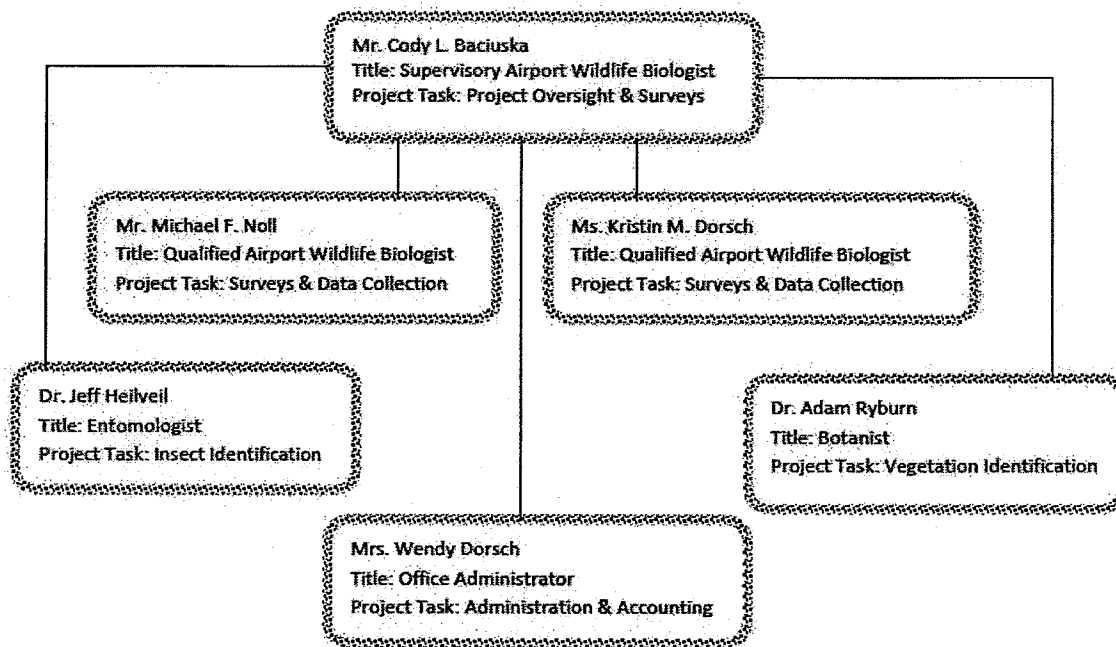
Biologist Kristin Dorsch has been with Loomacres since it was established in 2005. Kristin has a diverse background in the biological sciences to include fisheries and wildlife, wetlands and plant science. Kristin Dorsch holds a Master's of Science degree in Biology and has been working on a FAA grant funded research project titled "Native and Naturalized grasses Suitable for use on airports managed for Wildlife". Kristin has presented her research at numerous venues including the 2009 USA/Canada Bird Strike Conference in Victoria, BC as well as the 2009 Wildlife Damage Management Conference. Kristin's research in the plant sciences has made her a valuable asset to our company in her ability to assess both vegetation and habitat on and around airports. Kristin is confident in her ability to make vegetation management and planting recommendations to airfields across the United States. In addition to her graduate work, Kristin has taken numerous continuing education credits in the wetland sciences at Rutgers University and is a certified wetland delineator as well as a Certified Commercial Pesticide Applicator. Kristin's previous employers include USDA Wildlife Services and several landscape architects. Ms. Dorsch meets the requirements outlined in AC No: 150/5200-36.

In addition to having four FAA qualified airport wildlife biologists, Loomacres utilizes the experience of our scientific staff to carry out its services. Loomacres utilizes the experience of Oklahoma resident and botanist Adam Ryburn, PhD who assists Loomacres in vegetation identification on projects throughout the southern states. A plant taxonomist by training, Dr. Ryburn has been a Co-Principal Investigator for several grant funded flora studies and has conducted numerous flora studies throughout the state of Oklahoma. Dr. Ryburn holds memberships in the American Society of Plant Taxonomists, the Botanical Society of America and the Southwest Association of Naturalists.

Entomologist Jeff Heilveil, PhD oversees all identifications of insects collected during the course of our Wildlife Hazard Assessments as well as survey methods. Dr. Heilveil oversees a staff of qualified technicians who assist with insect collections and data entry.

With similar work already being conducted locally, Loomacres will be able to provide efficient on call service and at a lower cost than that of our competitors.

Loomacres Inc. Organizational Chart for FYV



Recent projects & References:

-Northwest Arkansas Regional Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for the airport. Loomacres Inc. also assists the airport with direct control projects and Wildlife Hazard Management training. For more information please contact Steve Keith, Operations Director at 479-790-9929.

-Nashville International Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for the Nashville International Airport. Loomacres will also develop/update the airport's Wildlife Hazard Management Plan, and provide the airport's staff with the FAA required wildlife hazard management training. For more information please contact Chris Ricketts, Operations Coordinator, 615-218-3870.

-Plattsburgh International Airport: Loomacres Inc. has conducted a Wildlife Hazard Assessment and developed a Wildlife Hazard Management Plan for PBG. AIP funding was used to

fund this project. This project was completed in September 2009. Loomacres Inc. is currently the prime consultant providing wildlife conflict resolution and Wildlife Hazard training for the airport. For more information please contact Frank Dietz, Assistant Manager, Plattsburgh International Airport, at 518-565-4015.

-Syracuse International Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for the airport. Loomacres Inc. also assists the airport with direct control projects and Wildlife Hazard training. This project is set to be complete April 2010. For more information please contact John Carni, Operations Manager, Syracuse Department of Aviation, at 315- 455-3680.

-Buffalo Niagara International Airport: Loomacres Inc. is the prime consultant providing Wildlife Hazard Management training and consulting services. Loomacres Inc. also provides onsite wildlife conflict resolution. For more information please contact Dave Macy, Operations Supervisor, Buffalo International Airport at 716-863-3586.

-Greenville-Spartanburg International Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for Greenville-Spartanburg International Airport. Loomacres will also develop the airport's Wildlife Hazard Management Plan, and provide the airport's staff with the FAA required wildlife hazard management training as well as provide the airport with direct control services. For more information please contact Larry Holcomb, Airport Manager, 864-848-6262.

-Elmira-Corning Regional Airport: Loomacres Inc. is the prime consultant providing Elmira-Corning Regional Airport with an assessment of wildlife hazards at their airport. We have also assisted with the development of their Wildlife Hazard Management Plan, which has been approved by the FAA. Elmira-Corning Regional Airport has also contracted Loomacres Inc. to provide direct control of hazardous wildlife for the past several years. For more information please contact Bill DeGraw, Director of Operation, Elmira-Corning Regional Airport, at 607-426-5622.

-List of Airports that Loomacres Inc. has provided Airport Wildlife Consulting Services;

JFK International, Stewart International, LaGuardia International, Teterboro International, Republic, Sullivan County, Jamestown International, Poconos Regional, Johnstown-Cambria County, Blair County, Plattsburgh International, Massena International, Ogdensburg International, Binghamton Regional, Elmira-Corning Regional, Ithaca-Tompkins Regional, Warren T. Eaton, Buffalo International, Niagara Falls International, Lebanon Regional, Manchester-Boston International, Shenandoah Valley Regional, Syracuse International, Northwest Arkansas Regional Airport, Greenville-Spartanburg International Airport, Owensboro Regional Airport, Nashville International Airport, Columbia Regional Airport, Enid Woodring Regional Airport

Additional references are available on request.

Licenses and Permits

Loomacres Inc. maintains all necessary permits and licenses to conduct wildlife management activities on airports. It is the responsibility of the airport to maintain all appropriate state and federal permits that will be required to remove and harass wildlife on airport property. Loomacres Inc. should be listed as a sub-permittee on all appropriate permits. Loomacres Inc. will act as a

liaison with both State and Federal agencies to assist the airport with necessary application, permitting and reporting procedures. Loomacres Inc. will assist airport personnel with the maintenance and renewal of Wildlife Permits.

Insurance

Loomacres Inc. maintains liability insurance coverage consisting of 2,000,000.00 per incident, 4,000,000.00 aggregate and an additional 2,000,000 umbrella policy. We also carry 2,000,000 in professional and 500,000 in workmen's comp. If additional insurance is required Loomacres Inc. will acquire and present appropriate documentation prior to the start of this project. Please see Appendix III for insurance information.

Disadvantaged Business Enterprise:

Loomacres Inc. is not a Certified Disadvantage Business (DBE); however Loomacres Inc. has utilized the services of DBE's when it was necessary to reach DBE participation goals as per DOT Regulation 49 CFR Part 26. Loomacres is prepared to utilize a Certified DBE to provide up to 3% of the services offered in this contract. Loomacres is able to utilize the services of ETC Engineers & Architects Inc. which is a certified State of Arkansas DBE located at 1510 South Broadway, Little Rock, AR 72202. The contact person for ETC Inc. is Mr. Mizan Rahman, 501-375-1786. Specifically, the company will provide GIS, GPS, and habitat mapping services. ETC will map out the various habitat types on and around the airport. Further information about ETC Inc. can be found in Appendix III.

Scope of Services: Phase I Wildlife Hazard Assessment and Training:

Loomacres Inc. will conduct a Wildlife Hazard Assessment, as required by the FAA, Title 14 139.337(b) (1-4).

- I. Avian surveys will be conducted to document the species, number, habitat use and seasonal activity of birds that inhabit the airport. The surveys will be conducted four times monthly and will continue for one year. The surveys will be conducted at 12 or more sites located on and adjacent to the airport property. Site selection will be determined at the start of the project. During the surveys each of the sites will be visited for 3 minutes. The birds that are observed during this time will be documented. The results will be analyzed and included in the final WHA report. Estimated dates of completion: March 2010-February 2011.
- II. Large mammal surveys will be conducted 2 times per month. Spotlights/Night vision/Infra-red will be used to document the abundance and distribution of mammals such as white-tail deer and coyotes. A vehicle will be used to survey the AOA and surrounding property. The route the vehicle will travel will be determined during the first visit to the airport. The results will be analyzed and included in the final WHA report. Estimated dates of completion: March 2010-February 2011.
- III. Small mammal surveys will be conducted during the spring and fall to document the small mammal population at the airport. Four, 1000 ft, transects will be set up in varying habitat types within the airport property. Small mammal traps will be placed every ten feet along each of the transects. The transects will be set for a total of three nights. Each day the traps will be checked

and the species caught will be recorded. The results will be analyzed and included in the final WHA report. Estimated dates of completion: May 2010 & October 2010.

- IV. Vegetation surveys will be conducted to determine the dominant vegetation species on the airport. Grass height will be monitored at each survey location on a monthly basis to determine the average grass height for the growing season. Loomacres will also make planting recommendations as needed to ensure that no new attractants are created. The results will be analyzed and included in the final WHA report. Estimated dates of completion: May 2010-August 2010.
- V. Insect surveys will be conducted to determine their potential to become wildlife attractants at the airport. Surveys will be conducted at 12 sites throughout the airport. Species composition and population index will be determined. The results will be analyzed and included in the final WHA report. Estimated dates of completion: June 2010-October 2010.
- VI. Perimeter fence surveys will be conducted during each visit to the airport. If a breach in the fence is discovered, the location and recommendations will be provided to the airport immediately. A summary of the results will be provided in the final WHA report. Estimated dates of completion: March 2010-February 2011.
- VII. Loomacres Inc. staff will also document all major wildlife attractants and wildlife hazards at the airport and within 5 miles of the airport. This data and mitigation recommendations will be presented in the final WHA report. Estimated date of completion: April 2011.
- VIII. The Wildlife Hazard Assessment will also analyze the history of bird strikes that have occurred at the FYV. Estimated date of completion: April 2011.
- IX. A review of all wildlife-associated permits will be assessed and a historical review of their use will be presented in the Wildlife Hazard Assessment. Estimated date of completion: April 2011.
- X. Two months after completing the field work the findings of the surveys, and all above mentioned will be compiled into a detailed report and five copies will be presented to the consultant and to FYV. The report will also include a description of any potential wildlife hazards observed on and around the airport. In addition, the report will provide recommendations for reducing identified wildlife and their potential for causing wildlife strikes, and make recommendations for mitigating the wildlife attractants found on and around the airport. Estimated date of completion: April 2011.
- XI. **Throughout the duration of the project Loomacres Inc. personnel will be available on-call to assist airport personnel with the dispersal or removal of potential wildlife hazards (whitetail deer, gulls, ect.), utilizing pyrotechnics, firearms, cage traps and body gripping traps. These methods will be discussed with airport management prior to their use. All of Loomacres Inc. personnel are trained, licensed, and experienced in the use of firearms, traps and pyrotechnics. Loomacres always adheres to all state and federal regulations including the Migratory bird treaty act of 1981. Estimated date of completion March 2010-February 2011.**

This is an additional service included as part of the contract. This service is unique to Loomacres Inc. Very few firms are able to offer these services.

- XII. During the term of the contract Loomacres Inc. will conduct one, Bird Identification and Wildlife Hazard Management training course that is required by the FAA. The training will be conducted at FYV. If some airport personnel are unable to attend the training, they may attend one of our

regularly scheduled trainings at other airports. All personnel that attend and pass the training will receive a certificate verifying their accomplishment. The names and grades of those in attendance will be provided to the Airport Manager and Loomacres Inc. will retain a copy. Please retain all documentation regarding this training for future reference. Please see appendix II for an outline of this training. Estimated date of completion: At airports convenience.

- XIII. In the event of a wildlife/bird strike, Loomacres Inc. will assist airport personnel with the identification of the animal struck. Loomacres Inc. will also aid in the reporting of the strike. Estimated date of completion: March 2010-April 2011.
- XIV. When necessary, Loomacres Inc. can assist FYV with public relations. This includes public outreach, and media relations. In addition, Loomacres Inc. will assist in acquiring land owner permission in the immediate area surrounding the airport in order to conduct wildlife conflict resolution.

Scope of Services Phase II Wildlife Hazard Management Plan (if required):

Upon completion of the Wildlife Hazard Assessment, Loomacres Inc. will be available to create a Wildlife Hazard Management Plan. Loomacres Inc. will develop the Wildlife Hazard Management Plan so that it will meet the requirements of FAA, Title 14 Part 139.337 (e) & (f)

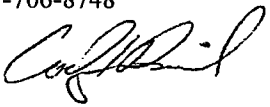
- I. If required following the completion to the Wildlife Hazard Assessment Loomacres Inc. will develop a Wildlife Hazard Management Plan for FYV. The WHMP will be based on the data gathered during the Wildlife Hazard Assessment. A Wildlife Hazard Management Plan provides detailed procedures and guidelines for the airport to address wildlife hazards at the airport. It will also prioritize the goals of the plan and sets a timeline for the accomplishment of the goals. The plan will recognize the people that will carry out the established goals. Estimated date of completion: May 2011.

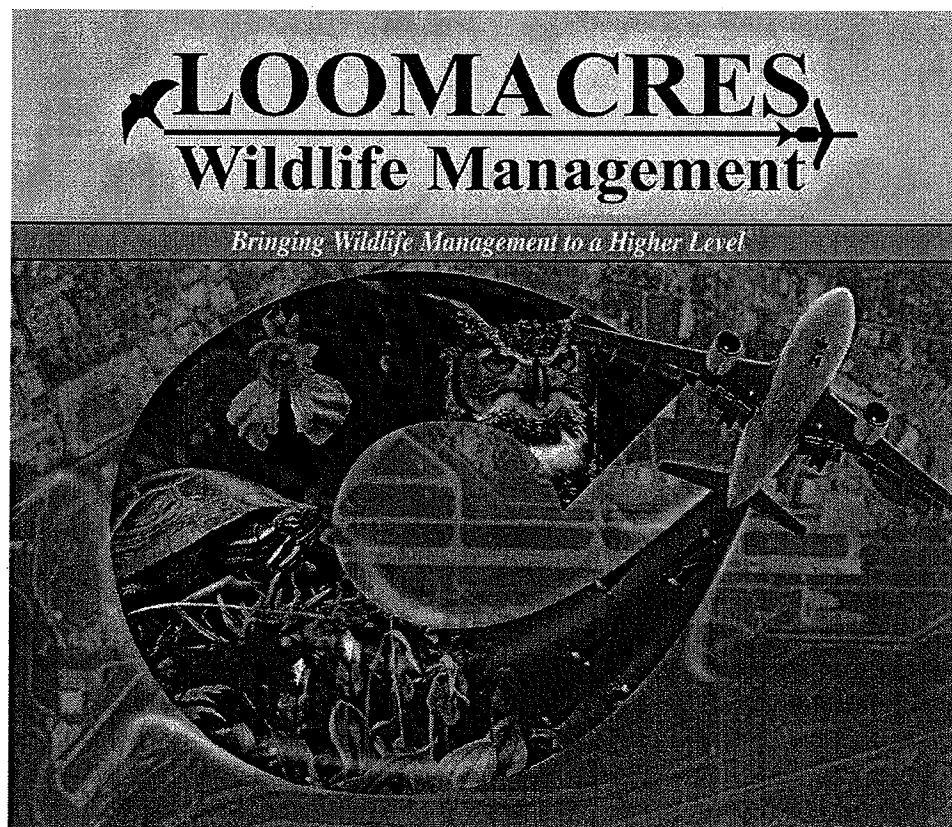
Term

Due to the time sensitive nature of FAA requirements and the importance of reducing potential wildlife hazards, Loomacres Inc. is available to initiate this project at the airports earliest convenience.

Twelve months will be dedicated to the WHA and Wildlife Conflict Resolution, and two months will be dedicated to data analysis and the development of the Wildlife Hazard Assessment. An additional month will be dedicated to the creation of a Wildlife Hazard Management Plan.

Contact Info:

Loomacres Inc.:	Fayetteville Executive Airport, Drake Field:
Name: Cody Baciуска	Name:
Title: President	Title:
Phone: 607-706-8748	Phone:
Signature: 	Signature: _____
Date: <u>March 18, 2010</u>	Date: _____



APPENDIX I



Dear Airport/Operations Manager,

This letter was prepared to provide the Certificate Holder with documentation verifying that Loomacres' personnel meet the requirements of §139.337(f)(7)(a-d) outlined in AC No: 150/5200-36

Subsection a:

The lead Trainer/qualified airport wildlife biologist has the necessary academic coursework and work experience to meet the qualifications of a GS-0486 series wildlife biologist as defined by the U.S. Office of Personnel Management classification standards.

Subsection b:

The lead Trainer/qualified airport wildlife biologist has taken and passed an airport wildlife hazard management-training course acceptable to the FAA administrator.

Subsection c:

The lead Trainer/qualified airport wildlife biologist has conducted at least one Wildlife Hazard Assessment acceptable to the FAA administrator.

Subsection d:

The lead Trainer/qualified airport wildlife biologist has taken and passed an airport wildlife hazard management-training course acceptable to the FAA administrator.

Sincerely,

Cody Baciуска
President

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -

Loomacres Wildlife Management • P.O. 361 • Warnerville, NY 12187

Phone: 607-760-8748 • Fax: 518-618-3129

www.Loomacres.com • info@loomacres.com

Embry-Riddle Aeronautical University



Center for Professional Education
Hereby certifies that

Cody Baciуска

Has successfully completed 2.4 Continuing Education Units in
Wildlife Hazard Management

In Witness Whereof the signatures are authorized by the Board of Trustees and
the Seal of the University are hereunto affixed at Daytona Beach, Florida
this 18th day of May 2007 Anno Domini.

I,

Martin A. Smith, Chancellor

Embry-Riddle Aeronautical University Worldwide

Martin A. Smith, Chancellor

Embry-Riddle Aeronautical University Worldwide

nd

Gregory A. Popp, J.D., Director

Embry-Riddle Center for Professional Education

Gregory A. Popp, J.D., Director

Embry-Riddle Center for Professional Education

Cody Baciуска
134 Markley Road
Cobleskill, NY 12043
518-234-8547

EDUCATION:

- State University of New York, College of Agriculture and Technology at Cobleskill
Bachelor of Technology Degree in Animal Science- Concentration Wildlife Management
Date of Graduation- December 2003

Associate of Applied Science Degree- Concentration Fisheries and Wildlife Technology
Date of Graduation- May 2003
- State University of New York at Oneonta
Bachelors of Science Degree in Business Finance
Expected Date of Graduation-May 2010

MAJOR COURSE WORK:

- Biology I
- Botany
- Chemistry I
- Entomology
- Environmental Policy
- Evolutionary Biology
- Fish Nutrition
- Fisheries Management
- Fisheries Techniques
- Herpetology
- Integrated Pest Management
- Natural History of Vertebrates
- Ornithology
- Principles of Parasitology
- Woody Plant Material
- Wetland Assessment and Delineation
- Wetland Ecosystems
- Wildlife Law Enforcement
- Wildlife Management
- Wildlife Techniques
- Wildlife Policy
- Wildlife Photography
- Waterfowl Ecology & Management
- Statistics
- Soil Science
- Soil and Water Conservation
- Terrestrial Ecology
- Technical Communications

FIELD EXPERIENCE:

Avian

- Bird taxidermy
- Bow net trapping
- Care of game birds
- Care of raptors
- Funnel trapping
- Mist netting & Banding
- Songbird identification, aging & sexing
- Waterfowl identification, aging & sexing
- Point counts / Breeding bird surveys
- MAPS protocol / Pyle Guide
- Blood & feather collection
- Radio telemetry
- Raptor identification

Fisheries

- Creel census
- Electro fishing
- Haul seining
- Invertebrate sampling
- Pond/lake/stream mapping
- Water quality assessment
- Species and age determination

Wildlife

- Amphibian pitfall trapping
- Deer aging
- Care of herps and mammals
- Reptile & Amphibian identification
- Identification of frog and toad calls
- Mammal identification
- Pellet / browse surveys
- Small mammal trapping
- Use of infrared monitoring devices
- Habitat improvement
- Rocket netting

Wetlands

- Delineation of wetland boundaries
- Federal and State classification
- Identification of hydric soils
- Identification of wetland vegetation
- Identification of wetland hydrology
- Watershed delineation
- Wetland restoration and mitigation

Other skills

- Airport driving
- Business administration
- Computer
- CPR
- Firearms
- Hiking
- Hunting
- GPS, GIS/ArcView
- Operation of snowmobiles and ATV's
- Photography digital/SLR
- Pyrotechnics
- Radio communication
- Spotlighting/Night Vision, and Fleer
- Soil analysis
- Trapping
- Tree pruning
- Topo/aerial map analysis
- Watercraft Operation
- Vaccination of Animals
- Vegetation sampling

WORK EXPERIENCE:

- **Loomacres Wildlife Management- Cobleskill, NY**
July 2005 to present
President of Loomacres Wildlife Management. Loomacres provides wildlife and environmental consulting to the aviation industry, government agencies, municipalities, corporations and private individuals. Services range from wildlife and vegetation surveys to development and implementation of wildlife management plans. Loomacres also provides education and training to airport personnel involved in wildlife management.
- **USDA, APHIS, Wildlife Services- Castleton, NY** -Supervisor: Ted Igleheart
February 2004 to July 2005
Conducting wildlife surveys, habitat assessments, and wildlife hazard assessments on a number of airports throughout New York. Data collection, entry, analysis, presentation. Assisting in the development of wildlife management plans. Identifying and addressing, damage, disease, and potential human health and safety issues created by wildlife. Use of pyrotechnics, firearms and traps to haze and remove hazardous wildlife. Public relations and outreach and education.
- **National Audubon Society- Sharon, CT** -Supervisor: Laurie Fortin
21 May 2003 to 21 August 2003
Operated 7 MAPS Bird Banding Stations, responsible for net setup, extracting birds, aging, sexing, banding, data recording and entry, and overall welfare of the birds captured in the nets. Also conducted point counts, breeding bird surveys, nest searching, and vegetation surveys.
- **Wetland Studies and Solutions- Chantilly, VA** -Supervisor: Dan Fisk
05 January to 17 January 2003
Wetland restoration and mitigation, Planted a variety of trees and shrubs
- **Stillman Lawn care and Landscaping- Bainbridge, NY** -Supervisor: Chris Stillman
May 1994 to August 2000 (seasonal) From April 1 to September 25
Constructed and maintained numerous lawns and landscapes
- **Raptor Project- Roxbury, NY** -Supervisor: Jonathan Wood
June 1995 to August 2000 (part-time)
Responsible for the health and daily care of the animals at the facility. Also assisted in the preparation and presentation of educational lectures

LICENCES, TRAINING & CERTIFICATIONS:

- FAA Certified Airport Wildlife Biologist, NRA Certified Firearms Instructor -Airport Driving Cert., FAA Approved Wildlife Biologist Training, - NYS Pistol Permit, -NYS Wildlife Control Permit, -NYS Hunting and Trapping License, Boater Safety Cert

VOLUNTEER:

- **State University of New York at Cobleskill**
Spring 2007&2008-Presented several lectures on Bird Identification and Mist netting
April 2001- Inspected and maintained kestrel nest boxes
January 2003 -December 2003, - Care and maintenance of animals in herpetological museum
- **Landis Arboretum**
Spring 2007-Intruded students on ecology
- **New York State Department of Environmental Conservation**
November 2000- Assisted with the NYSDEC deer census
September 2003- Assisted NYSDEC at waterfowl banding station

ACTIVITIES:

- *2009-present, President of NYS Wildlife Management Association*
- *2007- 2009, Director of NYS Wildlife Management Association*
- *September 2002- January 2003, Secretary of the SUNY Cobleskill chapter of The Wildlife Society*
- *January 2003- May 2003, Vice President of the SUNY Cobleskill chapter of The Wildlife Society*

Appendix II

Wildlife Hazard Management and Bird Biology Training

General Outline

- 1 Introduction & Overview of Training Objectives
 - A. Authority, Regulations, Legalities
 - B. Wildlife Hazard Management Plan
- 2 General Challenges to Aviation Safety Presented by Wildlife
 - A. Large and Small Mammals
 - B. Various Avian Species
 - C. On and Off-site Attractants
- 3 Practical Management Techniques
 - A. Food, Cover, & Water
 - B. Habitat Modification & Exclusion
 - a. Grass Management
 - b. Fencing
 - c. Brush Removal
 - C. Repellents
 - a. Chemical, Audio, Visual
 - D. Removal
 - a. Lethal
 - b. Non-Lethal
- 4 Reporting Procedures & Database
 - A. Bird/Other Wildlife Strike Report
- 5 Maintenance of State & Federal Permits
- 7 Bird identification & Bird Biology
 - A. Topography
 - B. Flight and Feathers
 - C. Molt and Migration
 - B. Identification
9. Pyrotechnic usage and safety
- 8 Review and Exam

Appendix III

Arkansas Unified DBE Certification Program

Telephone (501) 569-2000
Fax (501) 569-2693

Post Office Box 2261
Little Rock, Arkansas 72203-2261



Arkansas.FHWA@fhwa.dot.gov



ArkansasHighways.com



LittleRockAirport.AERO



SWilliams@catra.org



BFlowers@DeltaAirport.com

December 21, 2009

Mr. Mizan Rahman
ETC Engineers and Architects, Inc.
1510 South Broadway
Little Rock, AR 72202

Dear Mr. Rahman:

This will acknowledge receipt of the annual affidavit stating there have been no changes in ETC Engineers and Architects, Inc.'s circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of Federal Regulation 49 CFR Part 26. Based on a review of this information, the firm's Disadvantaged Business Enterprise certification in Arkansas will continue through December 21, 2010.

Any time the firm's circumstances change, a notarized statement setting forth the changes must be submitted to the Department within 30 days.

If you have questions or need additional information, please contact Ms. Natasha Halbert at (501) 569-2297.

Sincerely,

Michelle Davenport
DBE Hearing Committee Chair

c: Chief Legal Counsel
DBE Program Specialist



ENGINEERS ■ ARCHITECTS ■ PLANNERS

■ 1510 SOUTH BROADWAY, LITTLE ROCK, AR 72202 ■ PHONE 501-375-1786 ■ FAX 501-375-1277 ■

February 17, 2010

Cody Baciuka
Loom Acres, Inc.
P.O. box 361
Warnerville, New York 12187

Dear Mr. Baciuka:

We are pleased to provide the following information and references concerning previous mapping and GIS projects completed by our firm. In particular, Mr. William Andrews, PE, Mr. Mizan Rahman, PE and Dr. Shawkat Ali, PE of our staff have worked on GIS/Mapping projects throughout the state and in Dr. Ali's case in previous experience projects in the western United States and Europe.

Dr. Shawkat Ali began working in GIS applications in 1993, when he developed ArcInfo (workstation) based floodplain mapping models in Bangladesh. Later, Dr. Ali developed numerous ArcView based GIS models for water and natural resources management projects in Bangladesh, Europe and the United States. He also worked as Project Leader and GIS Specialist in the 'Center for Environmental & Geographic Information Services', Bangladesh, and Resource Analysis (RA), The Netherlands. Dr. Ali led a project that developed Remote Sensing (RS) and GIS based tools for mapping flood depth and duration (FDD). FDD has been extensively used in natural resources management in Bangladesh. He extensively used ArcView and ArcGIS for watershed, hydrological and hydraulic analysis. Dr. Ali also worked as an Instructor for several short courses on the application of GIS and RS in natural resource management. He has several national/ international publications on GIS and RS application.

BUILDING A BETTER WORLD



■ e-mail: etc@etcengineersinc.com ■



References for previous projects completed by ETC include:

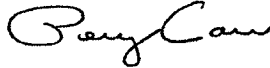
Steve Parke, Director of Public Works, City of Fort Smith, AR – 479-784-2231

Mayor JoAnne Bush, City of Lake Village, AR – 870-265-2228

Mr. Robert Cogdell, Director of Public Works, City of Maumelle, AR – 501-851-2500

We appreciate your interest in ETC Engineers and Architects and look forward to working with you and your staff.

Sincerely,

A handwritten signature in cursive script, appearing to read "Perry Carr".

Perry Carr
Vice President

LOOMACRES **Wildlife Management**

ATTACHMENT II

Fee Schedule for FYV WHA & WHMP

Term

Due to the time sensitive nature of FAA requirements and the importance of reducing potential wildlife hazards, Loomacres Inc. is available to initiate this project at the airports earliest convenience. The proposed term of the agreement will begin on signing of this proposal and conclude fifteen months later.

Phase I:

Twelve months will be dedicated to the WHA, and two months will be dedicated to data analysis and the development of the Wildlife Hazard Assessment.

Phase II:

One month (month 15) will be dedicated to the development of the airports Wildlife Hazard Management Plan.

Fees

-Senior Biologist \$105.00/hr

-Airport Biologist \$69.84/hr

Phase I:

-Total Hours, 687

-Data collection portion of WHA, 582 hours

-Senior Biologist, 35 hours

-Airport Biologist 547 hours

-Development of WHA, 105 hours

-Senior Biologist, 10 hours

-Airport Biologist, 95 hours

Total Labor:

\$49,562.00

Transportation and Supplies:

\$8,547.00

"Bringing Wildlife Management To A Higher Level"

Loomacres Wildlife Management • P.O. 361 • Warnerville, NY 12187

Ph: 607-760-8748 • Fax: 518-618-3129 • www.loomacres.com

E-mail: info@loomacres.com

Phase I Total:

\$58,109.00

Phase II (if required):

-Development of WHMP, 40 hours

-Senior Biologist, 18 hours

-Airport Biologist, 32 hours

Total Labor:

\$4,125.00

Transportation and Supplies:

\$546.00

Phase II Total:

\$4,671.00

Project Total:

62,780.00

Billing and Payment:

The total cost of phase I is 58,109.00. The City of Fayetteville will be invoiced on a monthly basis in the amount of \$4,150.66. If Phase II is required, the City of Fayetteville will be invoiced for \$4,671.00 at the completion of the project.

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Ph: 607-760-8748 • Fax: 518-234-8547 • www.loomacres.com

E-mail: info@loomacres.com

LOOMACRES **Wildlife Management**

Estimated Dates of Completion for Drake Field

- Site Visit/ Meeting W/ Airport Staff: May 2010
- Project Start: May 2010
- Driver Training / Security Clearance: May 2010
- Wildlife Conflict Resolution: May 2010 – May 2011
- Wildlife Surveys: May 2010 – May 2011
 - Avian Surveys: May 2010 – May 2011
 - Large Mammal Surveys: May 2010 – May 2011
 - Small Mammal Surveys: May 2010 & October 2010
- Survey of Wildlife Attractants: May 2010 – May 2011
- Strike History Analysis: June 2010
- Review of Wildlife Permits: May 2010
- Final WHA report: Date of Completion: July 2011
- Wildlife Management and Identification Training: At airports convenience
- Meetings and Airport Management WHWG: Quarterly
- Creation of WHMP (If required by FAA) August 2011

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Ph: 607-760-8748 • Fax: 518-618-3129 • www.loomacres.com

E-mail: info@loomacres.com

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 #: 19832 Vendor Name: Loomacres Wildlife Management

Address: PO Box 361 State: NY

City: Fayetteville

Requester: James Nicholson

Zip Code: 12187 Ship to code: 065

Requester's Employee #: 771

Account Numbers: 5550.3960.7820.39

Project/Subproject #: 10022 1

Inventory #

Fixed Asset #

Extension: 641

Division Head Approval:

Quotes Attached Yes: No:

Expected Delivery Date: 10/6/2011

Date: 4/6/2010

Requisition No.:

P.O Number:

Mail Yes: No:

Taxable Yes: No:

Item Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Project/Subproject #

Inventory #

Fixed Asset #

1 Wildlife Hazard Assessment & Management Plan 1 LS \$58,109.00 \$58,109.00 5550.3960.7820.39 10022 1

2 RES # _____ \$0.00

3 Contract# _____ \$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:

Contingent upon City Council approval 4/6/10.

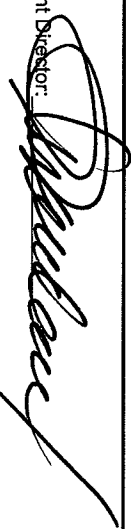
Subtotal: \$58,109.00

Tax: \$58,109.00

Total: \$58,109.00

Approvals:

Mayor: _____

Department Director: 

Finance & Internal Services Director: _____

Budget Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____

A.7. Consent

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items OnlyGreg Tabor
Submitted ByPolice
DivisionPolice
Department

Action Required:

Staff seeks council approval of a resolution to amend Fayetteville Police Department Policies: 12.2.1, Policies Procedures & Rules Development and Review; 22.3, Secondary Employment; 52.1.1, Office of Professional Standards; 61.2, Collision Investigation; 71.1.1, Detainee Transport.

\$3,640

Cost of this request

\$ 151,371.00

Category / Project Budget

Services and Charges

Program Category / Project Name

1010-2920-5311.02

Account Number

\$ 22,718.00

Funds Used to Date

Program / Project Category Name

\$ 128,653.00

Remaining Balance

General

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

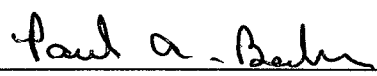
 Department Director
3-30-10
Date

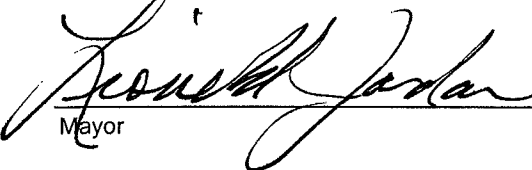
Previous Ordinance or Resolution #

Original Contract Date:


 City Attorney
3-30-10
Date

Original Contract Number:


 Finance and Internal Services Director
3-30-2010
DateReceived in City
Clerk's Office

 Chief of Staff
3-30-2010
DateReceived in
Mayor's Office

 Mayor
3/30/10
Date

Comments:

To: Mayor Lioneld Jordan and City Council

From: Greg Tabor, Chief of Police 

Date: Thursday, 03/18/2010

Re: Police Department Policy Amendments

Recommendation:

Council approves a resolution amending Fayetteville Police Department Policies: 12.2.1, Policies, Procedures & Rules Development and Review; 22.3, Secondary Employment; 52.1.1, Office of Professional Standards; 61.2, Collision Investigation and 71.1.1, Detainee Transport

Background and Discussion:

The current Fayetteville Police Department Policies were approved by council resolution #3-99 on January 5th, 1999. The department is currently in the process of reviewing all policies and updating as necessary to conform to current practices and to comply with accreditation standards.

Budget Impact:

If approved by council, Policy 22.3, Secondary Employment, will carry a \$3640.00 cost for personal liability insurance. This cost would come out of the state forfeiture funds.

Added at
Agenda Session
3/30/10.
A.8. - Consent

City of Fayetteville Staff Review Form

A.8
Fayetteville Forward Event
1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Julie McQuade *gm*
Submitted By

Division

Communications & Volunteer Services
Department

Action Required:

Approve a Budget Adjustment budgeting the Donation Revenue from 2009 and 2010 for economic development and the Fayetteville Forward event in the amount \$6,600.

Cost of this request	\$ -	Economic Development
see attached	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Program / Project Category Name
08050-0901	Funds Used to Date	General
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Lindley Smith
Department Director

3-29-10
Date

Previous Ordinance or Resolution #

K. A. Smith
City Attorney

3-29-10
Date

Original Contract Date:

Original Contract Number:

Paul A. Bender
Finance and Internal Services Director

3-29-2010
Date

Received in City
Clerk's Office



Don M. M...
Chief of Staff

3-29-10
Date

Received in
Mayor's Office



Frederick Jordan
Mayor

3/30/10
Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Lindsley Smith, Communication Director

From: Julie McQuade, Community Outreach Coordinator *JM*

Date: March 26, 2010

Subject: Approval of a Budget Adjustment for Fayetteville Forward event donations

PROPOSAL:

To approve a Budget Adjustment budgeting the Donation Revenue from 2009 and 2010 for economic development and the Fayetteville Forward event in the amount \$6,600.

RECOMMENDATION:

Staff recommends approval of a budget adjustment to budget the donations made for the Fayetteville Forward event to be held in April 2010 in the amount \$6,600.

BUDGET IMPACT:

Increase the Fayetteville Forward project budget by \$6,600.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE ATTACHED BUDGET
ADJUSTMENT OF \$6,600.00 FOR THE APRIL, 2010
FAYETTEVILLE FORWARD EVENT

WHEREAS, \$3,000.00 in donations were received in 2009 for Fayetteville Forward, but were not recognized; and

WHEREAS, another \$3,600.00 in donations have been received in 2010 for Fayetteville Forward; and

WHEREAS, this \$6,600.00 revenue donated for Fayetteville Forward should be appropriated to fund the April 2010 Fayetteville Forward event.

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 attached Budget Adjustment recognizing donations to the City for Fayetteville Forward and appropriating \$6,600.00 for the April 2010 Fayetteville Forward event.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2010	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 3/26/2010	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Added/Increased:
\$3,600 is requested in the business meals account and \$3,000 in the contract services account..

Project or Item Deleted/Reduced:
\$3,000 from the Use of Fund Balance and \$3,600 from the Donations account.

Justification of this Increase:
Increase project budget by accepting donations from various organizations for the purpose of holding the Fayetteville Forward event. The event expense includes meal, printing and advertising costs.

Justification of this Decrease:
In 2009, \$3,000 in donations were received for Fayetteville Forward but not recognized. Another \$3,600 in donations has been received in 2010 that is being recognized.

Increase Budget

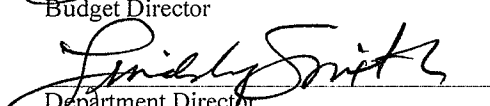
Account Name	Account Number				Amount	Project Number	
Contract Services	1010	6600	5315	00	3,600	08050	0901
Business Meals/Expenses	1010	6600	5306	00	3,000	08050	0901

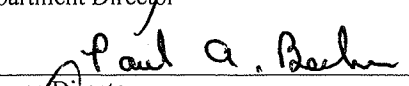
Decrease Budget

Account Name	Account Number				Amount	Project Number	
Donations	1010	0001	4809	00	3,600	08050	0901
Use of Fund Balance	1010	0001	4999	99	3,000	0805	0901

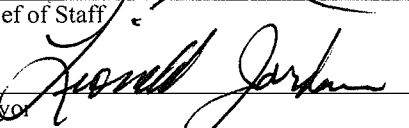
Approval Signatures

 3/29/10
Budget Director Date

 3-29-10
Department Director Date

 3-29-2010
Finance Director Date

 3-29-10
Chief of Staff Date

 3/30/10
Mayor Date

Budget & Research Use Only

Type: A B C D E

Requested By

General Ledger Date

Posted to General Ledger

Initial Date

Posted to Project Accounting

Initial Date

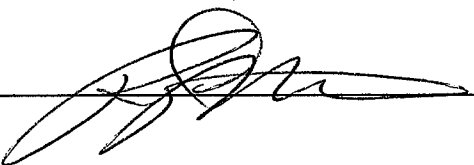
OFFER AND ACCEPTANCE CONTRACT

1. The **City of Fayetteville, Arkansas**, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION
2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **\$342,000.00**.
3. **Contingent Earnest Money Deposit:** **ROCK STREET PARKING, LLC** waives the requirement of earnest money from the City of Fayetteville.
4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by **ROCK STREET PARKING, LLC**.
5. **ROCK STREET PARKING, LLC** shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville shall pay the total cost of the title insurance.
6. **ROCK STREET PARKING, LLC** agree(s) to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. **ROCK STREET PARKING, LLC** agree(s) to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by **ROCK STREET PARKING, LLC**. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within **fourteen (14)** days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing, without any further obligation to prior contracts entered into by **ROCK STREET PARKING, LLC**.
10. **ROCK STREET PARKING, LLC** hereby grant(s) permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by **ROCK STREET PARKING, LLC**.
13. **ROCK STREET PARKING, LLC** shall disclose to the City of Fayetteville any and all environmental hazards of which **ROCK STREET PARKING, LLC** has/have actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville and **ROCK STREET PARKING, LLC** shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, **ROCK STREET PARKING, LLC** shall cure such, at their expense; or, in the alternative, at the City of Fayetteville's discretion, the City of Fayetteville may cure such environmental hazard, and **ROCK STREET PARKING, LLC** shall indemnify the City of Fayetteville for all costs associated with said cure.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

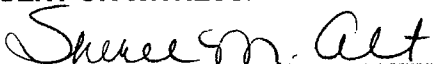
14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both the City of Fayetteville and **ROCK STREET PARKING, LLC** shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by **ROCK STREET PARKING, LLC** on or before the **18th day of March, 2010.**
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within **twenty (20)** days of acceptance by **ROCK STREET PARKING, LLC.**
18. **NOTICE:** **THE CITY OF FAYETTEVILLE ASSERTS AND ROCK STREET PARKING, LLC HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE \$0.00 EARNEST MONEY DEPOSIT.**



Date: 3-19-10

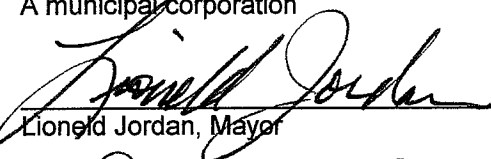
Date: _____

AGENT OR WITNESS:

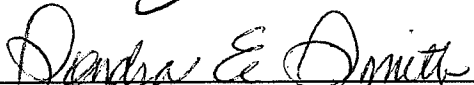


Date: 3-19-10

City of Fayetteville, Arkansas,
A municipal corporation


Lionel Jordan, Mayor

Date: 3/18/10


Sondra Smith, City Clerk

Date: 3/18/10

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

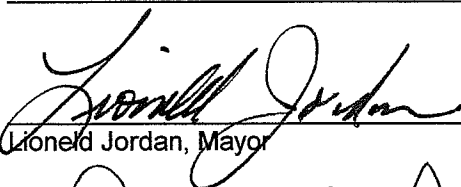
EXHIBIT "A"
PROPERTY DESCRIPTION

A part of Block 41, in the Original Town (now City) of Fayetteville, Arkansas, as shown on plat of record in plat book 4, at page 3, plat records of Washington County, Arkansas, being more particularly described as follows: Beginning at the NW corner of said Block 41, said point being an existing iron; thence S 89°41'51" E, along the North line of said Block 41, 134.00 feet to an existing iron; thence S 00°30'11" W, 183.22 feet (record 184.00 feet) to an existing iron; thence N 89°20'27" W, 134.00 feet to an existing iron on the West line of said Block 41; thence N 00°30'11" E, 182.32 feet (record 184.00 feet) to the point of beginning.

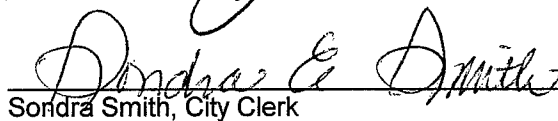
SIGNED FOR IDENTIFICATION:



Date: 3/19/10


Lioneld Jordan, Mayor

Date: _____


Sondra Smith, City Clerk

Date: 3/18/10

Date: 3/18/10

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Rob Merryship to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 19th day of March, 2010.

MY COMMISSION EXPIRES:

2/2/2017



Barbara L. Coffey
Notary Public

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
)
SS.

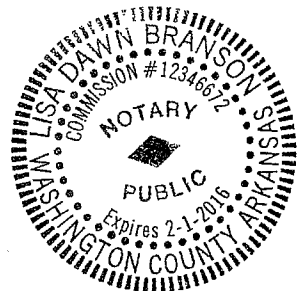
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lionel Jordan** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 18th day of March, 2010.

MY COMMISSION EXPIRES:

2-1-2016

Lisa Dawn Branson
Notary Public



Changed from Resolution
to Ordinance. Moved from
Consent to NB#5 C.5.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING CONTRACTS WITH NEC, INC. AND H2 ENGINEERING, INC. IN THE TOTAL AMOUNT OF \$30,690.63 FOR SEWER IMPROVEMENTS AT VETERANS MEMORIAL PARK, APPROVING A PROJECT CONTINGENCY OF \$4,404.00, AND APPROVING A BUDGET ADJUSTMENT

WHEREAS, the restrooms at Veterans Memorial Park at Lake Fayetteville currently utilize a septic system which requires occasional maintenance and raises concern regarding the age of the system and its proximity to Lake Fayetteville, and;

WHEREAS, NEC, Inc. is constructing Park Centre, a mixed-use development south of Veterans Memorial Park, and is required to construct a sewer lift station to provide sewer service to the site which will be located approximately fifty (50) feet from the park's south boundary, and;

WHEREAS, H2 Engineering, Inc. has knowledge of the capacities and elevations of the sewer lift station that is critical to the design of the sewer connection to the restrooms at Veterans Memorial Park, and is working as the engineering firm on the Park Centre project with NEC, Inc., and;

WHEREAS, the City would benefit from utilizing the Park Centre developer and engineers to design and construct a sewer line from the lift station to the restrooms at Veterans Memorial Park;

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby determines that an exceptional situation exists in which formal competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for construction of sewer improvements at Veterans Memorial Park. Copies of the contracts, marked as Exhibits "A" and "B," are attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a project contingency of \$4,404.00 and a budget adjustment of \$35,295.00, a copy of which is marked as Exhibit "C" attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

**City of Fayetteville Arkansas
City Council Meeting Minutes
March 16, 2010**

A meeting of the Fayetteville City Council was held on March 16, 2010 at 6:00 p.m. 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 Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Gray

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Nominating Committee Report:

Alderman Cook read the Nominating Committee Report.

Alderman Petty questioned why there was not a copy of the full application for the A & P Commission applicant.

Alderman Thiel stated that probably was not the applicant's fault but that is probably what the A & P Commission provided.

Mayor Jordan: We will look into that. We really don't have an answer right now.

Alderman Petty: Thank you Mayor.

Marilyn Heifner: He filled out the regular application form and I turned that into the City Clerk.

Alderman Petty: I saw that but it said a resume was attached and there wasn't one.

Marilyn Heifner: That was my mistake. There wasn't a resume it was just the application.

Alderman Petty: In looking over the application, Brandon for the reason you wanted to serve, you said to accomplish proposed ideas and that was pretty much the extent of the application. It would just be helpful when we are reviewing candidates to have more information than that.

Alderman Ferrell moved to approve the Nominating Committee Report. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Agenda Additions: None

Consent:

Approval of the March 2, 2010 City Council meeting minutes.

Approved

Preferred Office Products, Inc.: A resolution approving a contract with Preferred Office Products, Inc. for the purchase through the current state procurement contract of five copiers in the total amount of \$73,033.00.

Resolution 44-10 as recorded in the office of the City Clerk.

Goodwin & Goodwin, Inc. Bid #10-18: A resolution awarding Bid #10-18 and approving a contract with Goodwin & Goodwin, Inc. in the amount of \$433,005.00 for construction of the Broyles Avenue gravity sewer line, approving a project contingency of \$45,000.00, and approving a budget adjustment of \$478,005.00.

Resolution 45-10 as recorded in the office of the City Clerk.

Redford Construction, Inc. Bid #10-19: A resolution awarding Bid #10-19 and approving a contract with Redford Construction, Inc. in the amount of \$893,640.00 for construction of the Broyles Avenue force main sewer line, approving a project contingency of \$90,000.00, and approving a budget adjustment in the amount of \$983,640.00.

Resolution 46-10 as recorded in the office of the City Clerk.

Alderman Petty moved to approve the Consent Agenda. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Unfinished Business: None

New Business:

Amend Chapter 114.03 First Thursday Fayetteville: An ordinance to amend the Code of Fayetteville by enacting §114.03 First Thursday Fayetteville to authorize the Fayetteville Convention and Visitors Bureau to control the public parking spaces on both sides of East Street on the square and to close East Street to traffic from 4:00 p.m. until 10:00 p.m. on the first Thursday of the month.

City Attorney Kit Williams read the ordinance.

Julie McQuade, Community Outreach Coordinator briefly explained First Thursday Fayetteville. She stated after evaluating this event City staff felt like it would be more beneficial to the event if an entity such as the Convention and Visitor's Bureau, specifically that entity, were given permission to manage the event, especially since they have already have a similar ordinance for the Lights of the Ozarks.

Alderman Ferrell: I saw a lot of people there the couple of times that I was down there. It sounds like it is a pretty good deal.

Alderman Lucas moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook was absent during the vote. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook was absent during the vote. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty: Julie, you said that the City was not able to provide resources if a private entity managed this event, is that right?

Julie McQuade: That was the determination with internal staff discussions when we were evaluating all the options.

Alderman Petty: So how did you justify providing resources when it was being organized by two private galleries?

Julie McQuade: It was actually being organized by City Administration and the Convention and Visitor's Bureau. We were the overseeing entities last year and then there were downtown merchants and others that assisted with the planning of it.

Alderman Petty: Kit can you clarify? Is that true that we cannot provide resources to private entities?

City Attorney Kit Williams: I think that we provide resources all the time to private citizens and other entities and we provide parking for our citizens. The Planning Department approves building permits for private entities. We can't go out and work for a private entity individually, but if a private entity comes to the City and says, I would like to see a festival or something else can you help, I don't think the City has to say no. The City Government can help its citizens and local businesses if they have an idea to do something. I don't think that it would be improper for the City to have assisted in the formation of this festival.

Alderman Petty: I just wanted to clear up the record because I think people need to know, potential organizers, that the City can provide resources whether they are a for profit or non profit entity. I think we should be there to help them.

City Attorney Kit Williams: There has to be a public purpose, but I think there clearly is a public purpose in this because it is for our citizens and to also help the economic vitality of our downtown square and the businesses around it. I think that is a good public purpose that we can devote resources to.

Alderman Lewis: I would like to commend all the volunteers that have put so many hours into developing this program to get it to the point where it could become official. I appreciate all the work that has gone into it.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Cook was absent during the vote. Alderman Gray was absent.

Alderman Lucas: I want to thank Julie McQuade. She has worked on this a long time. Several groups have worked on this and I am so happy to see it happen.

Mayor Jordan: When we got through the Fayetteville Forward a group of artists came into the office and said we have an idea. They said we will volunteer time to make sure that First Thursday works and they did. Shirley Lucas was involved in that. There were lots of volunteers. Julie did a great job. This has been successful and greater than anything that we could have imagined.

Ordinance 5307 as Recorded in the office of the City Clerk.

Amend Chapter 114.02 Farmers' Market: An ordinance to amend §114.02 Farmers' Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events.

City Attorney Kit Williams read the ordinance.

Julie McQuade: They have asked that this item be tabled.

Mayor Jordan: I would like to table this for two weeks.

City Attorney Kit Williams: We can just leave it on the first reading.

This ordinance was left on the First Reading

ADM 09-3413 Amend Title XV (Hillside/Hilltop Overlay District): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 167: Tree Preservation and Protection, Chapter 169: Grading Plan Submittal and Chapter 173: Building Regulations in order to strengthen the provisions of the Hillside/Hilltop Overlay District Regulations.

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Strategic Planning and Internal Consulting gave a brief description of the ordinance. She stated this is more of a clarification for staff and members of the public. She stated staff recommends approval.

Alderman Lewis: Can you talk about staff time? I don't think it will add to staff time but can you clarify that?

Karen Minkel: That is correct, it would not. You would be looking for the stamp of a licensed engineer or architect.

Alderman Petty: I have a question about the process the engineers might use to sign off on a foundation, without engineering it, in a place that would not require it how would they so that? Would they look at the soil maps?

Karen Minkel: No they would be physically going to the site itself. That is one of the reasons we are proposing this because it is site specific.

Chris Brown, City Engineer stated the first step would be a site visit. You would have some test pits or something done so that you could see the soil where the foundation would be placed. An engineer can determine if there is a problem. They can see that the soil is suitable for a foundation and then sign off and say the City's standard foundation would be satisfactory. It is basically a matter of stamping the City's standard design and submitting that as part of the

permit. If they do determine that there are some iffy soils then they would do additional investigating and do a geo-technical analysis and proceed on with the full design.

Alderman Petty: In fuller detail how do they look at the soil? Do they have to do a full soil classification?

Chris Brown: You can just do a visual inspection. There are tools that can be used for on-site inspections that would not require any geo-technical analysis.

Alderman Petty: When I was talking to staff about the same intent, everywhere there are expansive clay, the main thing that was going to take staff time in developing that ordinance was, coming up with additional specifications that the City might have for places with compromised soils. This solution that we came up with here, where we have an Engineer go out and a soil classification is not really needed for exemption seems pretty elegant to me. It has me wondering if that would work, then maybe we do not need to develop those rigorous specifications, and that would reduce the amount of staff time required to develop that other ordinance.

Alderman Ferrell: With each step, from the soil testing and to whatever other action that needed to be taken, there would be an additional cost to the developer or builder wouldn't it?

Chris Brown: Yes.

Alderman Thiel: I think that has always been the argument about having engineered foundations on hillsides. We have ordinances already in place to protect the homeowner and the adjacent properties from harm that might occur if the property slides. This is one more thing in place. She explained what the Ordinance Review Committee discussed when forming the ordinance. She stated there were two members in favor and two opposed to this at that time. She stated you try to protect homeowners from making mistakes that cost them in the long run and affect other people.

Alderman Lucas: One of the things we heard from people whose homes had slid was they were buying the home suspecting that in a few years it is going to start sliding. That was one of the things we were looking at.

Alderman Lewis: Chris, the City Engineers do not go out and look at this, it is the hired engineers that look and they say you are going to need more special conditions for the foundation or not. The seal is of the engineer or architect is that correct?

Karen Minkel: That is correct. We had a lot of discussion about soils and whether you have potential for a failed foundation. I just want to mention that on our website you can look at the Hillside/Hilltop Overlay District and you can also go to the Natural Resource Conservation Services website and they have soil maps which is an additional resource that the public can use.

Fran Alexander, a citizen stated had this been in place several years ago when Mission Hills was built my mothers house would not be coming down the hill above it. She went on to speak

on how the shifting affected the area and continued to speak in favor of the ordinance. She stated soil needs to be in a whole different ordinance and I urge you to help the citizens.

Alderman Petty: Karen, I asked you to find any foundation failures that impacted other adjacent properties because I felt like we were mixing intentions. Did you ever find any failures?

Karen Minkel: We can't find anything that says conclusively that this caused this to happen partly because the Hillside/Hilltop Ordinance was enacted in 2006 and prevented some of the other contributing factors to how a foundation might fail and affect other properties. When you see the failure you can find correlations but we can't determine cause in any statistical way because we do not have all the data.

Alderman Petty: We all know erosion can create foundation failures but do you think it is likely that foundation failures create the kind of erosion that moves the street?

Chris Brown: I don't know how that would happen.

Alderman Petty: I just want to establish that this is about protecting homeowner's investments and has little to do with environmental protection. The bulk of the environmental protection ordinance that was passed in 2006 has to do with the excellent tree preservation that went into it. I just want to make sure that everyone understands that foundations are not something that causes the kind of damage that affects other properties.

Chris Brown: Typically a foundation failure does damage to the house that it's holding up. We have not seen extreme failure.

Alderman Lewis: The reason I care about this is for future homeowners who have purchased a home and lenders, realtors, and brokers are not required to talk about the foundation. This is saying please hire an engineer and look at this area because statistically it is highly likely that there maybe foundation troubles in these areas.

Alderman Ferrell: It is not a plea but a mandate right?

Alderman Lewis: We are saying that in these areas in order to have a building permit issued you need to have the engineers sign off on it.

Alderman Ferrell: I understand the intent of the ordinance. I think the City is placing itself between the property owner and the discretion of the property owner with a mandate that might or might not help property owners and or their ability to afford to build a home. It is pretty expensive to have an engineer come out and look at something.

Mayor Jordan: Karen, do you have any idea what it might cost to have something like this done?

Karen Minkel: It costs several hundred dollars to come out to your site. It could go either way. You could find out that you have poor soil and you need significant engineering work on your foundation. In that case it does cost additional money to build the home but in our view you are saving money for a failed foundation in the future. The engineer might come out and say your soil is fine and the builder might have been planning on over engineering on the hillside. That could potentially be a cost savings.

Alderman Thiel: Adella supports this. She wanted to vote on this but she is not here tonight. We have discussed this quite a bit and I would like to move forward.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty: I would like to hold it on the second reading. Based on what was said tonight, about having an engineer go out there and having that be a low cost option in certain cases where the soil is not bad, if we put that into my alternate legislation that we were looking at before, that takes away almost all the staff time that was going to go into that. I would like to talk with staff and see if we can move the overlay map forward since that would be the only remaining piece of that.

Alderman Thiel: My concern with that is you are talking about a city wide ordinance. I may support that at some point in time. The Hillside Hilltop Overlay District, just the District itself, was worked on for months. I feel like there was a lot of public input and public knowledge about what we were doing. We made compromises and we worked with them. I feel something that would affect the entire city or a large part of it needs to have a lot of public discussion. It is much more encompassing than this ordinance is. We have an established overlay district. The other idea is something that can be done totally separately and should be looked into. It is not something that can be considered in two weeks.

Alderman Petty: It is not city wide it is just where the clay soils are which is exactly what this is. The whole reason for doing this is that in our Hillside District 75% to 80% of it is clay soil. Everyone knows that clay soils are bad. Pulling a map together is not a problem and we could copy the language out of this. I don't think it would take very long to put that together as long as we do not have to do the City specifications for foundations which was going to be an intensive process.

Mayor Jordan: Karen do you think you could get that pulled together in two weeks?

Karen Minkel: If we were to use this methodology staff could draft an ordinance but I don't think we would be prepared to make a recommendation within two weeks. There is more than one issue to be looked at. What Alderman Petty is talking about is an expansive clay soils overlay district that would impact approximately 50% of the city. One of the determinations that would need to be made is the buffer that you would add to the soil data that we currently have.

Staff would also want to look at in terms of recommendation what we would be comfortable recommending for a methodology that affected 50% of the city.

Alderman Lewis: I agree with Brenda but I respect the intent that you are talking about Matthew. Looking into the soils and what is going on citywide is a good idea. That is a lot of work and it is more than just clay, it is different kinds of soils and it is going to take a lot of research. There are public meetings that need to happen on that. I would like to move forward with this but I think that is an additional project for staff that will take a significant amount of time.

Alderman Petty: Jeremy when we last spoke about this you said that you guys had decided a buffer of 10 feet around the soil borders would be appropriate. Does that recommendation stand and are you confident in it?

Jeremy Pate: Not at all, that is just one number that we have thrown out as a potential buffer. We also threw out 50 feet. It is really the fine grain versus the coarse grain of what the soils map shows us. It is a really a broad brush stroke. So determining how fuzzy that line is is certainly something we want to look at. That line can be several lots wide or a subdivision or street width wide. Understanding that is something that deserves a little more time.

Alderman Ferrell: Did you say that Adella had interest in this?

Alderman Thiel: Yes, she supports this and was actually the one that asked staff to bring this back forward.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I want to commend Alderman Thiel who has worked on this since 2005. I supported it then and I will support it now if I have to vote. I agree with Alderman Petty. I think we do need to look at the expanded soil study but right now we have the Hillside Ordinance before us and we need to vote on it and then look at the other. I promise we will look at it and bring some type of plan back.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-2. Alderman Lucas, Lewis, Thiel, Cook and Petty voting yes. Alderman Rhoads and Ferrell voting no. Alderman Gray was absent.

Alderman Lewis: This is something that came out of Fayetteville Forward as a request.

Ordinance 5308 as Recorded in the office of the City Clerk.

Annexation of 99 Acres: A resolution to express the intention of the City Council to accept the annexation of approximately 99 acres when detached by the City of Johnson and to enter into various proposals and agreements with the City of Johnson.

City Attorney Kit Williams gave a brief description of the resolution. He stated it would be committing both cities to work together to resolve this detachment annexation issue that has been a problem for us north of the Van Asche extension. This is north of where we would build Van Asche Boulevard into the mall. That particular 99 acres would be detached from the City of Johnson and annexed into the City of Fayetteville. The City of Fayetteville and Johnson would agree to a sewer contract which we have never had with the City of Johnson. He explained the current water and sewer contract issues. He also explained the current lawsuit and what the passage of this resolution would do.

Alderman Petty: What happens if we do not approve this?

City Attorney Kit Williams: The suit will go forward. There are portions of these 99 acres that are not involved in the detachment suit so they would not be detached from the City of Johnson, but it certainly is in your power to say you do not want to provide sewer there.

Alderman Petty: I support it and I think it is a good idea.

Alderman Ferrell: If citizens or property owners in one of the cities petition the other city to be annexed today, before this is done, what is the law today?

City Attorney Kit Williams: They would not be able to detach from the city they are in unless they ask that city for essential municipal services that the other city cannot and will not supply. That is the primary reason the current landowners would be successful in detaching from Johnson and annexing into Fayetteville. If we enter into this agreement then that argument will be gone because we will now be providing sewer service to Johnson citizens and so they would not be able to use the lack of municipal services ever again to be able to involuntarily detach from Johnson. There is a provision in this that Johnson wanted that states in the future we would only do this by agreement with the Johnson City Council, which we have done with Farmington and Springdale in the past. Even without that because there would be no essential services that were not being provided they would not have a legal right detach.

Alderman Ferrell: So we have other agreements with other cities.

City Attorney Kit Williams: We have exchanged territories with Springdale and Farmington in the past through this simultaneous detachment and annexation.

Alderman Ferrell: If this is passed it will be different, than it is today, having to have permission from both municipalities.

City Attorney Kit Williams: Are you talking about a property owners leaving?

Alderman Ferrell: Yes.

City Attorney Kit Williams: It will be different than today because today they would actually have a right to leave Johnson because sewer service is not being provided. In the future they will not and we will also have a resolution saying we will not do that.

Alderman Ferrell: You are saying we have that same understanding with Farmington?

City Attorney Kit Williams: Since we provide sewer service to Farmington then no property owner there could attempt to leave without the Farmington City Council's permission. They are having the essential services provided by Farmington therefore they would not have a good legal cause to detach without Farmington's permission.

Alderman Ferrell: My primary concern was Fayetteville but it sounds like it is alright. The \$35,000 payment is a one time payment?

City Attorney Kit Williams: It is a one time payment and it should be a wash. We would be annexing in businesses that would be paying sales tax to us.

Alderman Lewis: You mentioned taxes do you mean property taxes?

City Attorney Kit Williams: If for all purposes it is brought within the City of Fayetteville.

Bob Caustrell, resident of Howard Nickell Road spoke on behalf of his Property Owners Association and stated this is a great idea but he expressed his concerns with the context. He stated my purpose here is to request that when the Master Street Plan does come up for revision that you please take our neighborhood out of the interior by-pass.

Alderman Cook: I am going to support this but I have two issues. One is obviously annexation but the other is water and sewer services. I don't like pushing our services outside the city limits. My concern is long term cost associated with the water service.

Alderman Lucas: I am in favor of this and I am hoping that you all will support this.

Alderman Lewis: I am also going to support it but the thing that has helped me support it is that we were already providing water and sewer to that area. Is that correct?

David Jurgens: That is correct.

Alderman Lewis: We are already maintaining those services in that area.

David Jurgens: That is correct, there are parts of that in the southern portion of Johnson that do not have development or water and sewer service but we have been providing water service to part of that for over 100 years.

Alderman Lewis: And we have capacity?

David Jurgens: Yes ma'am. The largest sewer line that we have in our system is there and the largest waterline that we have in our city is there as well within just a few hundred yards of the city limits.

Alderman Lewis: The zoning of this is R-A?

Jeremy Pate: Automatically when annexations come in the zoning is typically R-A.

Alderman Lewis: It's the property owners that would initiate a zoning change if that were to occur.

Jeremy Pate: That is typically the case.

Alderman Lewis: And that would have to come before the Council?

Jeremy Pate: Yes, all zoning changes must be made by the Council.

City Attorney Kit Williams: Keep in mind that for these particular land owners there was an agreement by the City Council to zone the property north of Van Asche into commercial but that would be the logical thing anyway. A Council can't totally tie the hands of another Council, but there is another one that was passed in 2008 where the City Council said we would not go forward with the Van Asche extension until the land was annexed into the city.

Don Marr: This is a resolution that means you are going to see multiple items coming before you. You will see zoning and the actual contract terms of this. This is just giving staff authorization for further detail and negotiation of the contract. Some of these items, like the \$35,000, right of way acquisition for Van Asche, and items that are in the City Attorney's memo, will come before you as additional considerations. It gives guidance that it is our intentions to proceed in those areas and that's what we're looking for related to this.

Mayor Jordan: I want to thank City Attorney Kit Williams for helping us on this. I asked him when they came to us to negotiate this and he did an excellent job.

City Attorney Kit Williams: Thanks Mayor.

Alderman Ferrell moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 7-0. Alderman Gray was absent.

Resolution 47-10 as recorded in the office of the City Clerk.

Amend §35.40 of the Fayetteville Code: An ordinance to amend §35.40 of the Fayetteville Code to require organizers of festivals using public property for over two days to ensure its vendors will comply with Health and Tax Laws and to publicly account for revenues received and expenses paid.

City Attorney Kit Williams read the ordinance.

Alderman Petty: There are really only two things that changed from the previous ordinance. The first one is where it said festivals lasting longer than two days, before it said Bikes Blues and BBQ. The second change is in Section F there is an addition to ask the long festivals to open their books so we can better account for tax collections and assess the economic benefit.

Alderman Lewis asked Paul how this would affect our accounting of this.

Paul Becker: All I can say is that if this passes, they will be required to report revenues and there is no way of actually auditing that. So we would have to take any report at face value. I don't know that it would audit anything. It would give information as far as revenues created but there is no way of auditing that or directly tying it back 100%.

City Attorney Kit Williams: I'd like to point out to the Council that the original ordinance involving Bikes, Blues and BBQ really came at the encouragement of Bikes, Blues and BBQ organizers and City staff. It was directed at trying to ensure that their vendors would actually be more likely to pay state sales taxes. They are not responsible for doing any thing but going around and picking up the envelopes. The state sales taxes which are paid are all private. We can't know how much it is. We can't know what's in that envelope. We felt along with Bikes, Blues and BBQ that going around every night attempting to pick up these envelopes was a way to try to better collect the sales taxes that should have been paid by the festival vendors. Bikes, Blues and BBQ worked with the city to do that and have done that now since this ordinance passed. I think they were in favor of that ordinance and worked with the city to do it. As Alderman Petty has said this basically just extends that to any other festival that would be using city property for more than two days.

Don Marr: Sharon Crosson our Parking and Telecommunications Manager who processes these special event permit requests said one suggestion that came up was the wording in these to either look at consecutive days or to talk about certain events. With it being two or more days the way that it is written currently, our question is would First Thursday fall as that, would Lights of the Ozarks fall as that, events where we have multiple days but not consecutive days in terms of some of these relationships. That's one thing we would like to discuss as a part of this ordinance as well.

Alderman Petty moved to amend the ordinance to state two consecutive days. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Alderman Ferrell: The way it's laid out it appears there are not a lot of changes, but the way I read it its kind of in codes and my perception is there is a lot more work. In this community where we are trying to welcome festivals, I think this could turn us into a ghost town of festivals if this ordinance is passed. I think consideration of this ordinance sends a negative message to potential new festivals who will have to hire a comptroller for not for profit festivals. If it is felt necessary to do any adjustment to the ordinance we currently have I think a good idea would be to get input from the festival organizers, the Visitor's Bureau, and the Chamber of Commerce

before we enact legislation or amend legislation. I think we have really tried to put our best foot forward in establishing a festival friendly community. I think the more work that is done requires more staff time and I can not support this.

Don Marr: In the effort to be all honest here, even on the Bikes Blues and BBQ, on Item C where it talks about the taxes at the end of each day's operation we have been doing that in city staff on the days that the event is receiving revenues. Even though it's a multi-day event we're not collecting items at the end of every single day. We're collecting them on Friday and Saturday of their major retail activities. So they are operating on the day they set up without staff going by and collecting envelopes. We can change that but again we might be going out and doing that and have nothing to collect.

City Attorney Kit Williams: This is how the current ordinance reads.

Don Marr: I do understand that is how it currently reads. I guess my point is that the parking lot closes prior to Bikes, Blues and BBQ and we're not collecting items because there are no sales on Monday. It's a set up day.

City Attorney Kit Williams: If that's correct and there wouldn't be any required sales and use taxes to collect and this wouldn't be effective for that. It says at the end of each day where the vendor remits all required sales and use taxes so if there are no sales then there's no Sales and use tax. You wouldn't have to do it.

Don Marr: As long as that's the clear interpretation.

Alderman Thiel: Does the Bikes, Blues, and BBQ organizer collect the tax or does the city? I understand Kit earlier say that the organizers.

City Attorney Kit Williams: They originally said they were going to do that. I'm not sure if that's what's happening now.

Alderman Thiel: I'm asking for clarification if staff has to do this then how much time staff is spending to do this.

Sharon Crosson, Parking and Telecommunications Manager: For Bikes, Blues and BBQ the organizers are collecting the tax from the vendors. That is the only festival that we have right now that has other outside vendors wanting to come in as a transit merchant. Multiple merchants do not fall under the Bikes and Blues umbrella. The first year the ordinance passed those merchants were very reluctant to turn over their state sales tax money to an event organizer that was not their event organizer. The state sales tax code from the State of Arkansas said whatever event producers they fall under, which would be in that case the City of Fayetteville, because we issue their Transit Merchant License. We decided to take city staff to collect just the extra ones that came in. We have about 50 of those. The Parking Staff is going with a uniformed Police Officer on those days to collect those taxes for those that fall outside the Bikes, Blues and BBQ vendors.

Alderman Thiel: Is that all the time? Those aren't regular hours or are they?

Sharon Crosson: On Friday they are regular hours and Saturday they are not.

Alderman Thiel: I'd be curious to know if we are actually coming out ahead on this. We don't have any way to determine.

Don Marr: Remember we're not opening the envelope. We're doing nothing more than collection and making sure they get sent to the state. So there is no way to account for that particular time versus the actual collection envelope. Some merchants who are in business on an on-going basis turn in their reported revenue with the regular reporting. So you're not even collecting those because they report them with their normal monthly or quarterly reports.

Alderman Thiel: Thank you Sharon.

Nelson Driver, Executive Director of Bikes, Blues and BBQ: We don't collect transit merchant tax. We collect Bikes Blues and BBQ vendors only. On average we have 130-150 different vendors that fall under that, out of that probably close to 50% of those already currently have an Arkansas State Sales Tax permit. They don't remit to us but directly to the state.

Steve Butler, Butler Broadcasting: I shutter the thought of having to put an accounting system together to track a charity event that is for the community that people seem to like. Does this mean if we do a two day event for Springfest we have to go through all this?

Alderman Petty: If it is more than two days.

Steven Butler: If we set up on Friday, and do a free concert on Friday, Saturday, and Sunday, then we will have to go through this rigmarole.

Alderman Petty: As it's currently written that is correct.

Steve Clark, President of Chamber of Commerce: Thank you for giving me the opportunity to appear here tonight. We recognize that the City has a right to regulate business so long as there is a rational and reasonable connection to protecting the health, safety, and welfare of the citizens of our community. With regard to this ordinance, on its face it is devoid either in specifics or in generalities as to a concern of the safety, health, or welfare of our City. There is no diminished need identified from statistical data, or empirical data, or even anecdotal data. This seems to be based on an arbitrary decision that business participating in festivals that last more than two days are going to be subject to regulation that's based on nothing other than we just chose this arbitrarily. That alone frightens business. A lot of the businesses that participate are local businesses and that arbitrariness of such an ordinance frightens them. They don't know if the next time this Council meets that there will be an ordinance offered that will either go to one day or a day and a half or some other provision that might be added.

The other thing that is a concern to businesses is it was mentioned there is not much change to the recommended language and from our prospective that is just not correct. The existing

language uses the word “should” legally, that is a word of suggestion, the proposed ordinance uses the word “shall” and that is a word of mandate. There is a great difference between a suggestion and a mandate. The “shall” not only takes what is arbitrary but that arbitrariness compelled to be applied really strikes fair in the heart of any reasonable business person. The thing that really drives home to me is that this ordinance on its face does not give an existing business person any notice of what is expected of them with standards that are easily defined. There are a number of definitions of what a day is and what festivals are. When you start looking at mandating something and commanding shall as the language rather than should you are significantly changing the level of the playing field.

This ordinance on its face ignores the Fourth Amendment rights and protections of privacy that businesses enjoy. The standard that is being imposed says these businesses will become your agents. If the festival is over two days and you are the festival organizer and that festival has businesses that function under its umbrella that festival organizer becomes the City agent to make sure these actions that are mandated are done and completed in a timely fashion. The ordinance is devoid of what a timely fashion is or any explanation of how this should be done. For most businesses there is an enough risk in doing business without asking to be someone else’s servant or agent. There is no appeal process. You are asking a business to take a risk they are not willing to take. This could open the City up to litigation. I do not believe it would be wise policy for this Council to adopt this ordinance as it is presently being offered. Its unstated presumption is that business people act illegally. I urge you to vote no on this ordinance and its consideration.

Alderman Petty: The Bikes, Blues and BBQ Board supported the ordinance that is on the books now when it came forward. I just want to make sure I understood your points correctly. Would you be in favor of repealing what is on the books now because it requires the same collects for Bikes, Blues and BBQ specifically?

Steve Clark: I would not but I didn’t come here to represent Bikes, Blue and BBQ. I came here to represent businesses. I am concerned about the mandate that makes businesses the agents of the City.

Marilyn Heifner, Fayetteville Advertising and Promotion Commission: I’ve been doing festivals since 1994. The Health Department regulates the food for any festival therefore I see that position in the ordinance as unnecessary. It is a state law for the promoter of a festival to collect the sales tax at the end of each day and to turn in a list to the state of those vendors that they have so I see no reason for that in the ordinance. I guess the elephant in the room is to turn in the revenue and expenditures. Many of the successful festivals in Fayetteville are run by non-profit agencies. There are some that are run for profit by promoters and our citizens, like softball tournaments, Lights of the Ozarks, Solar Splash, and a lot of biathlons. All of those would be affected. Sometimes I think that with the things we already have in place maybe it’s just a little too much government involvement in individual promoters business. What would be gained by this ordinance? I can’t see that there is anything to be gained except we will be running out of Fayetteville some very successful festivals that we have now. I would urge you to not pass this ordinance.

Alderman Petty: Marilyn did the A&P Commission hold a vote on this ordinance before you came to speak tonight.

Marilyn Heifner: No.

Alderman Petty: Have you spoken with any of the festival organizers that you mentioned with the exception of Bikes, Blues and BBQ about this ordinance?

Marilyn Heifner: I haven't spoken with Bikes, Blues and BBQ about this ordinance.

Alderman Petty: Nor any of the other festivals organizers you mentioned?

Marilyn Heifner: No.

Alderman Petty: I have. I spoke to the Bikes, Blues and BBQ Board in the fall of last year and asked to see their books and they refused. Every other organizer I've spoke to said that's not a problem, we already maintain books we would be stupid not to maintain a balance sheet and we would have no problem letting you see that.

Marilyn Heifner: What does the City Council gain from looking at their books? Are you going to deny them the opportunity to bring that festival here?

Alderman Ferrell: Alderman Petty, how many organizations did you look at the books of?

Alderman Petty: Two.

Alderman Ferrell: Out of how many?

Alderman Petty: I know two festival organizers personally and asked them if they would have a problem showing the City government their books and they said no, absolutely not.

Alderman Ferrell: Would you mind telling us who they were?

Alderman Petty: I would but they asked me not to betray their trust.

Alderman Ferrell: Okay, thank you. Yet we're trying to mandate that we would have the ability to go in and look. That seems rather inconsistent. I'm going to vote against the ordinance.

Alderman Petty: I want to address some of these things. I think the point that was made earlier that we are going to run people off with this is a red herring. I don't think that's true. I think you look at something as small as Springfest, even they maintain a balance sheet. I would be surprised and appalled if they did not. It's the same with any festival. It's just a matter of being willing to provide it. Anybody who runs an \$800,000 festival maintains books. It's not a big deal there. I guess with regards to privacy that was brought up, I just want to make sure everyone understands that we are talking about looking at the books of the organizers not the

books of every vendor that comes through. I want to make sure every one is clear on that. We are just talking about festival organizers.

Alderman Lucas: I really don't see what advantage the city would have to look at these people's books. We're just happy to have festivals that come to Fayetteville and bring people that spend their money. So I'm very much opposed to this ordinance.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion.

Alderman Thiel: There are parts of this that I'm not opposed to. The only difference between this and the one that Bikes, Blues, and BBQ already complies with is section F. As far as requiring that vendors remit their taxes that is an issue that came up with Bikes, Blues, and BBQ. We felt that we were having a problem so we dealt with it by passing an ordinance. I would suggest to Alderman Petty that maybe he go back to the drawing board or possibly make an amendment to remove "F". I think there are positives, if you work with the Chamber, and define the amount of days for a festival. I think that there are some things in this that are good.

Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty asked City Attorney Kit Williams if he was comfortable with the language.

City Attorney Kit Williams: The current code has five "shall's" in it, no "should's". It's all "shalls", just like all ordinances are because they are not encouragements, usually they're requirements. I don't think that any person would be made an agent of the city. We are requiring vendors to do things. We are not saying you are our agent. However, we did work with Bikes, Blues and BBQ with the last ordinance in order to make sure we had an ordinance that they were happy with as well with what City Council wanted. From a purely legally point of view, I think the City Council has the power to do this if you want to. It's a policy decision about whether or not you want to do it.

Alderman Petty I think "F" needs to be in there, because we are giving ten's of thousands of dollars to multi-day festivals. Any multi-day festival that is going to get that kind of support from us no matter whom it is. I think there is a principle of transparency in there that we need to follow. I think it's fair to see those kinds of books because we are giving them so many resources.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-6. Alderman Petty voting yes. Alderman Rhoads, Ferrell, Lucas, Lewis, Thiel and Cook voting no. Alderman Gray was absent.

The ordinance failed.

Announcements: None

City Council Tour: None

Meeting adjourned at 8:10 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

April 6, 2010

Handed out at the
City Council Meeting
4-6-10. B.I. Unfinished
Business Amend Chapter
114.02 Farmers
Market.

Dear Fayetteville City Council Members and Mayor Jordan,

We, as tenants of the Mill District, oppose the proposition to move the Fayetteville Farmer's Market from its established location at the Mill to the Fayetteville Downtown Square every Thursday night.

The Mill promotes and provides:

- South Fayetteville as a **cohesive** part of the Fayetteville downtown community
- Popular relocated "**green**" retailers, Greenhouse Grille & Terra Tots
- Ample **parking**
- **Walkable** community opportunity on the evenings of First Thursday

The Mill retailers and tenants (including Springline Group and Rob Sharpe Architects) welcome the opportunity to work with the Fayetteville Farmer's market through:

- Offering "Farmer's Market" **specials & discounts**
- **Promotion** to customer base through social media and networks

To better engage willing Mill District retailers, tenants and consumers, we recommend Fayetteville Farmer's Market consider:

- Expanded **communication**
- **Branding** (i.e. Farmer's Market at the Mill") and road side signage
- **Entertainment** opportunities to local visual and performing artists

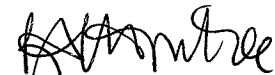
The Fayetteville Farmer's Market is a treasure in our City. Please share this wealth and support the promotion of ALL the growing and thriving Fayetteville neighborhoods by helping create an expanded and interconnected community.

Sincerely,



Amy Robinson, Springline Group

Bernice Hembree, Terra Tots



Jeremy Gawthrop, Greenhouse Grille



Rob Sharpe, Rob Sharpe Architects

Revised Resolution
Handed out at the
City Council mtg
4-6-10
C.I.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT FOR THE PURCHASE OF A SIXTY-FOUR SPACE PARKING LOT LOCATED ON THE SOUTHEAST CORNER OF BLOCK AVENUE AND ROCK STREET FROM ROCK STREET PARKING, LLC IN THE AMOUNT OF \$342,000.00 PLUS APPLICABLE CLOSING COSTS, AND APPROVING A BUDGET ADJUSTMENT OF \$344,000.00

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 contract, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, with Rock Street Parking, LLC for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street in the total amount of \$342,000.00, plus applicable closing costs.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "B" and incorporated herein as if set out word for word, in the amount of \$344,000.00.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

Budget Year 2010	Department: Transportation Services Division: Parking & Telecommunications Program: Off-Street Parking	Request Date 4/6/2010	Adjustment Number
--------------------------------	---	-------------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

\$344,000 is requested in the Rock Street Parking Lot Purchase capital project.

The purchase price of the property is \$342,000.00 plus a contingency of \$2,000.00 to cover closing costs.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

A budget adjustment of \$6,750.00 will be taken from Rent Expense that will be the unused remainder of the lease for the lower level. The other \$337,250.00 will be taken from Off-Street Parking Fund Balance which may ONLY be used for parking related items (land acquisitions, operations, maintenance, equipment, etc.).

Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Land Acquisition	2130.9130.5805.00	344,000		10021 . 1
Use of Fund Balance	2130.0913.4999.99		337,250	.
Rent	2130.9130.5308.00		6,750	.
				.
				.
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				.
				.
TOTAL		<u>344,000</u>	<u>344,000</u>	

<u>Shawn Crossan</u> Division Head Date <u>4-6-10</u>	Requested By _____ kspringer
<u>[Signature]</u> Budget Director Date <u>4-6-10</u>	Budget & Research Use Only Type: A B C D E
<u>[Signature]</u> Department Director Date <u>4-6-10</u>	Description: _____ 0
<u>Paul A. Beeler</u> Finance Director Date <u>4-6-2010</u>	General Ledger Date _____
Chief of Staff Date _____	Posted to General Ledger Initial _____ Date _____
Mayor Date _____	Posted to Project Accounting Initial _____ Date _____

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 6, 2010

A meeting of the Fayetteville City Council will be held on April 6, 2010 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

Agenda Session Presentations:

1. Botanical Gardens of the Ozarks Annual Report
2. Discussion of Nominating Committee Procedures – Kyle Cook
3. Sales Tax Update – Paul Becker

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the March 16, 2010 City Council meeting minutes.

2. **Amend Resolution No. 138-06 Comprehensive Market Survey:** A resolution amending Resolution No. 138-06 to delay the requirement to perform a Comprehensive Market Survey from 2010 to 2012.
3. **Pressure Point Control Tactics Training Class:** A resolution amending the 2010 City Budget by approving a budget adjustment to authorize expenditures and recognize revenue in a total amount of \$640.00 related to a Fayetteville Police Department Pressure Point Control Tactics Training Class.
4. **NEC, Inc. and H2 Engineering, Inc.:** A resolution approving contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for sewer improvements at Veterans Memorial Park, approving a project contingency of \$4,404.00, and approving a budget adjustment.
5. **Wildlife Hazard Assessment Grants:** A resolution authorizing application and approving acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$62,809.00 to fund a wildlife hazard assessment at Fayetteville Executive Airport-Drake Field, and approving a budget adjustment recognizing the grant revenue.
6. **Loomacres Wildlife Management:** A resolution approving a contract with Loomacres Wildlife Management in the amount of \$62,809.00 for the provision of a wildlife hazard assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.
7. **Kearney-National Inc. and/or Cooper Power Systems Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Kearney-National Inc. and/or Cooper Power Systems needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport.

B. Unfinished Business:

1. **Amend Chapter §114.02 Farmers' Market:** An ordinance to amend §114.02 Farmers' Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events. *This ordinance was left on the First Reading at the March 16, 2010 City Council meeting.*

Left on the First Reading

C. New Business:

1. **Amend Police Department Policies:** A resolution approving amendments to Fayetteville Police Department Policies 12.2.1, Policies Procedures & Rules Development and Review; 22.3 Secondary Employment; 52.1.1, Office of Professional Standards; 61.2 Collision Investigation and 71.1.1, Detainee Transport.

2. **Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$343,000.00.
3. **Amend Chapter §97.086 Vending and Peddling:** An ordinance to amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers Market to operate in Lake Fayetteville Park.
4. **C B & I, Inc. Bid #10-17:** A resolution awarding Bid #10-17 and approving a contract with C B & I, Inc. in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank, approval of a \$49,000.00 contingency, and approval of a budget adjustment in the amount of \$1,600,000.00.
5. **Form-Based Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to modify existing and create new use units and Form-Based Zoning Districts that permit administrative development approval, and to create design standards for said districts.

Announcements:

1. **Form Based Code Workshop: April 5, 2010 Room 326 at 4:30 p.m.**

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.

City of Fayetteville Staff Review Form

A. 2
 Amend Resolution No. 138-06
 Comprehensive Market Survey
 Page 1 of 14

**City Council Agenda Items
 and
 Contracts, Leases or Agreements**

4/6/2010

City Council Meeting Date
 Agenda Items Only

Missy Leflar

Submitted By

Human Resources

Division

Finance & Internal Services

Department

Action Required:

Staff requests that the Council consider amending the City's Compensation Plan to allow deferral of a \$20,000 Market Study expenditure that was scheduled for 2010. The purpose of the Study would be to provide the Administration with guidance whether employee pay is in line with the market. Since current economic conditions are precluding employee raises in 2010, it would not seem like a prudent expenditure for 2010.

No cost

\$ 20,000.00

MAG 4 Year Benchmark

Cost of this request

Category / Project Budget

Program Category / Project Name

1010.1220.5315.00

None

MAG 4 Year Benchmark

Account Number

Funds Used to Date

Program / Project Category Name

1010.1220.5315.00

\$ 20,000.00

Professional Services

Project Number

Remaining Balance

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Paul A. Berber
 Department Director

3-18-2010
 Date

Previous Ordinance or Resolution #

[Signature]
 City Attorney

3-19-10
 Date

Original Contract Date:

Original Contract Number:

Paul A. Berber
 Finance and Internal Services Director

3-19-2010
 Date

Received in City
 Clerk's Office

ENTERED
 3/18/10

Kim G

[Signature]
 Chief of Staff

3-19-2010
 Date

Received in
 Mayor's Office

ENTERED
 3/19/10
 P.K.

[Signature]
 Mayor

3/18/10
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council Members
Thru: Paul Becker, Director of Finance & Internal Services
From: Missy Leflar, Human Resources Director
Date: March 18, 2010
Subject: Should the City spend \$20,000 in 2010 on an employee compensation market study?

PROPOSAL:

Due to current economic conditions, City employees are presently in a wage freeze. The City's MAG Compensation Plan, which Council approved in 2006 during more robust economic times, calls for the City to conduct a compensation market study every four years. Since the Plan was adopted in 2006, the first market study is due this year. The cost of such a study is \$20,000 and was approved as part of the HR budget. The purpose of the study would be to see if City employee pay is in line with other employers so that it doesn't lose employees to other employers who are able to offer more competitive wages. To quote the Plan verbatim the purpose is to "...ensure the City retains a competitive posture;" (See page 2 of the attached Plan, which in turn is attached to Council's August 29, 2006 Resolution adopting it).

The Human Resources Division believes it would be unwise stewardship of financial resources to move forward with spending the \$20,000 for an employee pay market study this year, when circumstances do not permit raises to be given to employees. It would seem more logical to defer the market study expenditure until such time as funding is available to act on its findings. Another consideration is that if the market study were done now, it's possible that by the time funding for raises were available in a different year there might be questions as to whether the 2010 market study data still applied to the realities of the different year. It seems like the best practice would be to conduct the study in the same year that funding were available to address any resulting recommendations for pay increases.

The Administration recommends that, given current economic conditions, it would be best to defer the market study until 2012. The proposal is therefore to amend the second bullet point of page 2 of the "City of Fayetteville's Compensation Philosophy". The proposal is to insert the phrase "beginning in 2012" into the bullet point. This would change the bullet point from reading "'Identify a solid set of benchmark positions and conduct a market review every year and a comprehensive market survey every four years to ensure the City retains a competitive posture'" into "Identify a solid set of benchmark positions and conduct a market review every year and a comprehensive market survey every four years, *beginning in 2012*, to ensure the City retains a competitive posture". The net effect would be to defer the first four year market survey from 2010 to 2012.

RECOMMENDATION:

Staff recommends that Council approve amending the Compensation Plan as described above.

BUDGET IMPACT:

\$20,000 would be saved in the 2010 City budget.

RESOLUTION NO. _____

**A RESOLUTION AMENDING RESOLUTION NO. 138-06 TO
DELAY THE REQUIREMENT TO PERFORM A
COMPREHENSIVE MARKET SURVEY FROM 2010 TO 2012**

WHEREAS, the City Council adopted Resolution No. 138-06 which established a compensation philosophy for city employees; and

WHEREAS, the adopted philosophy calls for a comprehensive market survey every four years, beginning in 2006, to ensure the City retains a competitive posture regarding city employee compensation; and

WHEREAS, current economic conditions have led to a city-wide pay freeze, and expending approximately \$20,000.00 for a comprehensive market survey, at this time, would not appear to be a wise use of city financial resources.

**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 amends Resolution No. 138-06, by changing the first bullet-point on page two (2) of the City of Fayetteville's Compensation Philosophy to read as follows:

- " ▪ identify a solid set of benchmark positions and conduct a market review every year and a comprehensive market survey every four years, beginning in 2012, to ensure the City retains a competitive posture; "

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

LIONELD JORDAN, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

RESOLUTION NO. 138-06

**A RESOLUTION TO ADOPT THE CITY'S COMPENSATION
PHILOSOPHY FOR CITY EMPLOYEES**

WHEREAS, the City Council has studied and debated what type of compensation philosophy should be adopted in setting the City of Fayetteville employee compensation; and

WHEREAS, the City Council has retained the Management Advisory Group, Inc. to assist in drafting this compensation philosophy.

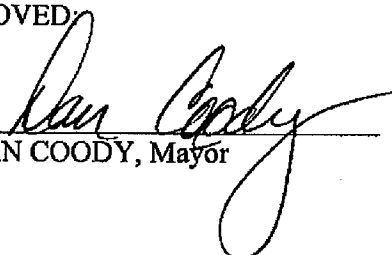
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby adopts the City of Fayetteville Employee Compensation Philosophy attached as Exhibit A.

PASSED and APPROVED this 29th day of August, 2006.

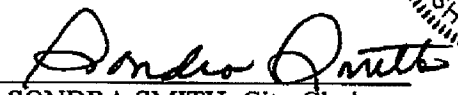
APPROVED

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



CITY OF FAYETTEVILLE'S COMPENSATION PHILOSOPHY

Background

The City Council is committed to ensuring that Fayetteville remains a highly desirable City in which to live and work. In order to accomplish the goals set forth in the City Council's Strategic Plan, the workforce must possess key attributes associated with excellence. The following key characteristics for all employees are desired:

Key Characteristics of City Employees

- highly skilled;
- customer service oriented;
- possess personal integrity and exhibit ethical behavior;
- highly productive and focused on quality results;
- team players;
- seek opportunities to improve services;
- understand technology;
- value diversity; and,
- committed to the City's welfare.

The City recognizes the need to put new systems in place to enable the organization to be effective, efficient, and responsive in a rapidly changing environment. One such system is an effective compensation plan. This plan should be based on a clear compensation policy that is aligned with the City's strategic goals. The economic resources of the City must be considered in the implementation of a compensation philosophy, as the City Council is responsible for maintaining a sound financial program for the City. The objectives of a sound compensation policy include the following:

Objectives of a Sound Compensation Policy

- identify the appropriate labor market for comparing city jobs;
- determine an appropriate relationship to the labor market;
- establish a stated market position so that both current and prospective employees know what to expect;

The City of Fayetteville's Compensation Philosophy

- identify a solid set of benchmark positions and conduct a market review every year and a comprehensive market survey every four years to ensure the City retains a competitive posture;
- adopt a policy that allows the City to offer more competitive salaries to highly qualified candidates based on their qualifications and experience; and
- adopt a policy and process that rewards employees based on performance and achievements while remaining sensitive to economic factors.

In a competitive labor market, the City's pay and classification plan should be structured to provide the flexibility necessary to meet changing economic and employment conditions. The City Council has already committed to adopting a competitive pay system that will address the current needs of the City and meet the challenges of the future.

City Council's Direction for Compensation Plan

A. Results of City Council Survey

To establish the framework of the City's pay philosophy, MAG surveyed City Council members to determine their views. Questions focused on critical issues underlying the compensation philosophy.

An analysis of the results of the survey revealed that there is support for competitive salaries to recruit and retain highly qualified City employees.

The City Council survey results indicated that they recognized the City's need to recruit professional positions on a regional basis, while other positions can be recruited on a more local basis.

In the information gathered from City Council, there was support that performance criteria should play a role in the determination of salary increases. The use of performance criteria should particularly apply to management positions. Finally, in

The City of Fayetteville's Compensation Philosophy

addition to the aforementioned factors, there was agreement that the City has and should retain a competitive position in its benefits package.

Budgetary constraints were viewed as a limiting factor in the implementation of any compensation philosophy.

B. Incorporating City Council's Goals into the Compensation Plan

The City Council's current (2003-2008) strategic plan includes the conduct of a classification and compensation study. This was point number 60 in the list of 71 goals and objectives.

In order to meet the overall goal of placing the City of Fayetteville in a competitive position relative to its markets, it is proposed that the overall pay line be set at the market average. This is accomplished by aligning the mid-point pay for all job classes to the average mid-point pay for the labor market. *The adoption of this structure will address several key issues identified by the City's leadership. These issues include:*

- structuring its compensation plan to enable the City to be competitive in its labor market;
- attracting highly qualified new employees; and
- establishing a proactive compensation plan that will enable the City to maintain a competitive position in future years.

The City of Fayetteville's Compensation Philosophy

Benefits of Adopting the Proposed Compensation Philosophy

The City Council, citizens, and employees of the City of Fayetteville can benefit from the adoption of the proposed compensation philosophy in the following ways:

- Citizens of the City of Fayetteville can have confidence that the pay philosophy of the City fosters the excellence in the City workforce embodied in the City Council's vision, strategic goals, core values and desired characteristics of City employees.
- The City will become an employer of choice, by positioning itself competitively relative to other employers.
- Current employees will know and understand what the City's pay philosophy will be. This will provide employees with a better sense of economic security and stability.
- Prospective employees will know and understand the City's compensation philosophy, which will enable them to make an informed decision with respect to accepting a position with the City of Fayetteville.
- The decisions with respect to employee compensation will be made using clearly identified standards for all employees.
- By setting the pay line at the market average, the City will ensure that the City's compensation structure does not degrade relative to the marketplace. This will confirm that the City Council's strategic goal of an excellent workforce is translated into a meaningful and competitive position relative to the labor market.

This philosophy will serve as the guiding force for the upcoming development of the City's new compensation plan and related administrative policies.

The City of Fayetteville's Compensation Philosophy

Proposed Compensation Philosophy

The City's proposed Compensation Philosophy is as follows: ***The City of Fayetteville is committed to recruiting, retaining and motivating an excellent workforce by providing a high quality of work life to City employees through a competitive compensation structure, competitive benefits program, and a challenging and enriched work environment.***

In order to deliver high quality municipal services, the City's workforce must possess key attributes associated with excellence. Therefore, the following key characteristics for all employees are desired:

- highly skilled;
- customer service oriented;
- possess personal integrity and exhibit ethical behavior;
- highly productive and focused on quality results;
- team players;
- seek opportunities to improve services;
- understand technology;
- value diversity; and,
- committed to the City's welfare.

The City will achieve this pay philosophy by implementing the following initiatives:

Hiring

- provide a base compensation structure that is competitive with and strives to be above the average market salaries as incorporated into the City's compensation and classification plan.
- provide for flexibility in both hiring rates and providing compensation for existing employees that is both flexible and internally equitable.
- provide an appropriate set of benchmark positions which establish the foundation for the City's pay line and provide a consistent means for the City to review the market every year and conduct a comprehensive market survey every four years.

The City of Fayetteville's Compensation Philosophy

Retaining

- provide for a meaningful way for employees to move through the compensation plan based on both experience and achievement so that employees can anticipate rewards based on contributions, experience and performance.
- provide that the annual review of the market and adjustments to the City's overall compensation plan of not less than the cost of living increase become a part of the budgeting process through periodic surveys and the incorporation of the results into the City's proposed budget for personnel costs.
- adopt a policy of regularly reviewing the City's benefits and rewards programs to maintain competitiveness with the City's market.

Motivating

- provide for a performance and experience recognition program that incorporates the following:
 - ° the ability to review and rate performance for all employees and to provide adjustments to employees based on their consistent level of achievement and successful experience on the job;
 - ° a bonus program to provide one-time, on-the-spot rewards for meritorious service; and,
 - ° a compensation program that recognizes incentives based on job related professional or academic achievements.

The proposed compensation philosophy would result in consistently positioning the City's pay line at the market average. Additionally, the City would adopt a policy of regularly evaluating its benefits and performance rewards program to ensure that the City's position relative to the market did not erode.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

Special Meeting 8/29/2006

City Council Meeting Date

265
8/24/06
138
Employee
Compensation
Philosophy

Michele Bechhold

Submitted By

Human Resources

Division

Operations

Department

Action Required:

Staff recommends adoption of a Compensation Philosophy for the City of Fayetteville.

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

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



Special City Council Meeting August 29, 2006

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody and the City Council
THRU: Gary Dumas, Operations Director 
FROM: Michele Bechhold, Human Resources 
DATE: August 23, 2006
SUBJECT: Compensation Philosophy – Discussion and Approval

Recommendation

Staff recommends the adoption of a compensation philosophy for the City of Fayetteville.

Discussion

After questions arose in 2005 about implementing the results of a salary survey performed by Condrey & Associates, the City made a decision to formalize its pay strategy and define a compensation philosophy. The City, like many other public sector organizations, spends about 80% of its operating budget on components of employee compensation. Based on the amount of fiscal resources dedicated to employee compensation and benefit programs, it is a natural progression to desire to align compensation strategies with a defined goal that supports the overall mission of the organization.

Compensation philosophies generally focus on recruitment, internal and external equity, and retention. The statement should support the operational needs and strategic plans of the City. It should function as a communication tool to inform employees and applicants how the organization intends to pay.

A sound compensation philosophy allows the Council to provide understandable, consistent direction to senior management staff on compensation issues

On August 15, 2006, the Council Compensation Committee invited all City Council members to attend a meeting with Alan Johnson, Vice President of Management Advisory Group, Inc. The goals of this meeting were to provide information about compensation philosophies and to solicit input from the Council to determine the direction of the compensation philosophy for the City. All Council members were provided worksheets which they could return to MAG anonymously.

The draft compensation philosophy is scheduled to be delivered to the City on August 24, 2006. Staff will distribute this to all Council members and employees for review. Carolyn Long, CEO of Management Advisory Group, Inc., will be on-site to facilitate discussion of the compensation philosophy for this Special City Council meeting.

Staff is available to answer any questions you may have.

RESOLUTION NO. _____

**A RESOLUTION TO ADOPT THE CITY'S COMPENSATION
PHILOSOPHY FOR CITY EMPLOYEES**

WHEREAS, the City Council has studied and debated what type of compensation philosophy should be adopted in setting the City of Fayetteville employee compensation; and

WHEREAS, the City Council has retained the Management Advisory Group, Inc. to assist in drafting this compensation philosophy.

**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 adopts the City of Fayetteville Employee Compensation Philosophy attached as Exhibit A.

PASSED and APPROVED this 29th day of August, 2006.

APPROVED:-

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Clarice Pearman - Res. 138-06

From: Clarice Pearman
To: Bechhold, Michele
Date: 9.1.06 4:04PM
Subject: Res. 138-06

Michele,
Attached is a copy of the above resolution passed by the City Council, August 29, 2006 special meeting. If anything else is needed please let me know.
Thanks.
Clarice

CC: Audit

City of Fayetteville Staff Review Form

A. 3
Pressure Point Control
Tactics Training Class
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

G Tabor
Submitted By

Patrol
Division

Police
Department

Action Required:

Approval of a budget adjustment to support a Pressure Point Control Tactic class in the amount of \$640.00

\$ 640.00
Cost of this request

\$ 156,819.00

Services and Charges
Program Category / Project Name

1010-2940-5303.00
Account Number

\$ 8,469.00
Funds Used to Date

Program / Project Category Name

Project Number

\$ 148,350.00
Remaining Balance

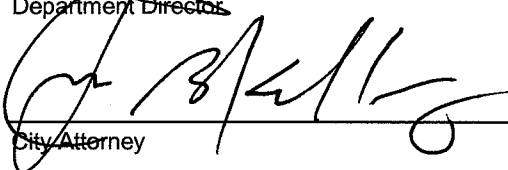
General
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒


Department Director

3-19-10
Date

Previous Ordinance or Resolution #


City Attorney

3-19-10
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

3-19-2010
Date

Received in City
Clerk's Office




Chief of Staff

3-22-10
Date

Received in
Mayor's Office




Mayor

3/22/10
Date

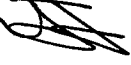
Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and Members of the City Council

From: Greg Tabor, Chief of Police 

Date: March 18, 2010

Subject: Approval of a Budget Adjustment to recognize revenue and expense for a Pressure Point Control Class in the amount of \$640.00

PROPOSAL:

The Fayetteville Police Department will host a Train the Trainer Pressure Point Control Tactics class. One of our sergeants is certified to conduct this class and as a requirement of his certification he must conduct two classes per year. This class is open to other agencies and we will collect \$640.00 in registration fees and spend the same amount to purchase the training manuals.

RECOMMENDATION:

Approval of a budget adjustment to increase Police Miscellaneous revenue and increase Publications and Dues expense account to purchase the manuals.

BUDGET IMPACT:

None. The revenue will cover the expense.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE 2010 CITY BUDGET
BY APPROVING A BUDGET ADJUSTMENT TO AUTHORIZE
EXPENDITURES AND RECOGNIZE REVENUE IN A TOTAL
AMOUNT OF \$640.00 RELATED TO A FAYETTEVILLE POLICE
DEPARTMENT PRESSURE POINT CONTROL TACTICS
TRAINING CLASS

**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 amends the 2010 city budget by approving a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, to authorize expenditures and recognize revenue related to a Fayetteville Police Department pressure point control tactics training class in a total amount of \$640.00.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 3
Pressure Point Control
Tactics Training Class
Page 4 of 4

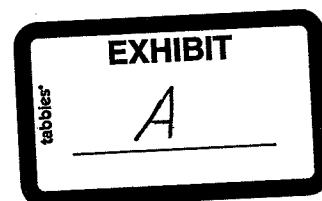
Budget Year	Department: Police	Request Date	Adjustment Number
2010	Division: Police Program: Police Patrol	3/18/2010	

JUSTIFICATION TO INCREASE PROJECT / ITEM:

Purchase of Pressure Point Control Tactics (PPCT) manuals for class provided for area law enforcement agencies in the amount of \$640.00. Recongnize the registration fee for each participant totaling \$640.00.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

Our Sergeant is required by his certification to provide two classes per year. This class is a train the trainer class.



Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Publications & Dues	1010-2940-5303.00	640		.
Miscellaneous Revenue - Police Department	1010-0001-4996.00		640	.
				.
				.
				.
				.
				.
				.
TOTAL		<u>640</u>	<u>640</u>	

Division Head	Date
	3-19-10
Budget Director	Date
	3-19-10
Department Director	Date
	3-19-2010
Finance Director	Date
	3-22-10
Chief of Staff	Date
	3/22/10
Mayor	Date

Requested By _____ kspringer

Budget & Research Use Only

Type: A B C D E

Description: _____ 0

General Ledger Date _____

Posted to General Ledger

Initial	Date
---------	------

Posted to Project Accounting

Initial	Date
---------	------

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items OnlyAlison Jumper
Submitted ByPark Planning
DivisionParks and Recreation
Department

Action Required:

Staff recommends the approval of a bid waiver for NEC, Inc. and H2 Engineering to construct approximately 597 feet of 8" sewer line estimated at \$30,691 from the Veteran's Memorial Park restroom to a sewer lift station located in the Park Centre development and including a 15% project contingency in the amount of \$4,404 for a total cost of \$35,295.

\$ 35,295.00
Cost of this request\$ 48,006.00
Category / Project BudgetLake Fayetteville Improvements
Program Category / Project Name

2250.9255.5315.00

\$ -
Funds Used to DateParks Development
Program / Project Category Name02043.1002
Project Number\$ 48,006.00
Remaining BalanceParks Development/PLDO (NE)
Fund NameBudgeted Item ☐Budget Adjustment Attached ☒

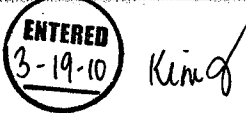
Connie Amos 3-18-10
(Department) Director Date

Previous Ordinance or Resolution #

John B. Kelly 3-22-10
City Attorney Date

Original Contract Date: Original Contract Number:

Paul A. Becker 3-23-2010
Finance and Internal Services Director Date

Received in City Clerk's Office


Don Mann 3-24-10
Chief of Staff Date

Received in Mayor's Office


Frederick Jordan 3/25/10
Mayor Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Director of Parks and Recreation

From: Alison Jumper, Park Planning Superintendent *AJ*

Date: March 17, 2010

Subject: Proposed Bid Waiver for construction of sanitary sewer connection for Veteran's Park at Lake Fayetteville

PROPOSAL:

NEC, Inc. is constructing Park Centre, a mixed use development south of Veteran's Memorial Park at Lake Fayetteville, north of Zion Road. As a part of this development, the developer is required to construct a sewer lift station to provide sewer service to the site.

The restrooms at Veteran's Memorial Park currently utilize a septic system. The septic system has not been problematic; however, it does require occasional maintenance and raises some concern regarding the age of the system and its proximity to the lake. Connecting to a public sanitary sewer system would eliminate future septic maintenance as well as concerns of aging and potential lake contamination. The required sewer lift station in the Park Centre development is located approximately 50 feet from the park's south boundary.

The City would benefit from utilizing the development's engineering firm and contractors to design and construct the sewer line from the lift station to the restroom while they are on site. The developer's engineering firm, H2 Engineering has knowledge of the capacities and elevations of the sewer lift station that is critical to the design of the sewer connection to the restroom. Utilizing NEC, Inc. to construct the sewer line while they are on site would reduce costs for mobilizing equipment, bidding and advertising.

Construction costs have been provided to the City by NEC, Inc. and H2 Engineering for these improvements as follows:

Sewer Line construction	\$ 26,687.50
Design	\$ 4003.13
Total	<u>\$ 30,690.63</u>

RECOMMENDATION:

Staff recommends the approval of a bid waiver for NEC, Inc. and H2 Engineering to construct approximately 597 feet of 8" sewer line estimated at \$30,691 from the Veteran's Memorial Park restroom to a sewer lift station located in the Park Centre development and including a 15% project contingency in the amount of \$4,404 for a total cost of \$35,295.

BUDGET IMPACT:

The final costs to the City will be based upon actual costs as documented by NEC subject to review by the City and may, or may not exceed the submitted estimate. However, the City's cost will not exceed the estimate without additional authorization.

Attachments:

Estimate from NEC, Inc.
Estimate from H2 Engineering
Budget Adjustment
Project Accounting Request
Purchase Requests

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACTS WITH NEC, INC. AND H2 ENGINEERING, INC. IN THE TOTAL AMOUNT OF \$30,690.63 FOR SEWER IMPROVEMENTS AT VETERANS MEMORIAL PARK, APPROVING A PROJECT CONTINGENCY OF \$4,404.00, AND APPROVING A BUDGET ADJUSTMENT

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 contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for construction of sewer improvements at Veterans Memorial Park. Copies of the contracts, marked Exhibits "A" and "B," are attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a project contingency of \$4,404.00 and a budget adjustment of \$35,295.00, a copy of which is marked as Exhibit "C" attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



2425 S. 5th Place
 Rogers, AR 72758

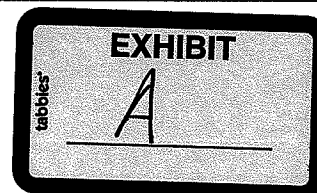
To:	City Of Fayetteville	Contact:	
Address:	113 W. Mountain Street Fayetteville, AR 72701	Phone:	
		Fax:	
Project Name:	Park Centre Sewer Extension	Bid Number:	
Project Location:	Park Centre, Fayetteville, AR	Bid Date:	

Line #	Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
	000	Additional Tree Clearing	1.00	LS	\$535.00	\$535.00
	001	8" PVC Sewer Main Including Base Backfill As Needed	597.00	LF	\$27.50	\$16,417.50
	002	Manhole 4' ID	5.00	EACH	\$1,825.00	\$9,125.00
	003	Maintenance Bond For 2 Years At 25%	1.00	LS	\$610.00	\$610.00

Total Bid Price: \$26,687.50

Notes:

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. Buyer: _____ Signature: _____ Date of Acceptance: _____	CONFIRMED: N.E.C., Inc. Authorized Signature: _____ Estimator: _____
--	---





**PROPOSAL FOR ENGINEERING SERVICES
For THE CITY OF FAYETTEVILLE
VETERANS PARK SEWER EXTENSION
MARCH 22, 2010**

SCOPE OF SERVICES:

Task 1 – Sewer Extension Construction Plans – H2 Engineering, Inc., as part of this proposal, will produce a set of construction plans and reports which meet or exceed the requirements, standards, and specifications of the City of Fayetteville. This set of construction plans will include a sanitary sewer main extension from the existing restroom facilities on the south side of Veterans Park to the proposed Park Centre Lift Station. This task includes permits (excluding the associated fees) and a letter of approval from the City of Fayetteville Engineering Department and the Arkansas Department of Health. *Easement dedication is not part of this proposal. Easement dedication shall be the responsibility of the City of Fayetteville.* Task 1 shall be considered complete upon construction plan approval from the City of Fayetteville Engineering Department and the Arkansas Department of Health.

Task 2 – Construction Inspection and As-Built Plans – H2 Engineering, Inc. will coordinate and attend all site work pre-construction conferences as required by the City of Fayetteville. We will provide inspection specifically for utility improvements, as required by the City of Fayetteville. *Construction staking is NOT within the scope of this contract. The addition of construction staking shall be performed on an HOURLY BASIS as reflected in Paragraph 9 under “Additional Services.”* We will coordinate and attend the site work Final Inspection by the City of Fayetteville. We will generate a final inspection punch list (based on City of Fayetteville comments) and supervise completion, by the respective contractor, of each punch list item. We will produce as-built plans upon completion of the project’s site work as required by the City of Fayetteville. Task 2 shall be considered complete when the as-built plans have been accepted by the City of Fayetteville.

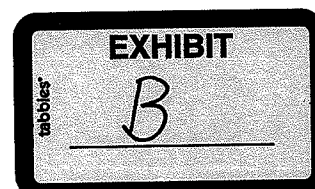
FEES AND BILLING:

The above tasks (1-2) will be performed for an amount equal to 15% of the construction cost of the project. This project’s construction cost is currently estimated at approximately \$27,000. Based on this estimated construction cost, the estimated 15% engineering fee would be \$4,050. This is an estimate only and is subject to change based on the actual construction contract with the Contractor. **ADDITIONAL HOURLY WORK WILL BE PERFORMED ON AN HOURLY RATE AS REFLECTED IN PARAGRAPH 9 UNDER “ADDITIONAL SERVICES.”**

Billing of this fee will be submitted on a monthly basis as a percent complete of the associated activities. All invoices are due upon receipt. For bills which are not paid within 30 days, an additional 5% of the billed amount will be accrued for each delinquent 30day period thereafter. H2 Engineering, Inc. reserves the right to discontinue work on this project if invoices are not paid within 45 days. The following represents the task breakdown of engineering compensation for this project:

Total Estimated Engineering Fee (Tasks 1 – 2) = \$4,050

- Task 1 – 75% of Engineering Fee
- Task 2 – 25% of Engineering Fee



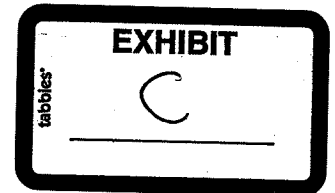
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.4
NEC, Inc. and H2 Engineering, Inc.
7 of 12

Budget Year 2010	Department: Operations Division: Parks & Recreation Program: Parks Development Capital	Date Requested 3/18/2010	Adjustment Number
----------------------------	--	------------------------------------	-------------------

Project or Item Added/Increased: To increase funding to construct approximately 597 feet of 8" sewer line from the Veteran's Memorial Park restroom to a sewer lift station located in the Park Centre development.	Project or Item Deleted/Reduced: Reduce Park Land Dedication funds to allow for construction of sewer at Veteran's Memorial Park.
---	---

Justification of this Increase: Additional funding has become available in this Park Land Dedication Quadrant since our last CIP Plan was submitted.	Justification of this Decrease: This adjustment is administrative: There is adequate funds in these accounts to fund this line item.
--	---



Increase Budget							
Account Name	Account Number				Amount	Project Number	
Contract Services	2250	9255	5315	00	35,295	02043	1002

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Greenspace Fees - NE	2250	0925	4419	01	35,295	02043	1002

<i>Alison Lumper</i>	3/18/2010
Division Head	Date
<i>Barry L. Lee</i>	3/20/10
Budget Director	Date
<i>Connie Amos</i>	3/18/2010
Department Director	Date
<i>Paul A. Baker</i>	3-23-2010
Finance Director	Date
<i>Don Miller</i>	3-24-10
Chief of Staff	Date
<i>Donald Jordan</i>	3/25/10
Mayor	Date

V.090403

Budget & Research Use Only

Type: A B C D E

Requested By _____

General Ledger Date _____

Posted to General Ledger Initial Date

Posted to Project Accounting Initial Date

ADDITIONAL SERVICES:

The following items are assumed to be additional services, reimbursable services, or work to be performed by others and are in addition to costs quoted herein above for all work:

1. Any services beyond the scope of what is outlined in this proposal.
2. Expense of reproduction of drawings and specifications other than for inter-office use.
3. Special renderings, presentations, or visual graphics not included in this estimate.
4. Work related to appeals from decisions rendered by agencies on permits or site issues that affect our work are assumed to be additional services.
5. Fees for permit and permit applications and legal fees and expenses involved with review of applications and decisions rendered by agencies.
6. Cost of geotechnical investigations are assumed to be work performed by others and are to be reimbursable expenses or paid directly by owner.
7. *Costs of other consultants which may be required for work not specified in this proposal, which includes testing of utilities and roadway mats, traffic studies, extensive hydrological/flood studies, wetlands determinations, landscape design, tree assessments, and architectural renderings.*
8. Costs of identifying, procuring, and filing off-site utility easements as may be required by the City. We will perform this service at the hourly rate indicated in paragraph 9.
9. Costs related to making revisions in drawings or other documents when such revisions are inconsistent with approvals or instructions previously given by the owner, including revisions made necessary by adjustments in the owner's project budget, or due to changes required as a result of the owner's failure to make decisions in a timely manner. These costs will be billed on the following hourly rate:
 - a. Project Engineer - \$125 per hour
 - b. Drafting / Engineering Technician - \$85 per hour
 - c. Stakeout Crew - \$100 per hour
 - d. Surveyor - \$100 per hour

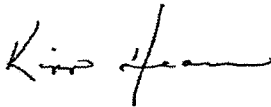
CHANGES IN SERVICES:

The Client reserves the right to request changes in the services. If the requested changes by the Client require additional engineering services, then in that event the Engineer shall be compensated for the services requested.

Upon mutual acceptance of desired and necessary changes, and of an equitable adjustment of engineering costs, a Supplemental Engineering Services Agreement shall be executed and shall be approved by the Client prior to the performance of any changed service.

H2 Engineering, Inc.

Client



Kipp Hearne, P.E.
President

From: "Jeremy Thompson" <jthompson@h2ei.net>
To: "Alison Jumper" <ajumper@ci.fayetteville.ar.us>
Date: 3/17/2010 11:16 AM
Subject: Parks SS @ Park Centre
Attachments: Park Centre Sewer Extension_Rev-1.pdf

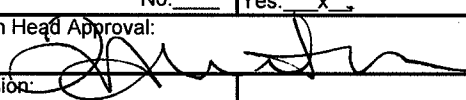
Alison,

Here is the estimate from the contractor. Looks like our new route added tree removal and an additional manhole. Our engineering fee will just be 15% of the final contract price. Based on this estimate from NEC of \$26,687.50, our engineering fee would be \$4,003.13 for a total estimate of \$30,690.63. The contractor will give an actual number if we are given the notice to proceed and produce an actual construction plan.

I'm a little busy today so I didn't have time to put this into a formal proposal – I can do that later if you need me to. Hopefully these numbers will help you get started, though.

Thanks,

Jeremy Thompson, PE, LEED AP
Vice President
H2 Engineering, Inc.
(479) 582-4234

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: 3/19/2010	
						P.O Number: _____		Expected Delivery Date: _____	
Vendor #: 16130		Vendor Name: H2 Engineering				Mail Yes: _____ No: _____			
Address: 2758 Millennium Dr.						Fob Point: _____		Taxable Yes: _____ No: _____	
City: Fayetteville		State: AR		Zip Code: 72703		Ship to code: _____		Quotes Attached Yes: <u> x </u> No: _____	
Requester: Alison Jumper						Requester's Employee #: 2369		Division Head Approval: 	
						Extension: 469			

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1									
2	Engineering for sewer line per attached quote	1	L.S.	4,003.13	\$4,003.13	2250.9255.5315.00	02043.1002		
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: **\$4,003.13**
 Tax: _____
 Total: **\$4,003.13**

Approvals:

Mayor: _____

 Finance & Internal Services Director: _____

 Dispatch Manager: _____

Department Director: 

 Budget Manager: _____

 Utilities Manager: _____

Purchasing Manager: _____

 IT Manager: _____

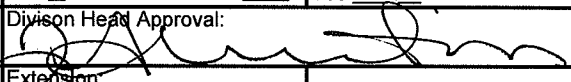
 Other: _____

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: NEC, Inc.		Requisition No.:		Date: 3/19/2010	
Address: 2425 S. 5th Place						Fob Point:		P.O Number:		Expected Delivery Date:	
City: Rogers				State: AR		Zip Code: 72758		Ship to code:		Taxable Yes: No: Quotes Attached Yes: ☒ No: ☐	
Requester: Alison Jumper						Requester's Employee #: 2369		Division Head Approval: 		Extension: 469	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers		Project/Subproject #	Inventory #	Fixed Asset #	
1											
2	Construction of sewer line per attached quote	1	L.S.	26,687.50	\$26,687.50	2250.9255.5315.00		02043.1002			
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: \$26,687.50			
								Tax: _____			
								Total: \$26,687.50			
Approvals:											
Mayor: _____				Department Director: 				Purchasing Manager: _____			
Finance & Internal Services Director: _____				Budget Manager: _____				IT Manager: _____			
Dispatch Manager: _____				Utilities Manager: _____				Other: _____			

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: **Approve Application** for and **Acceptance of grant funding** from DOT/FAA and the AR Dept of Aeronautics; \$59,669 FAA, \$3140 ADA.**Approve Budget Adjustment** contingent on receipt of grant funding.

\$ 62,809.00

Cost of this request

\$ -

Category / Project Budget

Wildlife Hazard Assessment

Program Category / Project Name

5550.3960.7820.39

Account Number

\$ -

Funds Used to Date

D8100_AVED

Program / Project Category Name

10022 1

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Department Director

3-22-10

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

3-22-10

Date

Finance and Internal Services Director

3-22-2010

Date

Received in City
Clerk's Office

Chief of Staff

3-24-10

Date

Received in
Mayor's Office

Mayor

3/25/10

Date

Comments: This project is eligible for 100% funding by grants.



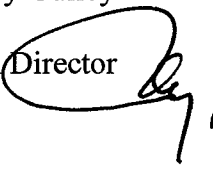
www.accessfayetteville.org

CITY COUNCIL MEMO

To: Mayor Jordan

Thru: Chief of Staff, Don Marr

Thru: Transportation Director, Terry Gulley

From: Ray M. Boudreaux, Aviation Director 

Date: March 12, 2010

Subject: **Approve Application and Award of FAA and Arkansas Aeronautics Grants to fund a Wildlife Hazard Assessment and development of a Wildlife Hazard Management Plan to be conducted by Loomacres Wildlife Management.**

PROPOSAL: The FAA has directed that all Part 139 Airports conduct a Wildlife Hazard Assessment (WHA) and develop a Wildlife Hazard Management Plan. Our FAA Program Manager has reserved the funds for this project and is awaiting our application. This item requests approval to submit application to the FAA and receive the funding for the project. Arkansas Aeronautics funds the 5% match for all FAA grants awarded to airports within the State. This item also requests approval to apply to the State for the 5% grant and to receive the funding upon project completion. Loomacres Wildlife Management was selected on qualifications from 10 submittals utilizing the City purchasing procedures and selection process. The Airport Board approved this project and our request at their March 11, 2010 meeting.

RECOMMENDATION: Approve application and award of FAA and Arkansas Aeronautics Grants to fund a Wildlife Hazard Management Assessment and develop a Wildlife Hazard Management Plan for Fayetteville Executive Airport Drake Field IAW FAA directive that all Part 139 Airports perform the assessment.

BUDGET IMPACT: This project is fully funded by Grants from the FAA (95%) and Arkansas Aeronautics (5%) in the total amount of \$62,809.00.

Attachments: Staff Review
Budget Adjustment
FAA Grant Application

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION AND APPROVING ACCEPTANCE OF GRANTS FROM THE FEDERAL AVIATION ADMINISTRATION AND THE ARKANSAS DEPARTMENT OF AERONAUTICS IN THE TOTAL AMOUNT OF \$62,809.00 TO FUND A WILDLIFE HAZARD ASSESSMENT AT FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD, 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 application and approves acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$62,809.00 to fund a Wildlife Hazard Assessment at Fayetteville Executive Airport-Drake Field.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$62,809.00, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein, recognizing the grant revenue, contingent on award of the grant funds.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

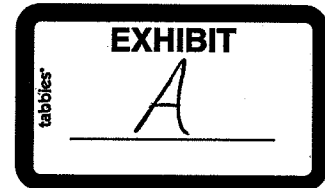
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.5
Wildlife Hazard Assessment Grants
4 of 12

Budget Year 2010	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expense	Date Requested 4/6/2010	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased: \$62,809 in the Wildlife Hazard Assessment project expense account	Project or Item Deleted/Reduced: None. Recognize federal and state grant revenue in the State Grants on Federal Projects account and the Wildlife Hazard Assessment project revenue account.
--	---

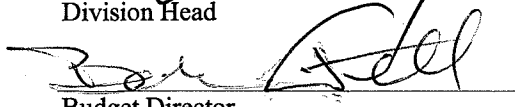
Justification of this Increase: Requested by the DOT/FAA. The project is eligible for 100% funding through federal and state grants.	Justification of this Decrease: Does not require the City to provide matching funds.
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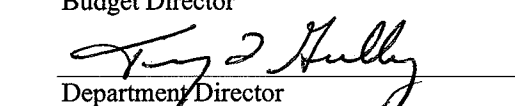


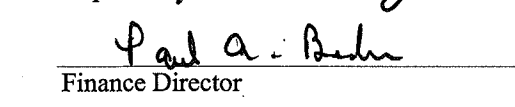
Increase Budget							
Account Name	Account Number				Amount	Project Number	
	5550	3960	7820	39	62,809	10022	1

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
State Grants on Federal Projects	5550	0955	6803	00	57,669.00	10022	1
	5550	0955	6820	39	3140.00	10022	1


Division Head 3/18/10
Date


Budget Director 3/22/10
Date


Department Director 3-19-10
Date


Finance Director 3-22-2010
Date

Chief of Staff _____
Date

V.090403

Budget & Research Use Only

Type: A B C D E

Requested By _____

General Ledger Date _____

Posted to General Ledger _____

Initial Date

Version 7/03

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED April 6, 2010	Applicant Identifier FY082153
Pre-application ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier 3-05-0020-039-2010

5. APPLICANT INFORMATION	
Legal Name: City of Fayetteville	Organizational Unit: Department: Transportation
Organizational DUNS: 13439803	Division: Aviation
Address: Street: 4500 S School Ave, Suite F	Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Mr. First Name: Ray
City: Fayetteville	Middle Name M
County: Washington	Last Name Boudreaux
State: AR	Suffix: Director of Aviation
Zip Code 72701	Email: rboudreaux@ci.fayetteville.ar.us
Country: United States	Phone Number (give area code) 479-718-7642
	Fax Number (give area code) 479-718-7646

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71-6018462	7. TYPE OF APPLICANT: (See back of form for Application Types) C Other (specify)
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)	9. NAME OF FEDERAL AGENCY: DOT / FAA SW Region
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 20-106 TITLE (Name of Program): Airport Improvement Program (AIP)	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Wildlife Hazard Assessment and Wildlife Management Plan
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Washington County, Arkansas	14. CONGRESSIONAL DISTRICTS OF: a. Applicant Third b. Project Third
13. PROPOSED PROJECT Start Date: May 2010 Ending Date: November 2011	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
15. ESTIMATED FUNDING:	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes" attach an explanation. ☐ No
a. Federal \$ 59,669.00	
b. Applicant \$.00	
c. State \$ 3,140.00	
d. Local \$.00	
e. Other \$.00	
f. Program Income \$.00	
g. TOTAL \$ 62,809.00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		
a. Authorized Representative		
Prefix Mr.	First Name Lioneld	Middle Name
Last Name Jordan	Suffix	
b. Title Mayor	c. Telephone Number (give area code) 479-575-8330	
d. Signature of Authorized Representative	e. Date Signed	

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569
11/30/2007

PART II
PROJECT APPROVAL INFORMATION
SECTION A

Item 1. Does this assistance request require State, local, regional, or other priority rating?	Name of Governing Body Priority ☐ Yes ☒ No
Item 2. Does this assistance request require State, local advisory, educational or health clearances?	Name of Agency or Board (Attach Documentation) ☐ Yes ☒ No
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?	(Attach Comments) ☐ Yes ☒ No
Item 4. Does this assistance request require State, local, regional, or other planning approval?	Name of Approving Agency Date / / ☐ Yes ☒ No
Item 5. Is the proposed project covered by an approved comprehensive plan?	Check One: State ☐ Local ☐ Regional ☐ Location of plan ☐ Yes ☒ No
Item 6. Will the assistance requested serve a Federal installation?	Name of Federal Installation Federal Population benefiting from Project ☐ Yes ☒ No
Item 7. Will the assistance requested be on Federal land or installation?	Name of Federal Installation Location of Federal Land Percent of Project ☐ Yes ☒ No
Item 8. Will the assistance requested have an impact or effect on the environment?	See instructions for additional information to be provided. ☐ Yes ☒ No
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms?	Number of: Individuals Families Businesses Farms ☐ Yes ☒ No
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated?	See instructions for additional information to be provided. ☐ Yes ☒ No

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. **Compatible Land Use.** – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

The Sponsor has adopted Drake Field Ordinance, 2607 which regulated and restricts all land use activities in the vicinity of Fayetteville Municipal Airport, Drake Field. This Ordinance was adopted January 20, 1980 and as amended.

2. **Defaults.** – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. **Possible Disabilities.** – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. **Consistency with Local Plans.** – The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

5. **Consideration of Local Interest.** – It has given fair consideration to the interest of communities in or near where the project may be located.

6. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

7. **Public Hearings.** – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project. Not Applicable

8. **Air and Water Quality Standards.** – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary. Not applicable

PART II – SECTION C (CONTINUED)

9. Exclusive Rights. – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

10. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Not applicable

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Not Applicable

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL

1. Federal Domestic Assistance Catalog No.
2. Functional or Other Breakout

SECTION B - CALCULATION OF FEDERAL GRANT

COST CLASSIFICATION	Use only for revisions		Total Amount Required
	Latest Approved amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other architectural engineering fees			62,809.00
6. Project inspection fees			
7. Land development			
8. Relocation expenses			
9. Relocation payments to individuals and businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			62,809.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			62,809.00
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			62,809.00
20. Federal Share requested of Line 19			59,669.00
21. Add Rehabilitation Grants Requested (100 percent)			
22. Total Federal grant requested (Lines 20 & 21)			59,669.00
23. Grantee share			
24. Other shares			3,140.00
25. Total project (Lines 22, 23, & 24)	\$	\$	\$62,809.00

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

SECTION C - EXCLUSIONS		
26. Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
27. Grantee Share	\$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. Total – Grantee Share	
28. Other Shares	
a. State	3,140.00
b. Other	
c. Total Other Shares	
29. TOTAL	\$

SECTION E - REMARKS

PART IV - PROGRAM NARRATIVE <i>(ATTACH – SEE INSTRUCTIONS)</i>

PART IV PROGRAM NARRATIVE

(Suggested Format)

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

PROJECT:
AIRPORT:
1. Objective: Wildlife Hazard Assessment and Wildlife Hazard Management Plan
2. Benefits Anticipated: Will provide for best approach to controlling wildlife hazards on the airfield.
3. Approach: <i>(See approved Scope of Work in final Application)</i> Year-long wildlife assessment iaw FAA requirements for a WHA, resulting in a WHMP tailored specifically for the airport.
4. Geographic Location: Washington County, Fayetteville, Arkansas
5. If Applicable, Provide Additional Information:
6: Sponsor's Representative: <i>(incl. address & tel. no.)</i> Same

City of Fayetteville Staff Review Form

A. 6
Loomacres Wildlife Management
Page 1 of 42

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: **Approve Contract** with Loomacres Wildlife Management in the amount of \$62,809.00. Contact: Cody L Baciуска, President, PO Box 361, Warnerville, NY 12187; 607-760-8748; 518-234-8547 fax; www.loomacres.com.

\$ 62,809.00

Cost of this request

\$ -

Category / Project Budget

Wildlife Hazard Assessment

Program Category / Project Name

5550.3960.7820.39

Account Number

\$ -

Funds Used to Date

D8100_AVED

Program / Project Category Name

10022 1

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

P. J. 2 Bully
Department Director

3-22-10

Date

Previous Ordinance or Resolution #

Ch. Bully
City Attorney

3-22-10

Date

Original Contract Date:

Original Contract Number:

Paul a. Bully
Finance and Internal Services Director

3-22-2010

Date

Received in City
Clerk's Office



Kum of

San Man
Chief of Staff

3-22-10

Date

Received in
Mayor's Office



Donell Jordan
Mayor

3/23/10

Date

Comments: Budget Adjustment included with grant funding item associated with this Contract.



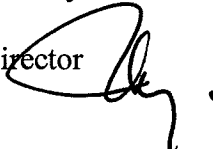
www.accessfayetteville.org

CITY COUNCIL MEMO

To: Mayor Jordan

Thru: Chief of Staff, Don Marr

Thru: Transportation Director, Terry Gulley

From: Ray M. Boudreaux, Aviation Director 

Date: March 12, 2010

Subject: Award of Wildlife Hazard Assessment and Management Plan Contract to Loomacres Wildlife Management

PROPOSAL: The FAA directed that all Part 139 Airports conduct a Wildlife Hazard Assessment (WHA) and develop a Wildlife Hazard Management Plan and has funded the requirement. This item requests authority to award the contract to Loomacres Wildlife Management. Loomacres Wildlife Management was selected on qualifications from 10 submittals utilizing the City purchasing procedures and selection process. The company is currently working at XNA performing their WHA. Our FAA Program Manager has reserved the funds for this project and is awaiting our application. Arkansas Department of Aeronautics pays the match for FAA funded projects. We will give notice to proceed when the grants are assured. The Airport Board approved this project and our request at their March 11, 2010 meeting.

RECOMMENDATION: Approve contract award to Loomacres Wildlife Management for a Wildlife Hazard Assessment and Management Plan and Fayetteville Executive Airport, Drake Field. The Wildlife Assessment will cover twelve months of field work to document the type and quantity of wildlife present on and near the airport. Once documented, an analysis of the hazards will take two additional months with the report submitted to the Airport and the FAA for approval. Once approved, tasks will be assigned to airport staff and staff will receive training in the control of hazardous wildlife.

BUDGET IMPACT: This project is fully funded by Grants from the FAA (95%) and Arkansas Aeronautics (5%) in the amount of \$62,809.00.

Attachments: Staff Review
Wildlife Hazard Assessment Agreement w/ Loomacres Wildlife Management (2 cys)
RFQ Wildlife Hazard Assessment

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH LOOMACRES WILDLIFE MANAGEMENT IN THE AMOUNT OF \$62,809.00 FOR THE PROVISION OF A WILDLIFE HAZARD ASSESSMENT AT THE FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD, CONTINGENT ON THE AWARD OF GRANT FUNDS FOR THE PROJECT

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 contract, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, with Loomacres Wildlife Management in the amount of \$62,809.00 for the provision of a Wildlife Hazard Assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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 #:

NEW

Vendor Name:

Loomacres Wildlife Management

Address:

PO Box 361

State:

NY

City:

Fayetteville

Zip Code:

12187

Ship to code:

065

Requester's Employee #:

771

Extension:

641

Project/Subproject #

10022 1

Inventory #

Fixed Asset #

Requester:

James Nicholson

Item

Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Shipping/Handling

Lot

Special Instructions:

Contingent upon City Council approval. Please update PR with assigned Project and Sub-project numbers when available

Approvals:

Mayor:

Department Director:

Finance & Internal Services Director:

Budget Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

Requisition No.:

Date:

P.O Number:

Expected Delivery Date:

Mail Yes:___

No:___

Taxable Yes:___

No:___

Quotes Attached Yes:___

No:___

Division Head Approval:

Extension:

Project/Subproject #

Inventory #

Fixed Asset #

Subtotal:

Tax:

Total:

Purchasing Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

Subtotal:

Tax:

Total:

Purchasing Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

Subtotal:

Tax:

Total:

Purchasing Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

Subtotal:

Tax:

Total:

Purchasing Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

RECEIVED
MAR 19 2010
AIRPORT

WILDLIFE HAZARD ASSESSMENT AGREEMENT

The agreement will be with the City of Fayetteville, Arkansas, and Loomacres Inc. for a project generally described as: Wildlife Hazard Assessment and Management Plan for the Fayetteville Executive Airport, Drake Field.

Consisting of: a Wildlife Hazard Assessment (Comprehensive Ecological Study), update/develop a Wildlife Hazard Management Plan, establish a Wildlife Hazard Monitoring Program, alert airport personnel of potential wildlife hazards, remove/reduce wildlife hazards on an as-needed basis, conduct FAA required Wildlife Hazard Training, assist airport personnel with the maintenance and renewal of wildlife permits.

ARTICLE 1. SCOPE OF SERVICES

BIOLOGIST will perform all all services as enumerated in the RFQ attached hereto Attachment I. A detailed listing of the scope of work is provided in the BIOLOGIST's proposal and response to RFP # 10-03, in Attachment I. The BIOLOGIST shall provide all necessary equipment and human resources that are required to fulfill the contract.

ARTICLE 2. COMPENSATION

OWNER will compensate BIOLOGIST as set forth in Attachment II.

ARTICLE 3. TERMS OF PAYMENT

OWNER will pay BIOLOGIST as follows:

3.1 Invoices and Time of Payment

BIOLOGIST will issue monthly invoices as outlined in Attachment II. Invoices are due and payable within 30 days of receipt.

3.2 Interest

In the event of a disputed billing, only the disputed portion will be withheld from payment, and OWNER shall pay the undisputed portion. OWNER will exercise reasonableness in disputing any bill or portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved.

ARTICLE 4. OBLIGATIONS OF BIOLOGIST

4.1 Standard of Care

The standard of care applicable to BIOLOGIST Services will be the degree of skill and diligence normally employed by professional biologists or consultants performing the same or similar Services at the time said services are performed. BIOLOGIST will reperform any services not meeting this standard without additional compensation. The tasks assigned shall be completed in a timely and efficient manner.

4.2 BIOLOGIST's Personnel at Airport Site

The presence or duties of BIOLOGIST's personnel on the airport property, whether as onsite representatives or otherwise, do not make BIOLOGIST or BIOLOGIST's personnel in any way responsible for those duties that belong to OWNER and/or other entities.

4.3 BIOLOGIST Insurance

BIOLOGIST will maintain throughout this AGREEMENT the following insurance:

(a) Workers compensation and employer's liability insurance as required by the state of Arkansas.

(b) Comprehensive automobile and vehicle liability insurance covering claims for injuries to member of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, nonowned, or hired vehicles, with \$1,000,000 combined single limits.

(c) Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act of omission of BIOLOGIST or of any of its employees, agents, or subcontractors, with \$1,000,000 per occurrence and in the aggregate.

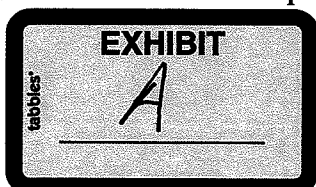
(d) Professional liability insurance of \$1,000,000 per occurrence and in the aggregate.

(e) OWNER will be named as an additional insured with respect to BIOLOGIST's liabilities hereunder in insurance coverages identified in items (b) and (c) and BIOLOGIST waives subrogation against OWNER as to said policies.

ARTICLE 5. OBLIGATIONS OF OWNER

5.1 OWNER-Furnish Data

OWNER will provide to BIOLOGIST all data in OWNER's possession relating to BIOLOGIST's services on the PROJECT. BIOLOGIST will



reasonably rely upon the accuracy, timeliness, and completeness of the information provided by OWNER.

5.2 Access to Facilities and Property

OWNER will make its facilities accessible to BIOLOGIST as required for BIOLOGIST's performance of its services.

5.3 Timely Review

OWNER will examine BIOLOGIST's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as OWNER deems appropriate; and render in writing decisions required by OWNER in a timely manner.

5.4 Prompt Notice

OWNER will give prompt written notice to BIOLOGIST whenever OWNER observes or becomes aware of any development that affects the scope or timing of BIOLOGIST's Services, or of any defect in the work of BIOLOGIST or construction contractors.

5.5 OWNER's Insurance

5.5.1 OWNER will maintain property insurance on all physical facilities.

5.6 Litigation Assistance

The Scope of Services does not include costs of BIOLOGIST for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by OWNER. All such Services required or requested of BIOLOGIST by OWNER, except for suits of claims between the parties to this AGREEMENT, will be subject to a separate agreement.

ARTICLE 6. GENERAL LEGAL PROVISIONS

6.1 Authorization to Proceed

Execution of this AGREEMENT by OWNER will be authorization for BIOLOGIST to proceed with the work.

6.2 Reuse of PROJECT Documents

All reports, drawings, specifications, documents, and other deliverables of BIOLOGIST, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is competed or not.

6.3 Force Majeure

BIOLOGIST is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of BIOLOGIST. In any such event, BIOLOGIST's contract price and schedule shall be equitably adjusted.

6.4 Termination

6.4.1 This AGREEMENT may be terminated for convenience on 30 days' written notice, or for cause if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete to correction thereafter.

6.4.2 On termination, BIOLOGIST will be paid for all authorized services performed up to the termination date.

6.5 Suspension, Delay, or Interruption of Work

OWNER may suspend, delay, or interrupt the Services of BIOLOGIST for the convenience of OWNER. In Such event, BIOLOGIST's contract price and schedule shall be equitably adjusted.

6.6 No Third-Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than OWNER and BIOLOGIST and has no third-party beneficiaries.

6.7 Indemnification

6.7.1 BIOLOGIST agrees to indemnify OWNER for any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, caused by the negligence or willful misconduct of BIOLOGIST, BIOLOGIST's employees, affiliated corporations, and subcontractors in connection with the PROJECT.

6.7.2 OWNER agrees to indemnify BIOLOGIST from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, caused by the negligence or willful misconduct of OWNER, or its employees or contractors in connection with the PROJECT.

6.8 Assignment

This is a bilateral personal Services AGREEMENT. Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of

or related to this AGREEMENT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire AGREEMENT are binding on the heirs, successors, and assigns of the parties hereto.

6.9 Waiver

6.9.1 No waiver by either party of any breach of this AGREEMENT, or of any warranty or representation hereunder, shall be deemed to be a waiver by the same party of any other breach of any kind or nature (whether preceding or succeeding the breach in questions, and whether or not of the same or similar nature).

6.9.2 No failure by a party to exercise any right it may have under this AGREEMENT or under law upon another party's default, and no delay in the exercise of that right, shall prevent it from exercising the right whenever the other party continues to be in default. No such failure or delay shall operate as a waiver of any default or as a modification of the provisions of this AGREEMENT.

6.10 Jurisdiction

The substantive law of the state of Arkansas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

6.11 Severability and Survival

6.11.1 If any of the Provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

6.11.2 Limitations of liability, indemnities, and other express representations shall survive termination of this AGREEMENT for any cause.

6.12 BIOLOGIST'S Deliverables

BIOLOGIST's deliverables, including record drawings, are limited to the sealed and signed hard copies. Computer-generated drawing files furnished by BIOLOGIST are for OWNER or others' convenience. Any conclusions or information derived or obtained from these electronic files will be at user's sole risk.

6.13 Dispute Resolution

The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options.

ARTICLE 7. ATTACHMENTS, SCHEDULES, AND SIGNATURES

This AGREEMENT, including its attachments, and schedules constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

IN WITNESS WHEREOF, the parties execute below:

For OWNER, City of Fayetteville, AR

dated this _____ day of _____, _____

Signature _____ Signature _____

Name (printed) _____ Name _____

Title _____ Title _____

For BIOLOGIST,

dated this 16th day of March, 2010

Signature [Signature] Signature Kristin Baciaska

Name (printed) Cody L Baciaska Name Kristin Baciaska

Title President Title Vice-President

Attachement I:

LOOMACRES **Wildlife Management**

"Bringing wildlife management to a higher level"™

*Proposal to Conduct
a Wildlife Hazard Assessment
and Wildlife Hazard Management Plan
for the
Fayetteville Executive Airport, Drake Field*

.....
**PO Box 361
Warnerville, NY 12187**

Warnerville, NY • Gainesville, TX • Worland, WY

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -

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LOOMACRES **Wildlife Management**

February 15, 2010

City of Fayetteville
Attn: Andrea Foren- Room 306
113 W. Mountain
Fayetteville, AR 72701

RE: RFP 10-03 Wildlife Hazard Assessment

Ladies & Gentlemen,

It is with great pleasure that I introduce our company, Loomacres Wildlife Management Inc. Loomacres Wildlife was the first private company to be approved by the FAA to perform Wildlife Hazard Management services on airports. Since 2005 Loomacres Wildlife Management's primary mission has been to provide government agencies, municipalities, and the private sector with the highest quality of environmental consulting available. Loomacres Inc. was created by Airport Wildlife Biologists and thus focuses solely on Airport Wildlife Management. We at Loomacres feel that it is essential to have a qualified airport wildlife biologist performing all services at all times. Our qualified airport wildlife biologists are able to immediately react to any unforeseen wildlife hazards with success. Loomacres Wildlife Management is a company that understands the needs of airport managers to provide a safe environment for the operation of aircraft. Loomacres staff also understands the requirements that animals need. Often these problems collide creating an unsafe environment for people and wildlife. Our employees utilize their extensive experience and training in order to provide the utmost quality in wildlife management. They use sound, ethical practices to help alleviate the risk to human health and safety. Loomacres' foundation is based upon three basic principles: **professionalism, ethics, and reliability.**

Ethics: Loomacres Wildlife Management sets the standard for ethics in the industry. Loomacres efficiently serves our clients with safe, ethical, and innovative solutions that work.

Reliability: Loomacres Wildlife Management provides reliable service by consistently reacting to unforeseen conditions.

Professionalism: Our staff has the experience and credentials to meet the high standards that are required by the FAA and your airport. Only the most professional company can provide quality services in the unique environment found on airports.

Wildlife are attracted to an area depending on several circumstances. Some of these include the availability of food, water and cover or more geographically significant features such as large bodies of water, mountain ranges or migratory routes. Each of these factors will have an effect on the type of species, their numbers and the time of year that they occur in your location. Being able to identify these conditions and the species associated with them is just the first step in our multilevel approach to wildlife

management. Loomacres takes an integrated approach to wildlife management often referred to as Integrated Wildlife Management. Loomacres combines both active and passive management techniques. Through data collection, onsite observations, and other sources of information and with the cooperation of airfield staff; Loomacres will carry out a Wildlife Hazard Assessment and create a Wildlife Hazard Management Plan as per the requirements of FAA 14 CFR 139.337.

In addition to passive and active management techniques utilized on site, Loomacres also assists airports with offsite wildlife management to ensure, as per FAA AC 150/5200-33A *Hazardous Wildlife Attractants on or near airports* and AC 150/5200-34 *Construction or establishment of landfills near public airports*, that wildlife attractants within 5 miles of the airfield are limited.

Through regular communication, monthly reports and quarterly meetings with the staff at Fayetteville Executive Airport, Drake Field, Loomacres will be able to keep all informed of the success of the project and will be able to address any issues, concerns or updates.

Loomacres Inc. is not a certified disadvantaged business enterprise however, to assist the airport in reaching their DOT 49 CFR Part 26 DBE Participation Goal, Loomacres is able to utilize the services of ETC Engineers & Architects Inc. ETC Inc. is a certified DBE based out of Little Rock, AR and will be able to provide up to 3% of the work in this project. Specifically, ETC Inc. will provide GPS, GIS & habitat mapping services for this contract.

Detailed descriptions of all above information can be found in the following proposal. Loomacres Wildlife Management looks forward to establishing a relationship with the City of Fayetteville and Fayetteville Executive Airport, Drake Field.

Sincerely,

Cody L. Baciуска
President & Airport Wildlife Biologist
Loomacres Wildlife Management
PO Box 361
Warnerville, NY 12187
607-760-8748
www.loomacres.com

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -
Loomacres Wildlife Management • P.O. 361 • Warnerville, NY 12187
Phone: 607-760-8748 • Fax: 518-234-8547
www.Loomacres.com • info@loomacres.com

Key Personnel & Organizational Chart

Loomacres Inc. puts its reputation in the selection and the performance of our employees. Loomacres Inc. is proud that it has more FAA qualified wildlife biologists on staff than any other firm in the country. Loomacres Inc. currently utilizes the skills of four FAA Qualified Airport Wildlife Biologists. Loomacres Wildlife Management's biologists include the first non- governmental wildlife biologist qualified by the FAA, Cody L. Baciуска, who will be the supervisory airport wildlife biologist overseeing all services to be provided to the Fayetteville Executive Airport, Drake Field (FYV). All of the personnel that will be operating on FYV have extensive experience conducting wildlife conflict resolution at airports. In addition, the personnel that will be assigned to FYV are trained on the safety and security procedures that must be followed at all times while working on airports. Loomacres Inc. is willing to provide extensive details on personal and company backgrounds and agrees to submit to criminal history record checks.

Our employees work under the direct supervision of the lead Wildlife Biologist and President of Loomacres Inc., Mr. Cody Baciуска. Mr. Baciуска has conducted Wildlife Hazard Assessments, developed Wildlife Hazard Management Plans, and has conducted numerous airport related research studies. Mr. Baciуска has provided wildlife hazard mitigation for some of the largest airports in the United States; including John F. Kennedy International Airport, Nashville International Airport and LaGuardia International Airport. In addition to being a FAA qualified Airport Wildlife Biologist, Mr. Baciуска is a member of the National Wildlife Control Operators Association, the Wildlife Society and is the current president of the NYS Wildlife Management Association. In addition, Mr. Baciуска is a certified National Rifle Association firearms instructor. Mr. Baciуска will be the primary Biologist overseeing all services offered to FYV. Mr. Baciуска exceeds the requirements outlined in AC No: 150/5200-36. Please see appendix I. for more information regarding the qualifications of Mr. Baciуска.

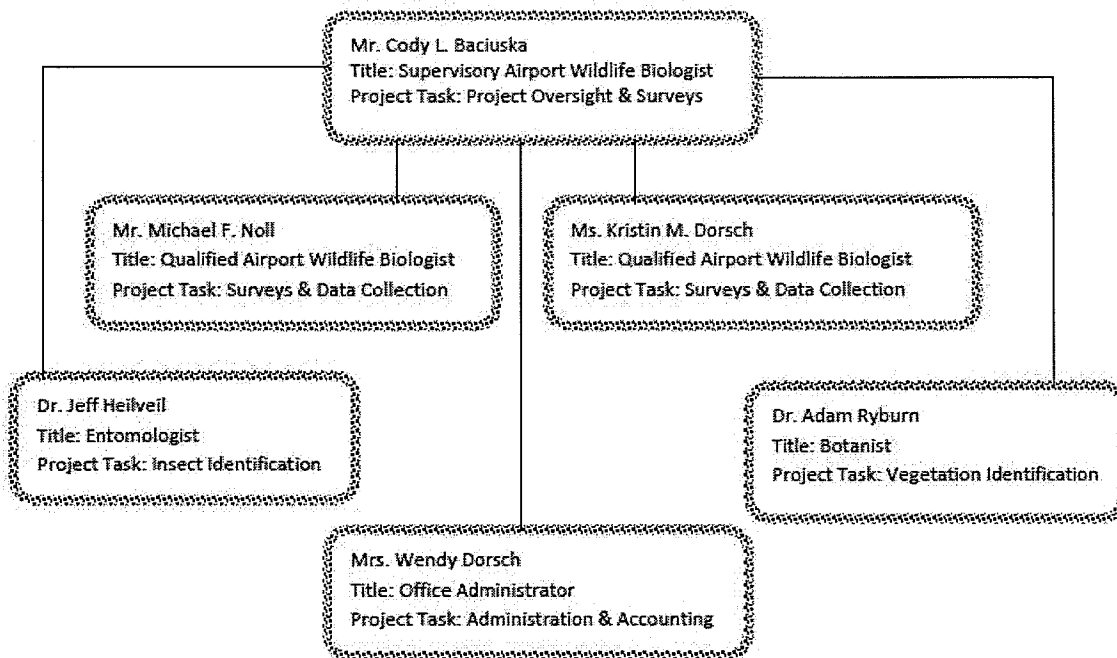
Biologist Kristin Dorsch has been with Loomacres since it was established in 2005. Kristin has a diverse background in the biological sciences to include fisheries and wildlife, wetlands and plant science. Kristin Dorsch holds a Master's of Science degree in Biology and has been working on a FAA grant funded research project titled "Native and Naturalized grasses Suitable for use on airports managed for Wildlife". Kristin has presented her research at numerous venues including the 2009 USA/Canada Bird Strike Conference in Victoria, BC as well as the 2009 Wildlife Damage Management Conference. Kristin's research in the plant sciences has made her a valuable asset to our company in her ability to assess both vegetation and habitat on and around airports. Kristin is confident in her ability to make vegetation management and planting recommendations to airfields across the United States. In addition to her graduate work, Kristin has taken numerous continuing education credits in the wetland sciences at Rutgers University and is a certified wetland delineator as well as a Certified Commercial Pesticide Applicator. Kristin's previous employers include USDA Wildlife Services and several landscape architects. Ms. Dorsch meets the requirements outlined in AC No: 150/5200-36.

In addition to having four FAA qualified airport wildlife biologists, Loomacres utilizes the experience of our scientific staff to carry out its services. Loomacres utilizes the experience of Oklahoma resident and botanist Adam Ryburn, PhD who assists Loomacres in vegetation identification on projects throughout the southern states. A plant taxonomist by training, Dr. Ryburn has been a Co-Principal Investigator for several grant funded flora studies and has conducted numerous flora studies throughout the state of Oklahoma. Dr. Ryburn holds memberships in the American Society of Plant Taxonomists, the Botanical Society of America and the Southwest Association of Naturalists.

Entomologist Jeff Heilveil, PhD oversees all identifications of insects collected during the course of our Wildlife Hazard Assessments as well as survey methods. Dr. Heilveil oversees a staff of qualified technicians who assist with insect collections and data entry.

With similar work already being conducted locally, Loomacres will be able to provide efficient on call service and at a lower cost than that of our competitors.

Loomacres Inc. Organizational Chart for FYV



Recent projects & References:

-Northwest Arkansas Regional Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for the airport. Loomacres Inc. also assists the airport with direct control projects and Wildlife Hazard Management training. For more information please contact Steve Keith, Operations Director at 479-790-9929.

-Nashville International Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for the Nashville International Airport. Loomacres will also develop/update the airport's Wildlife Hazard Management Plan, and provide the airport's staff with the FAA required wildlife hazard management training. For more information please contact Chris Ricketts, Operations Coordinator, 615-218-3870.

-Plattsburgh International Airport: Loomacres Inc. has conducted a Wildlife Hazard Assessment and developed a Wildlife Hazard Management Plan for PBG. AIP funding was used to

fund this project. This project was completed in September 2009. Loomacres Inc. is currently the prime consultant providing wildlife conflict resolution and Wildlife Hazard training for the airport. For more information please contact Frank Dietz, Assistant Manager, Plattsburgh International Airport, at 518-565-4015.

-Syracuse International Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for the airport. Loomacres Inc. also assists the airport with direct control projects and Wildlife Hazard training. This project is set to be complete April 2010. For more information please contact John Carni, Operations Manager, Syracuse Department of Aviation, at 315- 455-3680.

-Buffalo Niagara International Airport: Loomacres Inc. is the prime consultant providing Wildlife Hazard Management training and consulting services. Loomacres Inc. also provides onsite wildlife conflict resolution. For more information please contact Dave Macy, Operations Supervisor, Buffalo International Airport at 716-863-3586.

-Greenville-Spartanburg International Airport: Loomacres Inc. is currently conducting a Wildlife Hazard Assessment for Greenville-Spartanburg International Airport. Loomacres will also develop the airport's Wildlife Hazard Management Plan, and provide the airport's staff with the FAA required wildlife hazard management training as well as provide the airport with direct control services. For more information please contact Larry Holcomb, Airport Manager, 864-848-6262.

-Elmira-Corning Regional Airport: Loomacres Inc. is the prime consultant providing Elmira-Corning Regional Airport with an assessment of wildlife hazards at their airport. We have also assisted with the development of their Wildlife Hazard Management Plan, which has been approved by the FAA. Elmira-Corning Regional Airport has also contracted Loomacres Inc. to provide direct control of hazardous wildlife for the past several years. For more information please contact Bill DeGraw, Director of Operation, Elmira-Corning Regional Airport, at 607-426-5622.

-List of Airports that Loomacres Inc. has provided Airport Wildlife Consulting Services;

JFK International, Stewart International, LaGuardia International, Teterboro International, Republic, Sullivan County, Jamestown International, Poconos Regional, Johnstown-Cambria County, Blair County, Plattsburgh International, Massena International, Ogdensburg International, Binghamton Regional, Elmira-Corning Regional, Ithaca-Tompkins Regional, Warren T. Eaton, Buffalo International, Niagara Falls International, Lebanon Regional, Manchester-Boston International, Shenandoah Valley Regional, Syracuse International, Northwest Arkansas Regional Airport, Greenville-Spartanburg International Airport, Owensboro Regional Airport, Nashville International Airport, Columbia Regional Airport, Enid Woodring Regional Airport

Additional references are available on request.

Licenses and Permits

Loomacres Inc. maintains all necessary permits and licenses to conduct wildlife management activities on airports. It is the responsibility of the airport to maintain all appropriate state and federal permits that will be required to remove and harass wildlife on airport property. Loomacres Inc. should be listed as a sub-permittee on all appropriate permits. Loomacres Inc. will act as a

Disadvantaged Business Enterprise:

Loomacres Inc. is not a Certified Disadvantage Business (DBE); however Loomacres Inc. has utilized the services of DBE's when it was necessary to reach DBE participation goals as per DOT Regulation 49 CFR Part 26. Loomacres is prepared to utilize a Certified DBE to provide up to 3% of the services offered in this contract. Loomacres is able to utilize the services of ETC Engineers & Architects Inc. which is a certified State of Arkansas DBE located at 1510 South Broadway, Little Rock, AR 72202. The contact person for ETC Inc. is Mr. Mizan Rahman, 501-375-1786. Specifically, the company will provide GIS, GPS, and habitat mapping services. ETC will map out the various habitat types on and around the airport. Further information about ETC Inc. can be found in Appendix III.

Scope of Services: Phase I Wildlife Hazard Assessment and Training:

Loomacres Inc. will conduct a Wildlife Hazard Assessment, as required by the FAA, Title 14 139.337(b) (1-4).

- I. Avian surveys will be conducted to document the species, number, habitat use and seasonal activity of birds that inhabit the airport. The surveys will be conducted four times monthly and will continue for one year. The surveys will be conducted at 12 or more sites located on and adjacent to the airport property. Site selection will be determined at the start of the project. During the surveys each of the sites will be visited for 3 minutes. The birds that are observed during this time will be documented. The results will be analyzed and included in the final WHA report. Estimated dates of completion: March 2010-February 2011.
- II. Large mammal surveys will be conducted 2 times per month. Spotlights/Night vision/Infra-red will be used to document the abundance and distribution of mammals such as white-tail deer and coyotes. A vehicle will be used to survey the AOA and surrounding property. The route the vehicle will travel will be determined during the first visit to the airport. The results will be analyzed and included in the final WHA report. Estimated dates of completion: March 2010-February 2011.
- III. Small mammal surveys will be conducted during the spring and fall to document the small mammal population at the airport. Four, 1000 ft, transects will be set up in varying habitat types within the airport property. Small mammal traps will be placed every ten feet along each of the transects. The transects will be set for a total of three nights. Each day the traps will be checked

liaison with both State and Federal agencies to assist the airport with necessary application, permitting and reporting procedures. Loomacres Inc. will assist airport personnel with the maintenance and renewal of Wildlife Permits.

Insurance

Loomacres Inc. maintains liability insurance coverage consisting of 2,000,000.00 per incident, 4,000,000.00 aggregate and an additional 2,000,000 umbrella policy. We also carry 2,000,000 in professional and 500,000 in workmen's comp. If additional insurance is required Loomacres Inc. will acquire and present appropriate documentation prior to the start of this project. Please see Appendix III for insurance information.

and the species caught will be recorded. The results will be analyzed and included in the final WHA report. Estimated dates of completion: May 2010 & October 2010.

- IV. Vegetation surveys will be conducted to determine the dominant vegetation species on the airport. Grass height will be monitored at each survey location on a monthly basis to determine the average grass height for the growing season. Loomacres will also make planting recommendations as needed to ensure that no new attractants are created. The results will be analyzed and included in the final WHA report. Estimated dates of completion: May 2010-August 2010.
- V. Insect surveys will be conducted to determine their potential to become wildlife attractants at the airport. Surveys will be conducted at 12 sites throughout the airport. Species composition and population index will be determined. The results will be analyzed and included in the final WHA report. Estimated dates of completion: June 2010-October 2010.
- VI. Perimeter fence surveys will be conducted during each visit to the airport. If a breach in the fence is discovered, the location and recommendations will be provided to the airport immediately. A summary of the results will be provided in the final WHA report. Estimated dates of completion: March 2010-February 2011.
- VII. Loomacres Inc. staff will also document all major wildlife attractants and wildlife hazards at the airport and within 5 miles of the airport. This data and mitigation recommendations will be presented in the final WHA report. Estimated date of completion: April 2011.
- VIII. The Wildlife Hazard Assessment will also analyze the history of bird strikes that have occurred at the FYV. Estimated date of completion: April 2011.
- IX. A review of all wildlife-associated permits will be assessed and a historical review of their use will be presented in the Wildlife Hazard Assessment. Estimated date of completion: April 2011.
- X. Two months after completing the field work the findings of the surveys, and all above mentioned will be compiled into a detailed report and five copies will be presented to the consultant and to FYV. The report will also include a description of any potential wildlife hazards observed on and around the airport. In addition, the report will provide recommendations for reducing identified wildlife and their potential for causing wildlife strikes, and make recommendations for mitigating the wildlife attractants found on and around the airport. Estimated date of completion: April 2011.
- XI. **Throughout the duration of the project Loomacres Inc. personnel will be available on-call to assist airport personnel with the dispersal or removal of potential wildlife hazards (whitetail deer, gulls, ect.), utilizing pyrotechnics, firearms, cage traps and body gripping traps. These methods will be discussed with airport management prior to their use. All of Loomacres Inc. personnel are trained, licensed, and experienced in the use of firearms, traps and pyrotechnics. Loomacres always adheres to all state and federal regulations including the Migratory bird treaty act of 1981. Estimated date of completion March 2010-February 2011.**

This is an additional service included as part of the contract. This service is unique to Loomacres Inc. Very few firms are able to offer these services.

- XII. During the term of the contract Loomacres Inc. will conduct one, Bird Identification and Wildlife Hazard Management training course that is required by the FAA. The training will be conducted at FYV. If some airport personnel are unable to attend the training, they may attend one of our

regularly scheduled trainings at other airports. All personnel that attend and pass the training will receive a certificate verifying their accomplishment. The names and grades of those in attendance will be provided to the Airport Manager and Loomacres Inc. will retain a copy. Please retain all documentation regarding this training for future reference. Please see appendix II for an outline of this training. Estimated date of completion: At airports convenience.

- XIII. In the event of a wildlife/bird strike, Loomacres Inc. will assist airport personnel with the identification of the animal struck. Loomacres Inc. will also aid in the reporting of the strike. Estimated date of completion: March 2010-April 2011.
- XIV. When necessary, Loomacres Inc. can assist FYV with public relations. This includes public outreach, and media relations. In addition, Loomacres Inc. will assist in acquiring land owner permission in the immediate area surrounding the airport in order to conduct wildlife conflict resolution.

Scope of Services Phase II Wildlife Hazard Management Plan (if required):

Upon completion of the Wildlife Hazard Assessment, Loomacres Inc. will be available to create a Wildlife Hazard Management Plan. Loomacres Inc. will develop the Wildlife Hazard Management Plan so that it will meet the requirements of FAA, Title 14 Part 139.337 (e) & (f)

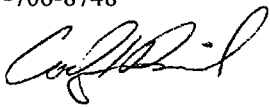
- I. If required following the completion to the Wildlife Hazard Assessment Loomacres Inc. will develop a Wildlife Hazard Management Plan for FYV. The WHMP will be based on the data gathered during the Wildlife Hazard Assessment. A Wildlife Hazard Management Plan provides detailed procedures and guidelines for the airport to address wildlife hazards at the airport. It will also prioritize the goals of the plan and sets a timeline for the accomplishment of the goals. The plan will recognize the people that will carry out the established goals. Estimated date of completion: May 2011.

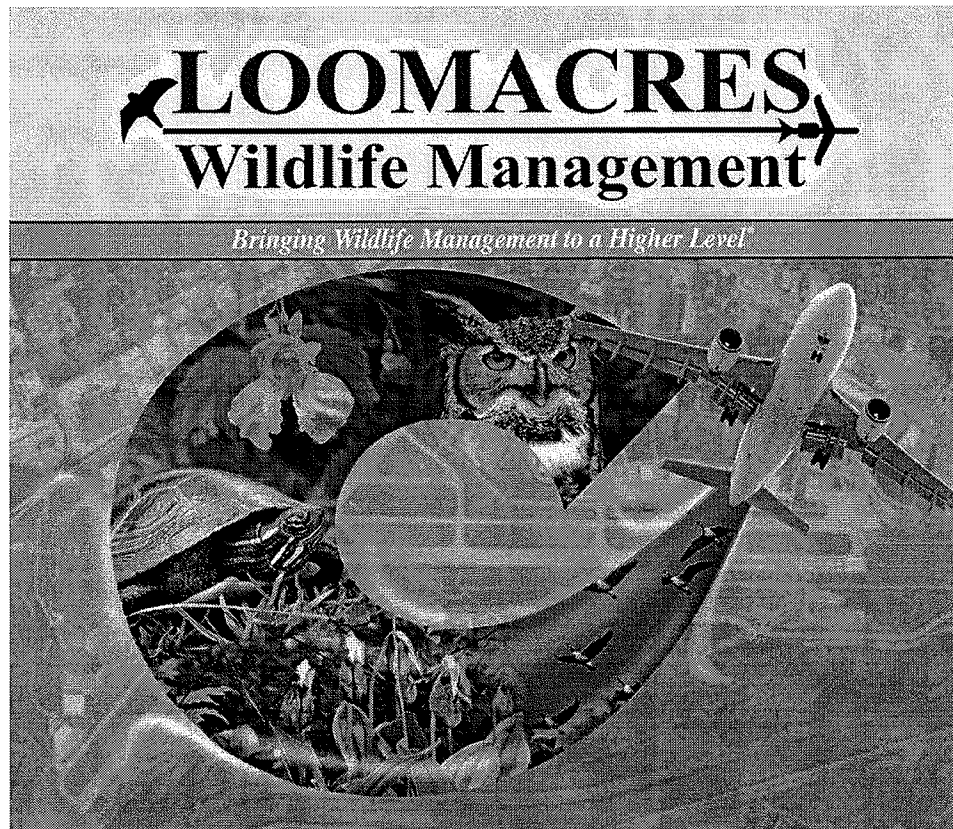
Term

Due to the time sensitive nature of FAA requirements and the importance of reducing potential wildlife hazards, Loomacres Inc. is available to initiate this project at the airports earliest convenience.

Twelve months will be dedicated to the WHA and Wildlife Conflict Resolution, and two months will be dedicated to data analysis and the development of the Wildlife Hazard Assessment. An additional month will be dedicated to the creation of a Wildlife Hazard Management Plan.

Contact Info:

Loomacres Inc.:	Fayetteville Executive Airport, Drake Field:
Name: Cody Baciуска	Name: _____
Title: President	Title: _____
Phone: 607-706-8748	Phone: _____
Signature: 	Signature: _____
Date: <u>February 20, 2010</u>	Date: _____



APPENDIX I



Dear Airport/Operations Manager,

This letter was prepared to provide the Certificate Holder with documentation verifying that Loomacres' personnel meet the requirements of §139.337(f)(7)(a-d) outlined in AC No: 150/5200-36

Subsection a:

The lead Trainer/qualified airport wildlife biologist has the necessary academic coursework and work experience to meet the qualifications of a GS-0486 series wildlife biologist as defined by the U.S. Office of Personnel Management classification standards.

Subsection b:

The lead Trainer/qualified airport wildlife biologist has taken and passed an airport wildlife hazard management-training course acceptable to the FAA administrator.

Subsection c:

The lead Trainer/qualified airport wildlife biologist has conducted at least one Wildlife Hazard Assessment acceptable to the FAA administrator.

Subsection d:

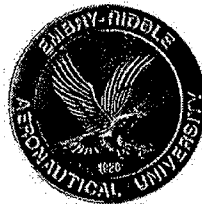
The lead Trainer/qualified airport wildlife biologist has taken and passed an airport wildlife hazard management-training course acceptable to the FAA administrator.

Sincerely,

Cody Baciуска
President

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -
Loomacres Wildlife Management • P.O. 361 • Warnerville, NY 12187
Phone: 607-760-8748 • Fax: 518-618-3129
www.Loomacres.com • info@loomacres.com

Embry-Riddle Aeronautical University



Center for Professional Education
Hereby certifies that

Cody Baciуска

Has successfully completed 2.4 Continuing Education Units in
Wildlife Hazard Management

In Witness Whereof the signatures are authorized by the Board of Trustees and
the Seal of the University are hereunto affixed at Daytona Beach, Florida
this 18th day of May 2007 Anno Domini.

I

Martin A. Smith, Chancellor

Embry-Riddle Aeronautical University, Daytona Beach, Florida

Martin A. Smith, Chancellor

Embry-Riddle Aeronautical University, Daytona Beach, Florida

Gregory A. Popp, J.D., Director

Embry-Riddle Aeronautical University, Daytona Beach, Florida

Gregory A. Popp, J.D., Director

Embry-Riddle Aeronautical University, Daytona Beach, Florida

nd

Cody Baciuka
134 Markley Road
Cobleskill, NY 12043
518-234-8547

EDUCATION:

- State University of New York, College of Agriculture and Technology at Cobleskill
Bachelor of Technology Degree in Animal Science- Concentration Wildlife Management
Date of Graduation- December 2003

Associate of Applied Science Degree- Concentration Fisheries and Wildlife Technology
Date of Graduation- May 2003
- State University of New York at Oneonta
Bachelors of Science Degree in Business Finance
Expected Date of Graduation-May 2010

MAJOR COURSEWORK:

- Biology I
- Botany
- Chemistry I
- Entomology
- Environmental Policy
- Evolutionary Biology
- Fish Nutrition
- Fisheries Management
- Fisheries Techniques
- Herpetology
- Integrated Pest Management
- Natural History of Vertebrates
- Ornithology
- Principles of Parasitology
- Woody Plant Material
- Wetland Assessment and Delineation
- Wetland Ecosystems
- Wildlife Law Enforcement
- Wildlife Management
- Wildlife Techniques
- Wildlife Policy
- Wildlife Photography
- Waterfowl Ecology & Management
- Statistics
- Soil Science
- Soil and Water Conservation
- Terrestrial Ecology
- Technical Communications

FIELD EXPERIENCE:

Avian

- Bird taxidermy
- Bow net trapping
- Care of game birds
- Care of raptors
- Funnel trapping
- Mist netting & Banding
- Songbird identification, aging & sexing
- Waterfowl identification, aging & sexing
- Point counts / Breeding bird surveys
- MAPS protocol / Pyle Guide
- Blood & feather collection
- Radio telemetry
- Raptor identification

Fisheries

- Creel census
- Electro fishing
- Haul seining
- Invertebrate sampling
- Pond/lake/stream mapping
- Water quality assessment
- Species and age determination

Wildlife

- Amphibian pitfall trapping
- Deer aging
- Care of herps and mammals
- Reptile & Amphibian identification
- Identification of frog and toad calls
- Mammal identification
- Pellet / browse surveys
- Small mammal trapping
- Use of infrared monitoring devices
- Habitat improvement
- Rocket netting

Wetlands

- Delineation of wetland boundaries
- Federal and State classification
- Identification of hydric soils
- Identification of wetland vegetation
- Identification of wetland hydrology
- Watershed delineation
- Wetland restoration and mitigation

Other skills

- Airport driving
- Business administration
- Computer
- CPR
- Firearms
- Hiking
- Hunting
- GPS, GIS/ArcView
- Operation of snowmobiles and ATV's
- Photography digital/SLR
- Pyrotechnics
- Radio communication
- Spotlighting/Night Vision, and Fleer
- Soil analysis
- Trapping
- Tree pruning
- Topo/aerial map analysis
- Watercraft Operation
- Vaccination of Animals
- Vegetation sampling

WORK EXPERIENCE:

• Loomacres Wildlife Management- Cobleskill, NY

July 2005 to present

President of Loomacres Wildlife Management. Loomacres provides wildlife and environmental consulting to the aviation industry, government agencies, municipalities, corporations and private individuals. Services range from wildlife and vegetation surveys to development and implementation of wildlife management plans. Loomacres also provides education and training to airport personnel involved in wildlife management.

• USDA, APHIS, Wildlife Services- Castleton, NY

-Supervisor: Ted Igleheart

February 2004 to July 2005

Conducting wildlife surveys, habitat assessments, and wildlife hazard assessments on a number of airports throughout New York. Data collection, entry, analysis, presentation. Assisting in the development of wildlife management plans. Identifying and addressing, damage, disease, and potential human health and safety issues created by wildlife. Use of pyrotechnics, firearms and traps to haze and remove hazardous wildlife. Public relations and outreach and education.

• National Audubon Society- Sharon, CT

-Supervisor: Laurie Fortin

21 May 2003 to 21 August 2003

Operated 7 MAPS Bird Banding Stations, responsible for net setup, extracting birds, aging, sexing, banding, data recording and entry, and overall welfare of the birds captured in the nets. Also conducted point counts, breeding bird surveys, nest searching, and vegetation surveys.

• Wetland Studies and Solutions- Chantilly, VA

-Supervisor: Dan Fisk

05 January to 17 January 2003

Wetland restoration and mitigation, Planted a variety of trees and shrubs

• Stillman Lawn care and Landscaping- Bainbridge, NY

-Supervisor: Chris Stillman

May 1994 to August 2000 (seasonal) From April 1 to September 25

Constructed and maintained numerous lawns and landscapes

• Raptor Project- Roxbury, NY

-Supervisor: Jonathan Wood

June 1995 to August 2000 (part-time)

Responsible for the health and daily care of the animals at the facility. Also assisted in the preparation and presentation of educational lectures

LICENCES, TRAINING & CERTIFICATIONS:

- FAA Certified Airport Wildlife Biologist, NRA Certified Firearms Instructor -Airport Driving Cert., FAA Approved Wildlife Biologist Training, - NYS Pistol Permit, -NYS Wildlife Control Permit, -NYS Hunting and Trapping License, Boater Safety Cert

VOLUNTEER:

• State University of New York at Cobleskill

Spring 2007&2008-Presented several lectures on Bird Identification and Mist netting

April 2001- Inspected and maintained kestrel nest boxes

January 2003 -December 2003, - Care and maintenance of animals in herpetological museum

• Landis Arboretum

Spring 2007-Intruded students on ecology

• New York State Department of Environmental Conservation

November 2000- Assisted with the NYSDEC deer census

September 2003- Assisted NYSDEC at waterfowl banding station

ACTIVITIES:

- 2009-present, President of NYS Wildlife Management Association
- 2007- 2009, Director of NYS Wildlife Management Association
- September 2002- January 2003, Secretary of the SUNY Cobleskill chapter of The Wildlife Society
- January 2003- May 2003, Vice President of the SUNY Cobleskill chapter of The Wildlife Society

Appendix II

Wildlife Hazard Management and Bird Biology Training

General Outline

- 1 Introduction & Overview of Training Objectives
 - A. Authority, Regulations, Legalities
 - B. Wildlife Hazard Management Plan
- 2 General Challenges to Aviation Safety Presented by Wildlife
 - A. Large and Small Mammals
 - B. Various Avian Species
 - C. On and Off-site Attractants
- 3 Practical Management Techniques
 - A. Food, Cover, & Water
 - B. Habitat Modification & Exclusion
 - a. Grass Management
 - b. Fencing
 - c. Brush Removal
 - C. Repellents
 - a. Chemical, Audio, Visual
 - D. Removal
 - a. Lethal
 - b. Non-Lethal
- 4 Reporting Procedures & Database
 - A. Bird/Other Wildlife Strike Report
- 5 Maintenance of State & Federal Permits
- 7 Bird identification & Bird Biology
 - A. Topography
 - B. Flight and Feathers
 - C. Molt and Migration
 - B. Identification
9. Pyrotechnic usage and safety
- 8 Review and Exam

Appendix III

Arkansas Unified DBE Certification Program

Telephone (501) 569-2000
Fax (501) 569-2693

Post Office Box 2261
Little Rock, Arkansas 72203-2261



Arkansas.FHWA@fhwa.dot.gov



ArkansasHighways.com



LittleRockAirport.AERO



SWilliams@cats.org



BFlowers@DehaAirport.com

December 21, 2009

Mr. Mizan Rahman
ETC Engineers and Architects, Inc.
1510 South Broadway
Little Rock, AR 72202

Dear Mr. Rahman:

This will acknowledge receipt of the annual affidavit stating there have been no changes in ETC Engineers and Architects, Inc.'s circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of Federal Regulation 49 CFR Part 26. Based on a review of this information, the firm's Disadvantaged Business Enterprise certification in Arkansas will continue through December 21, 2010.

Any time the firm's circumstances change, a notarized statement setting forth the changes must be submitted to the Department within 30 days.

If you have questions or need additional information, please contact Ms. Natasha Halbert at (501) 569-2297.

Sincerely,


Michelle Davenport
DBE Hearing Committee Chair

c: Chief Legal Counsel
DBE Program Specialist



ENGINEERS ■ ARCHITECTS ■ PLANNERS

■ 1510 SOUTH BROADWAY, LITTLE ROCK, AR 72202 ■ PHONE 501-375-1786 ■ FAX 501-375-1277 ■

February 17, 2010

Cody Baciuka
Loom Acres, Inc.
P.O. box 361
Warnerville, New York 12187

Dear Mr. Baciuka:

We are pleased to provide the following information and references concerning previous mapping and GIS projects completed by our firm. In particular, Mr. William Andrews, PE, Mr. Mizan Rahman, PE and Dr. Shawkat Ali, PE of our staff have worked on GIS/Mapping projects throughout the state and in Dr. Ali's case in previous experience projects in the western United States and Europe.

Dr. Shawkat Ali began working in GIS applications in 1993, when he developed ArcInfo (workstation) based floodplain mapping models in Bangladesh. Later, Dr. Ali developed numerous ArcView based GIS models for water and natural resources management projects in Bangladesh, Europe and the United States. He also worked as Project Leader and GIS Specialist in the 'Center for Environmental & Geographic Information Services', Bangladesh, and Resource Analysis (RA), The Netherlands. Dr. Ali led a project that developed Remote Sensing (RS) and GIS based tools for mapping flood depth and duration (FDD). FDD has been extensively used in natural resources management in Bangladesh. He extensively used ArcView and ArcGIS for watershed, hydrological and hydraulic analysis. Dr. Ali also worked as an Instructor for several short courses on the application of GIS and RS in natural resource management. He has several national/ international publications on GIS and RS application.

BUILDING A BETTER WORLD



■ e-mail: etc@etcengineersinc.com ■



References for previous projects completed by ETC include:

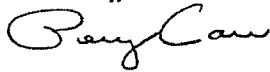
Steve Parke, Director of Public Works, City of Fort Smith, AR – 479-784-2231

Mayor JoAnne Bush, City of Lake Village, AR – 870-265-2228

Mr. Robert Cogdell, Director of Public Works, City of Maumelle, AR – 501-851-2500

We appreciate your interest in ETC Engineers and Architects and look forward to working with you and your staff.

Sincerely,

A handwritten signature in cursive script, appearing to read "Perry Carr".

Perry Carr
Vice President

Attachement II

FEE SCHEDULE

Fees

Phase I:

Wages and Administration \$49,591.00

Transportation and Supplies: \$8,547.00

Phase I Total: **\$58,138.00**

Phase II:

Wages and Administrative: \$4,125.00

Transportation and Supplies: \$546.00

Phase II Total: **\$4,671.00**

Project Total: **62,809.00**

Billing and Payment:

The total cost of phase I, and II is \$62,809.00. Drake Field will be invoiced on a monthly basis in the amount of \$4,187.26



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8289

RFP (REQUEST FOR PROPOSAL)

REQUEST FOR PROPOSAL: RFP, 10-03, Wildlife Hazard Assessment
DEADLINE: Wednesday, February 24, 2010 at 2:00 PM, 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
DATE OF ISSUE AND ADVERTISEMENT: Monday, February 08, 2010

REQUEST FOR PROPOSAL **RFP 10-03, Wildlife Hazard Assessment**

No late proposals will be accepted. RFP'S shall be submitted in sealed envelopes labeled "RFP 10-03, Wildlife Hazard Assessment", with the name and address of the Proposer.

RFP's shall be submitted in accordance with the attached City of Fayetteville specifications and RFP documents attached hereto. Each Proposer 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: _____

Contact Person: _____ Title: _____

E-Mail: _____ Phone: _____

Business Address: _____

City: _____ State: _____ Zip: _____

Signature: _____ Date: _____

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment
Advertisement

City of Fayetteville, Arkansas
NOTICE: Request for Proposal
RFP 10-03, Wildlife Hazard Assessment

The City of Fayetteville is requesting proposals from qualified firms or groups of firms interested in performing a Wildlife Hazard Assessment and a Wildlife Hazard Management Plan for the Airport. The City intends to select a firm to provide these services at Fayetteville Executive Airport, Drake Field. The consulting services will be administered by the Airport staff, and will commence following the execution of a Professional Services Contract with the selected respondent and approval by the Fayetteville City Council.

Interested parties should submit proposals to the Fayetteville Purchasing Division in City Hall, Room 306, 113 W. Mountain, Fayetteville, Arkansas, 72701. Proposals are due before **Wednesday, February 24, 2010 before 2:00 PM**, CST.

Copies of the requirements for RFP 10-03 can be obtained by visiting our website at www.accessfayetteville.org and clicking on "Business" then "Bids, RFP's and RFQ's" under the "Services" category (then click the RFP tab).

The City reserves the right to reject any proposal and to waive formalities deemed to be in the City's best interest.

"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
By: Andrea Foren, CPPB
Purchasing Agent
479.575.8220

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment
Terms and Conditions

- 1.) All Proposers shall be in compliance with all Federal, State, and Local requirements and regulations.
- 2.) No payments or Proposals may be based on time and material costs.
- 3.) Awarded Proposer shall submit invoices regularly. Payment terms shall be net 30 days from date of invoice.
- 4.) All contract amendments and modifications shall be made in writing and properly approved by the City of Fayetteville Mayor and City Council.
- 5.) Proposals shall be received at the address listed below and are due Wednesday, February 24, 2010 at 2:00 PM, CST.

City of Fayetteville
Attention: Andrea Foren – Room 306
Reference: RFP 10-03
113 W. Mountain
Fayetteville, AR 72701

- 6.) It is the responsibility of the Proposer to have its sealed proposal at the Purchasing Office **prior to the date and time of opening**. No late proposals will be accepted. Proposals received after the scheduled proposal deadline will remain unopened and will not be considered.
- 7.) The City of Fayetteville reserves the right to reject any or all proposals, waive formalities and make the award based on the best interest of the City.
- 8.) It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- 9.) Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Andrea Foren, City of Fayetteville, Purchasing Agent via e-mail (aforen@ci.fayetteville.ar.us) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- 10.) Any conditions or expectation on the part of the Proposer for performance by the City must be set forth in the proposal. The City is not obligated to consider the Proposer's post submittal terms and conditions.
- 11.) At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit an "Authorized Negotiator Information" form.**
- 12.) The City will not be responsible for misdirected proposals. Proposer should call the Purchasing Office at (479) 575-8220 to insure receipt of their proposal documents prior to opening time and date listed above.

- 13.) Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and test requirements, but is not intended to limit a RFP's content or to exclude any relevant or essential data.
- 14.) The RFP and any addenda issued may be obtained from www.accessfayetteville.org and clicking "Bids, RFP's and RFQ's" under the "Businesses" category then tab titled "RFP's". Proposers are at liberty and are encouraged to expand upon the details, qualifications and proposals to give additional evidence of their ability to perform and provide a system as described in this RFP. All updates and changes to the RFP will be posted on the website and Proposers are encouraged to check daily for new information or updates. Each Proposer is required before submitting a proposal to be thoroughly familiar with the requirements and specifications listed in this RFP. Additional allowances will not be made due to Proposers lack of knowledge relating to the terms, conditions and specifications contained within this RFP. It is the responsibility of the Proposer to determine if any component(s) of this specification do not meet the required standards of applicable federal, local, state law or specifications.
- 15.) The proposal must contain the signature of a duly authorized officer or agent of the Proposer's company empowered with the right to bind and negotiate on behalf of the Proposer for the amounts and terms proposed.
- 16.) *****The Proposer is required to submit one (1) original and five (5) copies of the proposal. In addition, one (1) electronic copy of all submitted documents shall be submitted on a properly labeled CD. The use of Adobe (PDF) is highly recommended but not mandatory. All electronic copies shall be compatible with Adobe and Microsoft Windows applications.**
- 17.) It is intended that the all documents pertaining to this request for proposal shall define and describe the complete services to which they relate.
- 18.) The Proposer is advised to examine all documents and current parameters of the services in becoming fully informed as to their conditions. This includes the conformity with specific standards and the character, quality and quantity of the reports and services required. Failure to examine these areas will not relieve the successful Proposer of his obligation to furnish all deliverables and services necessary to carry out the provisions of the contract.
- 19.) The City of Fayetteville will consider the degree to which each Proposer has submitted a complete proposal without irregularities, excisions, special conditions, or alternative proposals for any item unless specifically requested in the RFP.
- 20.) Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be prevailed by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- 21.) The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

22.) The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment

Authorized Negotiator Information – TO BE SUBMITTED WITH ALL PROPOSALS

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number (preferably a cell phone number) where the City selection committee can call for clarification or interview via telephone.**

PART 1: Primary Contact Information:

Name of Firm: _____

Name of Primary Contact: _____

Title of Primary Contact: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

PART 2: Contact for Legally Binding Contracts:

Is the primary contact (listed in Part I) able to legally bind contracts? YES NO (circle one)

If no, please list contact that can legally bind a contract for the firm: _____

Name: _____

Title: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

Date: _____

Signed: _____

PART 3: Name of assigned Wildlife Damage Management Biologist (primary if multiple):

Name: _____

Does this person have professional training or extensive experience in wildlife hazard management operations? YES NO (circle one)

City of Fayetteville
RFP 10-03, Wildlife Hazard Assessment
Project Information

The City of Fayetteville is requesting proposals from qualified firms or groups of firms interested in performing a Wildlife Hazard Assessment and a Wildlife Hazard Management Plan for the Airport. The City intends to select a firm to provide these services at Fayetteville Executive Airport, Drake Field. The consulting services will be administered by the Airport staff, and will commence following the execution of a Professional Services Contract with the selected respondent and approval by the Fayetteville City Council.

Federal Aviation Administration (FAA) Advisory Circular No: 150/5100-14D provides guidance to the Airport in the selection and employment of these services.

Deadline for submittals is Wednesday, February 24, 2010 before 2:00 PM, CST.

I. SCOPE OF SERVICES FOR WILDLIFE HAZARD ASSESSMENT

Aircraft collisions with birds and other wildlife are a serious economic and public safety problem. The City of Fayetteville seeks a Professional Consulting firm to conduct a Wildlife Hazard Assessment in accordance with 14 CFR 139.337. The City of Fayetteville is seeking:

- (1) A wildlife hazard assessment, conducted by a **qualified wildlife damage management biologist having experience in wildlife hazard management in airports**. Such assessment must include at least the following:
 - a. An analysis of the events or circumstances that prompted the assessment.
 - b. Identification of the wildlife species observed and their numbers, locations, local movements, and daily and seasonal occurrences.
 - c. Identification and location of features on and near the Airport that attract wildlife in consultation with local, state, and federal jurisdictions and authorities.
 - d. A description of wildlife hazards to air carrier operation.
 - e. Recommended actions for reducing identified wildlife hazards to air carrier operations.
 - f. The wildlife hazard assessment must be submitted to the FAA.
- (2) Since the FAA has previously determined that a wildlife hazard management plan is needed, when the wildlife hazard assessment is approved by the FAA, the consultant will be required to formulate a wildlife hazard management plan using the wildlife hazard assessment as a basis.

The wildlife hazard management plan must provide measures to alleviate or eliminate wildlife hazards to air carrier operations and must include at least the following:

- a. A list of the individuals having authority and responsibility for implementing each aspect of the plan.
- b. A list prioritizing the following actions identified in the wildlife hazard assessment and target dates for their initiation and completion:
 - i. Wildlife population management;
 - ii. Habitat modification; and
 - iii. Land use changes.
- c. Requirements for and, where applicable, copies of Local, State, and Federal wildlife control permits.
- d. Identification of resources that the Airport will provide to implement the plan.
- e. Procedures to be followed during air carrier operations that at a minimum include
 - i. Designation of personnel responsible for implementing the procedures;
 - ii. Provisions to conduct physical inspections of the aircraft movement areas and other areas critical to successfully manage known wildlife hazards before air carrier operations begin;
 - iii. Wildlife hazard control measures.
 - iv. Ways to communicate effectively between personnel conducting wildlife control or observing wildlife hazards and the air traffic control tower;
 - v. Measures to notify pilots and other relevant agencies, person or agencies of potential wildlife threats to aviation; and

- vi. Measures to coordinate wildlife control with relevant local, state, and federal jurisdictions and authorities.
 - f. Procedures to review and evaluate the wildlife hazard management plan every 12 consecutive months or following an event in which an air carrier aircraft experiences multiple wildlife strikes, substantial damage from striking wildlife, engine ingestion of wildlife; or wildlife of a size or in numbers, capable of causing one of the above events is observed to have access to any Airport flight pattern or aircraft movement area. These procedures should include:
 - i. The plan's effectiveness in dealing with known wildlife hazards on and in the Airport's vicinity and
 - ii. Aspects of the wildlife hazards described in the wildlife hazard assessment that should be reevaluated
 - g. A training program conducted by a qualified wildlife damage management biologist to provide Airport personnel with the knowledge and skills needed to successfully carry out the wildlife hazard management plan.
- (3) Before the plan is accepted by City of Fayetteville it must be approved by the FAA.
- (4) The Wildlife Damage Management Biologist(s) conducting the Wildlife Hazard Assessment and conducting the training program for airport personnel involved in controlling Wildlife Hazards at the Airport must be qualified according to AC 150/5200-36.
- (5) The consultants will comply with all FAA Advisory Circulars in the 150 series including those that contain standards and procedures for wildlife hazard management at airports and the current version of the FAA/USDA document-Wildlife Hazard Management at Airports.

II. ADDITIONAL PROJECT CONSIDERATIONS

This project will be partially financed by grants administered by the Arkansas Department of Aeronautics and the FAA. This project is contingent upon receipt of such a grant(s) or other grants along with the securing of other required approvals.

Because the professional services may necessitate access to the secure areas of the airfield, it will be necessary for the selected respondent to coordinate activities with the Airport Administration Office.

III. PROJECT APPROACH AND SELECTION CRITERIA

To be considered to provide Wildlife Hazard Assessment services, a Letter of Interest containing a concise but detailed narrative indicating the proposed approach to providing the required services must be submitted, in addition to the other information described below. Each interested firm must present its qualifications for hazardous wildlife studies. The approach may be structured in any way deemed to be responsive to the needs of the City of Fayetteville as generally described herein as the Scope of Services. The "Project Approach" section should demonstrate an understanding of the project and provide an explanation of previous experience with airport hazardous wildlife studies and/or similar Wildlife Hazard Assessment efforts. Firms should explain any proposed coordination between the prime and proposed sub-consultants as well as explain coordination with the Airport's operational needs, and provide any other information that may assist the Selection Committee in making a selection. The criteria and the weighted values to be used by the Selection Committee in evaluating responses for the selection of a firm(s) to perform this service(s) are listed below. Each point value is adjacent to the criterion and totals 100 points. Please address each criterion in your Project Approach.

- 1) 30% **Qualifications in Relation to Specific Project to be Performed:** Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization. Firm's demonstrated ability to meet requirements within 14 CFR 139.337. ****REQUIREMENT:** Proposal documents shall list ALL Wildlife Damage Management Biologists who would be assigned to this project that have professional training or experience in wildlife hazard management in airports.

- 2) 20% **Experience, Competence, and Capacity for Performance:** Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used to supplement your staff.
- 3) 20% **Proposed Method of Doing Work:** A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of work. Include with this the amount of work presently underway. This criteria includes anticipated participation due to the desire of the City to work with Disadvantaged Business Enterprises.
- 4) 20% **Past Performance:** Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with the City and others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom we can contact for information.
- 5) 10% **Price**

IV. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

The City of Fayetteville, in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d et. seq. and 49 CFR Part 26 issued pursuant to The Airport and Airway Development Act, affords Disadvantaged Business Enterprises (DBEs) full opportunity to submit an indication of interest in response to this invitation and will not discriminate against any interested firm on the ground of race, creed, color, sex, age, or national origin in a contract award. In addition, the City of Fayetteville has established annual goals for DBE participation on Airport projects. Prospective consultants should review the Airport's DBE Program and 2010 Goal Update documents during their preparation of a response to this Request for Proposal (RFP).

The City of Fayetteville, in order to encourage the use of DBE firms, has set a DBE participation goal of 2.3% for this contract. The Airport desires to achieve, to the greatest extent possible, quality participation by certified DBE firms in order to achieve its 2010 updated goal. Although DBE participation is not a requirement for this contract, respondents are challenged to present a creative and responsive plan that provides for DBE participation that is commercially meaningful and useful. The Airport encourages and favors the following arrangements to ensure quality participation: (1) Participation as a prime consultant, (2) Joint Venture, (3) Partnership, and (4) Sub-consultant. Proposals will be evaluated, in part, on the respondent's stated intention to ensure quality participation. **The DBE firm(s) that may be participating in this project must be certified by the State of Arkansas.**

DBE Proposals at the time of submittal. Joint ventures and partnerships must be in existence at the time of submittal. The identity of the proposed certified DBE participant(s) and their participation percentage shall be indicated.

At least ten (10) days prior to award, the successful respondent shall provide the City of Fayetteville with copies of executed subcontracts, certified copies of articles of incorporation, partnership agreements, *and/or* joint venture agreement if a DBE (minority or woman) is a shareholder/officer, partner or one of the ventures.

The DBE firm(s) participating in this project must perform a commercially useful function. The failure of a DBE firm(s) to perform a commercially useful function, as defined in 49 CFR Part 26, shall constitute grounds for the City of Fayetteville to impose appropriate legal remedies.

The respondent is required to perform and submit documentation of Good Faith Efforts as described in the City of Fayetteville's DBE Program, Subpart C, and 49 CFR Part 26.53 in order to secure DBE participation.

The City of Fayetteville affords no preference based upon the geographical area in which a DBE firm is located.

V. SUBMITTAL OF PROPOSAL

An interested firm must provide references showing relevant capabilities and experience for the preceding 3 years. Elaborate qualifications statements and brochures are not desired.

Any sub-consultants proposed to be used, including DBE sub-consultants, must also submit references containing information pertinent to the work to be performed. The prime firm must specify which areas of work will be accomplished by each sub-consultant and the percentage of the total contract this work effort will constitute. Please ensure that an organizational chart is included.

The Letter of Interest that supplements the references should discuss the extent of the firm's experience in the disciplines of hazardous wildlife studies especially at air-carrier airports. If an association or joint venture of firms is contemplated, the expertise of each individual firm in hazardous wildlife studies should be clearly defined as well as the level of involvement of each firm in the services and the proposed means of coordination between firms. A joint venture will be considered a "firm".

Respondents are required to adhere to the FAA's Wildlife Hazard Assessment procedures and systems and the mitigation program currently utilized by the Airport.

Only timely received proposals, meeting the requirements of this RFP, will be considered. No Proposals will be considered or accepted that are submitted by a firm that is in default under the terms of any existing agreement with the Airport or other similar agency, or has failed to perform its obligations faithfully under any previous agreement with the Airport or other similar agency. Each lead consultant firm or lead member of a joint venture shall submit only one Proposal. Sub-consultant or sub-joint venture firms may submit their proposals with more than one lead consultant firm and/or joint venture. A Proposal will be rejected if there is any evidence of collusion with another firm/joint venture. **A firm that responds as a prime or as a partner in a joint venture responding as a prime cannot as a sub-consultant submit its qualifications to another responding prime. Furthermore, a firm that responds as a prime or as a partner in a joint venture team responding as a prime cannot be a partner in a joint venture that submits its qualifications as a sub-consultant to another responding prime.** Proposals shall be signed by an authorized representative of the firm.

Submission Requirements

Elaborate qualifications statements, proposals, and brochures are not desired. Clarity and concise, orderly treatment are important and must contain the following:

- a. Letter of Interest indicating proposed approach to the required professional services, previous experience, approach to project coordination, list of DBE participants and percentage participation, and responses to each of the Selection Criteria. Each interested firm must present its qualifications for hazardous wildlife studies.
- b. Complete 3 year reference listing for each prime firm, joint venture firm, and sub-consultant and an organizational chart.
- c. Statement of Agreement to background investigation and criminal history record check.
- d. A "Project Approach" that identifies the suggested structure of the organization and management methods.
- e. A description and identification of the firm's relationship to or with other firms (Subsidiary of another firm, Partner in Joint Venture, etc.). Also include the Primary Location, Address, Telephone, Email, and Facsimile numbers of the organization.
- f. Identification of the key personnel assigned to this project. At a minimum, identify the Principal-in-Charge and any other key personnel you see fit. Provide a biographical sketch of these individuals describing their relevant background. Also provide the following for each individual, Employer – if different than firm (i.e., parent company or consulting firm), Address – if different than firm, Telephone, Email, Fax.
- g. Description of your cost management systems and their relationship. Your proposal should exhibit the means and mechanisms to be used in the management and verification/monitoring of construction and schedule information for the program.
- h. Limit submission to 20 pages- resumes may be included as an appendix.
- i. **The Proposer is required to submit one (1) original and five (5) copies of the proposal. In addition, one (1) electronic copy of all submitted documents shall be submitted on a properly**

labeled CD. The use of Adobe (PDF) is highly recommended but not mandatory. All electronic copies shall be compatible with Adobe and Microsoft Windows applications. All proposal documents shall be received prior to the deadline stated in this document.

Courier/Hand Delivery:

Mail Delivery:

Any response that is received after the stated deadline will not be considered by the City of Fayetteville. The time will be tracked according to the City of Fayetteville's electronic clock located in the Purchasing Division. Furthermore, any submission that fails to include all required documentation may be considered non-responsive. Faxed or e-mailed responses will not be accepted.

VI. QUESTIONS ON SCOPE OF SERVICES

Questions concerning elements described in the Scope of Services section of the RFP should be addressed in writing to Andrea Foren via e-mail at aforen@ci.fayetteville.ar.us. Questions shall be directed as soon as possible.

VII. SELECTION OF CONSULTANT

Following receipt of the Proposals, a Selection Committee will review all responses and recommend an applicant(s) to the City of Fayetteville. The Selection Committee may schedule interviews with the most qualified firms in order to make a final selection. The City of Fayetteville will accept or reject the Selection Committee's recommendation. The City of Fayetteville reserves the right to cancel this RFP, accept or reject any/all submissions, waive any technicalities and/or informalities or re-advertise, for any reason, particularly, when deemed in the best interest of the City of Fayetteville.

The law of the State of Arkansas shall govern the Agreement. Any disputes relating to this RFP or related agreement must be resolved accordingly.

In the process of developing a scope and fee for these services, the selected consultant, each sub-consultant and/or sub-contractor, and/or member of a joint venture may be asked to submit a statement of auditable overhead expenses, certified by the consultant's auditor, the Airport's auditor, a state auditor, or a federal government auditor. The statement shall be in accordance with Federal Acquisition Regulation 48 CFR Part 31, Contract Cost Principle and Procedures, and be based on an audit performed within the consultant's last two fiscal years.

VIII. PREPARATION COST OF QUALIFICATION

Costs associated with preparation of each submittal shall be borne by the applicant(s). The City of Fayetteville is not responsible for any costs with responding to this RFP and considers all submittals accepted as non-returnable.

IX. PROPOSAL SUBMITTAL CHECKLIST

Please be sure that all items listed below are included in the response to this RFP and are fully completed and properly executed. **If any of these items are not included or are partially completed or not properly executed, the Selection Committee can declare the response not responsive or request clarification, and may remove the submittal from further consideration.**

1. Letter of Interest. Each submittal shall include a letter of interest as outlined in Sections III and V of this RFP. A duly authorized representative of the prime firm should sign the letter.

2. Project Approach. Each response should include a detailed project approach section. Limit project approach to 5 pages. See Sections III and V.

3. Organizational Chart. The response should include an organizational chart illustrating project organization and areas of responsibility by firm and person-in charge. The chart should be clear and concise with individuals identified. See Section V.

4. Three Year Reference List. Each prime and each sub-consultant (including sub-consultant to a sub-consultant) must provide City of Fayetteville with a list of references for similar projects completed in the past 3 years. This must be completed and signed by a duly authorized representative of the firm. If the prime and/or any sub-consultants fail to submit these references, the response will be declared non-responsive. See Section V.

NOTE: A Joint Venture is considered a "firm" and requires submission of only one reference list; however, experience and project history for all joint venture partners must be outlined. If the Joint Venture has any sub-consultants, these sub-consultants must submit separate reference lists.

5. DBE Certification: All identified DBE sub-consultants must be Arkansas DBE certified at the time the response is submitted. If any identified DBE sub-consultants are not Arkansas certified, they must submit their complete certification package to the State of Arkansas to become certified.

6. Letter of DBE Certification. All identified DBE sub-consultants must include the most current DBE Certification/Re-certification letter for each currently certified DBE sub-consultant to be used on the project.

X. PROPOSAL SUBMITTAL CHECKLIST FORM

	Yes	No
1. Authorized Negotiator Info. Form	~	~
2. Letter of Interest	~	~
3. Project Approach	~	~
4. Organizational Chart	~	~
5. Three Year Reference List	~	~
6. DBE Certification Submit	~	~
7. Letter of Current DBE Certification (Encouraged, but not required)\	~	~

City of Fayetteville Staff Review Form

A. 7
Kearney-National Inc. and/or
Cooper Power Systems
Condemnation and Possession
Page 1 of 16

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/10

~~3/16/2010~~

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: Approve property acquisition through condemnation of Kearney National/Cooper Power property required to construct the Runway 16 Safety Area Improvement Project.

\$ 217,200.00

Cost of this request

\$ 3,141,436.00

Category / Project Budget

Correct Runway 16 RSA

Program Category / Project Name

5550.3960.7820.38

Account Number

\$ 2,781,858.00

Funds Used to Date

D8100_AVED

Program / Project Category Name

07039 3

Project Number

\$ 359,578.00

Remaining Balance

Airport

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Ray M. Boudreaux
Department Director

2-25-10

Date

Previous Ordinance or Resolution # 119-09

Greg Kelly
City Attorney

3-10-10

Date

Original Contract Date:

Original Contract Number:

Paul A. Becker
Finance and Internal Services Director

3-10-2010

Date

Received in City
Clerk's Office

ENTERED
2/26/10
AD

Don Man
Chief of Staff

3-11-10

Date

Received in
Mayor's Office

ENTERED
3/10/10
JH

Timothy Jordan
Mayor

3/4/10

Date

Comments: AIP Grant #38 95/5% FAA/AR Dept Aeronautics



www.accessfayetteville.org

CITY COUNCIL MEMO

To: Mayor Jordan

Thru: Chief of Staff, Don Marr

Thru: Transportation Director, Terry Gulley *TJ*

From: Ray M. Boudreaux, Aviation Director *Ray*

Date: February 26, 2010

Subject: **Condemnation acquisition of Kearney National/Cooper Power property required to construct the Runway 16 Safety Area Improvement Project at Fayetteville Executive Airport, Drake Field**

PROPOSAL: Authorize the Airport to condemn the property owned by Kearney National and under an Option to Purchase by Cooper Power. The property is needed to complete the Runway 16 Safety Area Improvement Project. Neither Kearney National nor Cooper Power object to the sale of the property so this taking could be referred to as a friendly condemnation under extenuating circumstances.

As part of the Runway Safety Area Improvement Project at the Airport, several parcels of land must be acquired. Property owned by Coulson Oil and Standard Register have been purchased and the deeds recorded. The parcel owned by Kearney National is encumbered by an Option to Purchase held by Cooper Power. The Option was entered into when Cooper Power purchased the building from Kearney National. Kearney was at the time under a Consent Administrative Order (CAO) with the Arkansas Department of Environmental Quality (ADEQ) for cleanup of a solvent spill on the property. The Option was to be executed when the ADEQ issued the final determination that the property was clean following the clean up actions undertaken by Kearney under the Brownfields Program. Kearney is currently in the fifth year of a five year ground water monitoring protocol as specified by the CAO. All data collected indicates that the property needed by the City for the RSA 16 Improvement Project has not been impacted by the solvent spill and is clean as determined by the samples taken from the ground water monitoring wells on the property.

As part of this taking, the City agrees to allow Kearney National and their contractors to enter the property to continue the sampling regimen required by the CAO until the clean up project is declared successful by ADEQ. The City also agrees to follow the planned development as outlined by the project plans and specifications which is to construct Ernest Lancaster Rd and install sidewalks and light fixtures along the roadway, and also to reinstall the airport security fence and the Cooper Power security fence. Additional provisions of the agreement will be to allow vegetation to be installed along the roadway to further facilitate remediation of any contaminants that might in the future migrate to the land acquired by the City.

Initial action was taken to purchase the land August 12, 2009. Since that time, officers of Cooper Power have worked with ADEQ to allow the purchase and resale of the property without liability transferring to Cooper Power or the City from that held by Kearney National, the responsible party and owner of the property. Environmental experts from Kearney and Cooper have yet to reach an agreement to allow the transfer of the property without a transfer of the environmental liability. Additionally, Kearney National is concerned that with the transfer of the property their liability increases as the CAO states that should contamination migrate from their property, additional clean up of the initial contamination site would be required. After the City acquires the needed parcel, Kearney National's property line moves much closer to the original contamination site and thus the chance for contamination to migrate off of their property triggering the additional clean up actions increases; although, the chance of contamination migrating to the parcel needed by the City is very minimal.

ADEQ has approved application from Cooper Power for them to participate in the Brown Fields program. Although the application has been approved and would facilitate the transfer of the property to the City of Fayetteville, entering the Brown Fields program requires public hearings and a comment period that could consume six months or more. The Airport project is underway and is scheduled to be completed by the end of August 2010 so the Brown Fields program schedule is not satisfactory. Cooper Power has suggested that we proceed with the condemnation to insure that we receive the property in a timely fashion. Kearney National has indicated that they hope that we can come to some sort of an agreement to eliminate the need for the condemnation process.

RECOMMENDATION: Recommend approval of condemnation proceedings by the City for property owned by Kearney National/Cooper Power for the purpose of completing the RSA 16 Improvement Project. ADEQ has been consulted to see if any specific language would be required in the taking to satisfy ADEQ and the CAO which controls the actions that might be required in the future.

BUDGET IMPACT: There is no additional expense associated with this action. City Council has already approved the budget for purchase of the land. Funding for this project is provided by FAA/AIP Grant (95%) and Arkansas Department of Aeronautics Grant (5%).

Atch: Staff Review Form
Offer and Acceptance Contract for land purchase
Condemnation
Letter from ADEQ to Kearney National
Land Acquisition Activity Record

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY KEARNEY-NATIONAL INC. AND/OR COOPER POWER SYSTEMS NEEDED FOR THE RUNWAY 16 SAFETY AREA IMPROVEMENT PROJECT AT THE FAYETTEVILLE EXECUTIVE AIRPORT

WHEREAS, the City of Fayetteville and Kearney-National Inc./Cooper Power Systems have been unable to agree on a fair price for a portion of the property owned by Kearney-National Inc. and/or Cooper Power Systems that is needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport on a portion of Parcel No. 765-15533-000; and,

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to continue work on the project.

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 No. 765-15533-000 and owned by Kearney-National Inc. and/or Cooper Power Systems that is needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport, temporary construction easements, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 16th day of March, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



U.S. Department of Transportation
Federal Aviation Administration

CERTIFICATE OF APPRAISER

A. 7
Kearney-National Inc. and/or
Cooper Power Systems
Condemnation and Possession
Page 5 of 16

Airport

EXECUTIVE AIRPORT

DRAKE FIELD

Project Number

3-05-0020-038-2009

Parcel No. 765-15532-000

765-15533-000

Project Location

FAYETTEVILLE, AR

I hereby certify:

That on JUNE 24, 2009 (date) (s), I personally made a field inspection of the property herein appraised and that I have afforded the property owner the opportunity to accompany me at the time of inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented by the photographs contained in said appraisal or in the data book or report that supplements the appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal attached hereto are true and the information contained therein upon which the opinion of value expressed below is based is correct, subject to the limiting conditions set forth in the appraisal.

That I understand this market value appraisal is to be used in connection with the acquisition of land for an airport project by CITY OF FAYETTEVILLE DRAKE FIELD with the assistance of FAA funds or other Federal funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations, policies, and procedures applicable to appraisal of land for such purposes, and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established law of said State.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within reasonable control of the owner, has been disregarded in determining the compensation for the property.

That neither my employment nor my compensation for making this appraisal are in any way contingent upon the values reported herein.

That I have no direct or indirect, present or contemplated, future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency of said Airport or officials of the Federal Aviation Administration and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That the conclusion set forth in this appraisal is my independent opinion of the value of the property as of the 24TH day of JUNE 19 2009, and that such conclusion was reached without collaboration or direction as to value.

It is my opinion that the fair market value of the above captioned real property is as follows:

Value before acquisition	\$ <u>848,450</u>
Value after acquisition	\$ <u>631,258</u>
Value difference	\$ <u>217,192</u>

The property has been appraised for its fair market value as though owned in fee simple, or as encumbered only by the existing easement in favor of _____

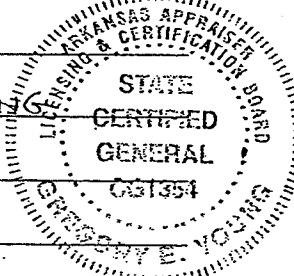
The opinion of value expressed above is the result of and is subject to the data and conditions described in detail in this report of 97 pages.

Date of contract 06/17/09

Typed name GREGORY E. YOUNG

Signature Greg Young

Date 08/04/09



Note. - Other statements, required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal, may be inserted where appropriate.



U.S. Department of Transportation
Federal Aviation Administration

CERTIFICATE OF APPRAISER

A. 7
Kearney-National Inc. and/or
Cooper Power Systems
Condemnation and Possession
Page 6 of 16

Airport

EXECUTIVE AIRPORT
DRAKE FIELD

Project Number

3-05-0030-038-2009

Parcel No. 765-15532-00

765-15533-00

Project Location

FAYETTEVILLE, AR

I hereby certify:

That on JULY 7, 2009 (date) (s), I personally made a field inspection of the property herein appraised and that I have afforded the property owner the opportunity to accompany me at the time of inspection. I have also personally made a field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented by the photographs contained in said appraisal or in the data book or report that supplements the appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal attached hereto are true and the information contained therein upon which the opinion of value expressed below is based is correct, subject to the limiting conditions set forth in the appraisal.

That I understand this market value appraisal is to be used in connection with the acquisition of land for an airport project by CITY OF FAYETTEVILLE DRAKE FIELD with the assistance of FAA funds or other Federal funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations, policies, and procedures applicable to appraisal of land for such purposes, and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established law of said State.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within reasonable control of the owner, has been disregarded in determining the compensation for the property.

That neither my employment nor my compensation for making this appraisal are in any way contingent upon the values reported herein.

That I have no direct or indirect, present or contemplated, future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency of said Airport or official of the Federal Aviation Administration and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That the conclusion set forth in this appraisal is my independent opinion of the value of the property as of the 24TH day of JUNE 19 2009, and that such conclusion was reached without collaboration or direction as to value.

It is my opinion that the fair market value of the above captioned real property is as follows:

Value before acquisition \$ 848,450

Value after acquisition \$ 631,258

Value difference \$ 217,192

The property has been appraised for its fair market value as though owned in fee simple, or as encumbered only by the existing easement in favor of _____

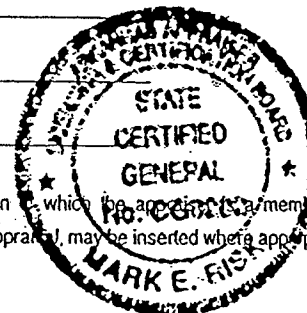
The opinion of value expressed above is the result of and is subject to the data and conditions described in detail in this report of 97 pages.

Date of contract 06/17/09

Typed name MARK E. RISK

Signature [Signature]

Date 8/3/09



Note. - Other statements, required by the regulations of an appraisal organization, which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the appraisal, may be inserted where appropriate.



AVIATION DIVISION
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

August 4, 2009

Downie Grimm, Local Plant Manager
Cooper Power Systems
Kearney Operations
3660 S. School Avenue
Fayetteville, Arkansas 72701

Dear Mr. Grimm:

The City of Fayetteville, Arkansas is initiating a project to construct improvements to Fayetteville Executive Airport, Drake Field. The project will realign a portion of US Highway 71 to the West and Ernest Lancaster Drive to the North in order to reconstruct the Runway 16 Safety Area in accordance with FAA Safety Area design standards. The project has been designed to minimize the disruption to the community and especially to minimize the need to acquire private property. However, sound design and cost efficiency require the acquisition of some private property to accomplish the project, including a portion of your property as described below. The airport may only acquire your property upon payment of just compensation to you for the fair market value of the property required and any resulting damages to your remainder property due to the acquisition for the subject project. To this end we have had your property appraised by qualified real estate appraisers and have determined the amount of just compensation to be \$217,200.00 (including \$950.00 for a temporary construction easement).

The City of Fayetteville is therefore offering you \$217,200.00 for the purchase of the needed property and compensation for all resulting damages. Attached, is a Summary of Just Compensation, a proposed contract, plat, and exact legal description of the property to be acquired for your review. Also, attached is a brochure entitled "Land Acquisition for Public Airports" which explains your rights and benefits for the conveyance of your property.

The amount offered as just compensation is fair and full compensation for the proposed acquisition, and we sincerely wish to come to amicable agreement with you for the acquisition of your property. The airport representative presenting this offer to you will explain the offer and proposed acquisition to you, and is available to answer any questions and concerns you have now and throughout the negotiations process. Thank you for your consideration.

Sincerely,


Lionell Jordan
Mayor

Attachments: Summary of Just Compensation
Contract including Property Description

CC: Phil Ralston

Section I – Introduction

Salient Facts & Conclusions

Project Identification: City of Fayetteville Executive Airport, Drake Field -
Runway 16 Safety Area Improvement Project

Fee Simple Owner: Kearney-National, Inc.

Mailing Address: P.O. Box 4446 – Houston, TX 77210

Property Location: Project Tract #6
3660 South School Avenue – Fayetteville, AR 72701

Parcel Numbers: Washington County - 765-15532-000 & 765-15533-000

Census Tract: 111.02, Block 7026

Flood Data: ~25% total acreage appears to lie in FEMA identified flood zone AE
Per map #05143C0220F, as of 05/16/08

Estate Appraised: Fee Simple

Highest & Best Use: Before the Taking –
As if Vacant Industrial Manufacturing Complex
As Improved “

After the Taking –
As if Vacant Industrial Manufacturing Complex
As Improved “

Improvements Considered: Due to my opinion improvements remaining after proposed partial taking will not suffer severance damage, they are not considered in this report. Improvements slated for permanent removal and therefore considered include the following:

1,300± Linear feet of chain link security fencing

Area Of Whole: 19.42± Acres per Appraiser calculation using Survey dimensions

Permanent Taking Area: 4.81± Acres per provided Survey

Area Of Residual: 14.61± Acres

Temporary Construction: 0.22± Acres per provided Survey

Effective Date: June 24, 2009 – the date of subject inspection

Salient Facts And Conclusions Continued

Indicated Fair Market Values

Before the Takings		
Underlying Land	\$840,000	
Affected Improvements	<u>\$ 8,450</u>	
Total		\$848,450

After the Takings		
Underlying Land	\$632,208	
Affected Improvements	<u>0</u>	
Total		<u>\$632,208</u>

Total Loss in Market Value Due to Taking	\$216,242
*No Severance Damages applicable	

Allocation Of Fair Market Value

Permanent Taking:	4.81± Acres @ \$43,200/Acre	=	\$207,792
Affected Improvements:	1,300± LF of fencing @ \$6.50/LF	=	<u>\$ 8,450</u>
Total Loss In Market Value Due to Taking			\$216,242
Add T.C.E.	0.22± Acre @ \$43,200/Acre x 10% x 1 Year	=	<u>\$ 950</u>
Total Certified Just Compensation			\$217,192

Say \$217,200

OFFER AND ACCEPTANCE CONTRACT

1. The City of Fayetteville, Arkansas, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION
2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **\$217,200.00** (including \$950.00 for a temporary construction easement).
3. **Offer Contingent:** This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas.
4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by Cooper Power Systems.
5. Cooper Power Systems shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville and Cooper Power Systems shall share equally in the cost of the title insurance.
6. Cooper Power Systems agree(s) to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. Cooper Power Systems agree(s) to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by Cooper Power Systems. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within ninety (90) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.
10. Cooper Power Systems hereby grant(s) permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by Cooper Power Systems.
13. Cooper Power Systems shall disclose to the City of Fayetteville any and all environmental hazards of which Cooper Power Systems has/have actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville and Cooper Power Systems shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Cooper Power Systems shall cure such, at their expense; or, in the alternative, at the City of Fayetteville's discretion, the City of Fayetteville may cure such environmental hazard, and Cooper Power Systems shall indemnify the City of Fayetteville for all costs associated with said cure.

OFFER AND ACCEPTANCE CONTRACT

Page 2 of 4

A. 7
Kearney-National Inc. and/or
Cooper Power Systems
Condemnation and Possession
Page 11 of 16

14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both the City of Fayetteville and Cooper Power Systems shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by Cooper Power Systems on or before the 4th day of September, 2009.
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within thirty (30) days of acceptance by Cooper Power Systems.
18. NOTICE: THE CITY OF FAYETTEVILLE ASSERTS AND Cooper Power Systems HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID.

Cooper Power Systems
Kearney Operations
3660 S. School Avenue
Fayetteville, AR 72701

Date: _____

Date: _____

AGENT OR WITNESS:

Date: _____

City of Fayetteville, Arkansas,
A municipal corporation

Lioneld Jordan, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

EXHIBIT "A"
PROPERTY DESCRIPTION

FOUR (4) Pages

"ATTACHED"

SIGNED FOR IDENTIFICATION:

Date: _____

Date: _____

Lioneld Jordan, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2009.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

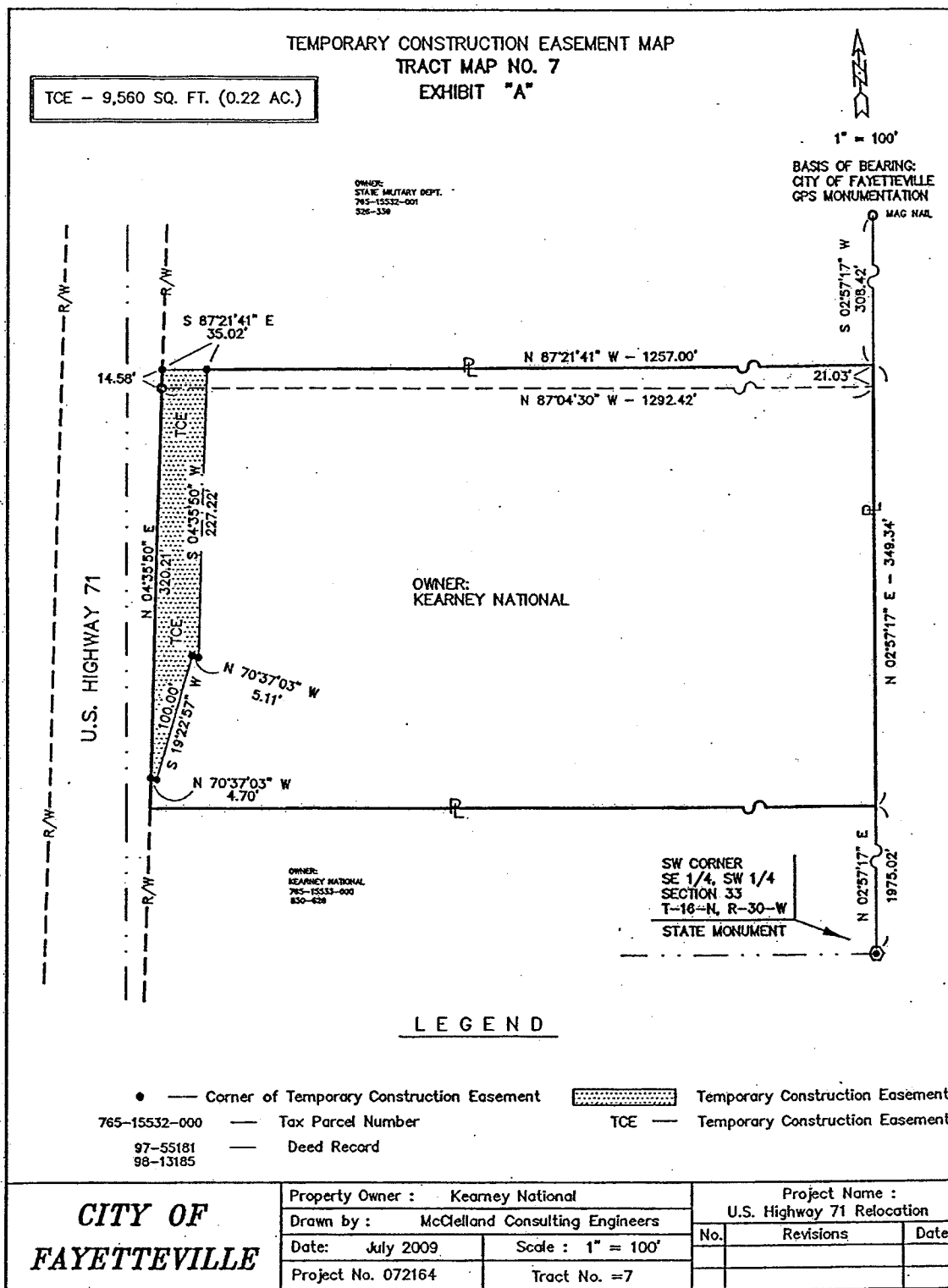
)
) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lioneld Jordan and Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipal corporation, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2009.

Notary Public

MY COMMISSION EXPIRES:



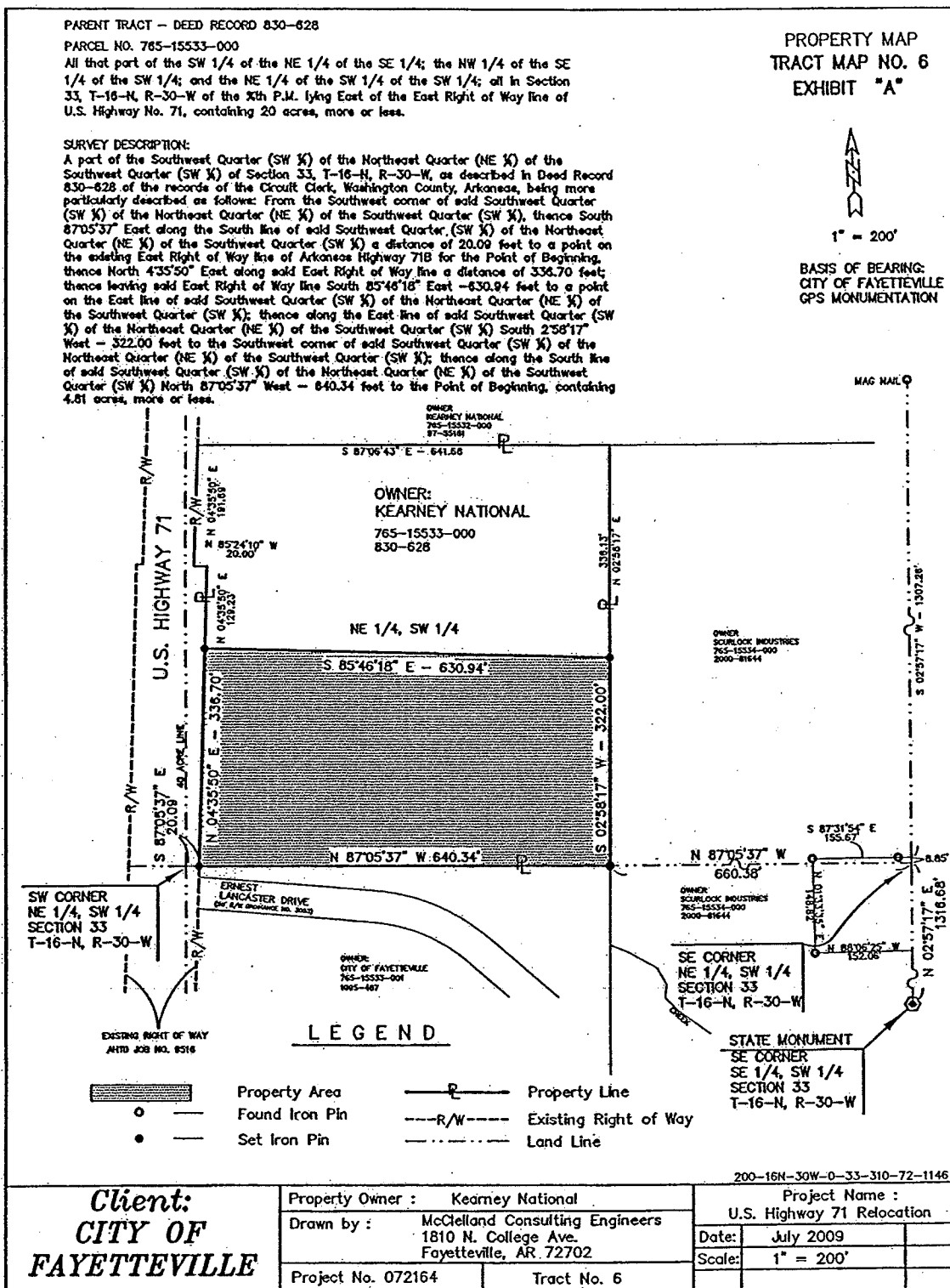
DRAKE FIELD / HWY 71B

Tract No. 6
Parcel No. 765-15533-000

PROPERTY DESCRIPTION:

(Deed Record 830-628)

A part of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) of Section 33, T-16-N, R-30-W, as described in Deed Record 830-628 of the records of the Circuit Clerk, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of said Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼), thence South 87°05'37" East along the South line of said Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) a distance of 20.09 feet to a point on the existing East Right of Way line of Arkansas Highway 71B for the Point of Beginning, thence North 4°35'50" East along said East Right of Way line a distance of 336.70 feet; thence leaving said East Right of Way line South 85°46'18" East - 630.94 feet to a point on the East line of said Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼); thence along the East line of said Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) South 2°58'17" West - 322.00 feet to the Southwest corner of said Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼); thence along the South line of said Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) North 87°05'37" West - 640.34 feet to the Point of Beginning, containing 4.81 acres, more or less.



City of Fayetteville Staff Review Form

B. 1
Amend Chapter 114.02
Farmers' Market
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

3/16/2010

City Council Meeting Date
Agenda Items Only

Julie McQuade *Julie McQuade*
Submitted By

Division

Communication & Volunteer Services
Department

Action Required:

An ordinance to amend Chapter 114.02 Farmer's Market to authorize the Fayetteville Farmer's Market to occupy the interior downtown square parking spaces on the east side of Block Street and the south side of Center Street for the first Thursday of each month, April through November, to start no earlier than 4:00 p.m. and ending at dark and the ending hour for the Farmer's Market be changed from 1:00 p.m. to 2:00 p.m. on Saturday.

\$ -
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 ☐

Julie McQuade
Department Director

Date

Previous Ordinance or Resolution #

Paul A. Beck
City Attorney

Date

Original Contract Date:

Original Contract Number:

Paul A. Beck
Finance and Internal Services Director

Date

Received in City
Clerk's Office

Julie McQuade
Chief of Staff

Date

Received in
Mayor's Office

James Jordan
Mayor

Date

Comments:

Revised January 15, 2009

Left on first reading at the 3/16/10 CC mtg.



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Julie McQuade, Community Outreach Coordinator

Date: February 24, 2010

Subject: Amendment to Chapter 114.02 Farmer's Market

PROPOSAL:

The Fayetteville Farmer's Market Board is requesting an ordinance to amend Chapter 114.02 Farmer's Market to authorize the Fayetteville Farmer's Market to occupy the interior downtown square parking spaces on the east side of Block Street and the south side of Center Street for Thursday evenings in April through November to start no earlier than 4:00 p.m. and ending at dark. They've also requested that the ending hour for the Farmer's Market be changed from 1:00 p.m. to 2:00 p.m. on Saturday.

RECOMMENDATION:

In an effort to increase evening activity in the downtown area and customer traffic for the downtown merchants, City staff recommend approval of an ordinance to amend Chapter 114.02 Farmer's Market to authorize the Fayetteville Farmer's Market to occupy the interior downtown square parking spaces on the east side of Block Street and the south side of Center Street (Exhibit 1) for the first Thursday of each month, April through November, to start no earlier than 4:00 p.m. and ending at dark.

Staff does not recommend that the amendment include every Thursday during the evening hours for Farmer's Market but feels that the first Thursday of each month would be acceptable because of the First Thursday Fayetteville event held in the downtown area that evening.

Staff recommends that the ending hour for the Farmer's Market be changed from 1:00 p.m. to 2:00 p.m. on Saturday.

BUDGET IMPACT:

There is no budget impact.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §114.02 **FARMERS' MARKET** BY
ALLOWING AN EXTRA HOUR OF OPERATION (UNTIL 2:00 P.M.)
ON SATURDAYS AND TO ALLOW OPERATION FROM 4:00 P.M.
UNTIL DARK DURING FIRST THURSDAY EVENTS

**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 amends
§114.02 **Farmers' Market** (B) *Days and hours* by repealing (B) and enacting a replacement
(B) *Days and hours* as shown below:

“(B) *Days and hours.* The Farmers' Market may be open and operating
Tuesdays and Thursdays from 6:00 a.m. until 1:00 p.m. and on Saturdays
from 6:00 a.m. until 2:00 p.m. from April until Thanksgiving. During
First Thursday Fayetteville events, Farmers' Market shall be allowed to
be open and operating from 4:00 p.m. until dark within the interior
downtown parking spaces of Center and Block Avenue around the Square.”

PASSED and APPROVED this 16th day of March, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 114: FOOD SALES

114.01 Drive-In Restaurants

(A) A drive-in restaurant, within the meaning of this chapter, shall be deemed to be any restaurant where meals, sandwiches, ice cream, or other food, is served directly to or is permitted to be consumed by patrons in automobiles, motorcycles, or other vehicles parked on the premises.

(B) Prohibited Acts.

- (1) It shall be unlawful for any person, while on or adjacent to the premises of a drive-in restaurant, to race the motor of any car, to suddenly start or stop any car, or to make or cause to be made, any other loud or unseemly noise.
- (2) It shall also be unlawful for any other person parked on the premises of such restaurant, to blow or cause to be blown any automobile horn or motorcycle horn at any time while so parked.
- (3) It shall be unlawful for any patron or other person on the premises of a drive-in restaurant, whether in or out of an automobile, to drink any intoxicating beverage of any nature.
- (4) It shall be unlawful for a group of three or more persons to congregate and linger at any location on the premises of a drive-in restaurant. Persons so congregating and lingering shall be deemed guilty of loitering. No person shall drive a motor vehicle on to the premises of a drive-in restaurant and then from said premises without parking such motor vehicle, unless there is no unoccupied parking space available on said premises.
- (5) It shall be unlawful for any person to leave any unoccupied motor vehicle on any drive-in restaurant parking lot and to leave the premises thereof, except with the knowledge and consent of the operator of the restaurant.

(Code 1965, §§7A-1, 7A-3, 7A-4; Ord. No. 1706, 10-6-69; Code 1991, §114.01)

Cross reference(s)--Penalty, §114.99(A).

114.02 Farmer's Market

(A) *Establishment, location, and parking restrictions.* A farmer's market is hereby established in the city.

This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the downtown square and on the sidewalks adjoining these parking spaces. In addition, on Saturday's only, parking spaces on the east side of the East Street on the downtown square shall be available for vendors by closing the street to through traffic. Vendors shall be permitted to park their vehicles at right angles to street curbs provided, no vehicle shall be permitted to extend into the street in such a manner as to obstruct the free flow of traffic; and no vehicle shall be parked within 15 feet of any fire plug. No vendor shall obstruct pedestrian traffic on the public sidewalks of the marketplace.

- (B) *Days and hours.* The marketplace established hereby may be opened on Tuesdays, Thursdays, and Saturdays, but shall not be open on any other day. This marketplace shall open no earlier than 6:00 a.m. and shall close no later than 1:00 p.m.
- (C) *Articles permitted to be sold.* The following articles may be sold at the marketplace established hereby: vegetables, honey, raw juices, molasses, fruit, and other produce grown by the vendor thereof, plants, art work, craft work, and other processed farm products produced by the vendor thereof. All products sold at the marketplace must be produced in compliance with all applicable regulations of the State Department of Health.
- (D) *Sanitation.* At the close of each market day, each vendor shall be required to leave the marketplace in a clean and sanitary condition, free from debris and insects.
- (E) *Fee.* The fee to be paid by each vendor for the use of the marketplace shall be \$5.00 per year plus ten percent of gross proceeds realized by the vendor from sales at the marketplace.
- (F) *Use of public streets for business prohibited; exception.* It shall be unlawful for any person to use any public street, public parking place, or public sidewalk, as a place of business except as authorized by this section; provided, any merchant whose building is adjacent to a public sidewalk may conduct business thereon if pedestrian traffic is not obstructed thereby; provided further, the City Council may approve temporary use of a public street, place, or sidewalk as a marketplace where such use is part of an event, activity, or celebration of general public interest. The City Council may impose reasonable conditions on such use as are necessary to safeguard the public health, safety,

CD114:3

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

(2) Violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(B) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

(Ord. No. 3931, §12, 10-3-95; Ord. No. 4396, Ex. A, 5-21-02)

117.91 A.D.A. Compliance

Holder shall comply with all applicable provisions of the Americans with Disabilities Act.

(Ord. No. 3931, §13, 10-3-95; Ord. No. 4396, Ex. A, 5-21-02; Code 1991, §117.91)

117.92 Authority To Summon Veterinarian

The police department is hereby authorized to immediately summon the City Veterinarian (or other licensed veterinarian as available) if at any time an officer reasonably believes a horse, pony, camel or dromedary is ill, overtired, undernourished, overloaded, injured, or lame or whose health or life may otherwise be in imminent danger.

(Ord. No. 3931, §14, 10-3-95; Ord. No. 4396, Ex. A, 5-21-02; Code 1991, §117.92; Ord. 4939, 10-17-06)

**ARTICLE VIII
LIGHTS OF THE OZARKS**

117.93 Lights Of The Ozarks

(A) *Establishment, location and parking restrictions.* The Lights of the Ozarks celebration is hereby established in the city as an annual celebration beginning after the end of Farmers' Market (around Thanksgiving) and running through January 1 of the next year. This event shall be located on those interior parking spaces (adjoining the old post office) of the downtown square and on the sidewalks adjoining those parking spaces as well as those portions of the Town Center Plaza needed for this event's success. The block of East Avenue between Mountain Street and Center Street may be restricted to horse-drawn carriages, pony rides, or other event vendors. No vendor shall obstruct pedestrian traffic on public sidewalks nor shall more parking spaces be utilized for vendors than absolutely necessary. The Fayetteville Advertising and Promotion Commission and Fayetteville Town Center staff are empowered to manage and administer all vendors operating on the Fayetteville Square during Lights of the Ozarks.

(B) *Hours of operations.* Vendors for the Lights of the

Ozarks shall be managed by the Fayetteville Town Center staff such that active operation of pony rides, carriage rides, etc. shall not commence, nor shall East Street be impeded from normal traffic prior to 6:00 P.M. nor obstructed later than midnight except for New Years when such use will be extended one hour until 1:00 a.m. on New Year's Day.

(C) *Sanitation.* At the close of each Lights of the Ozarks business evening, each vendor must ensure that the area in which the vendor was located or operating is completely clean, sanitary and free of trash, debris, manure, etc. Failure to properly clean up shall be grounds to revoke that vendor's license or permission to operate during Lights of the Ozarks.

(D) *Vendors and licenses.* Any vendors operating within the area of the Lights of the Ozarks shall have all proper, necessary and valid licenses applicable to the vendor's business and keep all such licenses available for inspection and in good standing while operating during Lights of the Ozarks. Any event or other reasonable fee charged by the Town Center Staff or the City of Fayetteville to defray costs to manage Lights of the Ozarks must be paid or the vendor shall be prohibited from operating in this event.

(E) *Sidewalk vendors.* Sidewalk vendors must comply with §178.03 of the Unified Development Code and obtain proper permits from the Zoning and Development Administrator as well as the Fayetteville Town Center staff (which shall constitute compliance with §178.03(E)(2)).

(Ord. 5286, 11-17-09)

117.94-117.97 Reserved

117.98 Prohibited Activity

No person or company shall provide or offer to provide motor vehicle rides to passengers if such service resembles a taxicab or limousine service unless the person and company have fully complied with Article IV **Taxicabs** or Article V **Limousine Service**. It shall not be a defense under this section if rides are offered to passengers for tips or gratuities only.

(Ord. No. 4623, 10-05-04)

117.99 Penalty

(A) Violation of any provision of this chapter for which another penalty is not already otherwise provided, shall subject the person in violation to the penalty provisions of §10.99.

To: Fayetteville City Council

From: R.M.P.E. Board of Directors

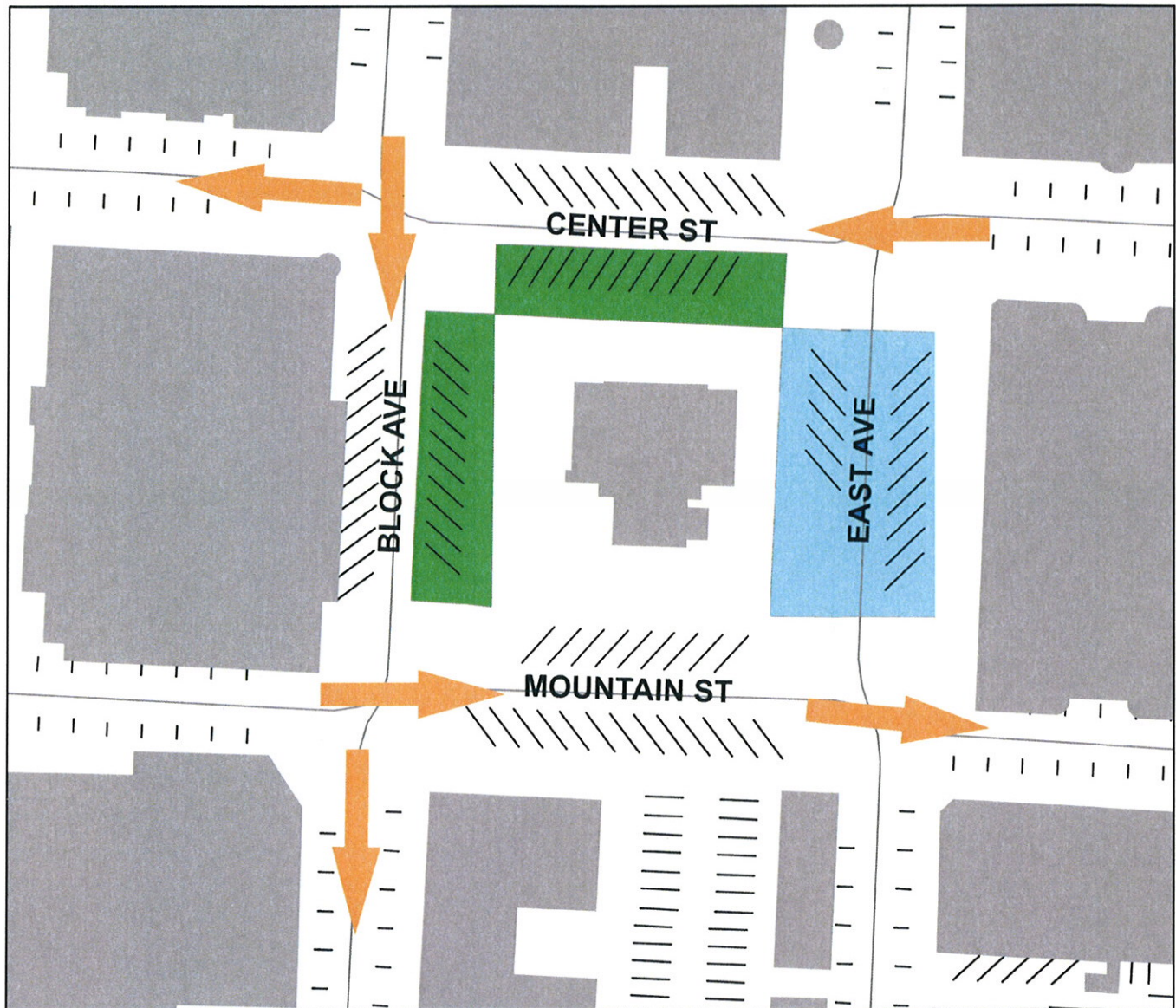
Subject: City Ordinance Change

Date: February 25, 2010

The Board requests permission to use the south side of Center Street and the east side of Block Avenue on the downtown square from 4:00 PM till dark on Thursdays, April through November.

The Board also requests permission to keep the market open on Saturday through out the season till 2:00 PM.

Exhibit 1



Proposed Farmer's Market area

Proposed First Thursday area

City of Fayetteville Staff Review Form

C. 1
Amend Police Department Policies
Page 1 of 32

City Council Agenda Items and Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Staff seeks council approval of a resolution to amend Fayetteville Police Department Policies: 12.2.1, Policies Procedures & Rules Development and Review; 22.3, Secondary Employment; 52.1.1, Office of Professional Standards; 61.2, Collision Investigation; 71.1.1, Detainee Transport.

\$0

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

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



Kim G

Chief of Staff

Date

Received in
Mayor's Office



Mayor

Date

Comments:

To: Mayor Lioneld Jordan and City Council

From: Greg Tabor, Chief of Police 

Date: Thursday, 03/18/2010

Re: Police Department Policy Amendments

Recommendation:

Council approves a resolution amending Fayetteville Police Department Policies: 12.2.1, Policies, Procedures & Rules Development and Review; 22.3, Secondary Employment; 52.1.1, Office of Professional Standards; 61.2, Collision Investigation and 71.1.1, Detainee Transport

Background and Discussion:

The current Fayetteville Police Department Policies were approved by council resolution #3-99 on January 5th, 1999. The department is currently in the process of reviewing all policies and updating as necessary to conform to current practices and to comply with accreditation standards.

Budget Impact:

None

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENTS TO FAYETTEVILLE POLICE DEPARTMENT POLICIES 12.2.1, POLICIES PROCEDURES & RULES DEVELOPMENT AND REVIEW; 22.3, SECONDARY EMPLOYMENT; 52.1.1, OFFICE OF PROFESSIONAL STANDARDS; 61.2 COLLISION INVESTIGATION AND 71.1.1, DETAINEE TRANSPORT

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 amendments to Fayetteville Police Department Policies 12.2.1, Policies Procedures & Rules Development and Review; 22.3, Secondary Employment; 52.1.1, Office of Professional Standards; 61.2 Collision Investigation and 71.1.1, Detainee Transport. A copy of the amended Policies, marked Exhibit "A" are attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

POLICIES, PROCEDURES, AND RULES

Effective Date January 6, 1999		Number 12.2.1
Subject POLICIES, PROCEDURES, & RULES DEVELOPMENT & REVIEW PROCEDURES		
Reference		Special Instructions
Distribution All Personnel	Reevaluation Date 1-Year	No. Pages -2-

I. PURPOSE

The purpose of this directive is to establish procedures for development of new or revised department policies, procedures, and rules. Departmental "General Orders" will also be covered in this policy.

II. POLICY

A. It shall be the policy of the Fayetteville Police Department that its members receive written communications in an orderly manner so that accurate information flows smoothly throughout the organization. For the purpose of clarification:

1. A "Policy, Procedure, & Rule" is a written directive concerning policies, procedures, and rules for department personnel which must be approved by the governing body of the municipality (by resolution of the City-Council). (Arkansas Code Annotated 14-51-302).

2. A "General Order" is a written statement defining in more specific terms the procedures for day-to-day operation of the department. General Orders are approved and issued by the Chief of Police as necessary for maintaining an efficient operation. General Orders are intended to greatly benefit an officer by giving

(12.2.1) Page 1



more specific details for a particular subject but maintaining the spirit of the more formal Policies, Procedures, & Rules which require approval of City Council.

B. The following method will be used for review of newly proposed or revised policies, procedures and rules.

1. All officers shall have the opportunity to review new or updated policies, procedures, and rules prior to approval by the City Council.

2. It shall be standard practice for new or revised policies, procedures, and rules to be reviewed by the following entities prior to approval by the City Council:

a. Mayor

b. City Legal Staff

Comment: Deleted "c" Civil Service Commission

C. The physical format of policies, procedures, and rules documents shall all follow a like format and general appearance. The words "POLICIES, PROCEDURES, AND RULES" shall appear at the top of each first page. The format heading will also include designated boxes for the following:

Effective date

Number

Subject

Reference

Special Instructions

Distribution

Reevaluation Date

No. Pages (Number of pages)

D. The physical format of all General Orders shall all follow a like format and general appearance. The words "GENERAL ORDER #" shall appear at the top of each first page. The format heading will also reserve space for the following information:

Subject

Cross-Reference

Date Approved by Chief

Name and signature of the Chief of Police

POLICIES, PROCEDURES, AND RULES

Effective Date		Number 22.3
Subject Secondary Employment		
Reference Calea 22.3.3, 22.3.4	Special Instructions To Replace G.O. #16	
Distribution	Reevaluation Date	No. Pages -4-

I. Purpose

To establish guidelines for secondary employment by members of the Fayetteville Police Department.

Comment: New Policy to replace General Order # 16. Policy draft complies with CALEA standard

II. Policy

It is the policy of the Fayetteville Police Department to allow agency personnel to engage in approved secondary employment opportunities within the guidelines of this policy. [CALEA 22.3.3]

III. Definitions

- A. Extra-Duty Employment - secondary employment wherein the actual or potential use of law enforcement powers is anticipated.
- B. Off-Duty Employment - secondary employment wherein the actual or potential use of law enforcement powers is not anticipated.

IV. Departmental Limitations

- A. Employees may not engage in employment that is a threat to the status and dignity of law enforcement as a professional occupation. Employment representing such a threat includes, but is not limited to: [CALEA 22.3.3]
 - 1. Employment at establishments that promote obscenity or pornography as defined by the Arkansas Criminal Code.

2. Any employment where the dispensing or consumption of alcoholic beverages is a regular function of the business.
 3. Any employment where gambling occurs as the main source of activity. (This does not include civic fund raising events where the proceeds are used to support legitimate charities or other nonprofit agencies).
 4. Any employment where the employer is involved in a labor or civil rights dispute.
 5. Any employment with individuals or companies of questionable business interest where there could be a decrease in trust and confidence from the public.
 6. Any employment whereby the nature of such employment would interfere with the performance of official duties, jeopardize in any manner the impartial position of the Department or create a liability concern that might involve the employee violating any procedure, ordinance or law.
 7. Any employment that might present potential conflicts of interest for employees between the Departmental duties and their duties for a secondary employer.
 8. Any employment that creates a decrease in trust and confidence from the public.
- B. To be eligible for secondary employment, employees must be in good standing with the department. The employee's history of past disciplinary actions shall be taken into consideration by the Chief of Police when determining eligibility.
- C. Employees must have completed their probationary period (one year) before being eligible to work extra-duty employment.
- D. Employees absent from duty, due to sickness, may not engage in secondary employment during the hours in which they were regularly scheduled to work.
- E. Employees on light duty status, extended sick leave (more than three consecutive days), worker's

compensation, FMLA, administrative leave or suspension are not authorized to work any extra-duty employment without the written consent of the Chief of Police.

- F. Employees will not engage in any secondary employment that might affect the objectivity and independence of their judgment or conduct in performing their official duties and responsibilities.
- G. Work hours for all secondary employment must be scheduled in a way that does not conflict nor interfere with the employee's official performance of duty. Special consideration will not be given to scheduling of the employee's duty hours to accommodate secondary employment.
- H. All employees of the Department engaged in secondary employment are subject to call out in case of emergency and will be expected to leave any other employment in such situations.
- I. Employees will not report to duty physically or mentally exhausted to the point where their performance is affected because of any secondary employment.
- J. Extra-duty employment is limited to within the corporate limits of the City of Fayetteville. Off-duty employment may be authorized outside the city limits.

V. Guidelines

- A. Employees must complete a Request for Approval of Extra Employment Outside Department Form prior to seeking secondary employment. This form must be routed through the employee's chain of command. [CALEA 22.3.4a]
- B. The Chief of Police will have final approval or disapproval authority for requests of secondary employment, and no employee shall work such employment until authorization has been obtained. [CALEA 22.3.4c]
- C. The Request for Approval of Extra Employment form shall contain the significant aspects of the secondary employment job the employee is seeking. [CALEA 22.3.4e]

- D. A copy of all approved secondary employment forms shall be routed to the Administrative Captain for filing and review for adherence of this policy. [CALEA 22.3.4d]
- E. Once on-going secondary employment has been approved, the employee must resubmit a "new" request for approval form at the beginning of each year.
- F. Once granted, approval for secondary employment can be revoked or annual renewal denied when, in the judgment of the employee's chain of command, the secondary employment becomes incompatible with departmental employment or adversely affects the employee's job performance or efficiency. [CALEA 22.3.4c]

VI. Accountability

- A. All employees engaged in extra-duty employment, uniformed or plain clothes, shall abide by the Policies, Procedures and Rules of the Fayetteville Police Department. [CALEA 22.3.4b]
- B. Officers wearing his/her uniform off-duty are a representative of the Department. As such, the member shall avoid non-police related job duties that would tend to detract from the professional image of the Fayetteville Police Department. Officers must conduct themselves at all times in a manner consistent with public respect for the uniform of the Department. [CALEA 22.3.4b]
- C. Arrests made while engaging in secondary employment, will be turned over to the on-duty patrol shift for transport. The extra-duty or off-duty officer shall complete all necessary and required reports detailing the facts of the case.
- D. All sworn personnel working secondary employment are required to take enforcement action, within the jurisdiction of the Department, in an emergency. Under no circumstances shall an officer refuse a request due to being "off-duty". [CALEA 22.3.4b]

POLICIES, PROCEDURES, AND RULES

Effective Date January 6, 1999		Number 52.1.1
Subject OFFICE OF PROFESSIONAL STANDARDS (OPS)		
Reference CALEA Chapter 52		Special Instructions
Distribution All Personnel	Reevaluation Date 1 Year	No. Pages -9-

I. PURPOSE

To create and maintain an environment conducive to efficient reception and resolution of complaints against police department personnel or general procedures used by the department.

To establish written procedures for the administration and operation of internal investigations.

Such procedures will promote positive discipline and provide for the prompt and thorough investigation of alleged or suspected misconduct of department personnel.

II. DISCUSSION

A police department is often evaluated and judged by the conduct of individual members. While the public has a right to expect efficient, fair, and impartial law enforcement, employees must be protected against false allegations of misconduct.

The Office of Professional Standards will be charged with the responsibility of following department operational procedures in processing, investigating, and recording complaints against the department or its employees. [Calea 52.1.1]

III. ORGANIZATION

The Office of Professional Standards will serve to assist all personnel in regard to investigations of alleged misconduct of sworn or civilian employees.

The Chief will select all personnel of the Office of Professional Standards and designate a head of OPS. The designated head of OPS has the authority to report directly to the Chief. The designated head of OPS will maintain a record of all complaints against the department or employees in a secure area. OPS assigned personnel will be provided training at the discretion of the head of OPS and Chief of Police. [Calea 52.1.3]

OPS assigned personnel will report directly to the Chief of Police or a designated supervisor on OPS matters and will pursue their responsibilities under the direction of the Chief of Police.

If investigations discover personnel who are engaging in serious acts of misconduct, or who have demonstrated they are unfit for law enforcement, information pertaining to the investigation will be reported directly to the Chief of Police by the head of the OPS.

IV. POLICIES

A. Officers selected for assignment to OPS must have demonstrated in their previous performance a high degree of investigative skills. The officer should have a personnel record clean of serious complaints. The officer should be familiar with state codes, and department policies and procedures related to internal affairs.

B. Receipt of Complaints

1. Nothing in this policy shall prohibit any citizen from exercising any additional rights or procedures outlined in Fayetteville Civil Service Commission Rules 5:09 and 5:10.

- a. All complaints against the employees or department are to be initially directed to any supervisor on duty. [Calea 52.1.1]
- (1) Exceptions - Complaints will not be received and/or logged concerning summons issued or arrests made which have not been adjudicated in a court of law unless the complainant alleges misconduct or illegal activity by the officer. The simple dislike of a charge or feeling of innocence does not, by itself, justify the formal filing of a complaint against any officer performing his duties.
- (2) Exceptions - Citizen complaints involving employee performance and/or misconduct will not be accepted more than 60 days after the alleged incident with the following exceptions:
 - a. Alleged criminal violations.
 - b. Complainant can show good cause for not making the complaint earlier.
 - c. On directions of the Chief of Police based on findings of a preliminary investigation.
- 2. Upon receipt of a complaint, the supervisor shall provide the complaining party a "Fayetteville Police Department OPS Complaint Form."
 - a. Supervisors may encourage phone complainants to come to the police station to complete the complaint form but must understand it is not mandatory for the complainant to do so.
 - b. In the event a complainant refuses to come to the police department, the supervisor should take the information and complete the form him or herself. The supervisor should so note the complainant's refusal.
 - c. Supervisors are not prohibited from going to a complainant's location to complete the OPS Complaint Form. Supervisors may send the OPS

Comment: Section added

- d. Complaint/compliment forms may be accessed online through the City of Fayetteville website.
3. Complaint forms will also be completed on anonymous complaints and forwarded to the Chief of Police. [Calea 52.1.1]
 - a. Discipline shall not be taken against any officer solely on the basis of an anonymous complaint. Before any discipline occurs, a case would have to be substantiated through investigation.
4. Supervisors will explain to the complainant the process of completing the OPS Complaint Form.
 - a. Upon request, complainants who have completed an OPS Complaint Form are entitled to a photocopy of the completed complaint form at no charge.
5. Supervisors shall enclose completed complaint forms in a sealed envelope and clearly mark the envelope with the wording "CHIEF OF POLICE - COMPLAINT ENCLOSED". The envelope should either be delivered to the Chief of Police or to his office as soon as possible. [Calea 52.2.2]
6. After review of the complaint by the Chief of Police, the complaint will be assigned for further investigation by a line supervisor or an OPS investigator. Complaints that are deemed of a minor nature may be remanded to a line supervisor for further action. Criteria for assignment of such complaints may include alleged rudeness, tardiness, minor incidents or improper procedure. Complaints that are deemed to be of a more serious nature will be forwarded to the head of OPS for logging and assignment for investigation. [Calea 52.2.1]

Comment: Language added

- a. Investigation will be completed within 21 days, unless the head of OPS authorizes an extension. [Calea 52.2.3]
 - b. Investigations should be adjudicated within 10 days of the final disposition.
7. The Chief of Police, at his discretion, may place an officer on paid administrative leave from duty pending the results of an internal investigation. [Calea 52.2.7]
 8. Supervisors will avoid exposing the content or subject of a completed complaint form to anyone until the matter is resolved or directed by the Chief of Police to discuss the matter.
 9. Should a complainant not wish to file a formal complaint or the potential violation is of a non-serious nature, a supervisor may be assigned to investigate and handle the complaint. These incidents shall be referred to as **RESOLVED COMPLAINTS**. Once the complaint has been resolved the supervisor will provide a typed summary to the head of OPS for review and filing.
 10. Complainants will be notified as to the verification of receipt of the complaint, status of a complaint and results of any investigation upon conclusion. [Calea 52.2.4]

C. Records Security and Storage

1. All records pertaining to an internal investigation will be kept and stored in a locking file accessible only to the Chief of Police and the head of OPS. [Calea 52.1.2]
2. OPS investigative files shall be maintained according to the below schedule unless ordered by a court of competent jurisdiction to purge a particular file(s). [Calea 52.1.2]

Minimum Records Retention and Disposition Schedule

RECORD	RETENTION	FINAL DISPOSITION
--------	-----------	-------------------

Officer involved Use of Deadly Force Incidents	Permanent Retention	Permanent Retention
Investigations resulting in sustained formal discipline (administrative level)	15 Years	Records Purged
Investigations resulting in sustained informal discipline (supervisory level)	5 Years, provided a 1 year infraction-free period precedes the dates of purge	Records Purged
Investigations whose findings are not sustained, unfounded or exonerated	3 Years	Records Purged
Complaints that do not lead to a formal investigation	3 Years from the date that determination is made not to initiate investigation	Records Purged

Comment: Records Retention
Schedule has been added

D. Investigations

1. Allegations of misconduct will be investigated toward a conclusion of fact. Facts and evidence gathered during an investigation will be maintained by the investigator and ultimately turned over to the head of OPS and Chief of Police for final analysis. [Calea 52.2.8]
2. When an officer is the subject of a criminal investigation or has been charged with a criminal offense, the department may suspend any related administrative investigation until the criminal matter has been resolved.
3. Whenever related criminal and administrative investigations are being conducted simultaneously, no statements made by the officer in the administrative investigation shall be provided to those conducting the

criminal investigation. No police personnel having knowledge of such statements shall participate in the criminal investigation.

4. Employees being required to submit a report or be interviewed in regard to a complaint will receive an OPS Investigation Warning Form, be advised of the nature of the complaint and allowed to read the complaint form. [Calea 52.2.5]
 - a. The OPS Investigation Warning Form will advise the officer he is part of an official investigation, advise of certain rights associated with self-incrimination, and possible departmental charges for refusing to cooperate.
5. Before an interview is conducted and excluding a conflict of interest, the officer may have a representative of his choosing present. [Calea 52.2.5]
 - a. Interview sessions shall be for reasonable periods and shall allow for such personal necessities and rest periods as are reasonably required.
 - b. Interview sessions shall be conducted while the officer is on-duty whenever practical.
 - c. If an officer is required to submit to an interview during off duty time, the officer shall be compensated in accordance with normal department procedures used for compensation of extra hours.
6. Officers may be compelled to answer questions related to their duties or fitness for duty. (Garritty v. New Jersey, 385 USC 493)
 - a. When an officer refuses to answer questions posed in an administrative investigation on the grounds or fear of criminal self-incrimination, the officer may be ordered to answer such questions, and shall be informed none of the information provided can or will

be used against him in any subsequent criminal prosecution.

- b. The officer is subject to possible disciplinary action for refusal to answer questions. The officer may be given a direct order to cooperate with the investigation. Failure to obey a direct order may result in the officer being placed on administrative leave and subject to further disciplinary action. [Calea 52.2.7]
- c. Officers may be compelled to undergo an examination for the detection of deception. The results of such testing shall not be usable in any subsequent criminal investigation but may be used to determine dispositions of administrative matters. [Calea 52.2.6 e.]
- d. Officers may not refuse to submit to other non-testimonial administrative examination (drug screening by urinalysis or blood test, medical examinations, line up, photographs, financial statements when they are material to the investigation, etc). [Calea 52.2.6 a., b., c., & d]
- e. Departmental property or personal property authorized for use by the department in connection with official police duties may be inspected at any time. An officer's personal property shall be afforded the same protection as that of any other citizen and, in criminal cases, the accused officer's constitutional rights will be protected.
- f. Refusal to submit to such examinations or non-testimonial examinations where required may be grounds for dismissal. [Calea 52.2.7]

Comment: Language added

- 7. Employees are strictly prohibited from interfering with, or discussing an ongoing investigation.

E. Dispositions

1. Dispositions will be decided according to the following categories:

- a. Unfounded

When the investigation clearly indicates the act complained of did not occur.

- b. Exonerated

When the investigation clearly indicates the act occurred, but the act was justified, lawful, and proper.

- c. Not Sustained

When the investigation discloses insufficient evidence to prove or disprove the allegation made in the complaint.

- d. Sustained

When the investigation discloses the act did occur and constitutes misconduct

2. Only case dispositions, which have a finding of "Sustained", shall be filed in the employee's personnel file.
3. The Chief of Police will be notified, in writing, of the final disposition of any complaint within 10 days of the conclusion of an investigation.
4. The Chief of Police will determine disciplinary measures for investigations of allegations of misconduct resulting in a disposition of "sustained". Consideration in disciplinary measure should be given to ensure public confidence in the agency, to protect future liability and to deter future misconduct.
5. Officers will be notified, in writing, of the final disposition of any complaint within 14 days of the conclusion of an investigation. Whenever an officer is dismissed, demoted or suspended according to policies and procedures, he may grieve such action through civil service provision.

6. Complainants will be notified, in writing, of the disposition of a complaint within 14 days of resolution of a complaint. [Calea 52.2.4]
7. At the conclusion of every fiscal year, the head of OPS will create an annual statistical summary based on the records of all OPS investigations. This annual report will be made available for review to interested persons. [Calea 52.1.5]

Comment: Language added to satisfy CALEA standard

POLICIES, PROCEDURES, AND RULES

Effective Date		Number 61.2	
Subject Collision Investigation and Reporting			
Reference Calea Chapter 61.2		Special Instructions To Replace G.O. #4	
Distribution All Personnel	Reevaluation Date 1 Year		No. Pages -4-

I. Purpose

- A. The purpose of this policy is to provide guidelines in the response and investigation of motor vehicle collisions. This policy shall apply to all members of the Fayetteville Police Department.

Comment: FPD previously had no formal policy on collision investigation other than general order #4. This policy would replace general order #4 and also complies with CALEA standard.

II. Policy

- A. Officers, using techniques to properly complete the investigation and report, will investigate traffic collisions occurring within the jurisdiction of the Fayetteville Police Department. Officers should conduct thorough, on-scene investigations whenever possible, of traffic collisions involving [Calea 61.2.1, 61.2.2]:

1. Death or Physical Injury;
2. Property Damage to the extent of more than \$1000 damage or when either party requests a report;
3. Hit and Run;
4. Traffic collisions involving impairment due to alcohol or drugs;
5. Hazardous Materials;
6. Disturbances between the parties involved;
7. Damage to public vehicles or property;
8. Major traffic congestion as a result of the collision;
9. Damage to vehicles to the extent towing is required.

- B. In most incidents, traffic collisions occurring on private property will not be investigated. Private property collision report forms will be made available in such cases. The following are incidents in which a report will be completed involving private property traffic collisions[Calea 61.2.1]:

1. Private property traffic collisions involving personal injury or impairment due to alcohol or drugs.
2. Private property hit and run traffic collisions in which viable suspect information is available.
3. Private property collisions involving substantial damage.
4. Private property traffic collisions involving city owned vehicles.
5. At the discretion of a supervisor.

The private property collision report form will be utilized to document such incidents.

- C. Whenever a Fayetteville Police Department vehicle is involved in a collision, the following shall occur:

1. Central Dispatch and a supervisor shall be notified immediately;
2. A supervisor will investigate the collision;
3. The supervisor may assign a collision reconstructionist to assist on collisions involving fatality, serious injury or are complex in nature.
4. The collision will be investigated by the appropriate agency if occurring outside the jurisdiction of the department, however, a supervisor, when possible, will respond to the scene;
5. The supervisor will submit a memorandum to the Patrol Captain detailing the collision.

III. Procedure

- A. Officers will respond as soon as practical to the scene of a collision. In less serious traffic collisions, officer response time will be influenced by the availability of officers. One or more officers will respond to traffic collisions of a serious or complex nature to investigate the collision, record short-lived evidence and restore the normal flow of traffic.

B. Officer responsibilities at the collision scene [Calea 61.2.3]:

1. The primary officer assigned to the call is in charge of the scene of a collision and subsequent investigation. This determination can be made by assignment from Central Dispatch, appointment by a supervisor or by collaboration of officers at the scene.
2. Protect the collision scene and any physical evidence;
3. Identify injured persons and provide emergency medical care, to the extent possible, until emergency medical personnel can respond;
4. Identify and deal with fire hazards and/or hazardous material until fire department personnel can respond;
5. Establish traffic control;
6. Identify drivers involved in the collision, as well as witnesses, and obtain statements to be included in the report;
7. Record collision information to include the possibility of taking measurements and photographs;
8. Exchange information among drivers;
9. Collect and preserve evidence;
10. Expedite the removal of vehicles, persons and debris from the collision scene; and
11. Ensure for the control of property belonging to victims.

C. Traffic collisions involving death, serious physical injury or are complex in nature may be investigated by a departmental collision reconstructionist. A collision reconstructionist will be available to the Patrol Division twenty-four (24) hours a day. The supervisor will assign a collision reconstructionist in such events. The primary officer assigned to the original call will protect the collision scene and provide assistance as needed to the collision reconstructionist. The collision reconstructionist is responsible for the completion of all aspects of the collision investigation.

1. In collisions involving death or there is reason to believe death may result, the investigating officer shall cause blood to be drawn by qualified medical personnel for analysis for alcohol and/or narcotics.
2. In collisions involving other injury whereby the driver is taken to a medical facility and where

probable cause exists to believe the driver might have been impaired due to alcohol and/or narcotics, the investigation officer shall cause blood to be drawn by qualified medical personnel for analysis.

D. All traffic collisions occurring on public roadways will be documented on the prescribed state approved collision form and completed utilizing the preferred departmental reporting system.

E. In the event a collision is reported after the vehicles have been moved from the scene:

1. A delayed collision report may be made available to the parties involved if there is property damage to the extent less than \$1000 and no death, physical injury or impairment due to alcohol or drugs is involved. A supervisor will review delayed collision reports for completeness or to assign follow up investigation as deemed necessary.
2. If any of the conditions listed above do exist, an officer must complete a collision report on the state prescribed report form utilizing the preferred departmental reporting system. The officer should note the fact the collision was reported on a delayed basis especially when the delay affects the determination of cause.

F. The nature of some traffic collisions may necessitate a follow-up investigation to obtain information that cannot be obtained at the collision scene. Follow-up investigation might include, but is not limited to [Calea 61.2.4]:

1. Collecting off scene data such as additional information about the driver, pedestrians, vehicles etc.;
2. Obtaining/recording formal statements;
3. Reconstruction of the collision scene;
4. Processing reports to obtain criminal charges, if necessary; and
5. Court preparation.

POLICIES, PROCEDURES, AND RULES

		Effective Date	Number 71.1.1
Subject DETAINEE TRANSPORTATION			
Reference Calea Chapter 70, FPD 42.1.13		Special Instructions	
Distribution All Personnel	Reevaluation Date 1-Year		No. Pages -7-

I. PURPOSE

The purpose of this directive is to establish Fayetteville Police Department policy for detainee transportation ensuring safety and security for detainees, transporting officers, and the general public.

II. DISCUSSION

Transportation of detainees in custody is a constant requirement and a frequent activity. There are two general time periods involved. The first is immediately after arrest when the person is taken to the police department for processing and holding. The second concerns the movement of detainees from the police department to court, another detention facility, medical facility, or for other reasons.

III. POLICY

A. TRANSPORT OPERATIONS

The transporting officer is legally responsible for the safety and custody of the detainee being transported. Therefore, the detainee shall be seat belted in prior to transport by the officer unless the detainee is violent (Refer to 41.2.13 for exceptions). Transportation of persons in custody will always be performed with

the safety and well being of the officer and detainee being of primary importance at all times.

1. Search of Detainee(s)

a. All persons in custody will be searched prior to being placed in a police vehicle. [Calea 70.1.1]

b. It must be assumed the detainee(s) may have had an opportunity to obtain contraband or a weapon prior to the time he or she is accepted for transport by the officer. [Calea 70.1.1]

c. Detainees should be searched each time they come into the transporting officer's custody. [Calea 70.1.1]

d. Officers shall inspect their assigned vehicle at the beginning of each shift to ensure the vehicle is safe and properly equipped. The officer shall complete a vehicle inspection form at this time. [Calea 70.1.2]

e. Each time a detainee has been transported, the transport vehicle shall be examined to ensure no contraband or weapons are present. [Calea 70.1.2]

2. Location of Officer and Detainee during Transportation

a. Vehicles used primarily for transporting detainees must have a safety barrier in order for the driver to be separated from the detainee. [Calea 70.4.1]

b. Vehicles used primarily for transporting detainees must be equipped with modified rear compartments that prohibit the detainee stored in rear from either opening the doors or windows on both sides of the vehicle. [Calea 70.4.2]

c. In police vehicles equipped with safety partitions the detainee should be placed in the rear seat of the vehicle.

d. If possible, no more than three detainees will be transported in a standard police vehicle.

e. Only one detainee can be transported in a vehicle without a safety barrier. In such circumstances, two officers must accompany the detainee. The officer not driving will be seated in the rear

drivers-side position and the detainee will be handcuffed and seated in the rear passenger-side position. [Calea 70.1.3]

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Amend Police Department Policies
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Section/language
amended to comply with CALEA
standards

f. All detainees shall be handcuffed or otherwise restrained during transport.

(1) When handcuffs are used, they shall be applied with detainee's hands behind back. If, however, the detainee has special needs due to a pre-existing injury, disability or has limited mobility, the officer can choose to handcuff in front or utilize a waist chain.

Comment: Language Amended from old policy. Specific techniques of cuffing procedures will be covered via formal training.

(2) Care should be exercised in applying handcuffs to avoid unnecessary injury to the detainee.

(3) Under no circumstances will detainees be handcuffed to any part of the vehicle.

(4) Leg straps shall be used, when possible, on unruly detainees who are apt to cause damage to the unit or injure themselves.

(5) Detainees transported due to special circumstances may require special restraints such as waist chains and/or leg chains. Detainees wearing waist chains shall be restrained with their hands placed in front. [Calea 70.2.1]

(6) In securing and/or restraining a detainee, officers will not place the detainee in a position on his/her chest/stomach or side area that may lead to "positional asphyxia". [Calea 70.2.1]

Comment: Language added to comply with CALEA Standard

(7) Officers are encouraged to reevaluate the need for restraining devices on detainees who may possibly present a lesser threat to the officer's safety (physically handicapped, senior citizen etc.). In all cases, the circumstances of the arrest, the arrestee's demeanor, as well as the public's perception of the police activity must become part of the evaluation as to the need for extra or special restraining devices.

3. Maintaining Sight of Detainee

The transporting officer shall not lose sight of, or leave unattended, a detainee until the detainee is released or under the control of other personnel. Officers shall activate the in-car mobile video recorder while transporting detainees. Reference may be made to Fayetteville Police Department Policy 83.2.3 (Digital Mobile Video Recordings).

Comment: Language added to coincide with other PD Policy

4. Safe Delivery of Detainee

a. The primary duty of the transporting officer is the safe delivery of the detainee in custody. General principles of tort law impose a duty of care on the transporting officer to protect the detainee from injury.

b. A transporting officer should be aware of diversionary incidents and should not deviate from his/her primary responsibility of delivering the detainee except: [Calea 70.1.4]

(1) In a life-threatening situation when the risk to a third party is clear and grave if immediate aid is not rendered; and

(2) The risk to the detainee is minimal.

(3) When a transport is interrupted, the transport officer should notify the Central Dispatch Center of the location and reason for the stop. If needed, another unit will be dispatched to handle the incident that caused the interruption.

c. During transports over a long distance, care should be taken when stopping for fuel, meals and for allowing the detainee a reasonable opportunity to use toilet facilities.

d. Due to security reasons, detainees will not be given the right to communicate with others, including legal representation, during the period the detainee is being transported. [Calea 70.1.5]

5. Detainee Escape

Following the escape of a detainee while being transported, the following steps shall be taken: [Calea 70.1.7]

a. The transporting officer shall immediately notify Central Dispatch to have the following information relayed to other officers, the supervisor and to other jurisdictions:

(1) Area of the escape; and

(2) Identification and physical description of escapee;

(3) If escapee is high-risk (known to be armed or considered dangerous).

b. Following an escape, detailed reports containing all circumstances surrounding the escape will be prepared by the transporting officer and the officers involved in the search. These reports shall be completed and turned in to the on duty supervisor.

6. Sick, Injured or Disabled Detainees [Calea 70.3.1]

If a detainee becomes sick or is injured incidental to arrest or transport, the officer shall:

a. Transport the detainee for normal booking procedures if the illness or injury is apparently non-debilitating and not life threatening. The officer will advise communications of any illness/injury concerns to be relayed to the holding facility.

(1) Should the holding facility not accept the detainee due to illness/injury, the officer may request Emergency Medical Services to respond to the holding facility or transport the detainee to a medical facility for treatment.

b. Request for Emergency Medical Services to respond to the scene of the illness/injury before transporting if the illness/injury appears to be life threatening or debilitating.

c. Not transport the detainee to a medical facility if the illness/injury is life threatening or debilitating unless there is reasonable cause to believe that waiting for EMS would endanger the life of the detainee.

If it is necessary to transport a detainee to a medical facility for treatment or examination, the transporting officer(s) shall:
[Calea 70.3.2]

a. Notify the shift supervisor of the circumstances and advise communications to notify the medical facility of their pending arrival.

b. Keep the detainee in sight whenever possible.

c. Detainees taken to a medical facility for treatment shall be restrained until medical personnel request they be removed for treatment.

d. All felony detainees will be guarded by an officer(s) for the duration of the stay at the medical facility, unless custody has been transferred to another law enforcement agency.

If it is necessary to transport a detainee who is physically or mentally disabled:

a. The nature of the offense and the extent of the disability shall be considered when determining restraining devices and methods of transportation.

b. Wheelchairs, crutches, canes or any items required by the detainee as a result of the disability shall be transported with them.

c. The officer shall exercise reasonable care and good judgment to ensure officer and detainee safety while taking into consideration the comfort of the detainee.

Comment: Section/language added to comply with Calea standards

7. Transporting Dangerous Detainees to another Agency or Court [Calea 70.1.8]

When a detainee who is considered a security hazard must be transported to another agency or court, the agency or judge of the court shall be notified in advance. The agency or judge may allow or direct the use of restraining devices and may request the assignment of additional security officers. [Calea 70.1.8]

8. Transporting Detainees of Opposite Sex

a. If an officer is required to transport a detainee of the opposite sex, the officer should report the following information by radio to Central Dispatch:

Comment: Language changed from "female" detainees to detainees of the opposite sex

- (1) Odometer reading;
- (2) Location and destination; and
- (3) Ending odometer reading at destination.

9. Transporting Detainees in Special Situations

The unusual circumstances surrounding special situations such as attending funerals, visiting hospitals or critically ill persons provide opportunities to a detainee for escape, unauthorized personal contact or inflicting injury upon himself or others. Discretion should be used in allowing the transportation of a detainee in such situations. Special security consideration should be given to secure the detainee at all times. [Calea 70.3.3]

B. DOCUMENTATION

1. When a detainee is being transported from another facility to the Fayetteville Police Department or is being transported from the department to another facility, the transporting officer must ensure the person to be transferred is positively identified as the person to be moved. [Calea 70.5.1]

2. Depending on the circumstances, copies of certain documentation should accompany the detainee. This documentation may include arrest sheet, warrant, personal property information, medical records, and other pertinent records. For interstate transports, the escort officer should have a properly executed governor's warrant or waiver of extradition.

Comment: Language added to comply with Calea Standard

3. Documentation accompanying a detainee should also include information relating to the detainee's escape, suicide potential or other personal traits of a security nature.

4. Upon arriving at the destination with the detainee, the transporting officer should adhere to the following guidelines: [Calea 70.1.6]

a. Secure firearms for safekeeping in accordance with policies and procedures of receiving facility.

b. Restraints should not be removed until the detainee is searched and submitted to the facility's staff for booking procedures. If at all possible, the detainee will be kept in restraints until he is placed in a secure booking cell.

c. All corresponding documentation will be submitted to verified facility staff.

d. Officers shall verbally advise receiving staff of medical or security risks or refer them to written documentation when appropriate.

e. Officers will assist the receiving facility by signing any paperwork confirming the transfer of custody. In addition, officers will log the transfer of custody with Fayetteville Police Dispatch.

City of Fayetteville Staff Review Form

C. 2
Rock Street Parking, LLC
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City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

Sharon Crosson

Submitted By

Parking Management

Division

Transportation Services

Department

Action Required:

A resolution to approve the purchase of a 64 space parking lot located on the southeast corner of Block Avenue and Rock Street, and approving a budget adjustment for \$343,000.000 for the purchase and closing costs.

\$ 343,000.00

Cost of this request

\$ -

Category / Project Budget

Rock Street Parking Lot

Program Category / Project Name

2130-9130-5805-00

Account Number

\$ -

Funds Used to Date

Land Acquisition

Program / Project Category Name

10021-1

Project Number

\$ -

Remaining Balance

Off-Street Parking

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

3-18-10

Date

Previous Ordinance or Resolution #

City Attorney

3-19-10

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

3-19-2010

Date

Received in City
Clerk's Office



Chief of Staff

3-22-10

Date

Received in
Mayor's Office



Mayor

3/22/10

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Terry Gulley, Director of Transportation

From: Sharon Crosson, Parking and Telecom Manager *SC*

Date: March 18, 2010

Subject: Purchase of 64 Space Parking Lot and Approval of Budget Adjustment

PROPOSAL:

City staff is requesting a resolution to approve the purchase of a 64 space parking lot located directly behind the Town Center Parking Garage on the southeast corner of Block Avenue and Rock Street, and the approval of a budget adjustment in the amount of \$343,000.00 to cover the purchase price plus closing costs. The Engineering Division had the property appraised in October 2009, at which time it appraised at \$380,000.00. City staff negotiated a purchase price of \$342,000.00 with the City paying closing costs, which was accepted by the seller.

RECOMMENDATION:

This bi-level parking lot is owned by Rock Street Parking, LLC and was originally listed for sale at a price of \$525,000.00. The City currently leases 27 spaces on the lower level for \$9,720.00 per year. City vehicles are currently using this parking lot when working at City Hall in an effort to keep public parking spaces available to visitors of our downtown area. The upper level has 37 spaces and is vacant most of the time.

In December 2009, the construction of the new District Court and Prosecutor Building was completed. The site for this building is located where the City previously had a 30 space parking lot. 20 of these spaces were used for Police Department vehicles which are now parking on the public parking spaces on street. Due to the proximity of the upper level parking lot to the Police Department, this is an ideal area to park the overflow of police vehicles that are currently taking up public spaces. The Police Department has a total of 64 vehicles and only 32 on-site spaces. That leaves 32 vehicles that need a parking space, plus any outside agency such as Washington County units or other area police agencies that conduct business at our Police Department. If we choose not to purchase this parking lot, we will have another 27 city vehicles that will be displaced and will have to take up even more valuable downtown public parking.

BUDGET IMPACT:

The purchase price of the property is \$342,000.00 plus a contingency of \$1,000.00 to cover closing costs. A budget adjustment of \$6,750.00 will be taken from Rent Expense that will be the unused remainder of the lease for the lower level. The other \$336,250.00 will be taken from Off-Street Parking Fund Balance which may ONLY be used for parking related items (land acquisitions, operations, maintenance, equipment, etc.).

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT FOR THE PURCHASE OF A SIXTY-FOUR SPACE PARKING LOT LOCATED ON THE SOUTHEAST CORNER OF BLOCK AVENUE AND ROCK STREET FROM ROCK STREET PARKING, LLC IN THE AMOUNT OF \$342,000.00 PLUS APPLICABLE CLOSING COSTS, AND APPROVING A BUDGET ADJUSTMENT OF \$343,000.00

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 contract, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, with Rock Street Parking, LLC for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street in the total amount of \$342,000.00, plus applicable closing costs.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "B" and incorporated herein as if set out word for word, in the amount of \$343,000.00.

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

OFFER AND ACCEPTANCE CONTRACT

COPY

1. The **City of Fayetteville, Arkansas**, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION
2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **\$342,000.00**.
3. **Contingent Earnest Money Deposit:** **ROCK STREET PARKING, LLC** waives the requirement of earnest money from the City of Fayetteville.
4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by **ROCK STREET PARKING, LLC**.
5. **ROCK STREET PARKING, LLC** shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville shall pay the total cost of the title insurance.
6. **ROCK STREET PARKING, LLC** agree(s) to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. **ROCK STREET PARKING, LLC** agree(s) to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by **ROCK STREET PARKING, LLC**. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within **fourteen (14)** days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing, without any further obligation to prior contracts entered into by **ROCK STREET PARKING, LLC**.
10. **ROCK STREET PARKING, LLC** hereby grant(s) permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by **ROCK STREET PARKING, LLC**.
13. **ROCK STREET PARKING, LLC** shall disclose to the City of Fayetteville any and all environmental hazards of which **ROCK STREET PARKING, LLC** has/have actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville and **ROCK STREET PARKING, LLC** shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, **ROCK STREET PARKING, LLC** shall cure such, at their expense; or, in the alternative, at the City of Fayetteville's discretion, the City of Fayetteville may cure such environmental hazard, and **ROCK STREET PARKING, LLC** shall indemnify the City of Fayetteville for all costs associated with said cure.



OFFER AND ACCEPTANCE CONTRACT

Page 2 of 4

14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both the City of Fayetteville and **ROCK STREET PARKING, LLC** shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by **ROCK STREET PARKING, LLC** on or before the **18th day of March, 2010.**
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within **twenty (20)** days of acceptance by **ROCK STREET PARKING, LLC.**
18. **NOTICE: THE CITY OF FAYETTEVILLE ASSERTS AND ROCK STREET PARKING, LLC HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE \$0.00 EARNEST MONEY DEPOSIT.**

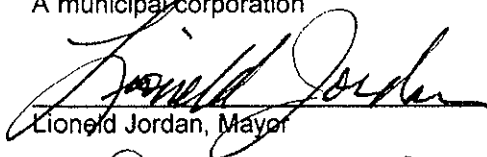
Date: _____

Date: _____

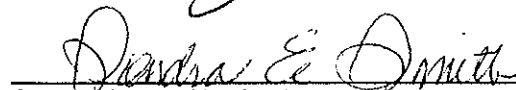
AGENT OR WITNESS:

Date: _____

City of Fayetteville, Arkansas,
A municipal corporation


Lionel Jordan, Mayor

Date: 3/18/10


Sondra Smith, City Clerk

Date: 3/18/10

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

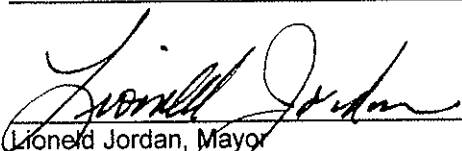
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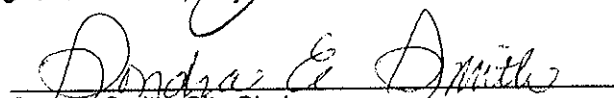
SIGNED FOR IDENTIFICATION:

Date: _____

Date: _____


Lionel Jordan, Mayor

Date: 3/18/10


Sondra Smith, City Clerk

Date: 3/18/10

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2010.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) SS.

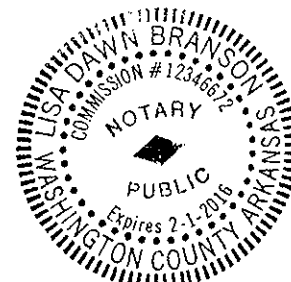
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lioneld Jordan and Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor and City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 18th day of March, 2010.

Lisa Dawn Branson
Notary Public

MY COMMISSION EXPIRES:

2-1-2016



OFFER AND ACCEPTANCE CONTRACT

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SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **\$342,000.00**.
3. **Contingent Earnest Money Deposit:** **ROCK STREET PARKING, LLC** waives the requirement of earnest money from the City of Fayetteville.
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9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing, without any further obligation to prior contracts entered into by **ROCK STREET PARKING, LLC**.
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OFFER AND ACCEPTANCE CONTRACT

Page 2 of 4

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15. This agreement, when executed by both the City of Fayetteville and **ROCK STREET PARKING, LLC** shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by **ROCK STREET PARKING, LLC** on or before the **18th day of March, 2010.**
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within **twenty (20)** days of acceptance by **ROCK STREET PARKING, LLC.**
18. **NOTICE:** **THE CITY OF FAYETTEVILLE ASSERTS AND ROCK STREET PARKING, LLC HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE \$0.00 EARNEST MONEY DEPOSIT.**

Date: _____

Date: _____

AGENT OR WITNESS:

Date: _____

City of Fayetteville, Arkansas,
A municipal corporation

Lioneld Jordan, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

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PROPERTY DESCRIPTION

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SIGNED FOR IDENTIFICATION:

Date: _____

Date: _____

Lionel Jordan, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2010.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lioneld Jordan** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2010.

Notary Public

MY COMMISSION EXPIRES:

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

C. 2
Rock Street Parking, LLC
Page 12 of 62

Budget Year 2010	Department: Transportation Services Division: Parking & Telecommunications Program: Off-Street Parking	Request Date 4/6/2010	Adjustment Number
--------------------------------	---	-------------------------------------	--------------------------

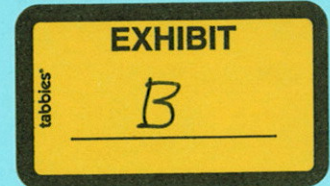
JUSTIFICATION TO INCREASE PROJECT / ITEM:

\$343,000 is requested in the Rock Street Parking Lot Purchase capital project.

The purchase price of the property is \$342,000.00 plus a contingency of \$1,000.00 to cover closing costs.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

A budget adjustment of \$6,750.00 will be taken from Rent Expense that will be the unused remainder of the lease for the lower level. The other \$336,250.00 will be taken from Off-Street Parking Fund Balance which may ONLY be used for parking related items (land acquisitions, operations, maintenance, equipment, etc.).



Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Land Acquisition	2130.9130.5805.00	343,000		10021 . 1
Use of Fund Balance	2130.0913.4999.99		336,250	.
Rent	2130.9130.5308.00		6,750	.
				.
				.
				.
				.
				.
TOTAL		<u>343,000</u>	<u>343,000</u>	

Sharon Crosson 3-18-10
Division Head Date

[Signature] 3-18-10
Budget Director Date

Ray 2 Gully 3-18-10
Department Director Date

Paul A. Bahr 3-19-2010
Finance Director Date

Don Man 3-22-10
Chief of Staff Date

Frederick Jordan 3/23/10
Mayor Date

Requested By _____
kspringer

Budget & Research Use Only

Type: A B C D E

Description: _____
0

General Ledger Date _____

Posted to General Ledger Initial Date

Posted to Project Accounting Initial Date

Summary Appraisal Report

The City of Fayetteville- Engineering Division

As of October 20, 2009

Client:

City of Fayetteville Engineering Division
125 W Mountain St
Fayetteville, AR 72701

Presented By:

The Real Estate Consultants
118 N. East Avenue
Fayetteville, AR 72701

Produced By:

Mark E. Risk
State Certified General Appraiser #0202

File #09-0228

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The Real Estate Consultants

118 N. East Ave.

Fayetteville, Ar. 72701

479-442-0762

November 6, 2009

Ms Holly Jones, City Land Agent
City of Fayetteville
113 W. Mountain
Fayetteville, Ar 72701

RE: Appraisal Services

City of Fayetteville
Parking Lot at Rock and Block
Fayetteville, Ar 72701

Dear Ms Jones:

In compliance with your request and to determine the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The subject property was inspected by the appraiser on *October 20, 2009*. The intended use is to determine the feasibility of a purchase of the aforementioned property by the City of Fayetteville. I further certify that I have no interest present or contemplated in the property under appraisal, and that my fee was not contingent upon the value estimate reported.

The opinions set forth in this letter are stated as of *November 6, 2009*.

The following narrative appraisal report contains the data gathered in my investigation and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This report is considered a *complete summary appraisal*.

This appraisal is based upon information gathered by the appraiser from the subject owner, public records, and other reliable sources, and upon an inspection of the subject property and neighborhood. In developing the appraisal approaches used, data was collected from the Real Estate Consultants' office files and courthouse records. The appraiser has applied the Market Data, Cost and Income Approaches in this appraisal.

This report has been prepared for the exclusive benefit of the *City of Fayetteville*. This report can only be relied upon by the client.

Based upon my inspection of the subject property and the investigation and analysis carried out in this report, it is my considered opinion that the Market Value of the subject property as of *October 20, 2009*, and subject to the assumptions and limiting conditions set forth in the body of this report, is as follows:

THREE HUNDRED AND EIGHTY THOUSAND DOLLARS

(\$380,000)

Respectfully submitted,



Mark A. Risk GAA
State Certified
General Appraiser # CG0202

Section I – Executive Summary

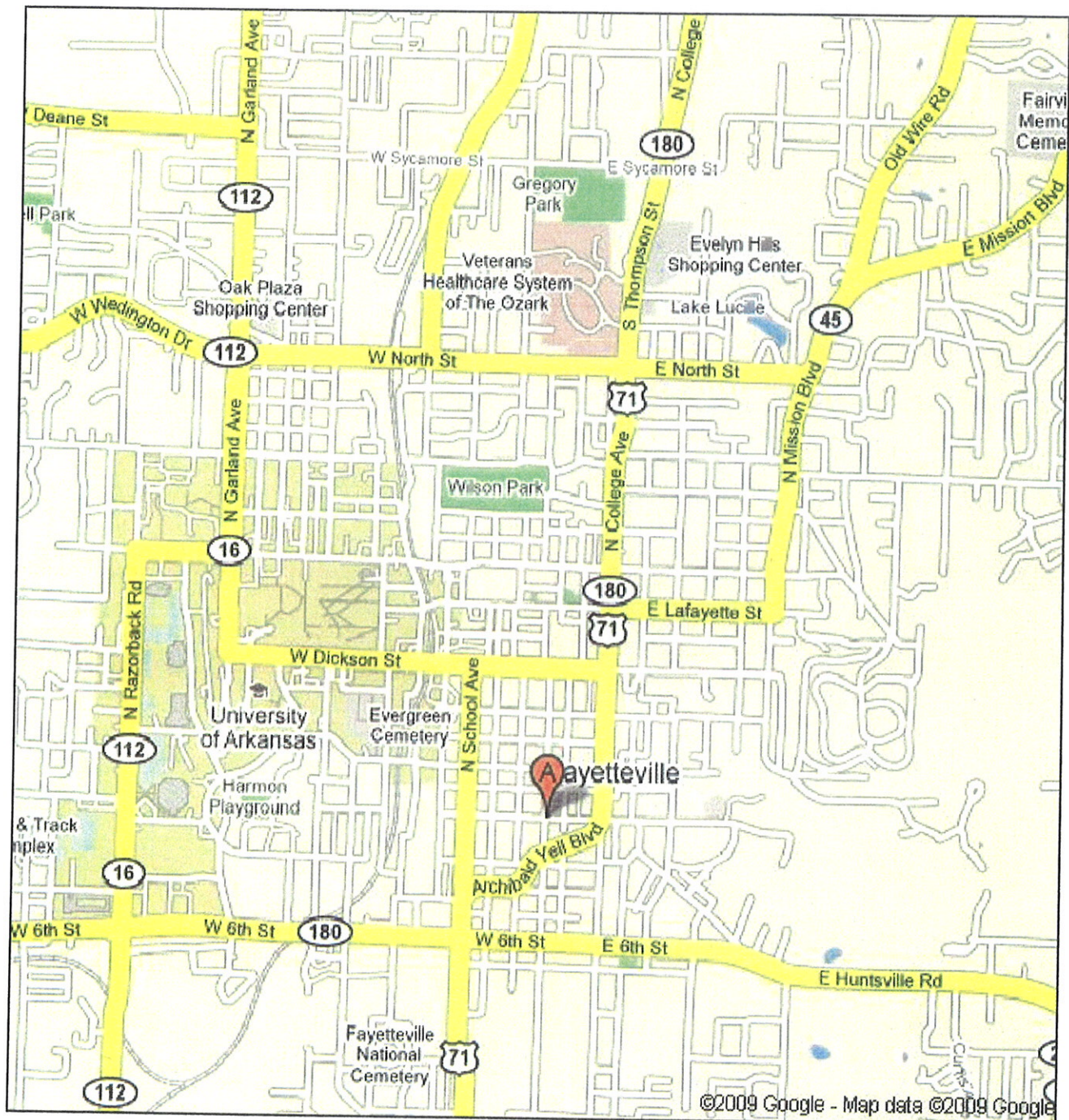
Salient Facts & Conclusions

<i>Property:</i>	64 Space Parking Lot at Corner of Block and Rock Streets in Downtown Fayetteville	
<i>County:</i>	Washington	
<i>Parcel #(s):</i>	765-02098-000	
<i>Fee Owner:</i>	Rock Street Parking, LLC	
<i>Subject Location:</i>	Block Ave and Rock Street - Fayetteville, AR 72701	
<i>Mailing Address:</i>	231 E Dickson – Fayetteville, AR 72701	
<i>Estate Appraised:</i>	Fee Simple	
<i>Size:</i>	Approximately 134 x 183 ft Level 1 Lot: 88 x 123 ft Level 2 Lot: 62 x 124 ft	
<i>Effective Date:</i>	October 20, 2009 - The Date of Inspection	
<i>Utilities:</i>	All Municipal Utilities Are Available	
<i>Zoning:</i>	Downtown General	
<i>Highest and Best Use:</i>	Mixed Use Development	
<i>Value Indications:</i>	Cost Approach	\$367,000
	Market Data Approach	\$409,000
	Income Approach	\$367,000
<i>Final Estimate of Market Value:</i>	\$380,000	

Note:

This appraisal report has been prepared for the exclusive benefit of The City of Fayetteville. It may not be used or relied upon by any other party. Any party, who uses or relies upon any information in this report without the preparer's written permission, does so at their own risk.

Subject Location Map



Subject Pictures



Subject Site Upper Level Looking South



Interior of Subject Site Upper Level Looking North

Subject Pictures



Lower Level of Subject Looking East



Railing and Stairs of Subject Looking North

Subject Pictures



Street Scene – Rock Street Looking West
(Subject Site on the Left)



Street Scene – Rock Street Looking East
(Subject Site on the Right)

Subject Pictures



Street Scene- Block Avenue Looking South
(Subject Property on Left)



Street Scene- Block Avenue Looking North
(Subject Property on Right)

Property Identification

The property under appraisement is an existing bi-level, 64 space parking lot at the southeast corner of the intersection of Block Ave and Rock St in Downtown Fayetteville, Washington County, Arkansas. The property is owned by Rock Street Parking, LLC.. It has been commonly referred to as the Bank of America Parking Lot.

Legal Description

A part of Block 41, in the Original Town (now City) of Fayetteville, Arkansas, as shown on plat of record in plat book 4, at page 3 , plat records of Washington County, Arkansas, being more particularly described as follows: Beginning at the NW corner of said Block 41, said point being an existing iron; thence S 89°41'51" E, along the North line of said Block 41, 134.00 feet to an existing iron; thence S 00°30'11" W, 183.22 feet (record 184.00 feet) to an existing iron; thence N 89°20'27" W, 134.00 feet to an existing iron on the West line of said Block 41; thence N 00°30'11" E, 182.32 feet (record 184.00 feet) to the point of beginning.

Appraisal Inspection Comments

Date: October 20, 2009

Inspection Notes: Mark Risk visually inspected the subject land on the above date. The inspection consisted of a walking tour of the property with an assistant.

Owner Contact: *Richard Alexander*

Section II - Appraisal Premises

Market Value Defined

The Appraisal Foundation defines market value as follows:

"The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and acting in what he considers his own best interest.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Definition of Special Purpose Property

The Appraisal Foundation defines a Special Purpose Property as follows:

"A limited-market property with unique physical design, special construction materials, or layout that restricts its utility to the use for which it was built. Also called special design property."

The subject property can be considered to be a special purpose property.

Purpose Of The Appraisal

The purpose of this report is to estimate the Market Value of the subject property.

Intended Use And User Of The Appraisal

The intended use of the appraisal is for potential purchase evaluation purposes of the client. The intended user is the client, The City of Fayetteville - Engineering Division.

Property Rights Appraised

The property is appraised as though owned in fee simple and unencumbered. A fee simple title is the fullest type of private ownership possible, subject to all public limitations including zoning, taxation, and eminent domain; and subject to private limitations, which may exist, such as easements and restrictions of record.

Subject History

According to Washington County records, the current owners have held the subject property since 2009. The most recent ownership change occurred on February 27, 2009 per Deed 2009-6411. In this transaction the property was deeded to the current owner Rock Street Parking, LLC. The property has gone through several interrelated transactions since the acquisition of the property in 2005 from the Arkansas Teacher Retirement System. Courthouse records indicate that Richard Alexander, Rob Merry-Ship, and Ted Belden, et.al. acquired the subject property from the Arkansas Teacher Retirement System on March 3, 2005. No revenue stamps were placed on the deed at that time. This transaction involved additional property besides the subject, in particular, the Bank of America Building on the downtown square. No other arm's length transactions were discovered involving the subject property within the past five years.

Subject Status

The subject is currently offered for sale by Alexander, Merry-Ship, & Alt Real Estate Group. List price as of the effective date of this appraisal is \$495,000. All spaces in the parking lot are currently leased and the seller requires 2 year leaseback agreement. The property has been on the market for over 2.5 years.

Assumptions and Limiting Conditions

ACCEPTANCE OF AND/OR USE OF THIS APPRAISAL REPORT BY THE CLIENT OR ANY THIRD PARTY CONSTITUTES ACCEPTANCE OF THE FOLLOWING ASSUMPTIONS AND LIMITING CONDITIONS:

Limit of Liability

The liability of TREC, Inc., The Real Estate Consultants, Mark E. Risk GAA, and associates and employees is limited to the client only and to the fee actually received. Further, there is no accountability, obligation, or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignments. The appraiser is in no way to be responsible for any costs incurred to discover or correct any deficiencies of any type present in the property - physically, financially, and/or legally. In the case of limited partnerships, client agrees that if any lawsuit brought by a lender, partner, part owner, tenant, or other party, results in any award or settlements of any type in such suit regardless of outcome, that the client, who is the intended sole recipient of this report, will hold the appraiser completely harmless in any such action.

Copies, Publication, Distribution, and Use of the Report

Possession of this report or any copy thereof does not carry with it the right of publication, nor may it be used for any purpose other than its intended use. The signer of this report is a candidate for membership in the National Association of Independent Fee Appraisers, and a member of the National Association of Realtors and its Appraisal Section. The Bylaws and Regulations of these organizations require their members to control the use and distribution of each report signed by such member.

Therefore, except as hereinafter provided, only the party for whom this report was prepared may distribute copies of this report, and only in its entirety, to such third parties as may be selected, but not without prior written consent and approval of the signatory of this report. The physical report remains the property of the appraiser for the use of the client.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the National Association of Independent Fee Appraisers, the National Association of Realtors or any designations shall be disseminated to the public through the advertising media, public relations media, news media or any public means of communication without prior written consent and approval of the signer of this report. The authentic copies of this report are sealed with my Seal. Any copy that is not so sealed is unauthorized and may have been altered.

Confidentiality and Trade Secrets:

This appraisal consists of trade secrets and commercial or financial information which is privileged and confidential and exempted from disclosure under 5 U.S.C. 552 (b) (4). The appraiser may not divulge the material contents of this report, the analytical findings and conclusions, or give a copy of this report to anyone other than the client or his designee as specified in writing - except as may be required by the National Association of Independent Fee Appraisers, the National Association of Realtors, or other organizations as they may request in confidence for ethics

enforcement, or by a court of law of body with the power of subpoena. This appraisal is to be used only in its entirety and no part is to be used without the whole report.

No change of any item in the report shall be made by anyone other than the appraiser, and the appraiser shall have no responsibility if any such unauthorized change is made. The client shall notify the appraiser signing the report of any request to reproduce this appraisal in whole or part.

Testimony, Consultation, and Completion of Appraisal Services

The contract for appraisal, consultation, or analytical services is fulfilled and the total fee payable upon completion of this report. The appraiser or those assisting in preparation of this report will not be asked or required to give testimony or be subpoenaed in court of any public or private hearing because of having made this appraisal, in full or in part, nor engage in post appraisal consultation with the client or third parties except under separate and special arrangement and at additional fee. A MINIMUM TWENTY DAYS NOTICE MUST BE GIVEN BEFORE COURT APPEARANCE FOR PURPOSES OF REVIEW AND STUDY. If testimony or deposition is required because of any subpoena, the client shall be responsible for any additional time, fees, and charges regardless of the issuing party.

Information Used

No responsibility is assumed for the accuracy of information as to description (legal, physical, etc.) of the premises, restrictions, improvements, and income features of the property furnished by others, the client, his designee, or public records. All information furnished by others is assumed to be true, correct, and reliable and a reasonable effort has been made to verify such information.

An impractical amount of time and money would be necessary to furnish unimpeachable verification in all instances. It is suggested that the client consider independent verification if so desired before making a significant commitment regarding the subject property. No responsibility for the accuracy of data and information obtained or the work of possible subcontractors is assumed by the appraiser.

Purchasing Power, Value Change, and Market Influences

The estimated market value and the costs used relate only to the effective date of the appraisal. All dollar amounts are based on the purchasing power and price of the dollar as of the date of the value estimate.

Market value is highly related to exposure, time, promotional effort, terms, motivation, and conditions surrounding the offering and subject to economic changes in the marketplace over time.

In appraisals involving the capitalization of future income benefits, the estimate of market value reflects the appraiser's interpretation of income, yields, and other factors derived from general and specific market information. Such estimates are as of the date of appraisal and subject to dynamic changes in the financial markets that may occur.

Legality of Use and Related Studies

This report is based on the premise that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is stated, defined, and considered in the report. It is assumed that all applicable zoning, building codes, and use regulations and restrictions of all types have been complied with, unless non-conformity has been stated, defined, and considered in the appraisal report. It is assumed that all required licenses, consents, permits, or other legislative or administrative authority from any local, state, or federal government and/or private entity or organization have been or can be obtained or renewed for any use on which the value estimate in this report is based.

No environmental or impact studies, special market study of analysis, highest and best use analysis study, or feasibility study has been requested or made unless otherwise specified in an agreement for services or in the report. The appraiser reserves the unlimited right to alter, amend, revise, or rescind any of the statements, findings, opinions, values, estimates, or conclusions based upon any subsequent study or analysis, or any previous study or analysis pertinent to the assignment that becomes known to him after the report is finished.

Legal and Financial Assumptions

No responsibility is assumed for matters of a legal nature affecting title to the property nor is an opinion of title rendered. The title is assumed to be good and merchantable. The property is appraised in gross as free and clear of all mortgages, liens, encumbrances, leases, and servitudes unless so specified within the report.

If this appraisal is used for mortgage loan purposes, it should be noted that specific loan ratios, term amortization, and equity requirements have not been suggested. The appraisal report and value estimate are subject to change if the physical or legal entity or financing is different than that envisioned in this report.

Architectural, Structural, Mechanical, and Engineering Assumptions

No responsibility is assumed for matters of survey, architectural, structural, mechanical, or engineering nature. The legal description used in this report is assumed to be correct as furnished by the client, his designee, or as derived by the appraiser. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described, and that there is no encroachment to trespass unless noted within this report.

The appraiser has inspected, as far as possible, by observation the land and the improvements thereon. However, it was not possible to personally observe conditions beneath the

soil, hidden structural components, or any mechanical components within the improvements and no representations are made as to these matters unless specifically stated and considered in this report. This appraisal is based on there being no hidden, unapparent or apparent conditions of the property site, subsoil, or structures which would render it more or less valuable. No responsibility is assumed for any such conditions or for any expertise or engineering needed to discover such factors. The appraiser does not warrant against the occurrence of problems arising from the soil conditions.

All mechanical components are assumed to be in operable condition and states standard for properties of the subject's type. Conditions of heating, cooling, ventilating, electrical, and plumbing equipment is considered to be commensurate with the conditions of the balance of the improvements unless otherwise stated. No judgment is made as to the adequacy of insulation or energy efficiency of the improvements or equipment. The lender, owner, or buyer should inspect the property before purchase or any disbursement of funds. Any of those parties may wish to require mechanical or structural inspection by a qualified and licensed contractor, civil or structural engineer, architect, or other expert.

The appraiser has not been requested to make an investigation of the possible existence of any potentially hazardous insulation or material used in the construction or maintenance of the building, or the possible existence of toxic waste which may or may not have been stored on the property or the possible existence of radon gas on the property.

The appraiser represents that he is not qualified to test for the presence or absence of such items and has not considered, and assumes no responsibility for, such products which might render the property more or less valuable. The client is advised to retain an expert in this field if this information is presumed appropriate and necessary.

This appraisal has not considered conditions relating to surface or subsurface waters; including, but not limited to water table, flood plain, flood hazard, or rights, if any, claimed nor or in the future in riparian lands and drainage - unless otherwise noted in this report. The appraiser assumes no responsibility for any costs or consequences arising from the need for flood hazard insurance. An agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.

Management of Property

It is assumed that the property being appraised will be operated under prudent, responsible, and competent ownership and management - being neither inefficient nor super efficient.

Exhibits

The sketches and maps in this report are included only to assist the reader in visualizing the property and are not necessarily to scale. Various photos, if any, are included for the same purpose and are not intended to represent the property in other than actual status as of the date of the photos. Site plans are not surveys unless shown from a separate surveyor.

Component Values

The distribution of the total valuation in this report between land and improvements applies only under the reported highest and best use of the property. Neither the analysis and conclusions herein nor the allocations of value for land and improvements may be used in conjunction with any other appraisal and are invalid if so used.

Personal Property

Furnishings, fixtures, or equipment of the business operation except as specifically indicated and typically considered as a part of the real estate have been disregarded unless otherwise stated. For some property types, business and real estate interests and values are combined.

Federal After Tax Analysis

Any after tax income and investment analysis or measures of return on investment are intended only to reflect possible and general market considerations at an assumed value of price paid. The appraiser does not claim expertise in tax matters and advises the client and any other person using this appraisal to seek competent tax advice. The appraiser is in no way to be considered a tax or investment advisor.

Scope of the Appraisal

Introduction

"The term *scope of the appraisal* refers to the extent of the process of collecting, confirming, and reporting data."¹

The appraiser determines a report's scope (extent of data collection & depth of reporting) according to the following primary factors:

- 1) Satisfaction of standards as set forth by USPAP
- 2) Satisfaction of any additional standards/specific requirements as defined by client request &/or organization(s) for which an appraiser has professional membership
- 3) Perceived needs of the intended user(s) as related to a report's intended use.

The scope of this appraisal encompasses the necessary research and analysis to prepare a report in accordance with its' intended use, the Code of Professional Ethics & Standards of Professional practice of the National Association of Realtors, and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

The appraiser has determined a *Complete Summary* appraisal report conforming to USPAP Standard 2-2(b) would satisfy the needs of the intended user(s). A Summary report offers basic statements of fact &/or brief summary comments when describing data, reasoning, and analysis used in the appraisal process to develop an opinion of value. As such, some documentation supporting the data, reasoning, and analysis was kept in the appraiser's files.

General Comments

Basic information pertaining to this assignment is based upon information gathered by the appraiser from inspection of the subject property and neighborhood, public records, and other identified sources. Data believed to be unreliable was not included in this report nor used as a basis for the value conclusion.

Region, county, city, and neighborhood data were based on information in the Real Estate Consultants library and files, physical inspection of the immediate neighborhood, and data from the City of Fayetteville and Washington County.

The appraiser physically inspected the subject on *October 20, 2009*, with subject photographs taken on October 27, 2009. Subject property data was based upon information gathered from physical inspection of the subject property and immediate neighborhood, documentation provided by the City of Fayetteville, public records, and other identified sources.

In evaluating the highest and best use for the subject property, an analysis was made of data compiled in the steps noted above. The appraiser's opinion of subject's highest and best use is based on important factors such as physical location, physical characteristics, zoning requirements, and use history/potential. In addition, a study of the *downtown land development market* in the subject area has been made to help determine the economic feasibility of the subject property.

¹ Appraisal Institute, *The Appraisal of Real Estate-10th Edition*, (Chicago: The Appraisal Institute, 1992), p. 575

Scope of the Appraisal – Appraisal Methods Used

Market Data (Sales Comparison) Approach

Underlying land value based upon analysis of available market data for land comparables, either vacant or with improvements extracted, in the central downtown area. Comparables were gathered from the appraiser's files, Realtors® multi-list service, Courthouse records, and interviews with knowledgeable market participants. The most important individual examples are discussed in digest format, and then reconciled on a price per square foot basis to the subject after discussion. Applied appreciation over time, if any, is based on accumulated data in the appraiser's files and the appraiser knowledge of the local market.

Income Approach

The income approach was developed using a basic capitalization technique. To begin this process, data for existing market lease rates of downtown parking spaces was gathered from the appraiser's files, Realtors® multi-list service, and persons/data reporting services knowledgeable of the subject's market niche. The most important examples were reported in a brief summary format, and then reconciled on a price per space per month basis to the subject.

The appraiser then developed an estimate of Net Operating Income using the above-determined potential annual lease income less expenses, reported in a summary grid format.

Applicable capitalization rates and related economic factors were based on accumulated data retained in the appraiser's files, prevailing mortgage rates as of the effective date of the report, and discussions with persons knowledgeable of the subject's market niche. Reporting of these factors and subsequent development of a final estimate of value via the Income Approach was reported in a brief summary format.

Cost Approach

Cost estimates for improvements are based on 'replacement cost' defined as follows:

"The estimated cost to construct, at current prices as of the effective appraisal date, a building with utility equivalent to the building being appraised, using modern materials and current standards, design, and layout." ²

Improvements construction cost for Scenario 3 is based on independent publications referenced, interviews with local market participants, and data provided by the Marshall & Swift valuation service. Aggregate costs are represented in a price per space format.

Construction cost estimates under Scenario 4 was based primarily upon data provided by the Marshall & Swift valuation service and appraiser's knowledge of the local marketplace. Development of replacement cost is developed using the 'unit-in-place' method as represented in a summary grid format.

² Appraisal Institute, *The Dictionary of Real Estate Appraisal-3rd Edition*, (Chicago: The Appraisal Institute, 1993), p. 303

Section III – Data Presentation

Neighborhood Description

For appraisal purposes, a neighborhood is considered to be a portion of a larger community in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Neighborhood inhabitants usually have a more casual community of interest and similarity of economic level and cultural background.

Neighborhood boundaries may consist of well-defined natural or man-made barriers, or they may be more or less well defined by a distinct change in land use, or in the character of the inhabitants. The immediate area is commonly known as Fayetteville's downtown, with neighborhood boundaries defined as such: N- Maple, S- 6th St., E- College Ave., and W- U of A Campus.

The central downtown encompasses the City's financial and entertainment centers and continues to undergo revitalization as it adapts to current market demands and trends. The neighborhood is viewed by the market as one of the most desirable for commercial use, especially within the entertainment niche, both within the city and throughout the NW Arkansas region. College Avenue (Highway 71B) is the most important N-S open-access business route in the region. Close proximity to the University of Arkansas.

Per a special census as of July 2002, Fayetteville's population was stated at 60,732. This is a healthy 4.6% increase from the April 2000 General Census figure of 58,047. The 1990 Census indicated an approximate population of 42,100, indicating a ten-year increase of 37.9%. The most recent estimates place the City at 64,190 residents, a 5.7% increase in just two years.

Property Description

Site

Based upon the parcel deed provided by the client, the subject size is approximately 134 ft. x 183.22 ft. Hence, the site totals 24,550± square feet or 0.56± acre.

It is a rectangular urban corner lot, with a gentle to steep slope down from Rock Street. The site is cleared and paved; there are some mature trees on the site. The lot offers 134± feet of frontage along Rock Street and 183± feet along Block Avenue. Both streets are two lanes and paved. The land appears to lie outside any FEMA identified flood zone area.

No adverse easements, encroachments, or other conditions were noted upon inspection. There does appear to be normal utility easements.

Per the City's Downtown Master Plan zoning code, zoning is Downtown General. This is a broad, conceptual classification, primarily designed to allow high-density development.

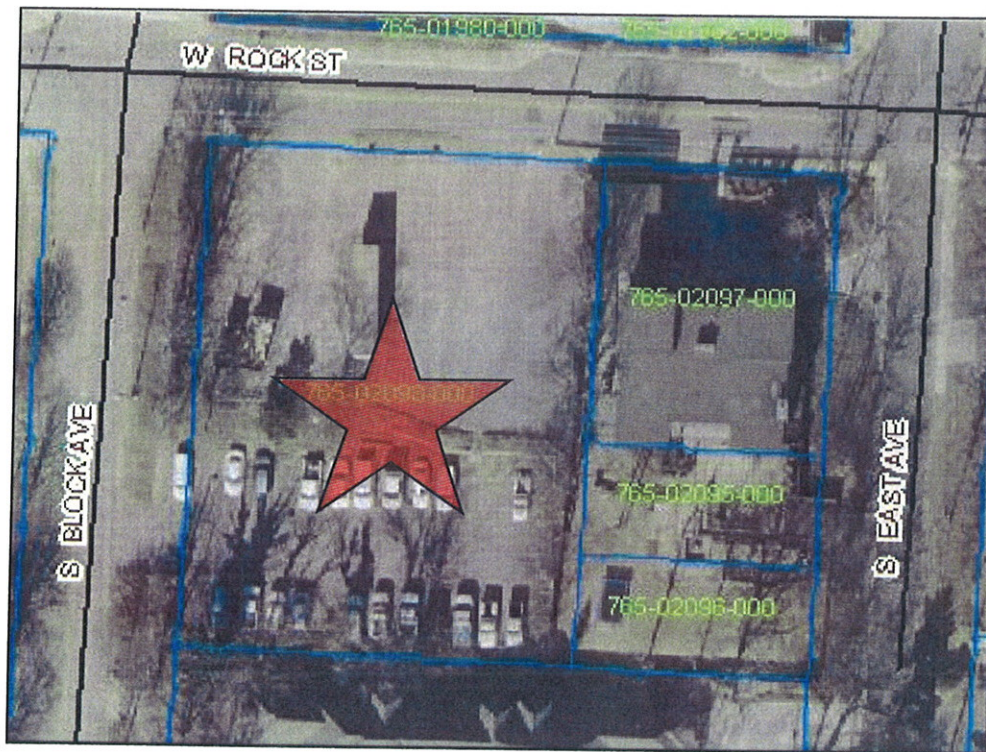
Improvements

Current improvements include asphalt paving and concrete curbing in fair to average condition. There are two curb cuts on Rock and one curb cut on Block for driveways. A concrete sidewalk lines the north and west boundaries of the property. The site is split into a bi-level parking lot with 64 spaces. Paving on the Rock Street level measures 123 ft x 88 ft and contains 37 parking spaces. Paving on the Block Street level measures 124 ft x 62 ft and contains 27 parking spaces. There is an existing stone retaining wall at the north-west corner of the site, and an existing concrete block retaining wall at the south-west corner of the site. A concrete stairway connects both levels of the parking lot and 165 ft of iron post rail fencing separate the elevations. Site also features yard lighting on wooden utility poles.

Environmental Analysis

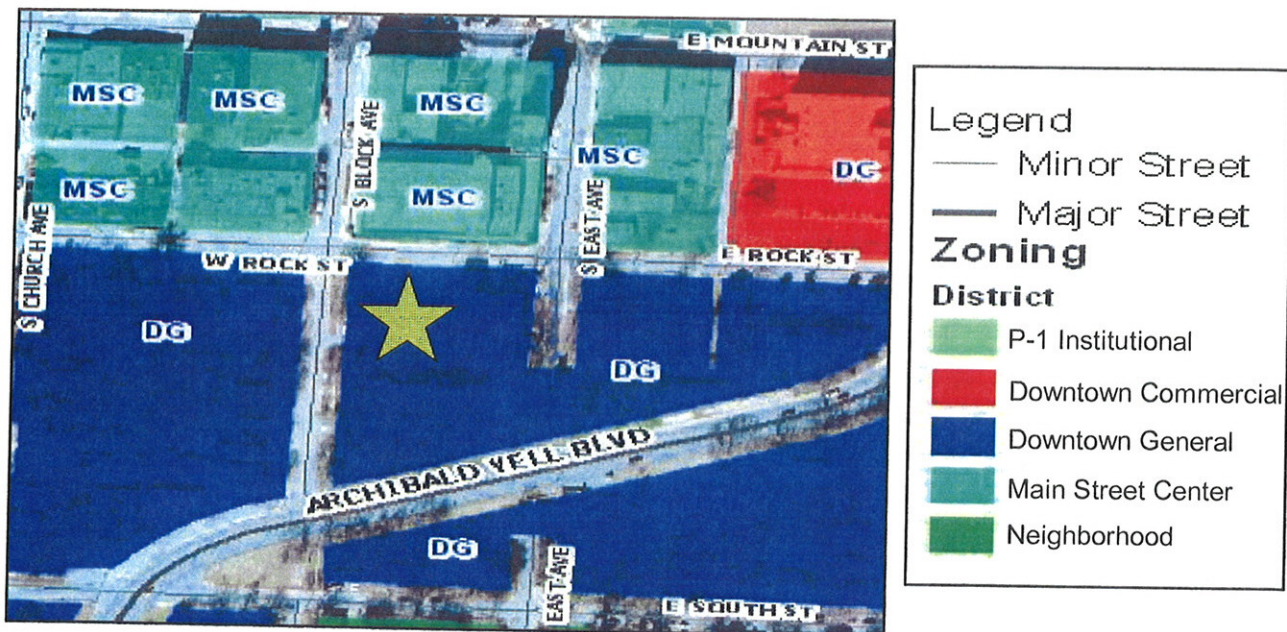
My routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions that would affect the subject property negatively. *The value estimated in this report is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions.* However, the appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. It is unlikely but possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value

Subject Property Aerial Map



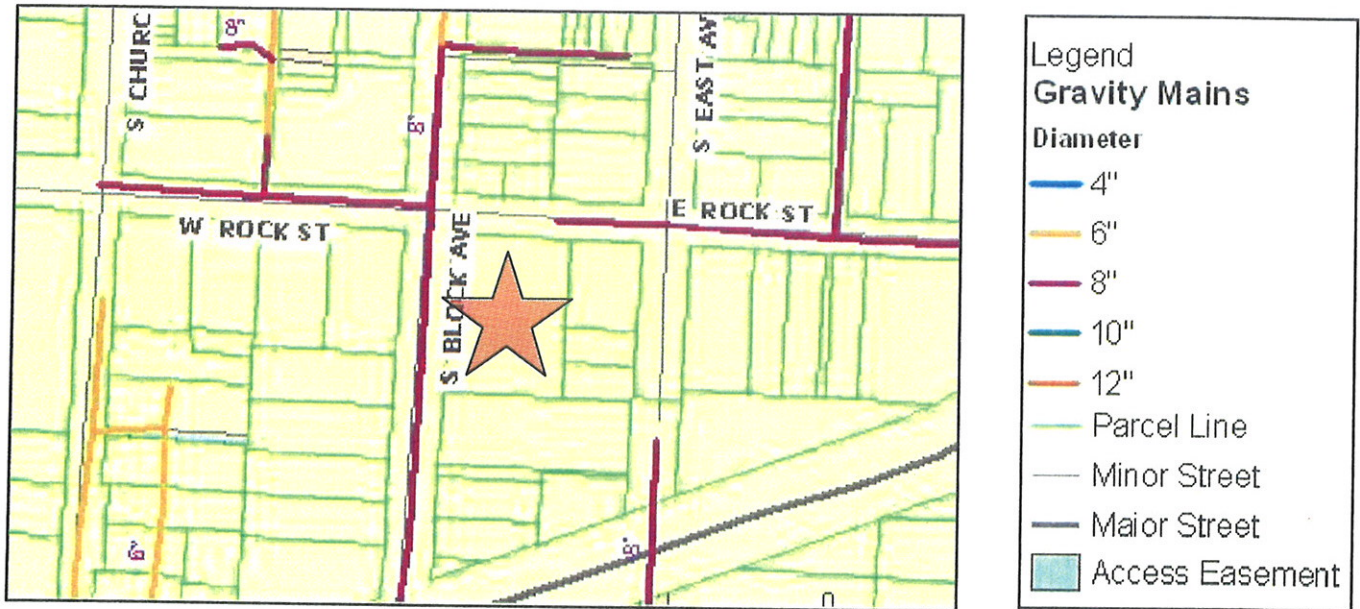
Source: City of Fayetteville GIS Mapping System

City Downtown Zoning Map



Source: City of Fayetteville GIS Mapping System

Subject Site Water and Utility Map



Source: City of Fayetteville GIS Mapping System

Section IV – Subject Analysis & Valuation Approaches

Highest And Best Use Analysis

The Appraisal Institute defines highest and best use as follows:

"The reasonably probable and legal use of vacant land or improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability."

The following tests must be met in estimating the highest and best use of the subject:

1. *It must be physically possible based on subject site characteristics.*
2. *It must be a legal use under current or likely zoning regulations.*
3. *It must be probable and not based upon conjecture or speculation.*
4. *There must be a profitable demand for such use and it must return to the land the highest net return for the longest period of time.*

I applied these tests to the subject. The Highest and Best use of a property is based on current trends and necessities in it's' neighborhood with respect to overall supply and demand factors, and required rates of return for specific investment types. An appraiser's interpretation of highest and best use is essentially an economic study of market forces as they affect a specific property.

Appraisal theory and USPAP generally require development of two Highest and Best use opinions- 'as though vacant' and 'as improved'. 'As though vacant' is essential to determining underlying land value and intimately connected to the Cost Approach. The 'as improved' conclusion considers potential economic contribution (if any) of existing improvements and assists in determining how a prudent investor would utilize such improvements (renovation, expansion, demolition, et cetera). 'The Appraisal of Real Estate- 10th Addition' (Appraisal Institute, Chicago, 1992) offers this statement: "The use that maximizes an investment property's value, consistent with the long-term rate of return and associated risk, is its highest and best use as improved."

Any determination of highest and best use includes identifying the motivations of probable purchasers. The benefits of an investment property like the subject relates to net income potential and eventual resale or refinancing. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. This use must meet the four criteria previously mentioned.

'As though vacant'- It is my opinion the land's highest and best use as though vacant is some type of mixed use development of commercial office/residential condominium, with higher density compared to what currently exists.

'As improved'- It is my opinion the land's highest and best use as improved is its' current use as a parking lot.

A summary discussion on the four tests of highest and best use is offered on the following pages.

The Four Tests of Highest & Best Use

General comments

The subject land is well located in central Fayetteville, with the immediate neighborhood established for commercial and residential uses. Its' current zoning allows for very dense development.

Physically Possible:

Basic factors affecting the potential for physically constructing improvements on a specific site include tract size, shape, topography, and soils. Further utility depends on utilities availability, roadway frontage, and tract depth in relation to width. Irregularly shaped parcels may cost more to develop and usually have less overall utility than a rectangular parcel.

The site offers adequate size with a somewhat narrow and deep rectangular shape, along with built-up and cleared terrain on a corner. I am unaware of any adverse soil conditions that might hinder full use of the lots. Considering these factors, prospective developers would enjoy a multitude of commercial development options, including office and residential.

Legally Permissible:

Land use options are further restricted by legal considerations, primarily determined by civil authorities, but also possible via private contract. The most obvious example is zoning. Other important factors include building codes and environmental regulations. Private, non-governmental examples include deed restrictions, subdivision covenants, and long-term land leases. These legal factors limit current use &/or development options in the absence of 'grand fathering', allowed 'non-conforming use', or other usually rare privileges.

The subject lies within Fayetteville city limits and zoned Downtown General per October 2006 Downtown Master Plan. This zoning designation is planned for high-density use. Many options are therefore available according to the legality test, including development into commercial office and residential condominium.

Four Tests Of Highest & Best Use Continued

Financially Feasible:

After limiting the array of uses by tests of physical possibility and legal permissibility, the appraiser then judges remaining possibilities according to financial considerations. A potential use is deemed financially feasible if that use promises a positive return on investment all things considered. Positive return is contingent upon potential net operating income matched with appropriate required rates of return for a particular use. Important factors affecting such return include operating expenses, debt satisfaction, and capital amortization. In my opinion, the subject's current use satisfies the above requirements of positive return *in the interim* before total redevelopment into a more dense complex.

Maximally Productive:

'The Appraisal of Real Estate Tenth addition' (Appraisal Institute, Chicago) defines this concept as such: "Of the financially feasible uses, the use that produces the highest residual land value consistent with the rate of return warranted by the market for that use is the highest and best use."

Among all potential uses remaining after consideration of the first three tests, a single specific use that results in the highest estimated residual land value is then determined. Most often, due to the durability of most real estate related improvements, prospective uses are narrowed according to a long-term scenario. Thus, the highest and best use will be that use which maximizes the net operating income on a long-term basis. Per Tenth addition: "The stream of benefits, or income, produced by the buildings reflects a carefully considered, and usually very specific, land use program." I believe the subject's use as a mixed use office and residential condominium offers maximal productivity over time.

The Market Data Approach

The Market Data Approach or Sales Comparison Approach is an attempt to measure the reactions of typical buyers and sellers in the market. In this approach a direct comparison is made between the property being appraised and comparable properties that have either sold recently, have received bonafide offers by prospective buyers, or are currently offered for sale.

The value of the property being appraised is inferred from the selling prices, offers, and asking prices of the comparable properties. To be "comparable" a property need not be identical to the subject. The word "comparable" is used in its ordinary sense meaning something that is capable of being compared with or worthy of comparison.

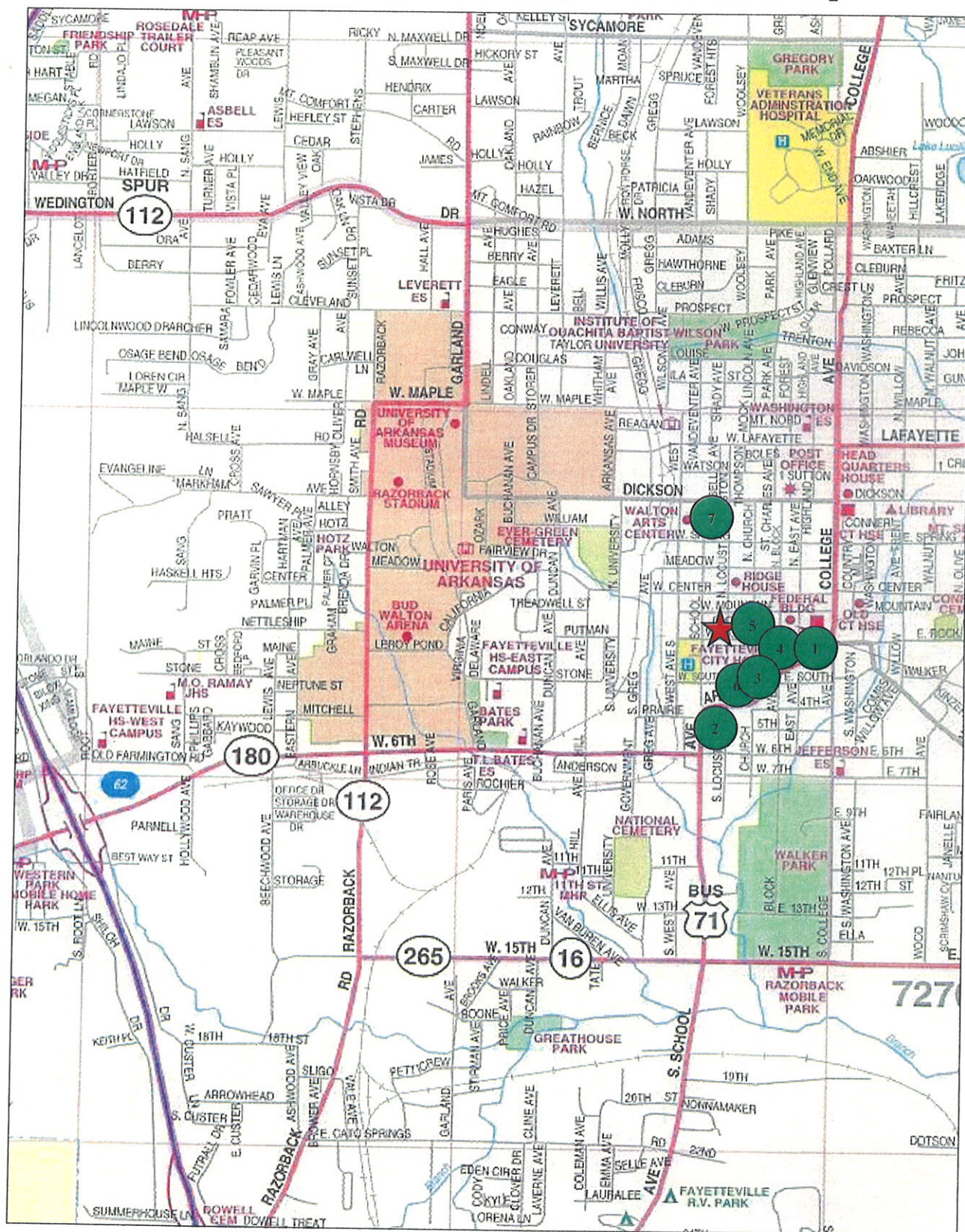
The appraiser assumes that a typical buyer in the market will not pay more for the subject property than it would cost to buy a comparable substitute property. The price a typical buyer is willing to pay is generally the result of an extensive searching process in which he is constantly comparing alternative properties. In the meantime, the typical seller is usually trying to obtain the highest possible price for his property based upon his knowledge of the market place.

In applying the Market Data Approach, the appraiser takes the following steps:

1. Researches the market for available comparable properties in which actual sales, listings, or offerings has occurred.
2. Confirms the prices and bonafide nature of the data and qualifies the terms and motivating forces.
3. Compares the property being appraised with each of the comparable properties, under the general division of location, time, physical characteristics, and other economic factors.
4. Formulates an opinion of the market value of the property being appraised based upon the price of each comparable property.

Pursuant to the appraisal of the subject property, I researched courthouse records, reviewed company files, accessed the Realtor's ® multi-list database, and interviewed knowledgeable market participants to locate recent market activity involving properties comparable or similar to the subject. Land sales selected for comparison with the subject property are included on the following pages.

The Market Data Approach -- Comparable Land Sales Map



The Market Data Approach – Comparable Sales Data

Land Sale #1

Grantor: New Deal III, Inc.
Grantee: Joel Casey and Linda Parnell
Date of Sale: 07/25/07
Property Location: 3 E. Rock St.
Legal Description: Part of Lots 3,4,5 Block 42 of Fayetteville Original
Zoning Category: Downtown General
Size: 115' x 162' = 18,630 Square Feet
Improvements: None
Reported Price: \$200,000
Data Source: Washington County Courthouse Records, Parcel #765-02139-000, Deed 2007-28822
Remarks: Sale of vacant land in downtown Fayetteville. Previous buildings were raised. The sale did involve related parties but appears to be fair price paid.
Indicated Price: \$10.74/Square Foot

Land Sale #2

Grantor: Fred Kouchenbagh & Sammy Mohandessian
Grantee: Cruz Bay, LLC
Date of Sale: 01/31/06
Property Location: 406 S. School Ave
Legal Description: E 122' of Lot 7, all of Lots 4-6, Block 11, Ferguson Addition
Zoning Category: Main Street Center per Downtown Master Plan
Site Qualities: 28,205± Square Feet or 0.648± Acre
Improvements: (2) Older single-family dwellings with no contributory value
Reported Price: \$350,000
Data Source: Appraiser Files – Prior assignment, Parcel #765-05452-000, 05453, & 05454, Deed 2006-4446, Buyer interview
Remarks: Four assembled parcels just south of the Downtown's immediate neighborhood influence along Highway 71B at the intersection of 5th Street. Only one parcel actually fronts School. Location of a newly introduced multi-family development.
Indicated Price: \$12.41/Square Foot

The Market Data Approach – Comparable Sales Data

Land Sale #3

Grantor: William Lazenby
Grantee: Robert Walsh and Ed Knight
Date of Sale: 11/21/06
Property Location: 122 W. South St.
Legal Description: Part of Block #40 of Fayetteville Original
Zoning Category: Downtown General, Medium Density Residential at time of sale.
Size Appx. 5,053 Square Feet
Improvements: (2) Old rent houses with no contributory
Reported Price: \$67,000
Data Source: Washington County Courthouse Records - Parcel # 765-02080 & 84
Remarks: Small lot located at the corner of Church Ave. and South St. Buyers initially intended to remodel houses on site but they were in such poor condition that the decided to raise them.
Indicated Price: \$13.26/Square Foot

Land Sale #4

Grantor: McClinton Enterprises, LP
Grantee: Frederick and Karolyn Woolverton
Date of Sale: 6/30/04
Property Location: 35 W.Rock
Legal Description: Part of Lot 1, Block 41, Fayetteville Original Plat
Zoning Category: Downtown General, Residential Office at time of Sale
Central Commercial (C-3) at time of sale
Size: 8,059± Square Feet or 0.185 Acre
Improvements: None of Contributory Value
Reported Price: \$80,000
Data Source: Washington County Courthouse Records- Parcel #765-02097, Deed 2004-32454
Remarks: Small lot on Rock St. one block south of the square. Older sale. A large upscale home has been built on the lot.
Indicated Price: \$9.93/Square Foot

The Market Data Approach – Comparable Sales Data

Land Sale #5

Grantor: Deanna Hunter
Grantee: Dan and Debra Coody
Date of Sale: 11/30/05
Site Location: 227 S. Church
Legal Description: Pt. of Lot #39 Fayetteville Original
Zoning Category: Residential Office (R-O) at time of sale
Now zoned Downtown General
Size: 9,953± Square Feet or .228 Acre
Improvements: Older single family dwelling with 720 sq.ft. planned for major renovation
Reported Price: \$95,500
Data Source: Appraiser Files - Deed 2005-53787, Parcel #765-02067-000
Remarks: Old house was gutted and totally renovated, not considered to have much contributory value. An additional multi unit structure has been added to the site since purchase. The property has recently resold between related parties.
Indicated Price: \$9.60/Square Foot

Land Sale #6

Grantor: MOD-3, LLC
Grantee: Bouldin Creek, Inc.
Date of Sale: 11/3/08
Property Location: 200 Block of South Locust Ave.
Legal Description: Lot 3, Block 12, Ferguson Addition
Zoning Category: Downtown General per Downtown Master Plan
Size: 7,200± Square Feet or 0.17± Acre
Improvements: None
Reported Price: \$75,000
Data Source: MLS #493981, Parcel #765-05463-000
Remarks: Very recent sale of vacant lot just south of the subject site.
Indicated Price: \$10.42/Square Foot

The Market Data Approach – Comparable Sales Data

Land Sale #7

Grantor: James Emmett Silkwood & Celia K. Scott Silkwood
Grantee: Monroe Locust, LLC
Date of Sale: 02/26/07
Property Location: 221 N. Locust Avenue, between Dickson & Spring Streets
Legal Description: Lot 9, Block 5, Original Town of Fayetteville
Zoning Category: Main Street Center (MSC)
Size: 7,750± Square Feet or 0.178± Acre
Improvements: None considered having contributory value
Reported Price: \$300,000
Data Source: Appraiser files - Buyer interview, Parcel #765-01712-000, Deed 2007-7009
Remarks: Recent sale of a small lot in City's Downtown master plan area. Located on a one-way street running south from Dickson. Buyer constructed six common-wall townhome units totaling 6,600± SF along with lower level garages (3,300± SF).
Indicated Price: \$38.71/Square Foot

Analysis Of Comparables And Conclusion Of Land Value

In my opinion, there are an adequate number of comparables available to render a reliable opinion of the subject's underlying land value according to its' highest and best use. I offer a variety of verified transactions considered representative of recent market activity, while retaining additional examples in my files. The comparables are summarized as follows:

<i>Sale</i>	<i>Date</i>	<i>Tract Size</i>	<i>Land Price</i>	<i>\$/SF</i>	<i>Comparability</i>
1	Jul-07	18,630 SF	\$200,000	\$10.74	Larger - Similar
2	Jan-06	28,205 SF	\$350,000	\$12.41	Larger - Similar
3	Nov-06	5,053 SF	\$67,000	\$13.26	Smaller - Similar
4	Jun-04	8,059 SF	\$80,000	\$9.93	Smaller - Similar
5	Nov-05	9,953 SF	\$95,500	\$9.60	Smaller - Similar
6	Nov-08	7,200 SF	\$75,000	\$10.42	Smaller - Similar
7	Feb-07	7,750 SF	\$300,000	\$38.71	Smaller - Superior

All comparables are located in close proximity, with most considered having similar immediate Downtown neighborhood influence. All are at least similar in basic physical features (terrain, utility services, etc.). There is currently a tract of land on Locust Ave. just north of Center St. that is being offered for sale by REMAX for \$200,000. It is a 50' x 150' lot, which is \$26.67 per sq.ft. This tract appears to be over priced for today's market.

Slight appreciation over time within the subject's land market niche is still prevalent. But, there are much fewer top-end prices paid compared to the more speculative time of 2004-2007. In addition, many of the comparables included planned projects that either did not get underway, or experienced dampened success due to the economic downturn.

The researched sales indicate an *unadjusted* price range of \$9.60 - \$38.71. This is a wide range in which to comfortably place the subject. Primary differences are attributable to location relative to the Downtown grid, total size, date of sale, and zoning/overall potential.

Generally speaking, per square foot values decline as the size of the tract increases. This rule of thumb does not always hold true, though, especially when considering the unique requirements of urbanized areas. Some tracts suffer discounts if they are too small to satisfy zoning ordinances (e.g. parking). In addition, owing to the current trend of condominium/mixed-use projects prevalent downtown, tracts too small for development into multi-story structures do not have nearly the same desirability as the City grows upward.

It is my opinion the subject's land would fall near the lower area of the stated range. Therefore, based upon the above recited sales and analysis thereof, and after adjustments are made for differences in time, size, location, visibility, land qualities, and other economic factors, it is my considered opinion the subject's land value, *as of October 20, 2009*, is as follows:

24,450± SF @ \$15.00/SF = \$366,750
Say \$367,000

The Cost Approach Methodology

The Cost Approach is based upon the principle of substitution that states:

"A purchaser will not pay more for an existing property than the cost to reproduce it in the current market & in a similar location."

The Cost Approach is particularly applicable when the subject improvements are new or relatively new and represent the Highest & Best Use of the land. Also, this approach is useful when the subject improvements are unique or special purpose improvements for which there exist few if any comparable properties in the marketplace, which is the case for the subject.

The Cost Approach for properties such as the subject property indicates a value estimate as follows:

- 1) *Reproduction or Replacement Costs of all proposed existing improvements based upon current labor & material costs are estimated.*
- 2) *Any depreciation due to physical, functional or external inadequacies is deducted from the cost estimate.*
- 3) *The estimated value of the land is then added to the depreciated cost to obtain a total value estimate for the subject property.*

Cost Approach Data

COST APPROACH GRID

Rock St. and Block Ave. Parking Lot

64 Space Asphalt Parking Lot

18,512 SF

64 Spaces

Basic Per Space Cost

Engineering - plans, surveys, permits, etc.	\$110.00
Grading- Rough and finished	\$115.00
Drainage	\$160.00
Paving - Spaces and Drives	\$805.00
Pavement Marking - Striping and bumpers	\$33.00
Electrical - Lighting and wiring	<u>\$170.00</u>

Adjusted Space Cost	\$1,393.00
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Estimated Cost New of Parking Lot:

\$89,152

Add Estimated Cost New of Related Improvements:

Retaining Walls: Concrete	376 SF @	\$18.00	\$6,768
Native Stone	512 SF @	\$27.50	\$14,080
Concrete Block	180 SF @	\$10.00	\$1,800
Concrete Stairway	15 ft @	\$45.00	\$675
Pipe Rail Fencing - Metal Guard Rail	165 ft @	\$35.00	\$5,775
Concrete Sidewalks	1,000 SF @	\$5.00	\$5,000
Landscaping			<u>\$1,500</u>

Estimated Cost New of Related Improvements

35,598.00

Total Estimated Cost New of all Improvements:

\$124,750

Add for Entrepreneurial Profit and Indirect Costs

12%

\$14,970

Total Estimated Value New

\$139,720

Less Depreciation:

Physical (Effective age 20)	50%	\$69,860.00
Functional	0%	\$0.00
Economic	20%	<u>\$27,944.00</u>

Total Depreciation

\$97,804

TOTAL INDICATED VALUE- ALL IMPS.

\$41,916

ADD LAND VALUE

\$367,000

INDICATED VALUE VIA COST APPROACH

\$408,916

SAY

\$409,000

The Income Approach

In the Income Approach, real estate is valued on the basis of its capacity to produce income. The approach is based on the premise that the value of a property may be determined by the amount of Net Income it can reasonably produce over its remaining economic life. The following equation is used to ascertain a value estimate:

$$\text{Value} = \frac{\text{Net Income}}{\text{Capitalization}}$$

This approach is of particular significance when applied to those properties capable of generating an income stream.

The steps under taken by the appraiser in order to obtain a value estimate utilizing the Income Approach is as follows:

- 1) Obtain a reliable Economic or Market rent for the subject property from research of comparable rentals in the market place or if the property is under a long term lease, obtain contract rent from the lease agreement.
- 2) Develop an Income Statement for the subject property. Gross Income is determined, usual and ordinary operating expenses are deducted to indicate the net operating income which the subject property can be expected to produce under competent management.
- 3) Develop an overall capitalization rate applicable to the subject property. The capitalization rate takes into account the rate of return that a prudent investor would seek, the degree of risk involved, illiquidity, returns available on alternative type investments, current mortgage terms, mortgage principal reduction, & potential appreciation.
- 4) The capitalization process is performed. The capitalization rate is applied in the appropriate manner to the net operating income to indicate the value of the subject property.

The Income Approach -- Determination of Economic Rent

"Economic Rent" is the amount of rental the property would likely command in the open market if it were vacant and available for rent. "Contract Rent" is the rental stipulated by a contract; that is, under the terms of a lease.

After conducting interviews with the current owner and city officials, and after analyzing data relating to the subject, the following facts were determined: The subject lot has 64 parking spaces. The lots have been leased over the past several years to the City of Fayetteville and Crossland Construction. However, the lot is less frequently used due to its location quite some distance from the square and its lower tier siting. Furthermore, the area bank's staffing has been down sized in recent years reducing the demand by employees for parking. The owner reports that the current lot space rental is \$35/space/month and it is his intentions to raise the rate to \$50/space/month upon new lease negotiations.

The average rental rate for parking in downtown Fayetteville ranges from \$20-\$50/month. The majority of parking spaces are rented at full capacity with a waiting list for vacated spaces. Collection losses are at a minimum. There are a number of additional metered spaces in the downtown area.

On the following page are statistics from the City owned parking lots in the downtown area. According to city officials, rates for city operated lots are kept artificially low to encourage downtown patronage. Currently, the city leases the Parking District's lots in addition to managing and maintaining its own lots.

Although the appraiser feels that downtown parking lots could command higher rental rates, it would be unrealistic to ascribe market rates with no prospect of an actual increase. In effect, the city has created its own market by the decision to keep rates at a minimum. Due to this fact, the appraiser will use the existing rate of \$35/month for long term parking when determining value via the Income Approach.

The Income Approach -- Determination of Economic Rent

City of Fayetteville Lots:

<i>Municipal Deck</i>		266 total spaces- fully occupied				
(Cosmopolitan)						
Proceeds	2008	\$125,860	2007	\$125,340	2006	\$120,544
Space/Month		\$39.43		\$39.27		\$37.76

Notes: The City leases the first and third levels of the deck to the Cosmopolitan, who is then responsible for management and filling of spaces. The City leases out spaces on the second level individually.

Town Center Deck 220 total spaces- 66% basic occupancy over the years per City study
Basic fee of \$3.00 or \$50.00 per month for reserved

Notes: Occupancy is much higher during special events hosted at the Town Center

Church & Mountain 111 total spaces-
(Lot 1) 85 metered, 26 leased; full occupancy for reserved spaces
Metered spaces- 2008 proceeds of \$18,539 or \$18.17/Space/Month
Leased spaces- Basic fee of \$50.00/Space/Month

Notes: Good example of premium paid for reserved parking vs. open metering

East & Meadow 53 total spaces- all controlled access and fully occupied
(Lot 5) Basic fee of \$30.00/Space/Month

Notes: Controlled by gate access

Church & Meadow 166 total spaces- 100 metered, 66 controlled access
(Lot 7) Metered spaces- 2008 proceeds of \$14,945 or \$12.45/Space/Month
Leased spaces- Basic fee of \$30.00/Space/Month (28 leased)

Notes: 66 controlled by gate access (28 of 66 spaces leased)

The Income Approach -- Determination of Net Operating Income

DETERMINATION OF NET OPERATING INCOME

The following income statement has been prepared based on market rents in the subject area.

Estimated Potential Gross Annual Income

Net Rentable Parking Spaces	64 Spaces @	\$35 /Month x 12 ms	\$26,880
Less: Allowances for vacancies and bad debts		30%	<u>\$8,064</u>

Estimated Effective Gross Income		\$18,816
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Less: Operating Expenses

Property Taxes (Act.)		\$1,077
Insurance (Est.)		\$0
Utilities		\$960
Repairs, Maintenance, & Misc.		\$200
Management	5%	\$1,344
Reserves for Replacement	5%	<u>\$1,344</u>
Total Expenses		<u>\$4,925</u>

Net Operating Income	\$13,891
-----------------------------	-----------------

Notes to the above Income Statement:

Generally, owners of this property type are responsible for property taxes, a landlord policy on the improvements, maintenance and utilities. The tenants would not be responsible any operating expenses.

Management fees are included even though the owner may choose to manage the property. Management fees for this type of property are typically in the 5-10% range.

Reserves for replacement are funds set aside for the replacement of big ticket items which require replacement occasionally over the life of the improvements, such as the parking lot surface, etc. These components of the subject have an economic life less than the entire subject structure.

The Income Approach -- Determination of Capitalization Rate

The Mortgage Equity Technique

The mortgage equity technique is a precise method of obtaining a capitalization rate. Unlike other methods, mortgage equity analysis considers financing in its determination of a capitalization rate and hence value. This method recognizes that a prudent investor in today's market will seek the best mortgage financing available in order to get a maximum yield on a minimum down payment.

In doing so, the mortgage equity technique considers two (2) factors beyond those used in conventional capitalization rates. First, the technique makes a compensation for equity build-up. As time passes the owner through the payment of debt service is slowly building up his equity in the property by reducing the principal. Therefore, a deduction from the basic capitalization rate is necessary to compensate for the equity build-up from mortgage principal reduction. Secondly, the mortgage equity method includes a provision for the depreciation or appreciation of the property during the income projection period (holding period). For example, if the property is going to increase in value over time it is not necessary to make a provision for the recapture of the investment; therefore, the investor is willing to accept a lower return on his investment. He will receive his recapture of the investment and a capital gain upon resale.

As a result, in applying the mortgage equity method to the subject property the following assumption were made:

1. Typical investors in property of this type would be able to acquire financing under the following terms:
80% Loan to Value Ratio at 6.5% for 20 yrs., 2 yr. Balloon
2. Typical investors at this time would demand a 10% return on there investment in property of the subject's type; hence, an equity yield rate of 10% will be used.
3. From analysis of occupancy of this type, a typical investor will hold the property for 10 years.
4. From analysis of market data and projections of stabilized property values, it is the appraiser's opinion that the subject property land will appreciate 25% over the holding period, and the subject improvements will depreciate 30% over the holding period.

The Income Approach -- Determination of Capitalization Rate

DEVELOPMENT OF THE CAPITALIZATION RATE

L/V * Amortization Factor				
1st Mortgage	80.00%	x	0.089470	0.071576
E/V * Equity Yield Rate				
Equity	20.00%	x	0.100000	0.020000
Total				0.091576
Less Credit for Equity Build-up:				
(% Mortgage paid off*L/V*Sinking Fund				
Equal to	0.27	80.00%	x	0.062745
BASIC RATE				0.014037
				0.077539
Unload for Land Appreciation				
(Appreciation over Holding Period*Sinking fund)				
Equal to	25.00%		0.062745	0.015686
Capitalization Rate for the Subject Land				0.061853
Load for Building Depreciation:				
(Depreciation over Holding Period*Sinking fund)				
Equal to	30.00%	x	0.062745	0.018824
Capitalization Rate for the Subject Improvements				0.096362

Financial Assumptions:

Terms - 80% Loan to Value Ratio at 6.5%, 20 yr. Amortization, 2 year Balloon
Return - 10% Return on Investment, 10% Equity yield rate
10 year investment period, Average interest rate of 7% over holding period
25% Land appreciation over holding period
30% Improvement depreciation over holding period

Ratios & Factors utilized:

L/V ratio	80%
E/V ratio	20%
Yield	10.00%
Amort. Factor	0.089470
% Mortgage Paid over holding period	0.332000
Sinking fund factor	0.062745
Land Appreciation	25.00%
Improvement. Depreciation	30.00%
Land Value	\$367,000

The Income Approach – Determination of Value

DETERMINATION OF VALUE

Net Operating Income			\$13,891
Less: Income attributable to the land (Land Value * Land Capitalization Rate)			
Equal to	\$367,000.00	x	0.061853
			\$22,700
Income Attributable to the Improvements			-\$8,809
Capitalize @ Building Cap Rate			
Equal to	-\$8,808.91	x	0.096362
			\$0
Add Land Value			\$367,000
Value Indicated by Income Approach			\$367,000
		SAY	\$367,000

Correlation, Analysis, and Conclusion

The three appraisal approaches were used to estimate the market value of the subject property. The Market Data Approach was used to estimate the value of the subject land. There were no sales available of parking lots in the downtown area. The Cost & Income Approaches were used to estimate the value of the subject property as improved. These approaches resulted in the following indicated values:

<i>The Market Data Approach</i>	\$ 367,000
<i>The Cost Approach</i>	\$ 409,000
<i>The Income Approach</i>	\$ 367,000

It is the appraiser's opinion that an adequate amount of Market Data was available to obtain a reliable value estimate for the subject land as if vacant. A sufficient amount of sales activity has occurred in the general vicinity of the subject property. However, due to the fully developed nature of the downtown area and the current economic environment, there were few recent sales available. None the less, these sales are considered reliable and do indicate the prices being paid for commercial land in the Downtown Fayetteville area.

The value estimate indicated by the Cost Approach is also considered reliable. The appraiser has consulted with area contractors familiar with similar parking lot construction. The cost estimates derived in this report are considered reliable under the best ability of the appraiser. When calculating depreciation on special use property such as the subject, there is room for error. This approach best reflects the principal of substitution in the marketplace. The majority of the value is in the land and the existing parking lot improvements do not contribute significantly to the overall property value. The parking lot is considered an interim use and does contribute some value due to the ability to generate some income until a higher and better use can be obtained for the land.

The Income Approach value estimate is based upon the subject property's capacity to generate income. The Income Approach bases its value estimate upon the current, realized rental rates of the subject and historic vacancies & expenses. By capitalizing the income stream the appraiser has obtained a value estimate which reflects the value a prudent investor would place on the property. It is interesting that the Income Approach reveals that the current income levels are not sufficient to support the value of the land. The appraiser has used capitalization rates to reflect the lower risk of the project which still has resulted in inadequate returns on the investment in the property. Consequently, the Income Approach value estimate is essentially a little more than the value of the land. This further underscores the low rental rates on downtown parking. The subject would most likely be purchased by either a company needing to provide parking for its employees or a public entity not a private investor looking for a good rate of return.

Correlation, Analysis, and Conclusion (Cont'd.)

The appraiser has used a market rent for the subject property, which is considered low in comparison to other cities in the region. However, the City of Fayetteville pretty much controls the parking market in downtown Fayetteville, so essentially these rates are the local market rates. Although a higher rent may better mirror the private market, the appraiser feels using an unlikely rate would not reflect the actual situation of the subject.

The three appraisal approaches have resulted in value estimates within a reasonably close range. Each approach is considered reliable; however, the Income Approach will be given less weight due to the above stated reasons in arriving at a final value estimate for the subject. The subject property has intrinsic value to both the City and nearby enterprises.

Therefore, based upon the data collected and analyzed within this report and the preceding discussion, it is the considered opinion of this appraiser that the Fair Market Value of the subject property as of October 20, 2009 is as follows.

\$ 380,000

Certificate of Appraiser

I hereby certify, that to the best of my knowledge and belief, that the statements of fact contained in this report are true and correct; that the reported analysis, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions; that I have no present or prospective interest in the property that is the subject of this report, and I have no interest or bias with respect to the property that is the subject of this report or to the parties involved with this assignment; that my engagement in this assignment was not contingent upon developing or reporting predetermined results; that my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I hereby certify, that my analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with requirements of the code of Professional Ethics and the Standards of Professional practice of the National Association of Realtors; that the use of this report is subject to the requirements of the National Association of Realtors relating to review by its duly authorized representatives; that all signatories of this report have physically inspected the subject property and are familiar with the comparables stated within.

The appraiser further certifies that the analyses, opinions and conclusions were developed, and this report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"), except that the Departure Provision of the USPAP does not apply.

In the previous sections of this report, the appraiser has analyzed the relevant facts and applied the appropriate appraisal processes to the subject property. It is the considered opinion of this appraiser that the *Market Value* of the subject property as of the effective date of *October 20, 2009* is:

THREE HUNDRED EIGHTY THOUSAND DOLLARS
(\$380,000)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Mark E. Risk', is written over a circular official stamp. The stamp contains the text 'STATE CERTIFIED GENERAL APPRAISER No. 00202 MARK E. RISK' around the perimeter.

Mark E. Risk, GAA
State Certified General Appraiser #0202

Section V - Addendum

Zoning Information

161.22 Downtown General.

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, row houses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

- Unit 1 City-wide uses by right
- Unit 4 Cultural and recreational facilities
- Unit 5 Government facilities
- Unit 8 Single-family dwellings
- Unit 9 Two-family dwellings
- Unit 10 Three-family dwellings
- Unit 12 Offices, studios and related services
- Unit 13 Eating places
- Unit 15 Neighborhood shopping goods
- Unit 24 Home occupations
- Unit 25 Professional offices
- Unit 26 Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

- Unit 2 City-wide uses by conditional use permit
- Unit 3 Public protection and utility facilities
- Unit 14 Hotel, motel and amusement services
- Unit 16 Shopping goods
- Unit 17 Trades and services
- Unit 19 Commercial recreation, small sites
- Unit 28 Center for collecting recyclable materials
- Unit 36 Wireless communication facilities
- Unit 40 Sidewalk Cafes

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types) 18 ft.

(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front: The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.

Side, facing street: The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.

Side, internal: None

Rear, without

easement or alley: 5 ft.

Rear, from center line of an easement or alley: 12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07)

Resume

Mark E. Risk, GAA

POSITION

University of Arkansas – Adjunct Instructor – Real Estate

PRESIDENT

TREC, INC. dba The Real Estate Consultants
118 N East Ave.. / P. O. Box 747
Fayetteville, Ar. 72702
(479) 442-0762

STATE

State of Arkansas – #CG-0202

CERTIFIED

GENERAL

APPRAISER

**LICENSED REAL
ESTATE BROKER**

State of Arkansas- Principal Broker #00005933

EDUCATION

University of Arkansas, MBA 1979
University of Arkansas, BSBA 1977
Major: Real Estate and Finance
American Institute of Appraisers
Real Estate Appraisal Principles
Basic Valuation Procedures
Standards of Professional Practice
Capitalization Theory and Techniques (U of A)
Marshall & Swift Building Cost Seminar
Easement Valuation -- International Right of Way Assoc.
GRI Course 306 -- Arkansas Realtors Association
NAIFA Courses -- Standards of Professional Practice
-- Reviewing the URAR Form
-- The New URAR Report -- NAIFA,
Springdale, Ar.
Sales Comparison Approach -- Arkansas Realtors Assoc.
Environmental Site Assessment -- Lincoln Graduate Center
HUD/FHA Appraiser Training Seminar -- Little Rock HUD Office
ASB Information Meeting (revisions to USPAP) -- Dallas, Tx
National Association of Realtors USPAP Update Course
Instructors' Training Institute (ITI) -- San Antonio, Tx
Timberland Appraisal – Fayetteville, Ar
Evaluating Residential Construction-Springdale, Ar.
Federal Regulation of Real Estate Appraisal-Springdale, Ar.
Recerts, Updates and You-Bentonville, Ar.
USPAP 2006 Update-Springdale, Ar.

**PROFESSIONAL
MEMBERSHIPS**

National Association of Realtors (NAR) -- Appraisal Section
Arkansas Realtor's Association
Metro Area Board of Realtors

**PROFESSIONAL
DESIGNATIONS**

General Accredited Appraiser (GAA) - National Association
of Realtors

STATE BOARDS

Appointed to the Appraiser's Licensing and Certification Board by Governor Bill Clinton in January 1992. Reappointed by Governor Jim Guy Tucker in 1994. Term Expired in January of 1997.

BOARD OF DIRECTORS

Served on Board of Directors of the UARK Federal Credit Union

**NATIONAL
COMMITTEES**

National Association of Realtors Appraisal Section
Subcommittee 1995-1998
Chair - 1998
Appraisal Forum 1995
Appraisal Committee 1997-98; 2000-2006

EXPERIENCE

Real Estate Consultants 1981-present
Actively appraising real estate in Northwest Arkansas since 1979 .
Associated with Jim Sullivan
(Sullivan Agency), 1979 to 1989.
Associated with Tom Reed
(Reed & Associates), 1981 to 1985.
Employed by Keith S. Schultz (Associated Appraisers)
1980-81.

TEACHING

Real Estate Instructor at the University of Arkansas (1981 to date)
Courses taught include: Real Estate Principles, Investments & Appraisal, and Finance
Continuing Education Seminars: Basic Steps to Residential Appraisal, Environmental Concerns, Property Management

PUBLICATIONS

"Recreational Land Values and Trends in Northwest Arkansas",
Arkansas Business and Economic Review, Vol. 16, No. 1, 1983;
Picked up for reprint by the International Association of Assessors

CLIENTS SERVED

***LENDING
INSTITUTIONS**

66 Federal Credit Union
American Airlines Credit Union
Arkansas National Bank
Arvest Bank
UARK Federal Credit Union
Bank of Arkansas
Bank of Salem
Bank of Eureka Springs
Bank of Oklahoma
Chambers Bank
First Security Bank of NW Arkansas
Community First Bank
First State Bank
Great Southern Bank
First Federal Bank
First Financial Bank

***LENDING
INSTITUTIONS
(Cont'd.)**

Metropolitan National Bank
Simmons First Bank
Signature Bank
Liberty Bank of Arkansas
Legacy National Bank
Bank of Fayetteville
Regions Bank-Dallas
Telco Credit Union
Bank of America
First National Bank of St. Louis
Bank of Jackson Hole

***MORTGAGE
COMPANIES**

Ameriquist Mortgage
Arvest Mortgage Company
Broyles Mortgage Company
Federal National Mortgage Association (FANNIE MAE)
James River Mortgage Company
Lomas & Nettleton
Norwest Mortgage
PHH Home Mortgage
Pulaski Mortgage Company
Southern Mortgage
U.S. Mortgage
Lending Tree
Ditech.com

DEVELOPERS

Dream Structures
Copher Quality Homes
Larry Carter Development Corporation
Castle Development
East Avenue Development, LLC
Dr. J. B. Hays
Houses, Inc.
C & K Construction
Riggins Construction

**RELOCATION
COMPANIES**

Corporate Relocation
Sirva Relocation
Cendant Mobility
Coldwell Banker Relocation
Commonwealth Relocation Services
Equitable Relocation Mgmt. Corporation
Executive Relocation
Forward Mobility
Home Equity Corporation
Prudential Relocation Management
Re/Max Relocation
Relocation Funding Corporation
Relocation Resources
Weichert Relocation

MISCELLANEOUS

Anheuser Busch
Ball Corporation
Bell International
Busch Skil Company
Cargill Corporation
Cannon Express
Cummulus Broadcasting
Central United Methodist Church
City Of Eureka Springs
City Of Fayetteville
City Of Springdale
City Of Rogers
City Of Johnson
City Of Bentonville
Arkansas Department of Parks & Recreation
Arkansas State Highway & Transportation Department
Nature Conservancy
SWEPCO
Bentonville Airport Commission
Colgate Palmolive
CTS Corporation
Deere Credit Services
Federal Deposit Insurance Corp. (FDIC)
Fulbright Enterprises
Gates Rubber Company
General Motors
Gerald Carr (Retired Astronaut)
Kraft, Inc.
Love Box Company
MGIC
Michelin Tire Company
Ozarks Electric Cooperative
Pfizer, Inc.
Procter & Gamble
Record Data, Inc.
Resolution Trust Corporation
Roadway Express
Salvation Army
Sioux Transportation
Tyson Foods, Inc.
Many Other Attorneys, Doctors, And Individuals

**COURT
TESTIMONY**

Benton County Circuit Court
Carroll County Circuit Court
U.S. Federal Bankruptcy Court
Washington County Circuit Court
Crawford County Circuit Court

**GEOGRAPHIC
AREA SERVED**

Northwest Arkansas
Washington, Benton, Carroll & Madison Counties

City of Fayetteville Staff Review Form

C. 3
Amend Chapter 97.086
Vending and Peddling
Page 1 of 8

**City Council Agenda Items
and
Contracts, Leases or Agreements**

4/6/2010

City Council Meeting Date
Agenda Items Only

Connie Edmonston

Submitted By

Parks & Recreation

Division

Parks & Recreation

Department

Action Required:

Approval of an Ordinance to Amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers' Market to sell produce, flowers and items on Sunday ~~mornings~~ within the area leased to the Botanical Garden Society of the Ozarks located in Lake Fayetteville Park. *Kir*

n/a

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 ☐

Connie Edmonston
(Department) Director

3/18/2010

Date

Previous Ordinance or Resolution # 97.086

John Kelly
City Attorney

3-19-10

Date

Original Contract Date: 130-03

Original Contract Number: 9/2/2003

Paul A. Beale
Finance and Internal Services Director

3-19-2010

Date

Received in City
Clerk's Office

Don Ma
Chief of Staff

3-19-10

Date

Received in
Mayor's Office

David L. Jordan
Mayor

3/22/10

Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff

From: Connie Edmonston, Parks and Recreation Director *C.E.*

Date: March 22, 2010

Subject: Ordinance to Amend §97.086 Vending & Peddling at Lake Fayetteville Park

PROPOSAL:

The Farmers' Market has requested to sell produce, flowers and items allowed by Fayetteville Code §114.02 (C) within the land leased by the Botanical Garden Society of the Ozarks (BGSO) at Lake Fayetteville Park. Currently, vending and peddling in parks is prohibited by Ordinance §97.086; therefore, Staff is requesting an amendment to the ordinance to allow the Farmers' Market to sell on Sundays in the BGSO leased area. The area is approximate 500' x 900' and would extend north to the greenhouse location, west of Highway 265, and the area north of the southern park boundary including the over-flow parking area. The parking lot's southern portion which does not have marked spaces could be used for the Farmers' Market. The paved trail, as well as the paved parking lot, would be excluded as depicted in the unshaded areas on the attached map.

The Farmers' Market would also be required to obtain a Conditional Use Permit from the Planning Commission scheduled for the April 12th meeting. BGSO Board of Directors approved at the March 16, 2010 meeting to support the Farmers' Market within their leased area on Sundays pending upon City Council's approval of amending the Park Ordinance and the Planning Commission's approval of the Conditional Use Permit. (See attached BGSO March 16th Board Meeting Minutes.) If approved, the Farmers' Market could open as early as April 18th.

RECOMMENDATION:

BGSO and City Staff recommend for City Council to approve the amendment to Park Ordinance §97.086 to allow the Farmers' Market to utilize the BGSO area on Sundays to sell produce. The Farmers' Market is a very popular event in our City. BGSO location within Lake Fayetteville Park will be an opportune site to expand the services of the Farmers' Market, as well as attract citizens to BGSO and Lake Fayetteville Park.

BUDGET IMPACT:

None.

Attachments:

Kit Williams, City Attorney Memo
Draft Ordinance
March 16, 2010 BGSO Board Meeting Minutes
Farmers' Market Site Map

Motions from the BGSO board meeting March 16:

The BGSO board voted to support the conditional use permit for the Fayetteville Farmers' Market to offer products and produce for sale at the Botanical Garden on Sunday mornings from April until November 2010.

The BGSO board voted to support amending existing pertinent city ordinances to permit the selling of Fayetteville Farmers' Market products and produce at the Botanical Garden on Sunday mornings from April until November 2010.

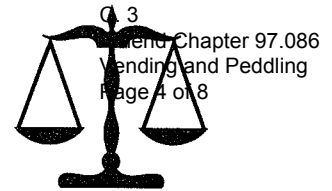
The BGSO board voted to accept the terms and conditions of the Arkansas Forestry Commission Redesign Urban and Community Forestry Assistance Grant of \$9,940 matching a similar BGSO investment to permit staff to clean and prune ice storm damage and remove invasive species on the Garden grounds.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
Don Marr, Chief of Staff
Connie Edmonston, Parks, Recreation & Community Spaces Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to be "Kit Williams", written over a horizontal line.

DATE: **March 15, 2010**

RE: **Farmers' Market selling in Lake Fayetteville Park on Sundays**

In order to permit the Farmers' Market to sell within the portion of Lake Fayetteville Park currently leased to the Botanical Garden Society of the Ozarks, **§97.086 Vending and Peddling** of the Fayetteville which prohibits most sales within our parks needs a further exemption to allow the sales by the Farmers' Market's members.

Even though I do not believe our lease with the Botanical Gardens Society allows them to sublease a portion of their property, I believe the Society can allow the Farmers' Market to occupy a portion of their property without a formal lease or sublease. Thus, despite my earlier concern about subleasing, I now believe that the only official action needed by the City Council would be an amendment to the provision that prohibits sales within our parks.

Although most changes in the Fayetteville Code are **general and permanent** in nature (and thus not effective for 31 days), this change really only adds a **specific exemption** to allow the Farmers' Market to sell items within our park on Sundays. Therefore, this exemption should take effect immediately upon passage.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §97.086 VENDING AND
PEDDLING OF CHAPTER 97 PARKS AND RECREATION
OF THE FAYETTEVILLE CODE TO ALLOW THE FARMERS'
MARKET TO OPERATE IN LAKE FAYETTEVILLE PARK**

WHEREAS, The Botanic Garden Society of the Ozarks has requested to be allowed to site the Farmers' Market on its leased grounds on Sunday; and

WHEREAS, the Farmers' Market desires to sell produce, flowers, and items allowed by §114.02 (C) of the Fayetteville Code within the area leased to the Botanical Garden Society of the Ozarks which is within Lake Fayetteville Park; and

WHEREAS, allowing Farmers' Market to sell within a city park requires an amendment to the general prohibition of vending in city parks.

**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 **§97.086 Vending and Peddling** of the Fayetteville Code and enacts a new **§97.086 Vending and Peddling** as shown below:

“97.086 Vending and Peddling

“(A) General prohibition of selling or offering to sell items in city parks.
No person or business shall, within a city park, display, offer for sale, or sell any article, thing or service, nor place any stand, cart or vehicle for the display, sale or transportation of any such article.

“(B) Exemptions. The City's regularly licensed concessionaires acting pursuant to the authority and regulation of the City are exempt from subsection (A). Nonprofit organizations which have obtained a special events permit may sell nonalcoholic beverages and food during an annual event. Gulley Park Concert sponsors may sell food and

nonalcoholic beverages during the concerts when specifically permitted by the Parks and Recreation Department Director. The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays within a portion of Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the Society) as shown on Exhibit 'A'."

PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Exhibit A



**Farmers' Market at Lake Fayetteville Park
within Botanical Garden leased area**

1 inch = 150 feet



City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items Only

David Jurgens

Submitted By

Utilities Capital Projects

Division

Utilities

Department

Action Required:

Approval of a construction contract with C B & I Inc for \$1,551,000.00, for the construction of a 500,000 gallon elevated water storage tank, Bid 10-17, approval of a 3% contingency of \$49,000, and approval of a budget amendment.

\$ 1,600,000

Cost of this request

\$ 2,102,505

Category / Project Budget

Mt Sequoyah Pressure Plane Imprvm

Program Category / Project Name

5400.5700.5315.00

Account Number

\$ 54,116

Funds Used to Date

Water Impact Fee Improvements

Program / Project Category Name

04036.1

Project Number

\$ 2,048,389

Remaining Balance

Water Impact Fees

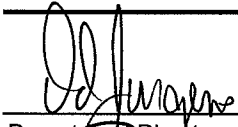
Fund Name

Budgeted Item

XX

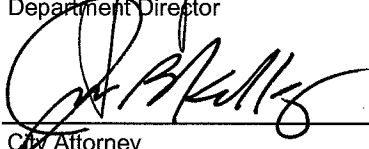
Budget Adjustment Attached

XX

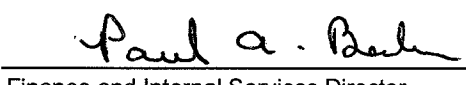
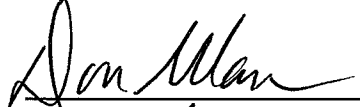

Department Director
10 MAR 10
Date

Previous Ordinance or Resolution #

Original Contract Date:


City Attorney
3-11-10
Date

Original Contract Number:


Finance and Internal Services Director
3-11-2010
DateReceived in City
Clerk's Office

Chief of Staff
3-11-10
DateReceived in
Mayor's Office

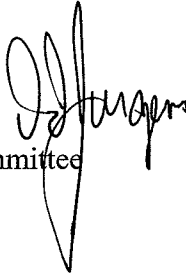
Mayor
3/11/10
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
 Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
 Fayetteville Water and Sewer Committee



Date: March 4, 2010

Subject: Construction contract with C B & I Inc. for \$1,551,000.00, with a 3% contingency of \$49,000 to construct a 500,000 gallon elevated water storage tank, and a budget amendment of \$1,600,000

RECOMMENDATION

City Administration recommends approval of a construction contract with C B & I Inc for \$1,551,000.00, for the construction of a 500,000 gallon elevated water storage tank, Bid 10-17, approval of a 3% contingency of \$49,000, and approval of a budget amendment for \$1,600,000.

BACKGROUND

The Contract is to construct the 500,000 gallon elevated water storage tank and all related site work. The objective of this tank is to meet fire flow requirements, provide adequate flows during high demand periods, and meet industry standard and Health Department minimum storage requirements. After significant discussion and negotiation, the site off Canterbury Street was chosen in 2009. Staff met with area residents regarding paint color, fencing style, site layout, and landscaping, October 5, 2009; their requests were incorporated into the final design.

DISCUSSION

Staff met again with area residents March 1st regarding the bid and construction. The spheroid tank style was both their preference and the style of the low bid. The meeting with residents addressed lingering concerns regarding flow and pressure. Plans for monthly homeowner updates and web page postings were discussed. Information on this project will be on the City's website and residents will receive notices at their home before any work is conducted on site. The City opened bids on February 23rd. Construction will begin this summer and will be completed mid-2011.

Company Name	Tank Style		
	Spheroidal	Fluted Column	Composite
C B & I Inc. low bid)	\$ 1,551,000.00	No Bid	No Bid
Maguire Iron, Inc.	\$ 1,577,000.00	No Bid	No Bid
Phoenix Fabricators & Erectors, Inc.	\$ 1,795,500.00	No Bid	\$ 1,891,700.00
Landmark Structures, LLP	No Bid	No Bid	\$ 1,729,500.00
Caldwell Tanks, Inc.	\$ 1,903,000.00	\$ 2,000,028.00	\$ 1,918,000.00
Engineer's Estimate	\$ 1,566,933.00		

The bid was reviewed by McClelland Engineers; their letter recommending award is attached. C B & I is a highly reputable company that developed the spheroid tank in 1954 and has erected over 25,000 elevated water tanks in the last century, including several of the tanks in the City of Fayetteville.

BUDGET IMPACT

Funds are available in the water impact fees budget. The budget amendment for \$1,600,000 is attached to transfer funds from the impact fee fund to the water/sewer fund. There is also \$84,202 allocated to this project from developer cost shares.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #10-17 AND APPROVING A CONTRACT WITH CB&I, INC. IN THE AMOUNT OF \$1,551,000.00 FOR CONSTRUCTION OF A 500,000 GALLON ELEVATED WATER STORAGE TANK, APPROVAL OF A \$49,000.00 CONTINGENCY, AND APPROVAL OF A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,600,000.00

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 #10-17 and approves a contract with CB&I, Inc., a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a project contingency in the amount of \$49,000.00, and a budget adjustment, a copy of which is attached to this Resolution as Exhibit "B" and incorporated herein as if set out word for word, in the amount of \$1,600,000.00.

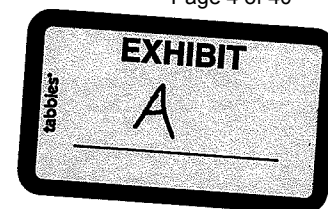
PASSED and APPROVED this 6th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of _____, by and between CB&I, Inc., of Alpharetta, GA, herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Canterbury Road 500,000 Gallon Elevated Water Storage Tank, dated October 2009.

Advertisement for Bids	Maintenance Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplemental Conditions
Performance Bond	Specifications
Payment Bond	Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover
2	Index, Site Plan and Legend
3	Elevated Water Storage Tank, Spheroidal Alternative
4	Elevated Water Storage Tank, Fluted Column Alternative
5	Elevated Water Storage Tank, Composite Alternative
6	Tank Access Road, Plan and Profile
7	Yard Drains at Tank, Plan and Profile
8	Water Main at Tank, Plan and Profile
9	Tank Inlet/Outlet Valve Vault
10	Long Retaining Wall, Plan and Profile
11	Access Drive Retaining Wall, Plan and Profile, Details
12	Fence Plan and Details
13	Tree Protection Plan
14	Miscellaneous Details, Water Details
15	Miscellaneous Details, Water Details
16	Erosion Control Plans
17	Erosion Control Details
E-1	Spheroidal Alternative Electrical

E-2	Fluted Column Alternative Electrical
E-3	Composite Alternative Electrical

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of:

One Million, Five Hundred Fifty-One Thousand Dollars (\$1,551,000.00)
3. The Work will be completed and ready for final payment in accordance with the General Conditions within **390** calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.
4. Liquidated Damages: The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **Seven Hundred Dollars (\$700.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of _____, by and between CB&I, Inc., of Alpharetta, GA, herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Canterbury Road 500,000 Gallon Elevated Water Storage Tank, dated October 2009.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond
Payment Bond

Maintenance Bond
General Conditions
Supplemental Conditions
Specifications
Drawings (See Sheet Index below)

SHEET INDEX

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8	Water Main at Tank, Plan and Profile
9	Tank Inlet/Outlet Valve Vault
10	Long Retaining Wall, Plan and Profile
11	Access Drive Retaining Wall, Plan and Profile, Details
12	Fence Plan and Details
13	Tree Protection Plan
14	Miscellaneous Details, Water Details
15	Miscellaneous Details, Water Details
16	Erosion Control Plans
17	Erosion Control Details
E-1	Spheroidal Alternative Electrical

8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (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 photocopying cost pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

CB&I, Inc.
CONTRACTOR

WITNESSES:

Secretary

By _____
President

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

City Clerk

By _____
Mayor

DOCUMENT 00300

BID FORM
LUMP SUM

NOTE TO BIDDER: Please use BLACK ink for completing this Bid form.

To: The City of Fayetteville, Arkansas

Address: 113 West Mountain
Fayetteville, AR 72701

Project Title: Fayetteville Canterbury Road 500,000 Gallon Elevated Water Storage Tank

Engineer's
Project No.: FY042150, Contract Section I

Date: Tuesday, February 23, 2010

CB&I Arkansas Contractor's
License No. 0031300410

Bidder: CB&I Inc.

Address: 3600 Mansell Road, Suite 230

Alpharetta, GA 30022

Contact Person for additional information on this Bid:

Name: Don Nason

Telephone: 678 935 3652

Fax: 678 935 3659

ADDENDA

The Bidder hereby acknowledges that he has received Addenda Numbers:

One, to these Specifications.
(Bidder insert No. of each Addendum received.)

BIDDER'S DECLARATION AND UNDERSTANDING

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Bid is made without any connection or collusion with any person submitting another Bid on this Contract.

The Bidder further declares that he has carefully examined the Contract Documents for the construction of the project, that he has personally inspected the site, that he has satisfied himself as to the quantities involved, including materials and equipment, and conditions of work involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents, and that this Bid is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Bid.

The Bidder further agrees that he has exercised his own judgement and has utilized all data which he believes pertinent from the Engineer, Owner, and other sources in arriving at his own conclusions.

The Bidder states that he has experience in and is qualified to perform the work herein specified and, if he does not have craftsmen experienced and qualified in any phase of the work for which this Bid is offered, that he will subcontract the work under said phase to a contractor who does have the necessary experience and qualifications.

CONTRACT EXECUTION AND BONDS

The Bidder agrees that if this Bid is accepted, he will, within 15 days after notice of award, sign the Contract in the form annexed hereto, and will at that time, deliver to the Owner the Performance Bond and Payment Bond required herein, and will, to the extent of his Bid, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete all work as specified or indicated in the Contract Documents.

CERTIFICATES OF INSURANCE, PAYMENT BOND, AND PERFORMANCE BOND

The Bidder further agrees to furnish the Owner, before executing the Contract, the certificates of insurance, Payment Bond, and Performance Bond as specified in these Documents.

START OF CONSTRUCTION, CONTRACT COMPLETION TIME, AND LIQUIDATED DAMAGES

Start of Construction, Contract Completion Time, and Liquidated Damages are stated in Document 00500 - Contract.

SALES AND USE TAXES

The Bidder agrees that all federal, state, and local sales and use taxes are included in the stated bid prices for the work.

LUMP SUM BID

The Bidder agrees to accept as full payment for the work proposed herein the amount computed under the provisions of the Contract Documents and based on the lump sum amount. The bidder agrees that the lump sum price represents a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in the Contract Documents. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

ALTERNATE TANK CONFIGURATIONS

The City of Fayetteville is accepting bids for three alternate tank configurations, as illustrated in the Drawings and specified in Division 13. Bidders may bid on one, two, or all three tank configurations. Bids on unspecified tank configurations will not be considered by the City of Fayetteville. The City will consider the total project bid costs for the three tank configurations for all Bidders, as well as any anticipated difference in future maintenance costs and any input from the nearby property owners concerning aesthetic considerations. Based on these factors, the Fayetteville City Council will decide which alternate tank configuration to use, and the Contract Award will be made to the Bidder with the lowest total bid for the selected tank configuration.

The three tank configurations for which Bids are requested are:

1. Spheroidal Elevated Tank
2. Fluted Column Elevated Tank
3. Composite Elevated Tank

The Bid Schedule is designed to obtain a tank bid subtotal for each of these three configurations and another subtotal for the site work that is common to all three tank configurations. Total bids will be obtained by adding the individual tank configuration subtotals to the site work subtotal.

BID SCHEDULE A SPHEROIDAL TANK CONFIGURATION					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	LUMP SUM PRICE	TOTAL

A-1. 1 LS Spheroidal Tank Foundation (\$100,000) (\$100,000)

ONE HUNDRED THOUSAND Dollars/LS
Words

A-2. 1 LS Spheroidal Tank Structure, 500,000 (\$837,300) (\$837,300)

EIGHT HUNDRED THIRTY SEVEN THOUSAND
THREE HUNDRED Dollars/LS
Words

A-3. 1 LS Spheroidal Tank Painting (\$78,000) (\$78,000)

SEVENTY EIGHT THOUSAND Dollars/LS
Words

Subtotal A,
Spheroidal Tank Configuration \$ 1,015,300.00

BID SCHEDULE B FLUTED COLUMN TANK CONFIGURATION					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	LUMP SUM PRICE	TOTAL

B-1. 1 LS Fluted Column Tank Foundation (\$) (\$)

No Bid Dollars/LS
Words

B-2. 1 LS Fluted Column Tank Structure, 500,000 (\$2) (\$2)
Gallon Capacity

No Bid Dollars/LS
Words

B-3. 1 LS Fluted Column Tank Painting (\$) (\$)

No Bid Dollars/LS
Words

Subtotal B,
Fluted Column Tank Configuration \$ No Bid

BID SCHEDULE C COMPOSITE TANK CONFIGURATION					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	LUMP SUM PRICE	TOTAL
C-1.	1	LS	Composite Tank Foundation	(\$)	(\$)
			<u>No Bid</u> Dollars/LS Words		
C-2.	1	LS	Composite Tank Structure, 500,000 Gallon Capacity	(\$)	(\$)
			<u>No Bid</u> Dollars/LS Words		
C-3.	1	LS	Composite Tank Painting	(\$)	(\$)
			<u>No Bid</u> Dollars/LS Words		
Subtotal C, Composite Tank Configuration				\$	<u>No Bid</u>

SITE WORK BID SCHEDULE BID ITEMS COMMON TO ALL THREE TANK CONFIGURATIONS					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	LUMP SUM PRICE	TOTAL
1.	1	LS	Act 291, 1993 Trench & Excavation Safety System	(\$ <u>2,500</u>)	(\$ <u>2,500</u>)
			<u>TWO THOUSAND FIVE HUNDRED</u> Dollars/LS Words		
2.	1	LS	Erosion Control	(\$ <u>5000</u>)	(\$ <u>5000</u>)
			<u>FIVE THOUSAND</u> Dollars/LS Words		
3.	1	LS	Audio / Video Tape Recordings	(\$ <u>500</u>)	(\$ <u>500</u>)
			<u>FIVE HUNDRED</u> Dollars/LS Words		
4.	1	LS	Site Photographs	(\$ <u>500</u>)	(\$ <u>500</u>)
			<u>FIVE HUNDRED</u> Dollars/LS Words		

SITE WORK BID SCHEDULE BID ITEMS COMMON TO ALL THREE TANK CONFIGURATIONS					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	LUMP SUM PRICE	TOTAL
5.	1	LS	Tree Removal and Tree Protection <u>Twenty One Thousand</u> Dollars/LS Words	(\$ <u>21,000</u>)	(\$ <u>21,000</u>)
6.	1	LS	Tank Site Grading, Grubbing and Earthwork <u>Thirteen Thousand</u> <u>Eight Hundred</u> Dollars/LS Words	(\$ <u>31,800</u>)	(\$ <u>31,800</u>)
7.	1	LS	Access Drive Grading, Grubbing and Earthwork <u>Twenty One Thousand</u> <u>Two Hundred</u> Dollars/LS Words	(\$ <u>21,200</u>)	(\$ <u>21,200</u>)
8.	1	LS	Retaining Wall <u>One Hundred Thirty</u> <u>Seven Thousand</u> Dollars/LS Words	(\$ <u>137,000</u>)	(\$ <u>137,000</u>)
9.	1	LS	Site Fencing, Entrance Gate <u>Twenty Three Thousand</u> <u>Seven Hundred</u> Dollars/LS Words	(\$ <u>23,700</u>)	(\$ <u>23,700</u>)
10.	1	LS	Drainage Structures and Drain Piping <u>Thirty Three Thousand</u> <u>Seven Hundred</u> Dollars/LS Words	(\$ <u>33,700</u>)	(\$ <u>33,700</u>)
11.	1	LS	Tank Inlet and Outlet Piping, Contract Section I Yard Piping <u>Four Eight Thousand</u> <u>Four Hundred</u> Dollars/LS Words	(\$ <u>48,400</u>)	(\$ <u>48,400</u>)
12.	1	LS	Tank Inlet and Outlet Valve Vault and Vault Valves and Fittings <u>One Hundred Five Thousand</u> <u>Four Hundred</u> Dollars/LS Words	(\$ <u>105,400</u>)	(\$ <u>105,400</u>)
13.	1	LS	Tank Site and Access Drive Paving <u>Seventy Four Thousand</u> Dollars/LS Words	(\$ <u>74,000</u>)	(\$ <u>74,000</u>)

SITE WORK BID SCHEDULE BID ITEMS COMMON TO ALL THREE TANK CONFIGURATIONS					
ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	LUMP SUM PRICE	TOTAL

14. 1 LS Electrical Work, Obstruction Lighting (\$ 21,000) (\$ 21,000)

Twenty One Thousand Dollars/LS
Words

15. 1 LS Miscellaneous Site Work Necessary for (\$ 10,000) (\$ 10,000)
Project Completion

Ten Thousand Dollars/LS
Words

Subtotal, Site Work \$ 535,700.00

BID TOTAL FOR ALTERNATE CONFIGURATIONS

Subtotal A, Spheroidal Tank	\$ <u>1,015,300.00</u>
Sitework Subtotal	\$ <u>535,700.00</u>
Spheroidal Tank Total	\$ <u>1,551,000.00</u>
Subtotal B, Fluted Column Tank	\$ <u>No Bid</u>
Sitework Subtotal	\$ <u>No Bid</u>
Fluted Column Tank Total	\$ <u>No Bid</u>
Subtotal C, Composite Tank	\$ <u>No Bid</u>
Sitework Subtotal	\$ <u>No Bid</u>
Composite Tank Total	\$ <u>No Bid</u>

BASIS OF AWARD

The City of Fayetteville will decide which tank configuration to use, based on the bid prices, anticipated maintenance cost differences and input from property owners in the vicinity of the tank. The tank configuration selected will not necessarily be the least expensive bid price. Based on the selected tank configuration, the City of Fayetteville will award the Contract to the responsive, responsible Bidder with the lowest Bid Price for the selected tank configuration.

MAJOR EQUIPMENT SCHEDULE

Not used.

PAYMENT SCHEDULE

Not used.

SUBCONTRACTORS

The Bidder further certifies that proposals from the following subcontractors were used in the preparation of this Bid; and if awarded a contract, Bidder agrees to not enter into contracts with others for these divisions of the Work without written approval from the Owner and Engineer.

EARTH WORK SUBCONTRACTOR

Arkansas Contractor License # 0027 470410

SWEETSER CONSTRUCTION
Name
590 WEST POPLAR FORTYSEVEN, AR 72703
Street Address, City, State, Zip Code

PAVING SUBCONTRACTOR (SUB TO SWEETSER CONSTRUCTION)

Arkansas Contractor License # 0004640410

HUTCHENS CONSTRUCTION
Name
515 SANDERS AVENUE SPRINGDALE, AR 72764
Street Address, City, State, Zip Code

RETAINING WALL SUBCONTRACTOR (SUB TO SWEETSER CONSTRUCTION)

Arkansas Contractor License # 0200190310

SECOND NATURE LANDSCAPE INC.
Name
1481 WEST VAN ASCHES FORTYSEVEN, AR 72704
Street Address, City, State, Zip Code

PAINTING SUBCONTRACTOR

Arkansas Contractor License # 0134460404

GULF STATES PROTECTIVE COATINGS
Name
201 NORTH 16TH STREET LA POKE, TX 79571
Street Address, City, State, Zip Code

ELECTRICAL SUBCONTRACTOR

Arkansas Contractor License # 0017940408

Avalco, Inc.
Name
2376 Staro Road MM, New Bloomfield, MO 65063
Street Address, City, State, Zip Code

SUBCONTRACTOR

Arkansas Contractor License # _____

Name

Street Address, City, State, Zip Code

SUBCONTRACTOR

Arkansas Contractor License # _____

Name

Street Address, City, State, Zip Code

PERFORMANCE OF WORK BY CONTRACTOR

The Bidder shall perform at least **70 percent** of the work with his own forces (refer to Paragraph 23, INSTRUCTIONS TO BIDDERS. Bids from so called "Brokerage Contractors" will not be considered.)

List below the items that the Bidder will perform with his own forces, if awarded this Contract, and fill in the blank showing the estimated total cost of these items.

Design, procurement, fabrication, trucking and construction of the elevated
water storage tank.

Estimated total cost of the above items the Bidder states that will be performed with his own forces, if awarded Contract:

NINE HUNDRED THIRTY THOUSAND SIX HUNDRED Dollars (\$ 930,600.00)
(Words)

EXPERIENCE OF BIDDER

The Bidder states that he is an experienced Contractor and has completed similar projects within the last 5 years. (List similar projects, with types, names of clients, construction costs, and references with telephone numbers. Use additional sheets if necessary.)

See Attached Experience and Brochures

SURETY

If the Bidder is awarded a construction Contract on this Bid, the Surety who provides the Performance and Payment Bond will be:

Westchester Fire Insurance Company whose address is:

436 Walnut Street, Philadelphia, PA 19106

Street, City, State, Zip, Code

INSURANCE

The Bidder acknowledges that he is familiar with the insurance requirements on this Project and, if awarded a construction contract, agrees to furnish the required insurance certificates within fifteen (15) days of the date the award is made.

BIDDER

The name of the Bidder submitting this Bid is:

CB&I Inc. (a Texas corporation) doing business at:

3600 Mansell Road, Suite 230 Alpharetta, GA 30022

Street, City, State, Zip, Code

which is the address to which all communications concerned with this Bid and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Bid, or of the partnership, or of all persons interested in this Bid as principals are as follows:

If Sole Proprietor or Partnership

IN WITNESS hereto the undersigned has set his (its) hand this _____ day of _____, 2010.

Signature of Bidder

Title

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this 23 day of February, 2010.

(SEAL)

CB&I Inc.

Name of Corporation

By

Donald O. Nason
Donald O. Nason

Title Business Development Manager

Attest (See attached Certification of Resolution and Authority)

Assistant Secretary Ronald C. Geedman

CERTIFICATION OF RESOLUTION AND AUTHORITY

I, **Ronald C. Geedman**, do hereby certify that I am the duly-elected and acting Assistant Secretary of CB&I Inc. (a/k/a CB&I Constructors, Inc. or CB&I Constructors or CB&I Inc. of Texas), a Texas corporation, (the "Company") and that as such officer I am duly authorized to make this certificate in behalf of that Company.

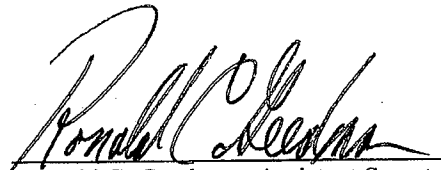
I further certify that by consent in lieu of a meeting dated March 6, 2001, as authorized by Texas law, the Board of Directors of said Company adopted the following resolution in accordance with the By-laws of said Company:

RESOLVED, that the President, any Vice-President, the Treasurer, or any regional sales manager, contracting manager, regional construction manager, manufacturing manager, project manager or business development manager heretofore or hereafter appointed by the Company or any other sales representative as may from time to time be designated by any one of the President, any Vice-President or the Treasurer, is authorized to make bids, prepare quotations and submit and receive proposals for contracts; to negotiate and sign contracts and other agreements, bid bonds, performance bonds, and other related documents; and to otherwise bind and obligate the Company in the conduct of its normal business.

I further certify that the foregoing resolution is in full force and effect and that Donald O. Nason is a duly designated and authorized Business Development Manager of the Company.

This certificate shall remain in full force and effect for ninety days from the date it bears, unless sooner revoked, but no such revocation shall be effective as to anyone dealing with any individual named in this certificate in reliance hereon unless written notice of such revocation has been received by the person so relying on this certificate.

IN WITNESS WHEREOF, I have hereonto set my hand and the seal of CB&I Inc., this
23rd day of February, 20 10.



Ronald C. Geedman, Assistant Secretary
CB&I Inc.

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

C. 4
C.B. & I. Inc. Bid #10-17
Page 20 of 40

Budget Year 2010	Department: Utilities Division: Water & Sewer Maintenance Program: Capital Water Mains	Request Date 4/6/2010	Adjustment Number
--------------------------------	--	-------------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

\$1,600,000 in the Mount Sequoyah Pressure Plane Improvements Project. Increase project for the construction of a 500,000 gallon elevated water storage tank and all related site work.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

To recognize impact fee funds to construct a 500,000 gallon elevated water storage tank to meet fire flow requirements, provide adequate flows during high demand periods, and meet industry standards and Health Department minimum storage requirements.

Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Contract Services	5400.5600.5315.00	1,600,000		04036 . 1
				.
Payments by Property Owners	5400.0940.4420.00		85,241	04036 . 1
Transfer from Impact Fee	5400.0940.6602.30		1,465,759	04036 . 1
Transfer from Impact Fee	5400.0940.6602.30		49,000	04036 . 1
				.
				.
				.
TOTAL		<u>1,600,000</u>	<u>1,600,000</u>	

Division Head	Date
	3-10-2010
Budget Director	Date
	10 MAR 10
Department Director	Date
	3-10-2010
Finance Director	Date
	3-11-2010
Chief of Staff	Date
	3/11/10
Mayor	Date

Requested By _____
kspringer

Budget & Research Use Only

Type: A B C D E

Description: _____
0

General Ledger Date _____

Posted to General Ledger
Initial _____ Date _____

Posted to Project Accounting
Initial _____ Date _____

EXHIBIT

B

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: C. 4
4/7/2010 C B & I, Inc. Bid #10-17
P.O Number:
Expected Delivery Date: Page 21 of 40
ASAP

Vendor #: 19800	Vendor Name: C B & I Inc		Mail Yes: ☒ No: ☐
Address: 3600 Mansell Rd, Ste 230		Fob Point: 1400 N 113 W Mountain Fayetteville, AR 72701	Taxable Yes: ☒ No: ☐
City: Alpharetta	State: GA	Zip Code: 30022	Ship to code: No: ☒
Requester: David Jurgens		Requester's Employee #: 490	Division Head Approval: Extension: 330

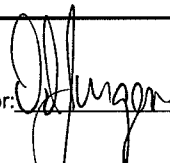
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Canterbury Water Tower Construction, Bid 10-17	1	ea	1,551,000.00	\$1,551,000.00	5400.5700.5315.00	04036.1		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: **\$1,551,000.00**
Tax: **\$143,467.50**
Total: **\$1,694,467.50**

Approvals:

Mayor: _____

Department Director: 

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____



1810 N. College Avenue
P.O. Box 1229
Fayetteville, AR 72703/72702-1229
479-443-2377 • FAX 479-443-9241
www.mcclelland-engrs.com

March 1, 2010

Mr. Shannon Jones, PE
Water and Wastewater Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Canterbury Tank Bid Tabulation

Dear Mr. Jones:

Bids were opened on the Canterbury Tank project at 2:00 PM, Tuesday, February 23, 2010 at the Fayetteville City Hall. Bids were received from five different contractors, as listed on the attached Bid Tabulation. All five are properly licensed and submitted appropriate bid bonds, as well as documents concerning their companies history of tank construction.

The low bidder was CB&I, Inc. of Alpharetta, Georgia, with a bid total of \$1,551,000.00 for a spheroidal tank configuration. Other tank configurations were \$178,500 more expensive. This bid total is less than our estimate of approximately \$1,700,000, and award of the contract to CB&I Inc. is recommended.

Very Truly Yours,

Robert W. White, PE
Project Manager

Encl: Bid Tabulation

BID TABULATION
City of Fayetteville
Canterbury Road 500,000 Elevated Tank
Fayetteville, Arkansas
MCE PROJECT # FY042150
February 23rd, 2010

Item #	Description	Qty.	Units	CB&I, Inc.		Maguire Iron, Inc.		Landmark Structures		Phoenix Fabricators & Erectors		Caldwell Tanks	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
SCHEDULE A													
1	Spheroidal Tank Foundation	1	LS	\$100,000.00	\$100,000.00	\$125,000.00	\$125,000.00	No Bid	No Bid	\$240,000.00	\$240,000.00	\$320,000.00	\$320,000.00
2	Spheroidal Tank Structure, 500,000 Gallon Capacity	1	LS	\$837,300.00	\$837,300.00	\$818,500.00	\$818,500.00	No Bid	No Bid	\$839,500.00	\$839,500.00	\$836,000.00	\$836,000.00
3	Spheroidal Tank Painting	1	LS	\$78,000.00	\$78,000.00	\$80,000.00	\$80,000.00	No Bid	No Bid	\$125,000.00	\$125,000.00	\$170,000.00	\$170,000.00
	Subtotal Schedule A				\$1,015,300.00		\$1,023,500.00				\$1,204,500.00		\$1,326,000.00
SCHEDULE B													
1	Fluted Column Tank Foundation	1	LS	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$330,000.00	\$330,000.00
2	Fluted Column Tank Structure, 500,000 Gallon Capacity	1	LS	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$926,000.00	\$926,000.00
3	Fluted Column Tank Painting	1	LS	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$195,000.00	\$195,000.00
	Subtotal Schedule B												\$1,451,000.00
SCHEDULE C													
1	Composite Tank Foundation	1	LS	No Bid	No Bid	No Bid	No Bid	\$400,000.00	\$400,000.00	\$300,000.00	\$300,000.00	\$332,000.00	\$332,000.00
2	Composite Tank Structure, 500,000 Gallon Capacity	1	LS	No Bid	No Bid	No Bid	No Bid	\$679,500.00	\$679,500.00	\$900,700.00	\$900,700.00	\$882,000.00	\$882,000.00
3	Composite Tank Painting	1	LS	No Bid	No Bid	No Bid	No Bid	\$70,000.00	\$70,000.00	\$100,000.00	\$100,000.00	\$127,000.00	\$127,000.00
	Subtotal Schedule C							\$1,149,500.00		\$1,300,700.00		\$1,341,000.00	
SITE WORK BID SCHEDULE													
1	Act 291, 1993 Trench & Excavation Safety System	1	LS	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$5,000.00	\$5,000.00
2	Erosion Control	1	LS	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$8,000.00	\$8,000.00
3	Audio / Video Tape Recordings	1	LS	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$1,500.00	\$1,500.00
4	Site Photographs	1	LS	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
5	Tree Removal and Tree Protection	1	LS	\$21,000.00	\$21,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$24,000.00	\$24,000.00	\$11,500.00	\$11,500.00
6	Tank Site Grading, Grubbing and Earthwork	1	LS	\$31,800.00	\$31,800.00	\$35,000.00	\$35,000.00	\$35,000.00	\$35,000.00	\$37,000.00	\$37,000.00	\$15,000.00	\$15,000.00
7	Access Drive Grading, Grubbing and Earthwork	1	LS	\$21,200.00	\$21,200.00	\$22,000.00	\$22,000.00	\$26,000.00	\$26,000.00	\$24,000.00	\$24,000.00	\$87,000.00	\$87,000.00
8	Retaining Wall	1	LS	\$137,000.00	\$137,000.00	\$150,000.00	\$150,000.00	\$160,000.00	\$160,000.00	\$150,000.00	\$150,000.00	\$89,000.00	\$89,000.00
9	Site Fencing, Entrance Gate	1	LS	\$23,700.00	\$23,700.00	\$24,000.00	\$24,000.00	\$25,000.00	\$25,000.00	\$27,000.00	\$27,000.00	\$29,500.00	\$29,500.00
10	Drainage Structures and Drain Piping	1	LS	\$33,700.00	\$33,700.00	\$33,000.00	\$33,000.00	\$35,000.00	\$35,000.00	\$38,000.00	\$38,000.00	\$32,000.00	\$32,000.00
11	Tank Inlet and Outlet Piping, Contract Section 1 Yard Piping	1	LS	\$48,400.00	\$48,400.00	\$48,000.00	\$48,000.00	\$50,000.00	\$50,000.00	\$54,000.00	\$54,000.00	\$75,000.00	\$75,000.00
12	Tank Inlet and Outlet Valve Vault and Vault Valves and Fittings	1	LS	\$105,400.00	\$105,400.00	\$105,000.00	\$105,000.00	\$110,000.00	\$110,000.00	\$120,000.00	\$120,000.00	\$105,000.00	\$105,000.00
13	Tank Site and Access Drive Paving	1	LS	\$74,000.00	\$74,000.00	\$75,000.00	\$75,000.00	\$75,000.00	\$75,000.00	\$80,000.00	\$80,000.00	\$72,000.00	\$72,000.00
14	Electrical Work, Obstruction Lighting	1	LS	\$21,000.00	\$21,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$21,000.00	\$21,000.00
15	Miscellaneous Site Work Necessary for Project Completion	1	LS	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	\$25,000.00	\$25,000.00
	Subtotal Site Work Schedule				\$535,700.00		\$553,500.00		\$580,000.00		\$591,000.00		\$577,000.00
BID TOTAL FOR ALTERNATE CONFIGURATIONS													
	Subtotal A, Spheroidal Tank				\$1,015,300.00		\$1,023,500.00		NO BID		\$1,204,500.00		\$1,326,000.00
	Sitework Subtotal				\$535,700.00		\$553,500.00		NO BID		\$591,000.00		\$577,000.00
	Spheroidal Tank Total				\$1,551,000.00		\$1,577,000.00		NO BID		\$1,795,500.00		\$1,903,000.00
	Subtotal B, Fluted Column Tank				NO BID		NO BID		NO BID		NO BID		\$1,451,000.00
	Sitework Subtotal				NO BID		NO BID		NO BID		NO BID		\$577,000.00
	Fluted Column Tank Total				NO BID		NO BID		NO BID		NO BID		\$2,028,000.00
	Subtotal C, Composite Tank				NO BID		NO BID		\$1,149,500.00		\$1,300,700.00		\$1,341,000.00
	Sitework Subtotal				NO BID		NO BID		\$580,000.00		\$591,000.00		\$577,000.00
	Composite Tank Total				NO BID		NO BID		\$1,729,500.00		\$1,891,700.00		\$1,918,000.00

Signature: Robert W. White
Robert W. White, P.E., 4895
Date: 2/24/10

License No. 0031300410

State of Arkansas

Contractors Licensing Board

CB&I INC.
2103 RESEARCH FOREST DR
THE WOODLANDS, TX 77380

CB&I INC.

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:

HEAVY CONSTRUCTION

MUNICIPAL & UTILITY
CONSTRUCTION

with the following suggested bid limit UNLIMITED

from June 26, 2009 until April 30, 2010

when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



CHAIRMAN

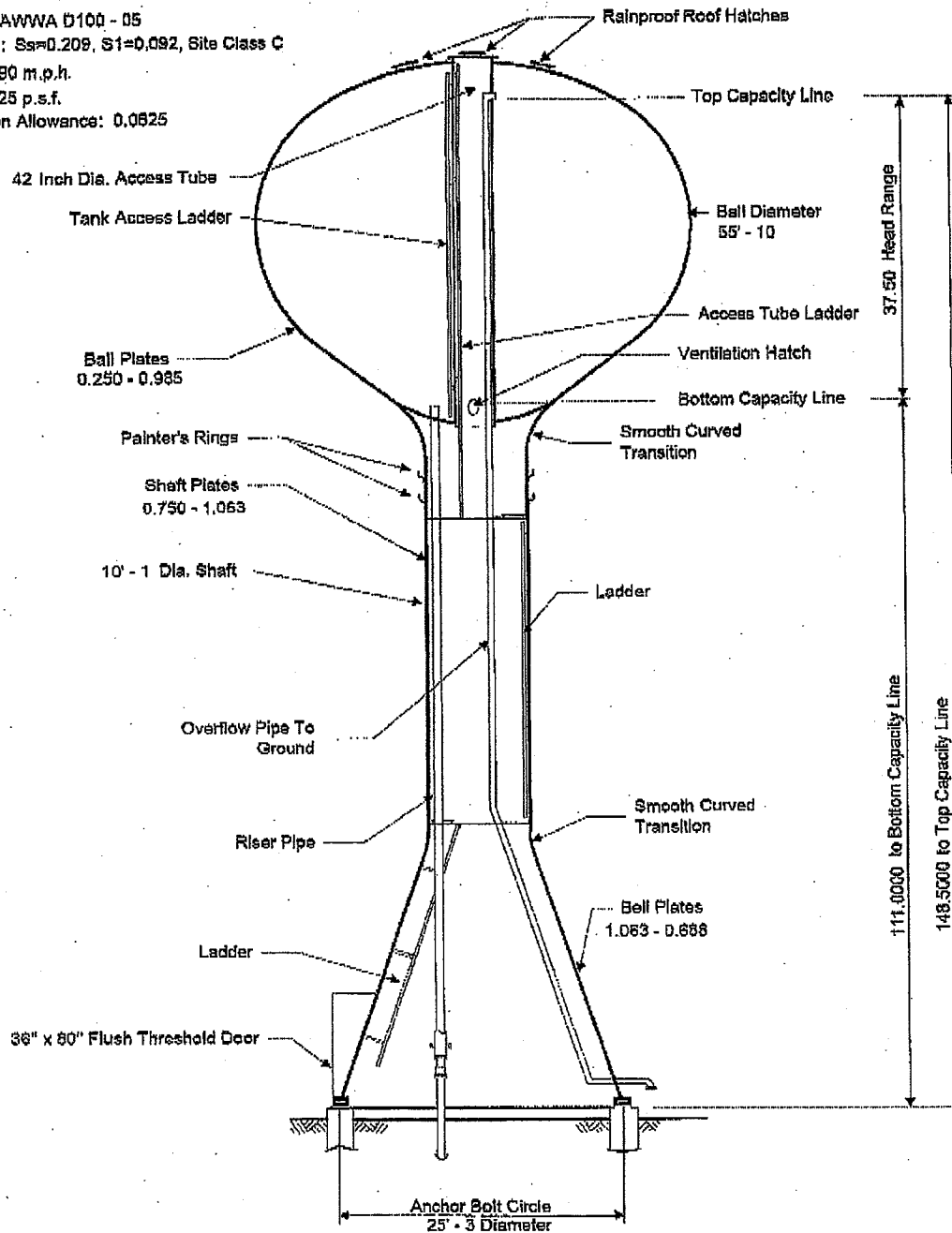
SECRETARY

June 26, 2009

Design Data

Code : AWWA D100 - 05
 Seismic : $S_a=0.209$, $S_1=0.092$, Site Class C
 Wind : 90 m.p.h.
 Snow : 25 p.s.f.
 Corrosion Allowance : 0.0625

Preliminary design, final design may
 vary but will comply with specifications.



NOT TO SCALE

**PROPOSED WATERSPHEROID®**

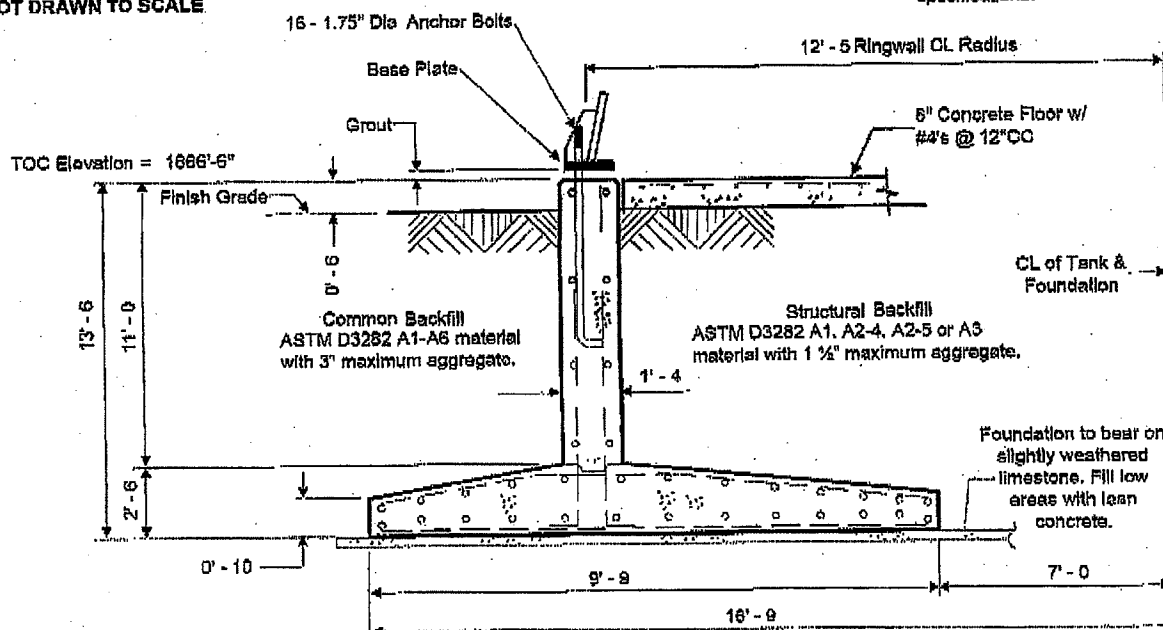
500,000 Gallons Capacity

For City of Fayetteville

Location Fayetteville, AR

DO NOT USE FOR CONSTRUCTION
NOT DRAWN TO SCALE

Preliminary design, final design may vary but will comply with specifications.



DESIGN BASIS

Spec: ACI 318

Concrete Strength: $f_c = 4000$ psi (6 Bag Mix)

Reinforcing Steel: ASTM A615 Gr. 60

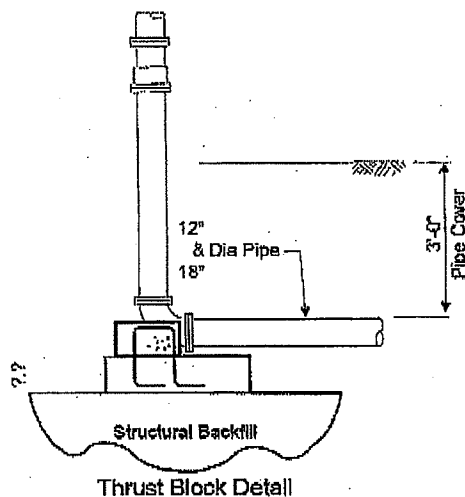
Design Soil Bearing: 8000 psf net.

Bearing pressure must be verified by a soil investigation. If soil conditions differ from those assumed, modification of the tank and foundation design may be required.

APPROXIMATE QUANTITIES

	Concrete cu yd	Reinforcing Steel lbs
Pedestal	91	7000
Thrust Block	2	300
Floor	8	800

Reinforcing Steel includes 7.5 % for laps and splices.



PROPOSED FOUNDATION

500,000 Gallons Capacity

For City of Fayetteville

Location Fayetteville, AR



LOCATION	ENGINEER	OWNER	YEAR
Oswego, IL 1500M WSD / 129.5' TCL	SEC Group Inc. Brian Schiber (630) 553-7560 Bschiber@secgroupinc.com	Village of Oswego Jerry Weaver (630) 554-3242 jweaver@oswegoil.org	2010
Sycamore, IL 1500M WSD / 141.3' TCL	Baxter & Woodman, Inc. Carolyn Grieves / Harry Harmon (815) 459-1260	City of Sycamore Candy Smith, City Clerk	2010
Alamosa, CO 1250M WSD / 147.9' TCL	Olsson Associates Joseph Baxter (720) 962-6072 jbaxter@oaconsulting.com	City of Alamosa Judy Egbert, City Clerk (719) 589-2593	2010
Two Harbors, MN 1250M WSD / 150' TCL	MSA Professional Services, Inc Dan Kort (218) 722-3915 dkort@msa-ps.com	City of Two Harbors Lee A. Klein - Adminisatrator (218) 834-5631	2010
East Windsor, NJ 1000M WSD / 158' TCL	Malcolm Pirnie, Inc. Luigi Zecchin (201) 398-4408 LZecchin@Pirnie.com	East Windsor MUA Joe Sokol - Executive Director (609) 443-6000 joes@eastwindsormua.com	2010
Frankfort, IL 1000M WSD / 152.8' TCL	Robinson Engineering Ltd. Greg Kamplain (815) 806-0300 Gkamplain@reltd.com	Village of Frankfort Bob Kennedy (815) 469-2177	2010
Harrison Co. (W15), MS 1000M WSD / 148' TCL	Knesal Engineering Services, Inc Bobby Knesal/BillKnesal (228) 867-9100 bobbyk@knesalengineering.com	Harrison County Utility Authority Kamran Pahlavan (228) 868-8752 kped@bellsouth.net	2010
Limestone, IL 1000M WSD / 146.5' TCL	Aqua Illinois Incorporated Michael Nargang (815) 614-2060 MNargang@aquaamerica.com	Aqua Illinois Incorporated Michael Nargang (815) 614-2060 MNargang@aquaamerica.com	2010
Edwardsville, IL 1000M WSD / 141.5' TCL	Veolia Water NA Greg Hoover (412) 809-6557	Veolia Water NA Greg Hoover (412) 809-6557 Greg.Hoover@veoliawaterna.com	2009



LOCATION	ENGINEER	OWNER	YEAR
Gonzales, LA 1000M WSD / 142.5' TCL	Glenn Shaheen & Assoc, Inc. Thomas Chance (225) 644-5523 Glenn.Shaheen@gsaengineers.com	City of Gonzales Mayor Johnny Berthelot (225) 647-2841	2009
Joliet, IL 1000M WSD / 113.5' TCL	AB&H Bill Meinholz / Nora Bertram (312) 236-9147 wmeinholz@abh-donohue.com	City of Joliet Ryan Liang (815) 724-4212	2009
Spotsylvania, VA 1000M WSD / 158.5' TCL	Wiley & Wilson, Inc. Maynard Jones (434) 947-1901	Spotsylvania County Government Wayne Brooks, Construction Mgr (540) 507-7305	2009
Superior, WI 1500M WSD / 122' TCL	Short Elliott Hendrickson (SEH) Jon Strand (715) 720-6243 jstrand@sehinc.com	Superior Water, Light & Power Company Tom Donofrio (715) 394-2200 tdonofrio@swlp.com	2008
Mundelein, IL 1250M WSD / 172.5' TCL	Rezek, Henry, Meisenheimer & Gende, Inc. Bill Rickert/Sandy Voigt (847) 362-5959	Village of Mundelein Village Clerk	2008
Cherry Hill, NJ 1000M WSD / 167' TCL	Remington & Vernick Engineers Paul Kelly (856) 795-9595 ext. 140	Merchantville Pennsauken Water Commission Michael Saraceni	2008
Danville, IL 1000M WSD / 110' TCL	Same Steve Wegman (217) 442-3063 x126	Aqua Illinois Mr. Steve Wegman (217) 442-3063 x126 SSWegman@aquaamerica.com	2008
Jackson, MI 1000M WSD / 156' TCL	OMM Engineering, Inc. David Kuipers (616) 957-4350 dkuipers@ommengineering.com	Summit Township Rick Faling DPW Supt. (517) 788-4113	2008
Manhattan, IL 1000M WSD / 151.2' TCL	Robinson Engineering Ltd. Darryl Bauer (708) 331-6700	Village of Manhattan William Borgo, Vlg Pres.	2008
Noblesville, IN 1000M WSD / 125' TCL	Tank Industry Consultants, Inc Patrick Brown (317) 271-3100 brown@tankindustry.com	Indiana American Water Roy C. Francis, P.E. (317) 885-2400 roy.francis@amwater.com	2008



LOCATION	ENGINEER	OWNER	YEAR
Northville, MI 1000M WSD / 170.5' TCL	Stantec Consulting Michigan Inc. Aaron Uranga (734) 214-1863 aaron.uranga@stantec.com	Charter Township of Northville Donald P. Weaver (248) 662-0495 dweaver@twp.northville.mi.us	2008
Plymouth, MI 1000M WSD / 119.5' TCL	Dietrich Bailey & Associates Michael Bailey (734) 455-3111 dba@dbapc.com	Plymouth Charter Township Thomas Hollis, DPW	2008
Point of Rocks, MD 1000M WSD / 122' TCL	John E. Harms Jr. & Assoc, Inc. Steve Zhan (301) 631-2027	Frederick County BOC Commissioners John L. Thompson, Jr, Pres. (301) 694-2078	2008
Big Lake, MN 1000M WSD / 137' TCL	Bolton & Menk, Inc. Jared Voge (320) 231-3956	City of Big Lake Mr. Patrick Wussow, City Administrator	2007
Branch Hill, OH 1000M WSD / 141' TCL	EMH&T Adam Fricke 513-697-8701	Clermont County Commissioners Mary C. Walker, President	2007
Davenport, IA 1000M WSD / 127' TCL	Stanley Consultants, Inc. (773) 693-9624	Iowa American Water David S. Lynde, Jr., P.E. (630) 739-8828	2007
Elgin, IL 1000M WSD / 133' TCL	Rezek, Henry, Meisenheimer & Gende, Inc. Bill Rickert/Nicole Harris (847) 362-5959	City of Elgin	2007
Greensburg, IN 1000M WSD / 187.5' TCL	HNTB Corporation Darren Burkhardt (317) 636-4682 dburkhart@hntb.com	City of Greensburg Rick Denney - Water Sup. (812) 663-2641	2007
Gulf Breeze, FL 1000M WSD / 123.6' TCL	Fabre Engineering Inc. Phil Phillips (850) 433-6438 phil.phillips@fabreinc.com	Midway Water System, Inc. Mr. Phil Jowers (850) 932-5188	2007
Hampshire, IL 1000M WSD / 139' TCL	Engineering Enterprises, Inc. Jed Davis (630) 466-9350	Village of Hampshire William P. Schmidt, Vlg Pres.	2007



LOCATION	ENGINEER	OWNER	YEAR
Ottawa, IL 1000M WSD / 140' TCL	City of Ottawa Arnie BAndstra (815) 433-0161	City of Ottawa City Clerk (815) 433-0161	2007
Portage, IN 1000M WSD / 164' TCL	Stanley Consultants, Inc. Christopher Lucie (773) 693-9624 LucieChris@stanleygroup.com	Indiana-American Water Co. Ed Nickels (219) 880-2326 enickels@amwater.com	2007
Hampshire, IL 2000M WSD / 138.5' TCL	Engineering Enterprises, Inc. Kevin Bomstad 630-466-9350 kbomstad@eeiweb.com	Hampshire West, LLC Dan Olsem 630-851-5490 dolsem@crown-chicago.com	2006
Wentzville, MO 2000M WSD / 203' TCL	Jacobs Civil, Inc. Steve Hornung (314) 335-4723 steven.hornung@jacobs.com	City of Wentzville Paul Lamb, Mayor 636-327-5101	2006
Batavia, IL 1500M WSD / 148' TCL	Rempe Sharpe & Associates, Inc. Dan Watson 630-232-0827 dwatson@rsaengr.com	City of Batavia	2006
Anderson Township, OH 1000M WSD / 129.5' TCL	ARCADIS FPS Larry Meyer	City of Cincinnati Mark Ginty (513) 352-3205	2006
Auburn Hills, MI 1000M WSD / 121' TCL	Orchard, Hiltz & McCliment, Inc. Al McComb 248-373-6774	City of Auburn Hills Mari Harvey Edwards, Mayor	2006
Clarkston, MI 1000M WSD / 124.5' TCL	Hubbell Roth & Clark, Inc. Ken Melchior (248) 454-6572	Charter Township of Independence (248) 625-5111	2006
Grand Blanc, MI 1000M WSD / 152' TCL	Rowe Inc. Jack T. Wheatley, P.E. 810-341-7500 JWheatley@Roweincorp.com	Charter Township of Grand Blanc	2006
McHenry, IL 1000M WSD / 108.8' TCL	Smith Engineering Consultants, Inc. Steve Cieslica (815) 385-1778	City of McHenry Janice C. Jones, Clerk 815-363-2105	2006



LOCATION	ENGINEER	OWNER	YEAR
Montgomery, IL 1000M WSD / 140' TCL	Engineering Enterprises, Inc. Bill Dunn 630-466-9350 bdunn@eeiweb.com	Village of Montgomery Robert Watermann, Vlg Clerk	2006
Oxford Township, MI 1000M WSD / 156.5' TCL	Rowe Inc Shannon Parry/Doug Scott (810) 341-7500	Oxford County Drain Commissioner John P. McCulloch	2006
Plano, IL 1000M WSD / 119.5' TCL	Lakewood Homes Robert C. Graham, VP (847) 884-8800 Bob@lakewoodhomes.net	City of Plano Mayor, William Roberts	2006
Romeoville, IL 1000M WSD / 134.5' TCL	Robinson Engineering Ltd. Jennifer S. Prinz (708) 331-6700	Village of Romeoville Jonathon Zabrocki, Vlg. Eng	2006
Ruckersville, VA 1000M WSD / 137' TCL	WW Associates, Inc. James McGill, Herbert White, Jason Clark (434) 582-6175 hwhite@wwassociates.net	Greene County Mr. Julius L. Morris, County Administrator	2006
Sayrewoods, NJ 1000M WSD / 146.9' TCL	Robert Ruppert (732) 727-8000	Old Bridge Municipal Utilities Authority Rocco Donatelli, Chairman	2006
Westerly, RI 1000M WSD / 105' TCL	C&E Eng. Partners, Inc. Russ Houde 401-762-1711	Town of Westerly Office of the Finance Director	2006
Smyrna, TN 2000M WSD / 102' TCL	Highers, Koonce & Assoc., Inc. Buddy Koonce (615) 333-7200	Town of Smyrna Pat Hickey - DPW (615) 459-9742	2005
Oswego, IL 1500M WSD / 200.5' TCL	Smith Engineering Consultants, Inc. Mike Hughes (630) 553-7560 mhughes@smithengineering.com	Village of Oswego Jerry Weaver (630) 554-3242 jweaver@oswegoil.org	2005
Broken Arrow, OK 1000M WSD / 137' TCL	Holloway Updike & Bellen, Inc. Jay Updike (918) 682-7811	Broken Arrow Municipal Authority Dave McCann Purchasing Dir (918) 259-8325	2005
Clinton, MS 1000M WSD	Williford Gearhart & Knight, Inc	City of Clinton	2005



LOCATION	ENGINEER	OWNER	YEAR
Danville, IL 1000M WSD / 127' TCL	Aqua Illinois, Inc. Jerry Connolly (217) 443-8538	Aqua Illinois, Inc. Jerry Connolly (217) 443-8538	2005
Pingree Grove, IL 1000M WSD / 172.2' TCL	Lintech Engineering LLC Jeremy Lin (815) 479-5180 jlin@lintechllc.com	Cambridge Homes David J. Cook (847) 984-4444	2005
Wilson, NC 1000M WSD / 132.5' TCL	Green Engineering Rupert Welfare 2522375365	City of Wilson Charles Pittman III Deputy City Mgr	2005
Montgomery, IL 2000M WSD / 156' TCL	Engineering Enterprises, Inc. Kevin Bomstad, P.E. 6304669350 kbomstad@eeiweb.com	Village of Montgomery Barbara Argo, Vlg Clerk 6308968080	2004
Aurora, IL 1500M WSD / 116.5' TCL	Crawford, Murphy & Tilly, Inc. Theresa O'Grady 6308201022 togrady@cmtengr.com	City of Aurora City Clerk	2004
Yorkville, IL 1500M WSD / 157.5' TCL	Engineering Enterprises, Inc. Brad Sanderson (630) 466-9350	Pasquinelli Development Group, Inc. Tim Winter (630) 325-5575 twinter@pasquinelli.com	2004
Yorkville, IL 1250M WSD / 152' TCL	Engineering Enterprises, Inc. Kevin Bomstad (630) 466-9350	United City of Yorkville Jackie Milscheski, City Clerk	2004
Germantown, WI 1000M WSD / 137.5' TCL	Ruekert & Mielke, Inc. Gregory Bolin 2625425733	Village of Germantown Bert Caverson - Director of Public Works 2622504725	2004
Mooreville, NC 1000M WSD / 173' TCL	Willis Engineers Chuck Willis 7043779844	Town of Mooreville Richard McLean, Office Mgr.	2004
White Lake Township, MI 1000M WSD / 160' TCL	Johnson & Anderson Inc Ole Anderson, PE (248) 681-7800	White Lake Township Paul Sherlock - Water Manager 2486983300	2004



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Grayslake, IL 1500M WSD / 189.5' TCL	Camp Dresser & McKee Inc. (CDM) Eric Cockerill, P. E. 3123465000	Central Lake County Joint Action Water Agency Melanie VanHeirseele, Asst. Executive Director 8472957788	2003
Plainfield, IL 1250M WSD / 141.1' TCL	Baxter & Woodman, Inc. Raymond Koenig 7084782090	Village of Plainfield Allen Persons 8154363577	2003
Gulf Shores, AL 1000M WSD / 147' TCL	Engineering Development Services, LLC Joseph Bullock (251) 626-2122	City of Gulf Shores Utility Board Cliff Johnson, Utility Manager	2003
Hope, AR 1000M WSD / 151' TCL	Christian & Ward, Inc Earl Christian (870) 772-0076	Hope Water & Light Commission James R. Kirchhoff, General Mgr	2003
Howard, WI 1000M WSD / 146' TCL	Graef Anhalt Schloemer Patrick Skalecki 9205929440	Village of Howard Geoff Farr	2003
Northfield, MN 1000M WSD / 100' TCL	Bolton & Menk, Inc. Jon Pederson 5076254171	City of Northfield Office of City Clerk	2003
Plainfield, IL 1000M WSD / 140.3' TCL	Baxter & Woodman, Inc. Ray Koenig 7084782090 rkoenig@baxwood.com	Village of Plainfield Peter E. DeBogory	2003
Sands Point, NY 1000M WSD / 125.5' TCL	Dvirka and Bartilucci William Merklin	Incorporated Village of Sands Point Brian Gunderson	2003
Savage, MN 1000M WSD / 161' TCL	Bonestroo Rosene Anderlik & Assoc Mark Rolfs 6516044872	City of Savage Stephen King, City Admin	2003
Shorewood, IL 1000M WSD / 98.2' TCL	Baxter & Woodman, Inc. Ray Koenig (708) 478-2090	Village of Shorewood Richard Chapman, Pres	2003
Braemar, VA 2000M WSD / 152' TCL	Hazen & Sawyer Ron Tatariw 7032182034	Prince William County Service Authority Purchasing Manager	2002



LOCATION	ENGINEER	OWNER	YEAR
Cicero, IL 2000M WSD / 116' TCL	Frank Novotny & Associates Bob Novotny (630) 887-8640	Town of Cicero City Clerk	2002
Beavercreek, OH 1500M WSD / 127.5' TCL	DPW, Office of Sanitary Engineering Jeffery A. Hissong, PE, Director 9375627450	DPW, Office of Sanitary Engineering Steve Stapleton 9374272883	2002
Crown Point, IN 1000M WSD / 173.2' TCL	City of Crown Point Jeff Ban (219) 663-3394 jrbn@urisp.com	City of Crown Point Jeff Ban	2002
Greenwood, IN 1000M WSD / 165' TCL	Indiana American Water Co. Ken Giannone (856) 346-8273 kgiannone@amwater.com	Indiana-American Water Company Alan D. Stuemke, P.E. (317) 885-2445 astuemke@amwater.com	2002
Holland, MI 1000M WSD / 146.5' TCL	Fishbeck, Thompson, Carr & Huber John Willemin (616) 575-3824	City of Holland Mark Hurley	2002
Romeo, MI 1000M WSD / 86' TCL	Jones & Henry Engineers, LTD Thomas Metcalf (419) 473-9611	Village of Romeo Mr. Paul Reiz - President	2002
Warrenville, IL 2000M WSD / 146.3' TCL	V3 Construction Group Mike Famiglietti (630) 571-0353	Warrenville Development Ltd Partnership Lynx Chan - VP 3127825800	2001
Downers Grove, IL 1000M WSD / 126.1' TCL	Tank Industry Consultants, Inc Todd Moore (317) 271-3100	Village of Downers Grove Ed Docekal (630) 434-5460	2001
Elwood, IL 1000M WSD / 146' TCL	Consoer Townsend Envirodyne Karl Krebs (312) 938-0300	Village of Elwood John Barry, Village President (815) 423-5011	2001
Florence, SC 1000M WSD / 167' TCL	Florence County Engineering Glen Kirvin (843) 676-8600	Florence County Joe W. King, County Administrator (843) 665-3018	2001
Galveston, TX 1000M WSD / 137' TCL	Klotz Associates, Inc. Larry Smalley (281) 589-7257	The Gulf Coast Water Authority Gordon Myers, General Manager (409) 935-2438	2001



LOCATION	ENGINEER	OWNER	YEAR
Itasca, IL 1000M WSD / 160' TCL	Baxter & Woodman, Inc. Jim Repp (815) 459-1260	Village of Itasca Carole Schreiber, Clerk (630) 773-0835	2001
Lansing, MI 1000M WSD / 136.5' TCL	Delta Charter Township Dennis Williams (517) 323-8540	Delta Charter Township Stanley Wegrzyn (517) 323-8570	2001
Maumee, OH 1000M WSD / 144.8' TCL	Finkbeiner, Pettis & Strout Brad Hitts (419) 473-1121	City of Maumee Director of Public Service (419) 897-7150	2001
Mt. Carmel, IL 1000M WSD / 104.5' TCL	Lamac Engineering Company, Inc Michael L. Gill, PE (618) 262-8651	City of Mt. Carmel George W. Woodcock, Mayor	2001
Ocean City, MD 1000M WSD / 111' TCL	Whitman Requardt & Associates, LLP Earl Swartzendruber / Dave Johnstone (410) 235-3450	Town of Ocean City Hal O. Adkins - PW Director (410) 524-7715	2001
Merrillville, IN 1500M WSD / 146' TCL	Northwest Indiana Water Company	Northwest Indiana Water Company Craig Hendrix, Senior Proj. Engr. 2198863770	2000
South Bend, IN 1500M WSD / 136' TCL	Tank Industry Consultants, Inc Todd Moore 3172713100	South Bend Board of Water Works Commissioners Ed Herman 2192355633	2000
Dundee, MI 1000M WSD / 119.4' TCL	Finkbeiner, Pettis & Strout James Leu /Denise M. Plummer (419) 473-1121	Village of Dundee Patrick Burtch, Village Manager	2000
Englewood, OH 1000M WSD / 135.5' TCL	Griffiths Vanden Bosch & Associates, Inc. Ken Griffiths (937) 836-4888	City of Englewood Eric Smith, City Manager 9378365106	2000
Flora, IL 1000M WSD / 151.7' TCL	Charleston Engineering, Inc. Paul Muhs (618) 392-0736	City of Flora Daniel M. Sulsberger (618) 662-7111	2000

DOCUMENT 00350

BID BOND

STATE OF ARKANSAS

KNOW ALL MEN BY THESE PRESENTS, that we:

CB&I Inc. Principal

and Contractor, and Westchester Fire Insurance Company

hereinafter called Surety, are held and firmly bound unto the **City of Fayetteville, Arkansas** and represented by its Mayor, hereinafter called Owner, in the sum of

Five Percent of the Greatest Amount Bid----- DOLLARS (\$5% G.A.B.*****)

lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

WHEREAS, the Principal contemplates submitting or has submitted a bid to the Owner for the furnishing of all labor, materials (except those to be specifically furnished by the Owner), equipment, machinery, tools, apparatus, means of transportation for, and the performance of the work covered in the Bid and the detailed Drawings and Specifications, entitled:

Canterbury Road 500,000 Gallon Elevated Water Storage Tank

WHEREAS, it was a condition precedent to the submission of said bid that a cashier's check, certified check, or bid bond in the amount of 5 percent of the base bid be submitted with said bid as a guarantee that the Bidder would, if awarded the Contract, enter into a written Contract with the Owner for the performance of said Contract within 15 consecutive calendar days after written notice having been given of the award of the Contract.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal within 15 consecutive calendar days after written notice of such acceptance enters into a written Contract with the Owner and furnishes a Contract Surety Bond in an amount equal to 100 percent of the base bid, satisfactory to the Owner, then this obligation shall be void; otherwise the sum herein stated shall be due and payable to the Owner and the Surety herein agrees to pay said sum immediately upon demand of the Owner in good and lawful money of the United States of America, as liquidated damages for failure thereof of said Principal.

IN WITNESS WHEREOF, the said CB&I Inc., as Principal herein, has caused these presents to be signed in its name by its Business Development Manager and attested by its Assistant Secretary under its corporate seal, and the said Westchester Fire Insurance Company as Surety herein, has caused these presents to be signed in its name by its Attorney-in-Fact under its corporate seal, this 23rd day of February A.D., 2010.

Signed, sealed and delivered
in the presence of:

(See Attached Certification of
Resolution and Authority)

As to Principal

Ronald C. Geedman, Assistant Secretary

CB&I Inc.

Principal-Contractor

By Donald O. Nason

Donald O. Nason

Business Development Manager

Title

Westchester Fire Insurance Company

Surety

Lisa A. Ward

Lisa A. Ward

Witness

As to Surety

Margaret Buboltz
Attorney-in-Fact (Power-of-Attorney
to be Attached) Margaret Buboltz

By Michael J. Herrod

Non Resident Agent

Michael J. Herrod - AR License #35990

State of Arkansas

Arkansas Insurance Department

HERROD, MICHAEL JOHN

IS LICENSED TO ENGAGE IN THE BUSINESS OF INSURANCE IN THE STATE OF ARKANSAS IN THE CAPACITY STATED BELOW,
SUBJECT TO APPLICABLE LAWS AND RULES.

LICENSE NUMBER 35990

LICENSE TYPE

Non-Resident Producer Agent

EFFECTIVE DATE

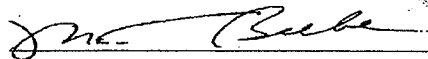
1/26/2010

QUALIFICATIONS

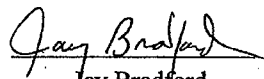
CAS, PROP

EXPIRATION DATE

01/25/2011



Mike Beebe
Governor



Jay Bradford
Insurance Commissioner

State of Arkansas

Arkansas Insurance Department



Mike Beebe, Governor

Jay Bradford, Insurance Commissioner

State of Arkansas

Arkansas Insurance Department

HERROD, MICHAEL JOHN

is licensed to engage in the business of insurance in the State of
Arkansas in the capacity stated below, subject to applicable laws and
rules.

LICENSE NUMBER 35990

LICENSE TYPE

Non-Resident Producer Agent

EFFECTIVE DATE

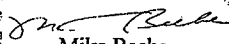
01/26/2010

QUALIFICATIONS

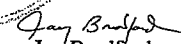
CAS, PROP

EXPIRATION DATE

01/25/2011



Mike Beebe
Governor



Jay Bradford
Insurance Commissioner

Power of Attorney

WESTCHESTER FIRE INSURANCE COMPANY

Know all men by these presents: That **WESTCHESTER FIRE INSURANCE COMPANY**, a corporation of the State of New York, having its principal office in the City of Atlanta, Georgia pursuant to the following Resolution, adopted by the Board of Directors of the said Company on December 11, 2006, to-wit:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
- (2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of power provided for in such person's written appointment as such attorney-in-fact.
- (3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (4) Each of the Chairman, the President and Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested.

FURTHER RESOLVED, that the Resolution of the Board of Directors of the Company adopted at the meeting held on November 8, 1999 relating to the authorization of certain persons to execute, for and on behalf of the Company, Written Commitments and appointments and delegations, is hereby rescinded.

Does hereby nominate, constitute and appoint James Nichols, Lisa Ward, Lupé Tyler, Margaret Buboltz, Michael J Herrod, Nancy Thomas, U. Theresa Gardner, Wendy Stuckey, all of the City of HOUSTON, Texas, each individually if there be more than one named, its true and lawful attorney-in-fact, to make, execute, seal and deliver on its behalf, and as its act and deed any and all bonds, undertakings, recognizances, contracts and other writings in the nature thereof in penalties not exceeding Twenty Five million dollars & zero cents (\$25,000,000.00) and the execution of such writings in pursuance of these presents shall be as binding upon said Company, as fully and amply as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office.

IN WITNESS WHEREOF, the said Stephen M. Haney, Vice President, has hereunto subscribed his name and affixed the Corporate seal of the said **WESTCHESTER FIRE INSURANCE COMPANY** this 21 day of July 2009.

WESTCHESTER FIRE INSURANCE COMPANY

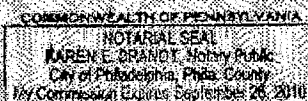


Stephen M. Haney
Stephen M. Haney, Vice President

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF PHILADELPHIA ss.

On this 21 day of July, AD 2009 before me, a Notary Public of the Commonwealth of Pennsylvania in and for the County of Philadelphia came Stephen M. Haney, Vice President of the **WESTCHESTER FIRE INSURANCE COMPANY** to me personally known to be the individual and officer who executed the preceding instrument, and he acknowledged that he executed the same, and that the seal affixed to the preceding instrument is the corporate seal of said Company, that the said corporate seal and his signature were duly affixed by the authority and direction of the said corporation, and that Resolution, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Philadelphia the day and year first above written.



Karen E. Brandt
Notary Public

I, the undersigned Assistant Secretary of the **WESTCHESTER FIRE INSURANCE COMPANY**, do hereby certify that the original POWER OF ATTORNEY, of which the foregoing is a substantially true and correct copy, is in full force and effect.

In witness whereof, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of the Corporation, this 23rd day of February, 2010.



William L. Kelly
William L. Kelly, Assistant Secretary

THIS POWER OF ATTORNEY MAY NOT BE USED TO EXECUTE ANY BOND WITH AN INCEPTION DATE AFTER July 21, 2011.

CERTIFICATION OF RESOLUTION AND AUTHORITY

I, **Ronald C. Geedman**, do hereby certify that I am the duly-elected and acting Assistant Secretary of CB&I Inc. (a/k/a CB&I Constructors, Inc. or CB&I Constructors or CB&I Inc. of Texas), a Texas corporation, (the "Company") and that as such officer I am duly authorized to make this certificate in behalf of that Company.

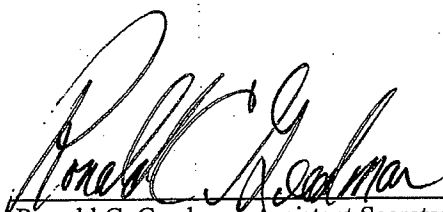
I further certify that by consent in lieu of a meeting dated March 6, 2001, as authorized by Texas law, the Board of Directors of said Company adopted the following resolution in accordance with the By-laws of said Company:

RESOLVED, that the President, any Vice-President, the Treasurer, or any regional sales manager, contracting manager, regional construction manager, manufacturing manager, project manager or business development manager heretofore or hereafter appointed by the Company or any other sales representative as may from time to time be designated by any one of the President, any Vice-President or the Treasurer, is authorized to make bids, prepare quotations and submit and receive proposals for contracts; to negotiate and sign contracts and other agreements, bid bonds, performance bonds, and other related documents; and to otherwise bind and obligate the Company in the conduct of its normal business.

I further certify that the foregoing resolution is in full force and effect and that Donald O. Nason is a duly designated and authorized Business Development Manager of the Company.

This certificate shall remain in full force and effect for ninety days from the date it bears, unless sooner revoked, but no such revocation shall be effective as to anyone dealing with any individual named in this certificate in reliance hereon unless written notice of such revocation has been received by the person so relying on this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of CB&I Inc., this
23rd day of February, 2010.


Ronald C. Geedman, Assistant Secretary
CB&I Inc.

City Council Agenda Items
and
Contracts, Leases or Agreements

4/6/2010

City Council Meeting Date
Agenda Items OnlyJeremy Pate *X*
Submitted ByDevelopment Services
DivisionDevelopment Services
Department

Action Required:

An ordinance to amend the Unified Development Code to create new and rearrange existing use units, implement new form-based zoning districts and associated design standards.

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 ☐*James C. Pate*
Department Director*03.10.2010*
Date
*Revised 03.24.2010*Previous Ordinance or Resolution # *197-33*

Original Contract Date:

K. Pate
City Attorney*3-25-2010*
Date

Original Contract Number:

Paul A. Becker
Finance and Internal Services Director*3-25-2010*
DateReceived in City
Clerk's Office*Kim G**Don Mann*
Chief of Staff*3-25-10*
DateReceived in
Mayor's Office*BRP**Frederick Jordan*
Mayor*3/25/10*
Date

Comments:



City Council Meeting Date:
April 06, 2010

City Council Agenda Memo

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director 

From: Dara Sanders, Current Planner

Date: March 10, 2010

Subject: UDC Amendments (ADM 09-3502): Form-based Zoning Districts

BACKGROUND & PROPOSAL

City Plan 2025. The City of Fayetteville established a benchmark through City Plan 2025 and the idea was further encouraged in the 2009 Fayetteville Forward Summit to adopt traditional, form-based zoning districts for as-of-right development. Currently, the City has three conventional commercial zoning districts that are utilized outside of the Downtown Master Plan area: C-1, Neighborhood Commercial, C-2, Thoroughfare Commercial, and C-3, Central Commercial. These conventional commercial zoning districts vary only slightly in intensity and use and do not clearly promote the goals of City Plan 2025 to infill and revitalize, to discourage sprawl, or to make traditional town form the standard development pattern. Additionally, these districts are designed to produce an automobile-oriented form that is largely disassociated from adjacent developments and does not encourage pedestrian activity, resulting in large parking areas between the street/sidewalk and the building.

In 2003, the City Council approved the City Planning Division's proposal to create a Planned Zoning District (PZD) option to allow property owners and developers the ability to propose and construct a project consisting of a single use or mixture of uses in a unique form that responds to the needs of the site and use(s), that could not otherwise be permitted under the City's established zoning districts. Since the adoption of City Plan 2025, 50 PZD applications have been submitted to the Planning Division. Each approved PZD application consists of at least one new zoning district that is unique to one location and is tracked and administered by the City Planning Division. The number of PZD applications submitted and approved that have a very different form than our zoning codes currently permit indicates a shift in land use and development form, a trend to which we feel the City must respond.

In November of 2008, City Planning staff began the initial process of research and analysis with the intent to draft new mixed-use zoning districts for the City of Fayetteville. Staff reviewed the zoning districts that are administered in 12 peer and/or model cities for the intent of the district, the

combination of uses, parking requirements, associated design regulations, and an approval option: Ames, IA; Champaign, IL; Chattanooga, TN; Urbana, IL; Lawrence, KS; Lynchburg, VA; Iowa City, IA; Denton, TX; Columbia, MO; Naperville, IL; Rockhill, MD; and Chapel Hill, NC. In response to the findings of our research and City Plan 2025, staff has drafted a proposal to create new mixed-use zoning districts, comparable to the City's three conventional commercial zoning districts but modeled after more traditional town form zoning districts. These zoning districts organize and encourage a mixture of uses and include a build-to zone, a minimum buildable street frontage percentage, and architectural and site design standards that are required for each project within the zone. Staff has modified existing Use Units and also created a new low-intensity neighborhood district in order to balance and organize the existing zoning districts to promote the goals of City Plan 2025, as well.

Use Units

As Use Units have been modified and added to Chapter 162 of the Unified Development Code over several years, some disorganization and inconsistencies have occurred and a range in intensity among uses has been lost. In response, staff proposes to combine similar uses and to establish a size restriction for Use Unit 15 (Neighborhood Shopping) so that it is consistent with its name and description to be neighborhood-oriented. In addition, staff proposes to create a new use unit (**Limited Business**) to encourage "neighborhood friendly" development, appropriate mixed use, and to balance the uses within existing residential and transitional zoning districts.

Use Unit 12, Limited business –

Traditional neighborhoods typically include low-intensity, nonresidential uses that serve the residents in the immediate area, such as a doctor's office, a bakery, a child care business, or a coffee shop. However, with the adoption of conventional or "Euclidean" zoning districts, residential and commercial uses are generally separated from each other in different zoning districts that are applied to large areas, resulting in vehicular travel to access residential services.

Currently, Fayetteville utilizes two (2) different "office" use units that are virtually the same: Use Unit 12 (Offices, studios, and related services) and Use Unit 25 (Professional offices). Staff proposes to consolidate both office use units into one, Use Unit 25, and to designate Use Unit 12 as *Limited business*. The proposed *Limited business* includes a combination of office, eating places, and retail uses that are subject to square footage limitations and design regulations for compatibility with adjacent residential uses.

The City Planning Division has processed several PZD applications to allow for the uses that staff has included in Use Unit 12, *Limited business* in single-family zoning districts. These projects are typically at corner locations or adjacent to collector/major streets and provide a type of low-intensity nonresidential service to the immediate area, such as an office building, day care, or veterinarian office. Staff proposes to include Use Unit 12, *Limited business* as a permitted use in the R-O, *Residential office* zoning district. Staff also proposes to include Use Unit 12 as a conditional use in the RSF-4, RSF-7, RSF-8, RT and RMF districts, and the Neighborhood Conservation zoning districts. When located within a residential zoning district, Use Unit 12,

Use Unit 15, Neighborhood commercial –

In order to provide a succession of intensity in land use and to promote compatibility with adjacent neighborhoods, staff proposes a building size limitation of 25,000 square feet for all included uses under Use Unit 15, Neighborhood shopping and to leave Use Unit 16, Shopping goods unrestricted. Use Unit 15 has been included as a Conditional Use in all zoning districts that currently include Use Unit 15 as a permitted use, so as to provide flexibility on a case by case basis.

Currently, Use Unit 17, *Trades and services*, is made up of a variety of uses that range from rug repair to marine craft sales and service, with a wide range in between. Staff proposes to reassign all general commercial and personal service uses to Use Unit 16 *Shopping goods* and to designate Use Unit 17 as *Transportation trades and services*, which would address the needs and operation of transportation-oriented businesses.

Fayetteville residents and City Council members expressed in City Plan 2025 and through various public meetings dissatisfaction with the development form and appearance produced by conventional C-1 and C-2 zoning districts, which is generally a “strip-commercial” development form. Research over many years’ worth of Comprehensive Land Use Plans indicates a desire to move away from this development pattern. To provide an alternative, staff proposes three (3) new zoning districts that will provide a more balanced range of nonresidential uses and intensity and will work toward achieving the goals, objectives, and benchmarks outlined in City Plan 2025. These new zoning districts (**Neighborhood Services, Community Services, Urban Thoroughfare**) are comparable to the City’s existing conventional zoning districts (R-O, C-1, C-2, C-3) in use but are designed with a build-to zone and architectural/site design standards in a traditional town form. It is the intent of most of these zoning districts to offer a more rigid standard that adheres to the City’s stated goals of

Neighborhood Services –

With only two (2) primary commercial zoning districts, a variety of intensity does not exist between R-O, Residential Office, an unrestricted professional office zoning district, and C-1, Neighborhood Commercial, a medium intensity commercial zoning district. Staff proposes a new low-intensity, mixed use zoning district designed to promote a pedestrian-oriented and sustainable neighborhood with limited non-residential uses that serve the immediate residential area.

This zoning district is intended primarily for intersections to serve as a node of nonresidential services or as a transitional zoning district between an established residential area and a commercial district. Permitted uses include single-, two-, and three-family residential uses and the new *limited business* use unit, and conditional uses are office and commercial uses that might need additional square footage allowance or dwelling units than permitted by right. The requirement of a build-to zone will encourage a more traditional town form with a portion of the building located at the street and associated parking located to the side or rear of the building, outside of the build-to zone.

Community Services –

As mentioned previously, two (2) primary conventional commercial zoning districts are available outside of the Downtown Master Plan area – C-1, Neighborhood Commercial and C-2, Thoroughfare Commercial – and three (3) form-based, mixed-use zoning districts are utilized within the Downtown Master Plan area – Downtown General, Main Street/Center, and Downtown Core.

Staff proposes a new zoning district that combines the facets of the existing C-1, Neighborhood Commercial and Downtown General zoning districts. Community Services is a medium-intensity, mixed-use district intended for commercial corridors that connect denser development nodes and serve the surrounding community and residential areas. It includes residential, office, and size-restricted commercial uses by right, and larger commercial uses by conditional use.

This district requires an urban form with a 10'-25' build-to zone and 65% minimum buildable street frontage requirements. Staff finds that this zoning district is an appropriate district for infill and redevelopment opportunities and has attached an example of the type of development that could be produced in the Community Services zoning district.

Urban Thoroughfare –

Similar to the concept of the proposed Community Services zoning district, staff proposes a new zoning district that is comparable to the C-2, Thoroughfare Commercial and Main

Street/Center zoning districts. The Urban Thoroughfare zoning district is a high-intensity district designed to serve the region with a concentration of commercial and mixed-use activities along major thoroughfares. It includes residential, office, and commercial uses by right.

This district also requires an urban form with a 10'-25' build-to-zone and 50% minimum buildable street frontage. As a result of design exercises conducted by the Strategic and City Planning Divisions, staff finds that the parking and access management requirements for many of the uses permitted in the Urban Thoroughfare zoning district warrant a lower minimum buildable street frontage percentage.

Administrative Approval

The goals, objectives, and actions included in City Plan 2025 call for the development and implementation of a form-based code that would allow as-of-right development of property in congruence with those standards (see Goals 1,3, 4, and 6). As an incentive for utilizing these new form-based zoning districts outside of the Downtown Master Plan area and in accordance with City Plan 2025, staff proposes to offer administrative development approval for the Community Services and Urban Thoroughfare zoning districts. While subdivision applications still require Planning Commission action, other development applications would be approved by city staff through an established review process appropriate to the size of the site. Project plans will be reviewed by the Technical Plat Review Committee, which consists of all applicable City divisions and the utility companies. The applicant will also be responsible for compliance with the notification requirements to adjacent property owners, and compliance with the public comment and appeal process.

Nonresidential Design Standards –

Because of the eligibility for administrative approval for developments associated with the Community Services and Urban Thoroughfare zoning districts, staff recommends additional Nonresidential Design Standards that would apply to a development application that is eligible for administrative approval, in addition to the City's current Commercial and Development Design Standards. The intent of these standards is to establish a higher standard for building and site design to produce a development that responds more appropriately to the needs of pedestrians and cyclists and to reduce the impact of vehicular traffic needs. The proposed Nonresidential Design Standards include building mass regulations and limitations, façade articulation requirements that vary depending upon visibility from the public right-of-way, window percentage requirements, and pedestrian-scaled elements, such as open space, bench, and planting requirements. Urban residential projects would be required to meet the already established design standards.

Over the past year, staff has scheduled three work sessions – two open Planning Commission workshops and one Developer/Design Professional session – to discuss the draft proposal and to request comments and suggestions from different stakeholders. Staff also presented these concepts to the Fayetteville Forward Economic Development group and the Chamber of Commerce. The item was also presented at two Planning Commission meetings, where it was discussed, amended and finally approved in February of this year.

The proposal to amend several chapters of the UDC to adopt new use units, modify existing use units, adopt new zoning districts, modify existing zoning districts, and adopt nonresidential design standards are highlighted and attached to the staff report.

RECOMMENDATION

Staff recommends the Council hold a workshop to review the proposed amendments prior to the Council meeting. Following this review and any revisions, staff recommends approval of the proposed amendments to chapters of the UDC as described above. This item was heard at the January 25th and February 8th Planning Commission meetings and forwarded to the City Council with a unanimous recommendation for approval (7-0-0).

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, TO MODIFY EXISTING AND CREATE NEW USE UNITS AND FORM-BASED ZONING DISTRICTS THAT PERMIT ADMINISTRATIVE DEVELOPMENT APPROVAL, AND TO CREATE DESIGN STANDARDS FOR SAID DISTRICTS.

WHEREAS, the City of Fayetteville recognizes that the Unified Development Code should be revised to achieve a benchmark established through City Plan 2025 and the Fayetteville Forward Summit to adopt traditional, form-based zoning districts for as-of-right development; and

WHEREAS, the City of Fayetteville recognizes that the Unified Development Code should include a balanced range of zoning districts and uses that meet the needs and expectations of Fayetteville citizens, stakeholders, and land developers; and

WHEREAS, the City of Fayetteville recognizes that the Unified Development Code should work toward establishing and maintaining a high quality of life for its residents;

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 amends §151.01 of the Unified Development Code to insert in alphabetical order the following definitions:

“Articulation (Development) The architectural composition of combined treatment of elements and parts of the edges, corners, and surface of a building.

Fenestration. (Development) An exterior opening in the surface of a structure, such as a window, door, clerestory window, curtain wall, etc.

Glazing. (Development) A transparent or translucent material that is integrated into a building envelope, such as a window, display window, door, glass curtain wall, etc.

Minimum buildable street frontage. (Zoning) The minimum required percentage of a property’s street frontage, established by the underlying zoning district and measured in linear feet, that is met by constructing a portion or portions of the vertical side of a building within the build-to zone. Buildings may be constructed outside of the build-to zone after the minimum required percentage has been met.”

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §160.01 of the Unified Development Code to establish the following zoning districts”

“Neighborhood Services, Community Services, and Urban Thoroughfare”

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends §161 *Zoning Regulations* of the Unified Development Code and inserts “Use Unit 12 *Limited Business**” as a conditional use in the RSF-4, RSF-7, RSF-8, RT-12, RMF-6, RMF-12, RMF-18, RMF-24, and RMF-40 zoning districts.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §161 *Zoning Regulations* of the Unified Development Code and repeals section 161.10(I), 161.11(I), 161.12(I), 161.13(I), 161.14(I), and 161.15(I) related to parking regulations.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby repeals §161.16 through §161.29 of the Unified Development Code and enacts a replacement §161.16 through §161.32 to insert new zoning districts and modify existing zoning criteria as shown in Exhibit “A” attached hereto.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01 *Establishment/Listing* of the Unified Development Code by renaming Unit 12, Unit 17 and Unit 25 as follows:

“Unit 12: *Limited Business*
Unit 17: *Transportation trades and services*
Unit 25: *Offices, studios, and related services*”

Section 7. That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01(B)(2) of the Unified Development Code to strike “Antique shop” and “Sanitary landfill area” from “Public and private facilities” and to insert “School and church facility” as a “Temporary facility”.

Section 8. That the City Council of the City of Fayetteville, Arkansas hereby repeals §162.01(L) *Offices, studios and related services* of the Unified Development Code and enacts a replacement §162.01(L) as shown in Exhibit “B” attached hereto.

Section 9. That the City Council of the City of Fayetteville, Arkansas hereby repeals §162.01(O), (P), (Q), and (Y) of the Unified Development Code and enacts a replacement §162.01(O), (P), (Q), and (Y) as shown in Exhibit “C” attached hereto.

Section 10. That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01(U)(2) of the Unified Development Code to strike “and ice” from “Fuel and ice establishments” and “Ice house” from the table contained therein, and to insert the use “Towing business” and “Impound Yard” under Contract Construction Services.

Section 11. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.01 to remove reference to "Unit 12" and replace it with "Unit 25".

Section 12. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.12 (D)(1) of the Unified Development Code to insert the following language:

"(e) *Build-to-zone.* Nonconforming structures located on properties with a build-to zone may be altered to permit expansion up to 25% of the existing square footage."

Section 13. That the City Council of the City of Fayetteville, Arkansas hereby amends §164 of the Unified Development Code to insert §164.21 *Limited Business* use conditions as shown in Exhibit "D" attached hereto.

Section 14. That the City Council of the City of Fayetteville, Arkansas hereby amends §166 of the Unified Development Code to insert §166.24 *Nonresidential Design Standards* as shown in Exhibit "E" attached hereto.

Section 15. That the City Council of the City of Fayetteville, Arkansas hereby repeals §167.04 Table 1 of the Unified Development Code and enacts a replacement §167.04 Table 1 as shown in Exhibit "F" attached hereto.

Section 16. That the City Council of the City of Fayetteville, Arkansas hereby amends §177.04 (D)(2)(c) of the Unified Development Code to insert the following subsection and renumber the following subsections sequentially:

"(c) *Urban Zoning Districts.* Zoning districts that prescribe urban building form (e.g., a build-to zone) permitting front setbacks of less than 15 feet may be permitted to reduce the greenspace to 10 feet parallel to the Master Street Plan right-of-way line. Any development providing less than 10 feet of greenspace shall utilize the street tree planting plan for urban streetscapes."

PASSED and **APPROVED** this the ____ day of ____, 2010.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"**ADM 09-3502**

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161.16 Neighborhood Services

- (A) *Purpose.* The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses*(1) *Permitted uses*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk cafes

(C) *Density.*

Units per acre	10 or less
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(D) *Bulk and Area*(1) *Lot width minimum*

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) *Lot area minimum.*

Single-family	4,000 sq. ft.
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Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback regulations*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 15 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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- (G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

161.17 District R-O, Residential Office

- (A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies

(C) *Density.*

Units per acre	24 or less
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EXHIBIT "A"**ADM 09-3502**

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Form-Based Zoning Districts
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- (D) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

- (1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

- (2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

- (3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

- (E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

- (F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district an additional distance of one foot for each foot of height in excess of 20 feet.

- (G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06; Ord. 5079, 11-20-07; Ord. 5195, 11-6-08; Ord. 5224, 3-3-09)

161.18 District C-1, Neighborhood Commercial

- (A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Offices, studios, and related services

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

- (C) *Density.* None.

- (D) *Bulk and area regulations.* None.

- (E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

- (F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any

EXHIBIT "A"**ADM 09-3502**

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C. 5
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residential district a distance of one foot for each foot of height in excess of 10 feet.

- (G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08)

161.19 Community Services

- (A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites

Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

- (C) *Density.* None

- (D) *Bulk and area regulations.*

- (1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

- (2) *Lot area minimum.* None

- (E) *Setback regulations.*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

- (F) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

- (G) *Minimum buildable street frontage.* 65% of the lot width.

161.20 District C-2, Thoroughfare Commercial

- (A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants

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Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) Density. None.**(D) Bulk and area regulations.** None.**(E) Setback regulations.**

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) Height regulations. In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.**(G) Building area.** On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08)

161.21 Urban Thoroughfare**(A) Purpose.** The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of

commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) Uses.**(1) Permitted uses**

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 41	Accessory Dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) Conditional uses

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk cafes
Unit 42	Clean technologies

(C) Density. None**(D) Bulk and area regulations.****(1) Lot width minimum**

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	None

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- (2)
- Lot area minimum
-
- None

- (E)
- Setback regulations.*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

- (F) *Height regulations.* A building or a portion of a building that is closer than 15 feet from the front property line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or portion of a building that is located 15 feet or greater from the front property line or the Master Street Plan right-of-way shall have a maximum height of 6 stories or 84 feet, whichever is less. Any building that exceeds the height of 20 feet shall be set back from any boundary line of a single-family residential district, an additional distance of one foot for each foot of height in excess of 20 feet.

- (G) *Minimum buildable street frontage.* 50% of the lot width.

161.22 District C-3, Central Commercial

- (A) *Purpose.* The Central Commercial District is designed to accommodate the commercial and related uses commonly found in the central business district, or regional shopping centers which provide a wide range of retail and personal service uses.

- (B)
- Uses.*

- (1)
- Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

- (2)
- Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 17	Transportation trades and services
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

- (C)
- Density.*
- None.

- (D)
- Bulk and area regulations.*
- None

- (E)
- Setback regulations.*

	Central Business District	Shopping Center
Front	5 ft.	25 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.	50 ft.
Side	None	None
Side, when contiguous to a residential district	10 ft.	25 ft.
Rear, without easement or alley	15 ft.	25 ft.
Rear, from center line of a public alley	10 ft.	10 ft.

- (F) *Height regulations.* Maximum height is six stories or 84 feet whichever is less. Above four stories, there shall be a stepback of the building's principal façade of at least fifteen feet. The height shall be measured from the mean elevation of the finished grade or sidewalk at the frontage line, whichever is higher, to the eave of the roof or cornice for a building with a parapet.

(Code 1965, App. A., Art. 5(VII); Ord. No. 2351, 6-21-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.037; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; 4863, 5-02-06; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08)

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161.23 Downtown Core

(A) *Purpose.* Development is most intense, and land use is densest in this zone. The downtown core is designed to accommodate the commercial, office, governmental, and related uses commonly found in the central downtown area which provides a wide range of retail, financial, professional office, and governmental office uses. For the purposes of Chapter 96: Noise Control, the Downtown Core district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
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Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 80% of lot width.

(G) *Height regulations.* Maximum height is 12 stories or 168 feet which ever is less.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5195, 11-6-08)

161.24 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street / Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the *Center* are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

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Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline services stations and drive in restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 75% of lot width.

(G) *Height Regulations.* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or a portion of a building that is located 15 feet or greater from the front property line or any master street plan right-of-way line shall have a maximum height of 6 stories or 84 feet, which ever is less.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5042, 8-07-07; Ord. 5195, 11-6-08)

161.25 Downtown General.

(A) *Purpose.* Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. Downtown General includes properties in

the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built
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	within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07)

161.26 Neighborhood Conservation

(A) *Purpose.* The *Neighborhood Conservation* zone has the least activity and a lower density than the other zones. Although *Neighborhood Conservation* is the most purely residential zone, it can have some mix of uses, such as civic buildings. *Neighborhood Conservation* serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the *Neighborhood Conservation* district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 10	Three-family dwellings
Unit 12	Limited Business *
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* 10 Units Per Acre.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	80 ft.
Three Family	90 ft.

(2) *Lot area minimum.* 4,000 Sq. Ft.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	5 ft.
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage.* 40% of lot width.

(G) *Height regulations.* Maximum height is 3 stories or 45 feet which ever is less.

(Ord. 5128, 4-15-08)

161.27 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing

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Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

(C) *Density.* None.(D) *Bulk and area regulations.* None.(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08)

161.28 District I-2, General Industrial

(A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(B) *Uses.*(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 18	Gasoline service stations & drive-in

	restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives.
Unit 36	Wireless communications facilities
Unit 38	Mini-storage Units
Unit 39	Auto salvage and junk yards

(C) *Density.* None.(D) *Bulk and area regulations.* None.(E) *Setback regulations.*

Front, when adjoining A or R districts	100 ft.
Front, when adjoining C, I or P districts	50 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I or P districts	25 ft.
Rear	25 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08)

161.29 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*(1) *Permitted uses.*

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Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.(D) *Bulk and area regulations.* None.(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 60 % of the total area of such lot.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5073, 11-06-07; Ord. 5195, 11-6-08)

161.30 District E-1, Extraction

(A) *Purpose.* The Extraction District is designed to provide areas for the commercial removal of natural accumulations of sand, clay, silt, gravel, rock, and any mineral where such removal may cause groundwater problems, noise, dust, traffic problems, erosion, and safety concerns.

(B) *Uses.*(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 30	Extractive uses

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.* None.(D) *Bulk and area regulations.*(1) *Lot width minimum.*

Lot width minimum	The proposed development shall have at least 200 feet of frontage on a state road or other adequate means of access compatible with sound land use planning principles.
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(2) *Lot area minimum.*

Lot area minimum	10 acres
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(E) *Setback regulations.*

From all property lines (including street frontage) when contiguous to all R districts	200 ft.
From all property lines (including street frontage) when contiguous to P, A, C, and I districts	100 ft.

(Code 1991, §160.047; Ord. No. 3546, 4-16-91; Ord. No. 4100, §2 (Ex. A), 6-16-98, Ord. No. 4178, 8-31-99)

161.31 Design Overlay District (I-540 Highway Corridor)

(A) *Purpose.* The purpose of establishing a Design Overlay District for the I-540 Highway Corridor is as follows:

- (1) To protect and enhance the distinctive scenic quality of the I-540 Highway Corridor by providing for nonresidential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage.
- (2) To address the issues of traffic and safety.
- (3) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, drainage and heat islands.
- (4) To preserve and enhance the economic value and viability of property within and near the

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Overlay District for the I-540 Highway Corridor.

(B) *Overlay District boundaries.* The Overlay District encompasses all lands lying within 660 feet of each side of the right-of-way of I-540 from the intersection of I-540 and State Highway 471 (a/k/a 71B) north to the city limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion known as State Highway 471S described more fully as that portion of State Highway 471 which connects I-540 to State Highway 471 (a/k/a North College) and all future extensions of I-540 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Division.

(C) *Application of Overlay District: Regulations and standards.* The regulations and standards contained herein shall apply to all nonresidential properties, (including, but not limited to new development), located within the Overlay District boundaries. Such regulations and standards shall be in addition to and shall overlay all other ordinance regulations and standards, including, but not limited to nonresidential zoning district and signage regulations and standards. Should the regulations and standards of the underlying and Overlay District conflict, the Overlay District regulations and standards shall control.

(D) *Nonresidential site design and development standards.*

(1) *Greenspace.* A minimum of 25 feet of landscaped greenspace exclusive of right-of-way shall be provided along the highway right-of-way and any public street to which the development has frontage. Parking lots shall not encroach into the greenspace and shall be screened when abutting a required greenspace area. Trees shall be planted at the interval of one tree per 30 linear feet of greenspace area when practicable.

(2) *Signs*

(a) The only permitted free standing signs shall be monument signs. Only indirect lighting may be used for illumination of all signs.

(b) All signs shall otherwise comply with *Chapter 174 Signs* and any variance shall be considered pursuant to § 156.06 of the *Unified Development Code*.

(3) *Exterior appearance.* All structures shall be architecturally designed to have front facades facing all street and highway right-of-way. An elevation drawing shall be submitted for each side of the building that faces a street or

highway.

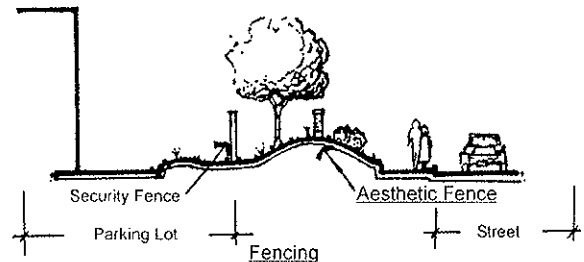
(4) *Building material.* Buildings shall be constructed of wood, masonry, or natural looking materials. No structures shall be allowed that have metal side walls UNLESS such metal siding is similar in appearance to wood, masonry, or natural looking material.

(5) *Site coverage.* Twenty-five percent (25%) of the site shall be left in open space. Eighty percent (80%) of the open space shall be landscaped which may include ponds and fountains.

(6) *Optional fencing.* All fencing shall be constructed of wood, masonry, or natural looking materials. No optional fencing shall be located within the greenspace required by Section (D)(1). No metal fencing shall be allowed except in the following cases:

(a) Wrought iron fencing.

(b) If other types of metal fencing are necessary, for security purposes, they may be used if the area is first fenced off with a view obscuring natural or natural looking fencing material. The metal fencing shall be placed inside the view obscuring fencing, and the view obscuring fencing shall be at least the height of the metal fencing.



(7) *Outdoor storage of material and equipment.* All outdoor storage of material and equipment shall be screened with natural vegetation.

(8) *Access.*

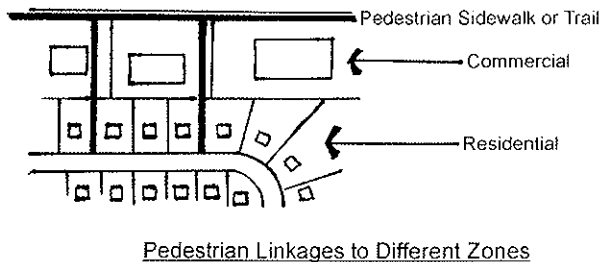
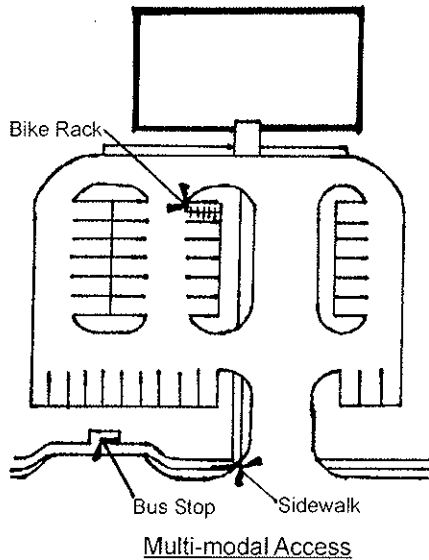
(a) *Multi-modal.* Multi-modal access may be required on nonresidential sites within the Design Overlay District. (For example: The provision of bus stops, bicycle racks, parking stalls for car pools, and bicycle and pedestrian walks and trails).

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(E) *Nonresidential developments and multiple building sites.* In the case of nonresidential development involving multiple building sites, whether on one or more platted lots, the above-described regulations shall apply to the development as an entire tract rather than to each platted lot.

(F) *Exemptions.*

- (1) Undeveloped or partially developed lots in nonresidential subdivisions lying within the Design Overlay District for I-540 Highway Corridor which have received preliminary or final approval as nonresidential subdivision prior to June 28, 1994, are hereby exempt from compliance with Ordinance No. 3806 (§ 161.21).
- (2) Owners of lots within nonresidential subdivisions which obtained preliminary or final approval as nonresidential subdivisions prior to June 28, 1994, and not included in the specifically exempted properties may apply for an exemption to the Fayetteville Zoning and Development Administrator. The Zoning and Development Administrator shall respond to the application in writing within 10 working

days of the receipt of the application.

- (3) Completed development upon property subject to such exemption not in compliance with the standards set forth in Ordinance No. 3806 (§ 161.21) shall be considered pre-existing conforming structures.
- (4) Nothing contained herein shall limit or prohibit property owners from utilizing the variance provisions contained in Ordinance No. 3806 (§ 161.21).

(Code 1991, §160.048; Ord. No. 3821, §1, 3-5,8-9-94; Ord. No. 38-06, 6-28-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4128, §1, 12-15-98; Ord. 4725, 7-19-05; Ord. 4784, 10-18-05)

Cross reference(s)--Appeals, Ch. 155; Variances, Ch. 156.

161.32 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

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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.

- (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.

(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 General Plan 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.

- (2) 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) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

- (4) *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.

(D) *C-PZD, Commercial Planned Zoning District*

- (1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.

- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.

- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination

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- thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.
- (2) 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) *Conditions.*
- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leaseable floor area within the development.
- (b) Residential uses must be appropriate to the design of the project.
- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.
- (4) *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.
- (E) *I-PZD Industrial Planned Zoning District.*
- (1) *Purpose and intent.* The I-PZD is intended to accommodate industrial parks and single use industrial developments that are determined to be more appropriate for a PZD application than a general industrial rezone. The legislative purpose, intent and application of this district include, but are not limited to, the following:
- (a) To provide for manufacturing activities in a manner compatible with the surrounding area.
- (b) To encourage the application of sound planning and design principles in the orderly development of industrial activities.
- (c) To maximize manufacturing potential without adversely affecting the living environment of the community.
- (d) To encourage industrial development that is consistent with the city's General Plan.
- (2) 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) *Conditions.*
- (a) In no instance shall the industrial use area be less than fifty-one percent (51%) of the gross leaseable floor area within the development.
- (b) Ancillary commercial and office uses shall be compatible with the design and scale of the project.
- (c) Residential uses must be appropriate to the scope and character of the development.
- (4) *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.
- (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.
- (2) *Lot area and yard requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for

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Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

- (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.
- (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.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. 4717, 7-5-05; Ord. 4764, 09-20-05; Ord. 4783, 10-18-05)

161.33-161.99 Reserved

(Ord. 4930, 10-03-06 repealed and re-adopted the entire chapter)

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- (1) *Description.* Unit 12 consists of small-scale establishments offering commercial goods and services that are accessible for the convenience of individuals living in residential districts, while compatible in size, scale and appearance with the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 164. All uses classified under Unit 12 must be within a building containing 3,000 square feet or less.

(2) *Included uses.*

Personal Services: (Maximum gross floor area of 1500 square feet)	•Day care •Dry Cleaning •Salon/Barber shop •Tailoring
Specialized Retail: (Maximum gross floor area of 2000 square feet)	•Antique/home decor sales •Apparel •Art/architectural supplies •Bakery, Pastry shops •Bicycle Shops •Book store •Coffee shop •Delicatessen •Drugstore •Food specialty stores •Florist •Grocery •Hardware •Health food store •Hobby /Craft Stores •Ice cream •Meat Market •Restaurant/café •Small appliance repair •Stationary Store •Toy store •Video rental
Professional Offices: (Maximum gross floor area of 3000 square feet)	•Accountant •Architect •Attorney •Broker •Business/Mgmt Consultant •Doctor •Dentist •Engineer •Insurance Sales •Interior Designer •Optometrist •Realtor •Welfare agency
Studios for: (Maximum gross floor area of 3000 square feet)	•Art •Dance •Music •Photography •Pottery

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(O) Unit 15. Neighborhood shopping goods.

- (1) *Description.* Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential districts. All uses classified under Use Unit 15 must be within a building containing 25,000 square feet or less.

(2) *Included uses.*

Personal services	•Barber/Salon •Dry cleaning •Laundry facility •Tailoring
Retail	•Apparel and accessory •Bakery, pastry shops •Bicycle shop •Bookstores •Coffee shop •Delicatessen •Drugstore •Electronics •Florists •Food specialty stores •Furniture and Home Decor •Grocery •Hardware store •Health food store •Hobby/craft shop •Ice cream •Jewelry/watch sales and repair •Meat market •Music instruments •News and magazine stand •Optical goods •Pet shop •Photography Studio •Picture framing •Shoe store •Sporting goods •Stationary store •Toy store •Video rental
Vehicular Sales (interior display only)	•Automobile •ATV/Motorcycle •Boat/Personal Watercraft (PWC)

(P) Unit 16. Shopping goods.

- (1) *Description.* Unit 16 consists of stores selling retail goods which are ordinarily purchased less frequently and often have a city-wide or regional market.

(2) *Included uses.*

Neighborhood Shopping Goods	All uses within Unit 15 are also permitted within Unit 16, without restriction to size
General Merchandise:	•Department store •Mail order
Merchandise vending machine operations	•Sales and repair
Home/Office:	•Appliances •China, glassware •Draperies, curtains •Floor coverings •Furniture
Personal services:	•Animal daycare •Animal hospital •Auctioneer •Bindery •Body piercing •Costume rental service •Detective service •Electrical repair service •Furniture repair, refinishing •Gunsmith •Interior decorating •Linen supply and industrial laundry •Locksmith •Office supplies •Rug cleaning, repair •Sign painting •Tattoo and piercing •Taxidermist •Tool sharpening, repair •Watch and jewelry repair •Weight loss center
Retail	•Apparel and accessory •Auto accessory store •Boat and accessory store •Dry goods •Garden supply

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28 of 70(Q) *Unit 17. Transportation trades and services.*

- (1) *Description.* Unit 17 consists of establishments engaged primarily in providing vehicular sales, service and maintenance, and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage. Uses also include those that require transport of persons or materials on a regular basis.

(2) *Included uses.*

Retail trade establishments, general:	•Automotive sales, •Body shops/garages •Farm supplies and equipment and repair •Lawn equipment sales, repair •Marine craft sales, repair •Motorcycle sales, repair •Truck sales •Trailer, camping, hauling, travel, sales •Used car lots
Personal help:	•Auto wash •Motor repair •Packing and crating
Transportation service:	•Bus station •Car rental •Express service •Helistop •Railway terminal •Taxicab station

(Y) *Unit 25. Offices, studios and related services.*

- (1) *Description.* Unit 25 consists of offices, studios, medical and dental labs, and other supporting services and sales.

(2) *Included uses.*

Medical Clinic:	• Dental office/clinic • Medical office/clinic
Professional office:	• Accountant • Architect • Attorney • Broker • Engineer • Realtor
Sale of supplies and equipment	• Architecture, drafting, and art supplies • Office furnishings and supplies • Medical, optical, and dental supplies • Scientific instruments
Services:	• Advertising agency • Animal daycare (10 animals or less) • Auto parking garage • Bail bonding agency • Business or management consultant • Computing service • Consultant • Data processing service • Drafting service • Employment agency • Financial institution • Funeral home • Insurance sales • Interior decorator • Photocopying or printing • Social and welfare agencies • Travel agency • Veterinary small animal out-patient clinic
Studios:	• Artist's studio • Photography studio • Studio for teaching any of the fine or liberal arts

164.21 Limited Business

- (A) *Purpose.* These regulations are intended to mitigate the potential adverse impacts associated with commercial uses adjacent to or within residential areas by allowing limited neighborhood commercial uses that are compatible in size, scale, massing and residential appearance with adjoining and surrounding residential uses. The following standards shall apply:
- (1) Enhance and regulate the appearance of neighborhood commercial uses.
 - (2) Protect adjoining properties from the potential adverse impacts associated with commercial uses adjacent to residences such as traffic, noise, appearance, lighting, drainage, and effect on property values.
 - (3) Provide areas for off-street parking that will be appropriate in size, location and scale within residential areas.
 - (4) Provide commercial uses that are accessible for the convenience of individuals living in residential districts.
 - (5) Reduce the length and number of vehicle trips generated by residential development.
- (B) *Applicability.* These standards shall apply to all conditional use requests for Use Unit 12, Limited Business, in any zoning district.
- (C) *Similar Uses Allowed.* When a use is not specifically listed as a permitted use in Use Unit 12 (Limited Business), the use may be permitted if it is determined by the Zoning and Development Administrator that the use is similar to other uses listed. In determining "similarity," the Zoning and Development Administrator shall make all of the following findings:
- (1) The proposed use meets the purpose of this section and the goals and policies of the Comprehensive Land Use Plan.
 - (2) The proposed use shall not adversely impact the public health, safety and general welfare of the neighboring residents;
 - (3) The proposed use shall be similar to the uses listed above considering use intensity and characteristics.
- (D) *Conditions for Approval.* The uses listed may be allowed as a permitted use and shall meet the following conditions:
- (1) The proposed use shall not adversely affect local traffic conditions on the adjoining streets.
 - (2) New structures located within a residential zoning district shall incorporate design elements similar to and compatible with those found within the neighborhood, including materials, roof pitch, scale, etc.
 - (3) New parking areas or lots, utility equipment and trash enclosures shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.
 - (4) One wall sign shall be allowed with a maximum area of eight square feet. The color of the sign shall be compatible with the colors of the structure, and only indirect external lighting is permitted.
 - (5) Hours of operation shall be limited to Sunday through Thursday, 6am to 9pm, and Friday and Saturday, 6am to 11pm, unless otherwise further determined by the Planning Commission.
 - (6) All new or enlarged structures shall comply with the zoning requirements of the underlying district.
- (E) *Design Review.* The applicant shall submit the following information to the Planning Division for review, where applicable:
- (1) A site plan drawn to scale showing location of parking, building footprint, and all other improvements.
 - (2) Color elevation drawings of all sides of the structure, indicating the type of materials to be used on the exterior of the building, and proposed sign.
 - (3) Landscape plan showing the location of all proposed landscaping, size and species of plant material.
 - (4) Abbreviated tree preservation plan.

166.24 Nonresidential Design Standards

(A) *Purpose.* It is the intent of these standards to provide the methods and means by which designers and developers may achieve the City's adopted goals to produce quality development and to manage growth within the City of Fayetteville. These regulations complement the City's urban zoning districts with site and architectural design regulations to produce a visually interesting and high quality development that responds to the needs of pedestrians, cyclists and vehicular traffic.

(B) *Applicability.* These design standards shall be required to be met for properties that lie within urban zoning districts offering administrative approval. In addition to the City's Commercial Design and Development Standards, the standards apply when either new development occurs or expansion of 25% or more of the existing nonresidential building square footage occurs. All sides of a building that are visible from the public right-of-way shall be subject to design review.

(C) *General intent.* The following shall apply to all developments:

- (1) Developments with multiple buildings should be arranged to enclose and define space in the public realm (see Image 1).

Image 1: Development form



Figure 1: Encouraged compact and connected development form with buildings arranged to define the street and enclose internal parking lots.

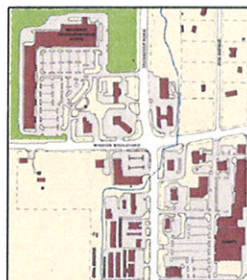


Figure 2: Discouraged sprawling, disconnected development form with parking surrounding the building.

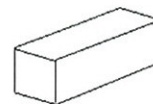
- (2) Multiple buildings located on the same lot should be articulated distinctly and separately so as to not provide an identical building on the same lot.
- (3) New construction should show respect for horizontal articulation established by

existing buildings within the immediate area.

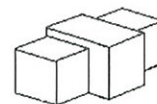
- (4) Application of building material and façade articulation of the building wall should encourage design, reinforce rhythm, increase visual impact, and create pedestrian interest.
- (D) *Building mass, scale, and articulation.* The following regulations shall apply to break down the mass of large structures:

- (1) Structures shall not exceed 200 feet in length adjacent to the street, within a build-to-zone.
- (2) The mass of a building exceeding 100 feet in length shall be delineated into no more than 40-foot-wide segments utilizing changes in height and depth of the wall plane of no less than 24 inches.

Image 2: Treatment of building mass



Single mass not permitted



Delineate building mass

- (3) No less than 70% of the building length shall be broken into a minimum of two (2) horizontal shifts in material, texture, and/or wall plane to provide distinction between segments (see Image 3)

- (a) The middle segment shall be of greater height than the bottom and top segments.

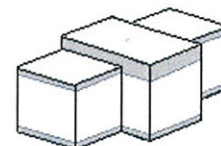


Image 3: Divide buildings into segments

- (4) Buildings shall be constructed with high quality building materials. The following materials shall be prohibited:
 - (a) untreated Concrete Masonry Unit (CMU)

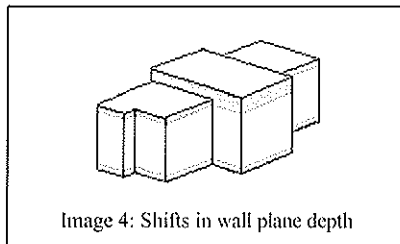
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- (b) wood fiber board
 - (c) unfinished pressure treated wood
 - (d) Exterior Insulation Finish System (EIFS)
 - (e) vinyl Siding
 - (f) reflective glass
- (5) Building façades located within a build-to zone shall incorporate the following:
- (a) Changes in plane with a depth of at least 24 inches, either horizontally or vertically at intervals not less than 10 feet and not more than 40 feet; and
 - (b) Changes in color, texture, and material, either horizontally or vertically, at intervals of not less than 10 feet and not more than 40 feet.



- (6) Building façades located outside of the build-to zone and that are visible from a public right-of-way shall consist of the following:
- (a) Changes in plane with a depth of at least 24 inches, either horizontally or vertically; and
 - (b) Changes in color, texture, and material, either horizontally or vertically.
- (7) *Fenestration.* Fenestration patterns should encourage design, reinforce rhythm, and create shadows. The following shall be met to satisfy the fenestration requirements for a principal façade:
- (a) Entryways. A primary entrance for buildings located in a build-to zone shall face the public street. When a structure is not in a build-to zone, the primary entrance shall be well-defined from access drives,

sidewalks, and/or major parking areas.

- (i) Multiple entryways are encouraged for all structures; however, a building entrance shall occur at a minimum of every 100 feet of building façade length that is within the build-to zone.

- (ii) Each primary entrance shall be made visible and prominent by using special architectural treatment that signifies the entrances, such as large entry doors, porches, or protruding or recessed entrances.

- (b) Glazing. In order to create a proportion of solids to voids and pedestrian interest the following standards shall apply:

- (i) A building façade located within the build-to zone shall be glazed no less than 50% of the first or ground floor at the pedestrian level between 2 and 12 feet above the sidewalk.

- (ii) A building façade located outside of a build-to zone shall be glazed no less than 30% of the first or ground floor at the pedestrian level between 2 and 12 feet above the Finished Floor Elevation (FFE).

- (iii) Glazing above the first story shall not exceed 80% of the total building wall area.

- (E) *Pedestrian oriented elements.* Developments that are subject to these standards shall meet and should exceed the basic needs of pedestrian accessibility and contribute to a unique sense of place and community. The following requirements are intended to define and articulate space at the street level in order to encourage the use and function for active and/or passive social interaction.

- (1) Buildings exceeding 50 feet in length or width within the build-to zone shall incorporate spatially defining building elements and/or landscaping at a minimum separation of 100 feet of façade length in order to create accessible public open space, such as a courtyard, garden, patio, etc.

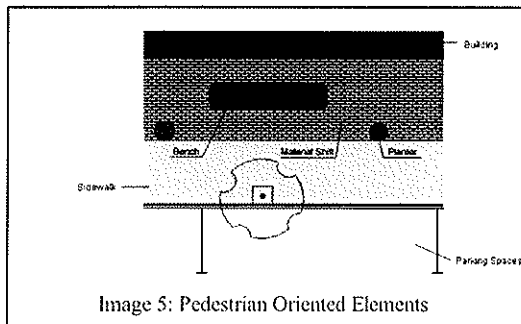
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- (2) Each public space shall include seating opportunities, such as table and chairs or benches, and a combination of at least of three (3) of the following elements:
- (a) planters;
 - (b) a planting bed;
 - (c) public art;
 - (d) a water feature;
 - (e) a shift in pavement material between the public right-of-way and the structure;
 - (f) a covered area, such as a canopy, awning, arcade, or portico spanning the width of the building; or
 - (g) other elements approved by the Zoning and Development Administrator that are not included in other sections of the design standards and meet the intent of this requirement.



- (F) *Variances.* An applicant may request approval from the Planning Commission of a variance from the minimum requirements where unique circumstances existing and the effect will not adversely impact adjoining or neighboring properties. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

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167.04 Tree Preservation And Protection During Development**Table 1**
Minimum Canopy Requirements

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
R-A, Residential - Agricultural (nonagricultural uses)	25%
RSF-.5, Single-family Residential – One Half Unit per Acre	25%
RSF-1, Single-family Residential – One Unit per Acre	25%
RSF-2, Single-family Residential – Two Units per Acre	20%
RSF-4, Single-family Residential – Four Units per Acre	25%
RSF-7, Single-family Residential – Seven Units per Acre	20%
RSF-8, Single-family Residential – Eight Units per Acre	20 %
R-O, Residential –Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-family Residential – Six Units per Acre	20%
RMF-12, Multi-family Residential – Twelve Units per Acre	20%
RMF-18, Multi-family Residential – Eighteen Units per Acre	20%
RMF-24, Multi-family Residential – Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential – Forty Units per Acre	20%
NS, Neighborhood Services	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
C-3, Central Business Commercial	15%
DC, Downtown Core	10%
MSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%
PZD, Planned Zoning District (HHOD)	25% (30%)

Ordinance Amendment Mark-up and Reference

Ord. Section 1 (new definitions)**CHAPTER 151: DEFINITIONS**

Articulation (Development) The architectural composition of combined treatment of elements and parts of the edges, corners, and surface of a building.

Fenestration. (Development) An exterior opening in the surface of a structure, such as a window, door, clerestory window, curtain wall, etc.

Glazing. (Development) A transparent or translucent material that is integrated into a building envelope, such as a window, display window, door, glass curtain wall, etc.

Minimum buildable street frontage. (Zoning) The minimum required percentage of a property's street frontage, established by the underlying zoning district and measured in linear feet, that is met by constructing a portion or portions of the vertical side of a building within the build-to zone. Buildings may be constructed outside of the build-to zone after the minimum required percentage has been met.

DRAFT

Ord. Section 2 (Add new zoning districts)

CHAPTER 160: ZONING DISTRICTS

160.01 Establishment Of Districts

The following zoning districts are hereby established:

ZONING DISTRICTS

R-A	Residential - Agricultural
RSF-.5	Residential Single-family – One Half Unit per Acre
RSF-1	Residential Single-family – One Unit per Acre
RSF-2	Residential Single-family – Two Units per Acre
RSF-4	Residential Single-family – Four Units per Acre
RSF-7	Residential Single-family – Seven Units per Acre
RSF-8	Residential Single-family – Eight Units per Acre
RT-12	Residential Two and Three-family
RMF-6	Residential Multi-family – Six Units per Acre
RMF-12	Residential Multi-family – Twelve Units per Acre
RMF-18	Residential Multi-family – Eighteen Units per Acre
RMF-24	Residential Multi-family – Twenty-Four Units per Acre
RMF-40	Residential Multi-family – Forty Units per Acre
R-O	Residential-Office
NS	Neighborhood Services
C-1	Neighborhood Commercial
CS	Community Services
C-2	Thoroughfare Commercial
C-3	Central Business Commercial
UT	Urban Thoroughfare
DC	Downtown Core
MSC	Main Street Center
DG	Downtown General
NC	Neighborhood Conservation
I-1	Heavy Commercial and Light Industrial
I-2	General Industrial
P-1	Institutional
E-1	Extraction
DOD	Design Overlay District
R-PZD	Residential Planned Zoning District
C-PZD	Commercial Planned Zoning District
I-PZD	Industrial Planned Zoning District

Ord. Section 3 (Add limited business as CUP)
and Ord. Section 4 (Remove parking reqs from multi-family districts)

Chapter 161: Zoning Districts

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

- (G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.08 District RSF-7, Residential Single-Family – Seven Units Per Acre

- (A) *Purpose* The RSF-7 Residential District is designed to permit and encourage the development of detached dwellings in suitable environments.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Single-family dwelling units per acre	7 or less
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(D) *Bulk and area regulations.*

(E) *Lot width minimum.*

Single-family	60 ft.
Two-family	60 ft.
Townhouse, no more than two attached	30 ft.

(F) *Lot area minimum.*

Single-family	6,000 sq. ft.
Two-family	6,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

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(G) *Land area per dwelling unit.*

Single-family	6,000 sq. ft.
Two-family	3,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

(H) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(I) *Building height regulations.*

Building Height Maximum	45 ft.
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Height regulations. Structures in this District are limited to a building height of 45 feet.—Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

- (J) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

- (A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building Height Maximum	45 ft.
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- (G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

161.10 District RT-12, Residential Two And Three Family

- (A) *Purpose.* The RT-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12 or less
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(D) *Bulk and area regulations.*

	Single-family	Two-family	Three-family
Lot width minimum	60 ft.	70 ft.	90 ft.
Lot area minimum	6,000 sq. ft.	7,260 sq. ft.	10,890 sq. ft.
Land area per dwelling unit	6,000 sq. ft.	3,630 sq. ft.	3,630 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10' and a line 25' from the front property line.	8 ft.	20 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
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- (G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

- (H) *Minimum buildable street frontage.* 50% of lot width.

- (I) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right-of-way.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09)

Cross reference(s)--Variance, Ch. 156.

161.11 District RMF-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	6 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
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Lot within a Manufactured home park	4,200 sq. ft.
Townhouse:	
•Development	10,000 sq. ft.
•Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10' and a line 25' from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of lot width.

~~(I) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.~~

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09)

161.12 District RMF-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.

Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10' and a line 25' from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variances, Ch. 156

(F) *Building height regulations.*

Building Height Maximum	60 ft.
-------------------------	--------

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of lot width.

~~(I) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to zone facing a public right of way.~~

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09)

161.13 District RMF-18, Residential Multi-Family – Eighteen Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities

Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	18 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured Home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10' and a line 25' from the front property line.	8 ft.	25 ft.

Cross reference(s) --Variances, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of lot width.

(I) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

(Ord. No. 4325, 7-3-01; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09)

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10' and a line 25' from the front property line.	8 ft.	25 ft.
HHOD Front	HHOD Side	HHOD Rear
The principal façade of a building shall be built within a build-to zone that is located between 15' and a line 25' from the front property line.	8 ft.	15 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of lot width.

(I) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to zone facing a public right of way.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5079, 11-20-07; Ord. 5224, 3-3-09)

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	40 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

Professional offices	100 ft.
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(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home park	3,000 sq. ft.
Townhouses & Apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10' and a line 25' from the front property line.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of lot width.

~~(I) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to zone facing a public right of way.~~

Ord. Section 5, Exhibit "A" (Add new zoning districts and modify some existing ones)

161.16 Neighborhood Services

(A) **Purpose.** The Neighborhood Services district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with the surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) **Uses**

(1) **Permitted uses**

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) **Conditional uses**

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities
Unit 40	Sidewalk cafes

(C) **Density.** 10 Units Per Acre.

(D) **Bulk and Area**

(1) **Lot width minimum**

Single-family	35 feet
Two-family	70 feet
Three or more	90 feet
All other uses	None

(2) **Lot area minimum.**

Single-family	4,000 sq. ft.
Two-family or more	3,000 sq. ft. of lot area per dwelling unit
All other permitted and conditional uses	None

(E) **Setback regulations**

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 15 feet from the front property line.
Side:	5 feet
Rear:	15 feet

(F) **Building height regulations.**

Building Height Maximum	45 ft.
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(G) **Building area.** On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

161.46 17 District R-O, Residential Office

(A) **Purpose.** The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) **Uses.**

(1) **Permitted uses.**

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services Limited business
Unit 25	Professional offices Offices, studios, and related services

(2) **Conditional uses.**

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings

Unit 36	Wireless communications facilities
Unit 42	Clean technologies

- (C) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

- (1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

- (2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

- (3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments: No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

- (D) *Density.*

Units per acre	24 or less
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- (E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

- (F) *Building height regulations.*

Building Height Maximum	60 ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district an additional distance of one foot for each foot of height in excess of 20 feet.

- (G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

161.47 18 District C-1, Neighborhood Commercial

- (A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 25	Professional offices, Offices, studios, and related services

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

- (C) *Density.* None.

- (D) *Bulk and area regulations.* None.

- (E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.19 Community Services

(A) *Purpose.* The Community Services District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 18	Gasoline service stations and drive-in restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites

Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family dwelling	18 ft.
All others	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

(F) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(G) *Minimum buildable street frontage.* 65% of the lot width.

161.48 20 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods

Unit 16	Shopping goods
Unit 17	Trades and services Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) Density. None.

(D) Bulk and area regulations. None.

(E) Setback regulations.

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) Height regulations. In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) Building area. On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

161.21 Urban Thoroughfare

(A) Purpose. The Urban Thoroughfare district is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is

prevalent within this district and a wide range of commercial uses are permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) Uses.

(1) Permitted uses

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 41	Accessory Dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) Conditional uses

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk cafes
Unit 42	Clean technologies

(C) Density. None.

(D) Bulk and area regulations.

(1) Lot width minimum

Single-family dwelling	18 feet
All other dwellings	None

Non-residential	None
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(2) Lot area minimum None

(E) Setback regulations.

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

(F) Height regulations. A building or a portion of a building that is closer than 15 feet from the front property line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or portion of a building that is located 15 feet or greater from the front property line or the Master Street Plan right-of-way shall have a maximum height of 6 stories or 84 feet, whichever is less. Any building that exceeds the height of 20 feet shall be set back from any boundary line of a single-family residential district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) Minimum buildable street frontage. 50% of the lot width.

161.49-22 District C-3, Central Commercial

(A) *Purpose.* The Central Commercial District is designed to accommodate the commercial and related uses commonly found in the central business district, or regional shopping centers which provide a wide range of retail and personal service uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios, and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods

Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Professional offices Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 17	Trades and services Transportation trades and services
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None

(E) *Setback regulations.*

	Central Business District	Shopping Center
Front	5 ft.	25 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.	50 ft.
Side	None	None
Side, when contiguous to a residential district	10 ft.	25 ft.
Rear, without easement or alley	15 ft.	25 ft.
Rear, from center line of a public alley	10 ft.	10 ft.

(F) *Height regulations.* Maximum height is six stories or 84 feet whichever is less. Above four stories, there shall be a stepback of the building's principal façade of at least fifteen feet. The height shall be measured from the mean elevation of the finished grade or sidewalk at the frontage line, whichever is higher, to the eave of the roof or cornice for a building with a parapet.

~~Buildings already in existence or for which a Large Scale Development or Planned Zoning District has been fully approved prior to the date of passage of this ordinance shall be grandfathered in and not be considered as nonconforming structures as a result of the passage of this ordinance.~~

161.20 23 Downtown Core

(A) *Purpose.* Development is most intense, and land use is densest in this zone. The downtown core is designed to accommodate the commercial, office, governmental, and related uses commonly found in the central downtown area which provides a wide range of retail, financial, professional office, and governmental office uses. For the purposes of Chapter 96: Noise Control, the Downtown Core district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and Services Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 29	Dance Halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 80% of lot width.

(G) *Height regulations.* Maximum height is 12 stories or 168 feet which ever is less.

161.24 24 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street / Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the *Center* are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services Transportation

	trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline services stations and drive in restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of	12 ft.

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(F) *Minimum buildable street frontage.* 75% of lot width.

(G) *Height Regulations.* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or a portion of a building that is located 15 feet or greater from the front property line or any master street plan right-of-way line shall have a maximum height of 6 stories or 84 feet, which ever is less.

161.22 25 Downtown General.

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the *Downtown General* district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Professional offices Offices, studios, and related services
Unit 26	Multi-family dwellings

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by
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	conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Trades and services Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* None

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

161.23 26 Neighborhood Conservation

(A) *Purpose.* The *Neighborhood Conservation* zone has the least activity and a lower density than the other zones. Although *Neighborhood Conservation* is the most purely residential zone, it can have some mix of uses, such as civic buildings. *Neighborhood Conservation* serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the

Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services Limited Business
Unit 24	Home occupations
Unit 25	Professional offices Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* 10 Units Per Acre.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	50 ft. 80 ft.
Three Family	60 ft. 90 ft.

(2) *Lot area minimum.* 4,000 Sq. Ft.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal, if adjoining a similar use unit.	5 ft.
Side, internal, if	5 ft.

adjoining a different use unit	
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

- (F) *Minimum buildable street frontage.* 40% of lot width.
- (G) *Height regulations.* Maximum height is 3 stories or 45 feet which ever is less.

161.24 27 District I-1, Heavy Commercial And Light Industrial

- (A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 12	Offices, studios and related facilities
Unit 13	Eating places
Unit 17	Trades and services Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Professional offices Offices, studios, and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials

Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

- (C) *Density.* None.
- (D) *Bulk and area regulations.* None.
- (E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

- (F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

- (G) *Building area.* None.

161.25-28 District I-2, General Industrial

- (A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 12	Offices, studios and related services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 42	Clean technologies

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives.
Unit 36	Wireless communications facilities

Unit 38	Mini-storage Units
Unit 39	Auto salvage and junk yards

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	100 ft.
Front, when adjoining C, I or P districts	50 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I or P districts	25 ft.
Rear	25 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

161.26 29 District P-1, Institutional
Everything remains the same

161.27 30 District E-1, Extraction
Everything remains the same

161.28 31 Design Overlay District (I-540 Highway Corridor)

(D) *Nonresidential site design and development standards.*

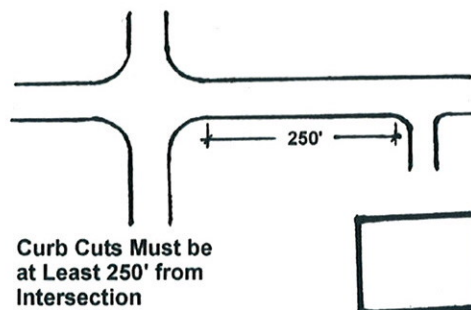
(1) *Greenspace.* A minimum of 25 feet of landscaped greenspace exclusive of right-of-way shall be provided along the highway right-of-way and any public street to which the development has frontage. Parking lots shall not encroach into the greenspace and shall be screened when abutting a required greenspace area. Trees shall be planted at the interval of one tree per 30 linear feet of greenspace area when practicable.

(2) *Signs*

(a) The only permitted free standing signs shall be monument signs. Only indirect lighting may be used for illumination of all signs.

(b) All signs shall otherwise comply with *Chapter 174 Signs* and any variance shall be considered pursuant to § 156.06 of the *Unified Development Code*.

~~(3) *Curb cuts.* One curb shall be allowed per 200 feet of frontage. No curb cuts shall be allowed within 250 feet of any intersection.~~



~~(F) *Large scale development.* All nonresidential development within the Design Overlay District shall be reviewed through the large scale development procedure and shall meet all those requirements regulating large scale developments regardless of the size of the tract.~~

~~(G) (F) *Exemptions.*~~

161.29- 32 Planned Zoning District
Everything remains the same

161.30 33-161.99 Reserved

Ord. Section 6 (Rename use units)

CHAPTER 162: USE UNITS

162.01 Establishment/Listing

The various use units referred to in the zoning district provisions are herein listed in numerical order. Within the use units, the permitted uses are ordinarily listed in alphabetical order. In these use units where there is a preliminary descriptive statement (which may mention specific uses) in addition to the detailed list of uses, the detailed list shall govern. The asterisk (*) next to a specific use indicates that the use has special conditions as required by Chapter 163, Use Conditions and Chapter 164 Supplemental Regulations.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services Limited business
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services Transportation trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 24	Home occupation
Unit 25	Professional—offices Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 30	Extractive uses
Unit 31	Facilities emitting odors & facilities handling explosives
Unit 32	Sexually oriented business
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 37	Manufactured homes
Unit 38	Mini-storage units
Unit 39	Auto salvage and junk yards
Unit 40	Sidewalk Cafes

Unit 41	Accessory dwellings
Unit 42	Clean technologies
Unit 43	Animal boarding and training

Ord. Section 7 (Modify specific uses)

B) *Unit 2. City-wide uses by conditional use permit.*

(1) *Description.* Unit 2 consists of uses which may be conducted anywhere in the territorial jurisdiction, but which can be objectionable to nearby uses and are therefore permitted subject to conditional use permits in all districts.

(2) *Included uses.*

Public and private facilities:	•Antique shop •Airport, flying fields and heliport •Bed and breakfast facilities* •Campground •Plant nursery •RV sewage disposal facility •Solid waste disposal facility •Water recreation area
Temporary facilities:	•Carnival, circus, and tent revival* •Construction facility •Real estate sales office (located at a specific location in an underdeveloped subdivision and operated for the purpose of developing said subdivision) •Sanitary landfill area •School and church facility

**Ord. Section 8, Exhibit "B" (Rewrite Unit 12
as "limited business")**

EXISTING

(L) Unit 12. Offices, studios, and related services.

(1) Description. Unit 12 consists of offices, studios, medical and dental labs and other compatible or supporting services and sales.

(2) Included uses.

Advertising agency	
Artist's studio	
Computing service	
Data processing service	
Drafting service	
Dental clinic	
Financial institution	
Funeral home	
Medical clinic	
Office buildings	
Social and welfare agencies	
Sale of supplies and equipment:	•Architects and artists supplies •Business machines •Dental supplies •Medical and optical supplies •Office furnishings
Scientific instruments	
Services:	•Auto parking garage •Blueprinting •Bail bonding agency •Employment agency •Photocopying •Printing •Ticket office, transportation and amusement •Travel agency •Veterinary small animal out-patient clinic

PROPOSED

(L) Unit 12. Limited business.*

(1) Description. Unit 12 consists of small-scale establishments offering commercial goods and services that are accessible for the convenience of individuals living in residential districts, while compatible in size, scale and appearance with the surrounding neighborhood. These uses shall be subject to the regulations in Chapter 164. All uses classified under Unit 12 must be within a building containing 3,000 square feet or less.

(2) Included uses.

<u>Personal Services</u> (Maximum gross floor area of 1500 square feet)	•Day care •Dry Cleaning •Salon/Barber shop •Tailoring
<u>Specialized Retail</u> (Maximum gross floor area of 2000 square feet)	•Antique/home decor sales •Apparel •Art/architectural supplies •Bakery, Pastry shops •Bicycle Shops •Book store •Coffee shop •Delicatessen •Drugstore •Food specialty stores •Florist •Grocery •Hardware •Health food store •Hobby /Craft Stores •Ice cream •Meat Market •Restaurant/café •Small appliance repair •Stationary Store •Toy store •Video rental
<u>Professional Offices</u> (Maximum gross floor area of 3000 square feet)	•Accountant •Architect •Attorney •Broker •Business/Mgmt Consultant •Doctor •Dentist •Engineer •Insurance Sales •Interior Designer •Optometrist •Realtor •Welfare agency
<u>Studios for</u> (Maximum gross floor area of 3000 square feet)	•Art •Dance •Music •Photography •Pottery

Ord. Section 9, Exhibit "C" (Rewrite Units 15, 15, 17, 25)

EXISTING

(O) Unit 15. Neighborhood shopping goods.

- (1) *Description.* Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential areas. districts. All uses classified under Unit 15 must be within a building containing 25,000 square feet or less.

(2) *Included uses.*

Retail Trade	
Apparel and accessory	
Bicycle shop	
Bookstores	
Camera shop	
Cellular telephones and accessories	
Clothing	
Drugstore	
Florists	
Food:	•Bakery •Food specialty stores •Dairy products •Grocery •Supermarkets •Delicatessen •Health food store
Home furniture store	
Jewelry	
Hardware store	
Hobby shop	
Laundry coin operated	
Leather goods and luggage	
News and magazine stand	
Optical goods	
Pet shop	
Picture framing, retail	
Radio and television store	
Record, tape, and cd shop	
Recreational Vehicle Sales (interior display only, no outdoor display/sales)	•Scooter/Motorcycle •ATV •Personal watercraft
Service establishment:	•Dry cleaning •Barber and beauty shop (6 or fewer chairs) •Laundry
Shoe	
Sporting goods	
Stationary store	
Tailoring	
Toy shop	
Video rental store	

PROPOSED

(O) Unit 15. Neighborhood shopping goods.

- (1) *Description.* Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential districts. All uses classified under Unit 15 must be within a building containing 25,000 square feet or less.

(2) *Included uses.*

Retail Trade	
Personal services	•Barber/Salon •Dry cleaning •Laundry facility •Tailoring
Retail	•Apparel and accessory •Bakery, pastry shops •Bicycle shop •Bookstores •Coffee shop •Delicatessen •Drugstore •Electronics •Florists •Food specialty stores •Furniture and Home Decor •Grocery •Hardware store •Health food store •Hobby/craft shop •Ice cream •Jewelry/watch sales and repair •Meat market •Music instruments •News and magazine stand •Optical goods •Pet shop •Photography Studio •Picture framing •Shoe store •Sporting goods •Stationary store •Toy store •Video rental
Vehicular Sales (interior display only)	•Automobile •ATV/Motorcycle •Boat/Personal Watercraft (PWC)

EXISTING

(P) Unit 16. Shopping goods.

(1) *Description.* Unit 16 consists of stores selling retail goods which are ordinarily purchased less frequently and often have a community-city-wide or regional market.

(2) *Included uses.*

Retail-trade-establishments:	•Fur-apparel •Millinery
Automotive, marine-craft establishment:	•Auto-accessory-store •Boat-and-accessory-store •Dry-goods •Garden-supply
General-Merchandise:	•Department-store •Mail-order •Trading-stamp-redemption-store
Home-furniture:	•Appliances •China-glassware •Draperies,curtains •Floor-coverings •Furniture •Music-instruments
Personal-services:	•Auto-rental-agency-office •Barber-and-beauty-shops (with more than 6 chairs) •Costume-rental-service •Detective-service •Gunsmith •Interior-decorating •Locksmith •Optician/Optometrlist •Photo-finishing •Photographic-studio •Picture-framing •Reading-rooms •Sign-painting •Watch-and-jewelry-repair •Weight-loss-center
Transportation-service:	•Bus-station •Express-service •Helistop •Railway-terminal •Taxicab-station

PROPOSED

(P) Unit 16. Shopping goods.

(1) *Description.* Unit 16 consists of stores selling retail goods which are ordinarily purchased less frequently and often have a city-wide or regional market.

(2) *Included uses.*

Neighborhood Shopping Goods	All uses within Unit 15 are also permitted within Unit 16, without restriction to size
General Merchandise:	•Department store •Mail order
Merchandise vending machine operations	•Sales and repair
Home/Office:	•Appliances •China, glassware •Draperies, curtains •Floor coverings •Furniture
Personal services:	•Animal daycare •Animal hospital •Auctioneer •Bindery •Body piercing •Costume rental service •Detective service •Electrical repair service •Furniture repair, refinishing •Gunsmith •Interior decorating •Linen supply and industrial laundry •Locksmith •Office supplies •Rug cleaning, repair •Sign painting •Tattoo and piercing •Taxidermist •Tool sharpening, repair •Watch and jewelry repair •Weight loss center
Retail	•Apparel and accessory •Auto accessory store •Boat and accessory store •Dry goods •Garden supply

EXISTING

(Q) Unit 17. Trades and services.

(1) Description. Unit 17 consists of establishments engaged primarily in providing household and automotive maintenance and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage.

(2) Included uses.

Retail trade establishments, general:	•Automotive sales, service and repair, including body shop •Buses •Manufactured home sales •Motorcycle sales, including service and repair •Truck sales, including service and repair •Trailer sales, camping, hauling, travel •Used car lots •Farm supplies and equipment and repair
General merchandise establishment:	•Direct selling
Merchandise vending machine operations	
Institutional furniture and furnishings	
Marine craft, sales & service:	•Boats and accessories
Medical and orthopedic appliances	
Personal help:	•Animal hospital •Auctioneer •Bindery •Body piercing •Cabinetmaker •Frozen food locker •Drapery service •Linen supply and industrial laundry •Packing and crating •Rug cleaning •Tattoo services •Taxidermist •Tool sharpening repair service •Armature rewinding •Auto wash •Electrical repair service •Furniture repair •Motor repair •Radio and television repair •Reupholstery •Rug repair

PROPOSED

(Q) Unit 17. Transportation trades and services.

(1) Description. Unit 17 consists of establishments engaged primarily in providing vehicular sales, service and maintenance, and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage. Uses also include those that require transport of persons or materials on a regular basis.

(2) Included uses.

Retail trade establishments, general:	•Automotive sales, •Body shops/garages •Farm supplies and equipment and repair •Lawn equipment sales, repair •Marine craft sales, repair •Motorcycle sales, repair •Truck sales •Trailer, camping, hauling, travel, sales •Used car lots
Personal help:	•Auto wash •Motor repair •Packing and crating
Transportation service:	•Bus station •Car rental •Express service •Helistop •Railway terminal •Taxicab station

EXISTING

(Y) Unit 25. Professional offices.

(1) *Description.* Unit 25 consists of small professional offices that are compatible with medium and high density residential areas.

(2) *Included uses.*

Doctor's office (no more than four doctors)
Dentist's office (no more than four dentists)
Insurance sales
Studio for teaching any of the fine or liberal arts
Photography studio
Welfare agencies
Architect
Engineer
Attorney
Accountant
Business or management consultant
Realtor
Broker
Interior decorator

PROPOSED

(Y) Unit 25. Studios, offices and related services.

(1) *Description.* Unit 25 consists of offices, studios, medical and dental labs, and other supporting services and sales.

(2) *Included uses.*

Medical Clinic:	- Dental office/clinic - Medical office/clinic
Professional office:	- Accountant - Architect - Attorney - Broker - Engineer - Realtor
Sale of supplies and equipment	- Architecture, drafting, and art supplies - Office furnishings and supplies - Medical, optical, and dental supplies - Scientific instruments
Services:	- Advertising agency - Animal daycare (10 animals or less) - Auto parking garage - Bail bonding agency - Business or management consultant - Computing service - Consultant - Data processing service - Drafting service - Employment agency - Financial institution - Funeral home - Insurance sales - Interior decorator - Photocopying or printing - Social and welfare agencies - Travel agency - Veterinary small animal out-patient clinic
Studios:	- Artist's studio - Photography studio - Studio for teaching any of the fine or liberal arts

Ord. Section 10 (Remove obsolete use, include towing/impound)

(U) Unit 21. Warehousing and wholesale.

(1) *Description.* Unit 21 includes warehousing, wholesaling and trucking of the type which is usually located to serve the central business district and is easily serviced by rail and highway transportation.

(2) *Included uses.*

Building material establishments:	•Air conditioning •Building materials •Electrical supply •Glass •Heating equipment •Lumber •Paint •Plumbing supplies •Wallpaper
Fuel and ice establishments:	•Bottled gas •Fuel dealer •Fuel oil •Ice house
Contract construction service for:	•Air conditioning •Building construction •Carpentry •Cesspool cleaning •Concrete •Decorating •Disinfecting and exterminating service •Electrical •Furnace cleaning •Heating •Heavy construction •Housing for caretakers
Warehouses	

Ord. Section 11 (Renumber reference section)

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.01 Accessory Commercial Uses

Permitted accessory uses in RMF and R-O Districts shall include accessory commercial uses of the types included in Unit 42 25 provided that:

Everything remains the same thereafter

Ord. Section 12 (Add build-to zone addition language)

164.12 Nonconforming Uses And Structures

(D) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on areas, lot coverage, height, setbacks, its location in the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Alterations.* No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity, provided, the following structures may be enlarged or altered as hereinafter provided:

(a) Nonconforming residential structures may be enlarged or altered by increasing the height of said structures.

(b) Carports in residential zones may be extended into the required setback setbacks if:

(c) In residential zones, detachable awnings which are not structurally a part of the building may be erected in any required front setback or rear setback if the awning does not project more than six feet. Detachable awnings which are not structurally a part of the building and which project no more than four feet may be erected in any required interior side setback.

(d) In residential zones, porch roofs and open porches may extend into required setbacks by one foot on each side of the entry door to maximum depth of six feet in required front setbacks and rear setbacks and to a maximum depth of four feet in required interior side setbacks.

(e) Build-to zone. Nonconforming structures located on properties with a build-to zone may be altered to permit expansion up to 25% of the existing square footage.

Ord. Section 13, Exhibit "D" (Add Limited Business requirements)

164.21 Limited Business

(A) Purpose. These regulations are intended to mitigate the potential adverse impacts associated with commercial uses adjacent to or within residential areas by allowing limited neighborhood commercial uses that are compatible in size, scale, massing and residential appearance with adjoining and surrounding residential uses. The following standards shall apply:

- (1) Enhance and regulate the appearance of neighborhood commercial uses.
- (2) Protect adjoining properties from the potential adverse impacts associated with commercial uses adjacent to residences such as traffic, noise, appearance, lighting, drainage, and effect on property values.
- (3) Provide areas for off-street parking that will be appropriate in size, location and scale within residential areas.
- (4) Provide commercial uses that are accessible for the convenience of individuals living in residential districts.
- (5) Reduce the length and number of vehicle trips generated by residential development.

(B) Applicability. These standards shall apply to all conditional use requests for Use Unit 12, Limited Business, in any zoning district.

(C) Similar Uses Allowed. When a use is not specifically listed as a permitted use in Use Unit 12 (Limited Business), the use may be permitted if it is determined by the Zoning and Development Administrator that the use is similar to other uses listed. In determining "similarity," the Zoning and Development Administrator shall make all of the following findings:

- (1) The proposed use meets the purpose of this section and the goals and policies of the Comprehensive Land Use Plan.
- (2) The proposed use shall not adversely impact the public health, safety and general welfare of the neighboring residents;
- (3) The proposed use shall be similar to the uses listed above considering use intensity and characteristics.

(D) Conditions for Approval. The uses listed may be allowed as a permitted use and shall meet the following conditions:

- (1) The proposed use shall not adversely affect local traffic conditions on the adjoining streets.
- (2) New structures located within a residential zoning district shall incorporate design elements similar to and compatible with those found within the neighborhood, including materials, roof pitch, scale, etc.
- (3) New parking areas or lots, utility equipment and trash enclosures shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.
- (4) One wall sign shall be allowed with a maximum area of eight square feet. The color of the sign shall be compatible with the colors of the structure, and only indirect external lighting is permitted.
- (5) Hours of operation shall be limited to Sunday through Thursday, 6am to 9pm, and Friday and Saturday, 6am to 11pm, unless otherwise further determined by the Planning Commission.
- (6) All new or enlarged structures shall comply with the zoning requirements of the underlying district.

(E) Design Review. The applicant shall submit the following information to the Planning Division for review, where applicable:

- (1) A site plan drawn to scale showing location of parking, building footprint, and all other improvements.
- (2) Color elevation drawings of all sides of the structure, indicating the type of materials to be used on the exterior of the building, and proposed sign.
- (3) Landscape plan showing the location of all proposed landscaping, size and species of plant material.
- (4) Abbreviated tree preservation plan.

Ord. Section 14, Exhibit "E" (Add non-residential design standards that must be followed to obtain administrative approval in the new zones)

CHAPTER 166: DEVELOPMENT

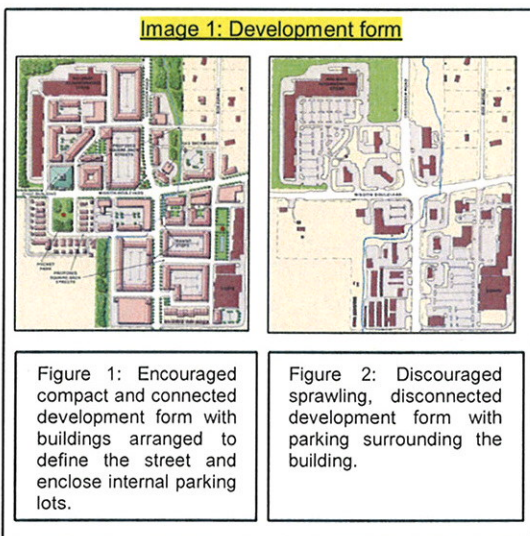
166.24 Nonresidential Design Standards

(A) **Purpose.** It is the intent of these standards to provide the methods and means by which designers and developers may achieve the City's adopted goals to produce quality development and to manage growth within the City of Fayetteville. These regulations complement the City's urban zoning districts with site and architectural design regulations to produce a visually interesting and high quality development that responds to the needs of pedestrians, cyclists and vehicular traffic.

(B) **Applicability.** These design standards shall be required to be met for properties that lie within urban zoning districts offering administrative approval. In addition to the City's Commercial Design and Development Standards, the standards apply when either new development occurs or expansion of 25% or more of the existing nonresidential building square footage occurs. All sides of a building that are visible from the public right-of-way shall be subject to design review.

(C) **General intent.** The following shall apply to all developments:

- (1) **Developments with multiple buildings** should be arranged to enclose and define space in the public realm (see **Image 1**).



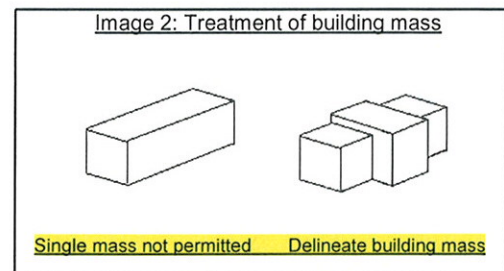
- (2) **Multiple buildings located on the same lot** should be articulated distinctly and separately so as to not provide an identical building on the same lot.

- (3) **New construction** should show respect for horizontal articulation established by existing buildings within the immediate area.

- (4) **Application of building material and façade articulation of the building wall** should encourage design, reinforce rhythm, increase visual impact, and create pedestrian interest.

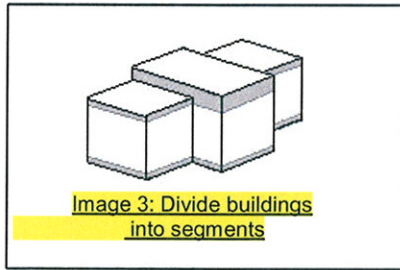
(D) **Building mass, scale, and articulation.** The following regulations shall apply to break down the mass of large structures:

- (1) **Structures** shall not exceed 200 feet in length adjacent to the street, within a build-to-zone.
- (2) **The mass of a building exceeding 100 feet in length** shall be delineated into segments nor more than 40-foot-wide utilizing changes in height and depth of the wall plane of no less than 24 inches.



- (3) **No less than 70% of the building length** shall be broken into a minimum of two (2) horizontal shifts in material, texture, and/or wall plane to provide distinction between segments (see **Image 3**).

- (a) **The middle segment** shall be of greater height than the bottom and top segments.

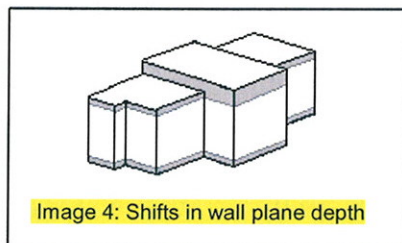


- (4) Buildings shall be constructed with high quality building materials. The following materials shall be prohibited:

- (a) untreated Concrete Masonry Unit (CMU)
- (b) wood fiber board
- (c) unfinished pressure treated wood
- (d) Exterior Insulation Finish System (EIFS)
- (e) vinyl Siding
- (f) reflective glass

- (5) Building façades located within a build-to zone shall incorporate the following:

- (a) Changes in plane with a depth of at least 24 inches, either horizontally or vertically at intervals not less than 10 feet and not more than 40 feet; and
- (b) Changes in color, texture, and material, either horizontally or vertically, at intervals of not less than 10 feet and not more than 40 feet.



- (6) Building façades located outside of the build-to zone and that are visible from a public right-of-way shall consist of the following:

- (a) Changes in plane with a depth of at least 24 inches, either horizontally or vertically; and

- (b) Changes in color, texture, and material, either horizontally or vertically.

- (7) *Fenestration.* Fenestration patterns should encourage design, reinforce rhythm, and create shadows. The following shall be met to satisfy the fenestration requirements for a principal façade:

- (a) *Entryways.* A primary entrance for buildings located in a build-to zone shall face the public street. When a structure is not in a build-to zone, the primary entrance shall be well-defined from access drives, sidewalks, and/or major parking areas.

- (i) Multiple entryways are encouraged for all structures; however, a building entrance shall occur at a minimum of every 100 feet of building façade length that is within the build-to zone.

- (ii) Each primary entrance shall be made visible and prominent by using special architectural treatment that signifies the entrances, such as large entry doors, porches, or protruding or recessed entrances.

- (b) *Glazing.* In order to create a proportion of solids to voids and pedestrian interest the following standards shall apply:

- (i) A building façade located within the build-to zone shall be glazed no less than 50% of the first or ground floor at the pedestrian level between 2 and 12 feet above the sidewalk.

- (ii) A building façade located outside of a build-to zone shall be glazed no less than 30% of the first or ground floor at the pedestrian level between 2 and 12 feet above the Finished Floor Elevation (FFE).

- (iii) Glazing above the first story shall not exceed 80% of the total building wall area.

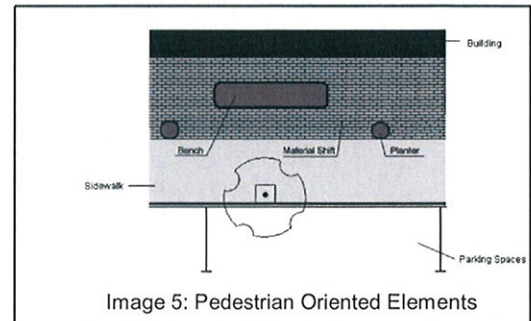
(E) *Pedestrian oriented elements.* Developments that are subject to these standards shall meet and should exceed the basic needs of pedestrian accessibility and contribute to a unique sense of place and community. The following requirements are intended to define and articulate space at the street level in order to encourage the use and function for active and/or passive social interaction.

(1) Buildings exceeding 50 feet in length or width within the build-to zone shall incorporate spatially defining building elements and/or landscaping at a minimum separation of 100 feet of façade length in order to create accessible public open space, such as a courtyard, garden, patio, etc.

(2) Each public space shall include seating opportunities, such as table and chairs or benches, and a combination of at least of three (3) of the following elements:

- (a) planters;
- (b) a planting bed;
- (c) public art;
- (d) a water feature;
- (e) a shift in pavement material between the public right-of-way and the structure;
- (f) a covered area, such as a canopy, awning, arcade, or portico spanning the width of the building; or
- (g) other elements approved by the Zoning and Development Administrator that are not included

in other sections of the design standards and meet the intent of this requirement.



(F) *Variances.* An applicant may request approval from the Planning Commission of a variance from the minimum requirements where unique circumstances existing and the effect will not adversely impact adjoining or neighboring properties. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

DRAFT

Ord. Section 15 Exhibit "F" (Add tree preservation canopy requirements for new districts, add PZD requirements as currently enforced)

CHAPTER 167: TREE PRESERVATION AND PROTECTION

167.04 Tree Preservation And Protection During Development

**Table 1
Minimum Canopy Requirements**

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
R-A, Residential - Agricultural (nonagricultural uses)	25%
RSF-.5, Single-family Residential – One Half Unit per Acre	25%
RSF-1, Single-family Residential – One Unit per Acre	25%
RSF-2, Single-family Residential – Two Units per Acre	20%
RSF-4, Single-family Residential – Four Units per Acre	25%
RSF-7, Single-family Residential – Seven Units per Acre	20%
RSF-8, Single-family Residential – Eight Units per Acre	20 %
R-O, Residential –Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-family Residential – Six Units per Acre	20%
RMF-12, Multi-family Residential – Twelve Units per Acre	20%
RMF-18, Multi-family Residential – Eighteen Units per Acre	20%
RMF-24, Multi-family Residential – Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential – Forty Units per Acre	20%
NS, Neighborhood Services	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
C-3, Central Business Commercial	15%
DC, Downtown Core	10%
MSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%
PZD, Planned Zoning District (HHOD)	25% (30%)

All residential zoning districts and C-1 districts within the Hillside/Hilltop Overlay District shall have their percent minimum canopy requirements increased by 5% to a total requirement of either 30% or 25%.

Ord. Section 16 (Add language that permits a reduced greenspace along the street for urban zoning districts and projects)

CHAPTER 177: LANDSCAPE REGULATIONS

177.04 Site Development And Parking Lot Landscape Standards

(D) *Perimeter landscaping requirement.* Proposed development shall be landscaped meeting the following requirements:

(2) Property lines adjoining street right-of-way.

(a) *Landscape area required.*

(b) *Design Overlay District.*

(c) *Urban Zoning Districts. Zoning districts that prescribe urban building form (e.g., a build-to zone) permitting front setbacks of less than 15 feet may be permitted to reduce the greenspace to 10 feet parallel to the Master Street Plan right-of-way line. Any development providing less than 10 feet of greenspace shall utilize the street tree planting plan for urban streetscapes.*

(d) *Residential zones....*

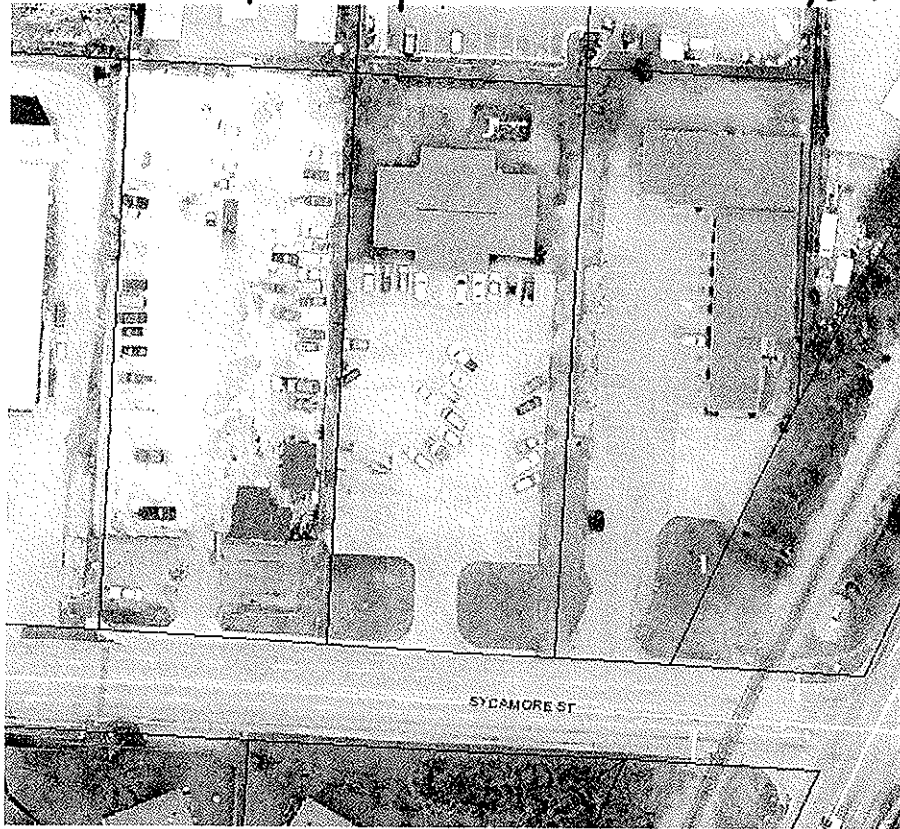
(e) *Nonresidential zones.*

(f) *Shade....*

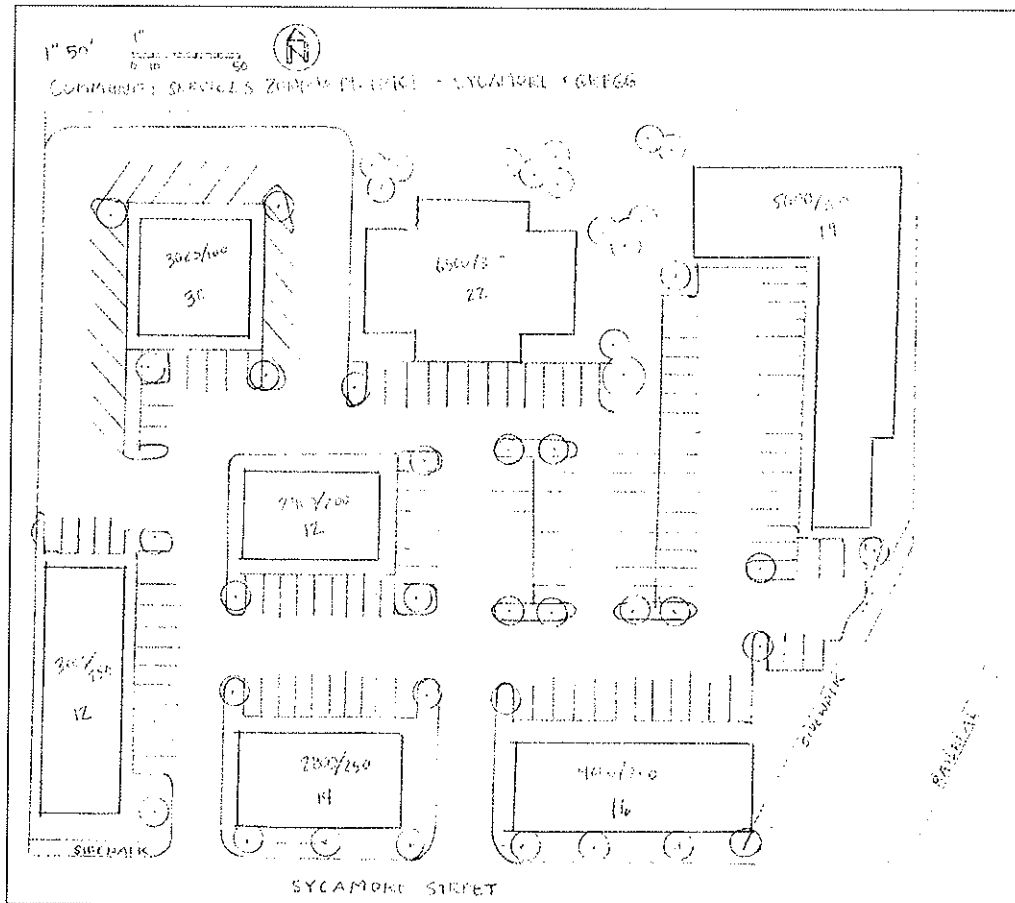
(g) *Screening.....*

(h) *Perimeter planting location.....*

☆ Example of redevelopment potential with CS, Community Services



Before



After

Example site plan for a gas station in an urban zoning district

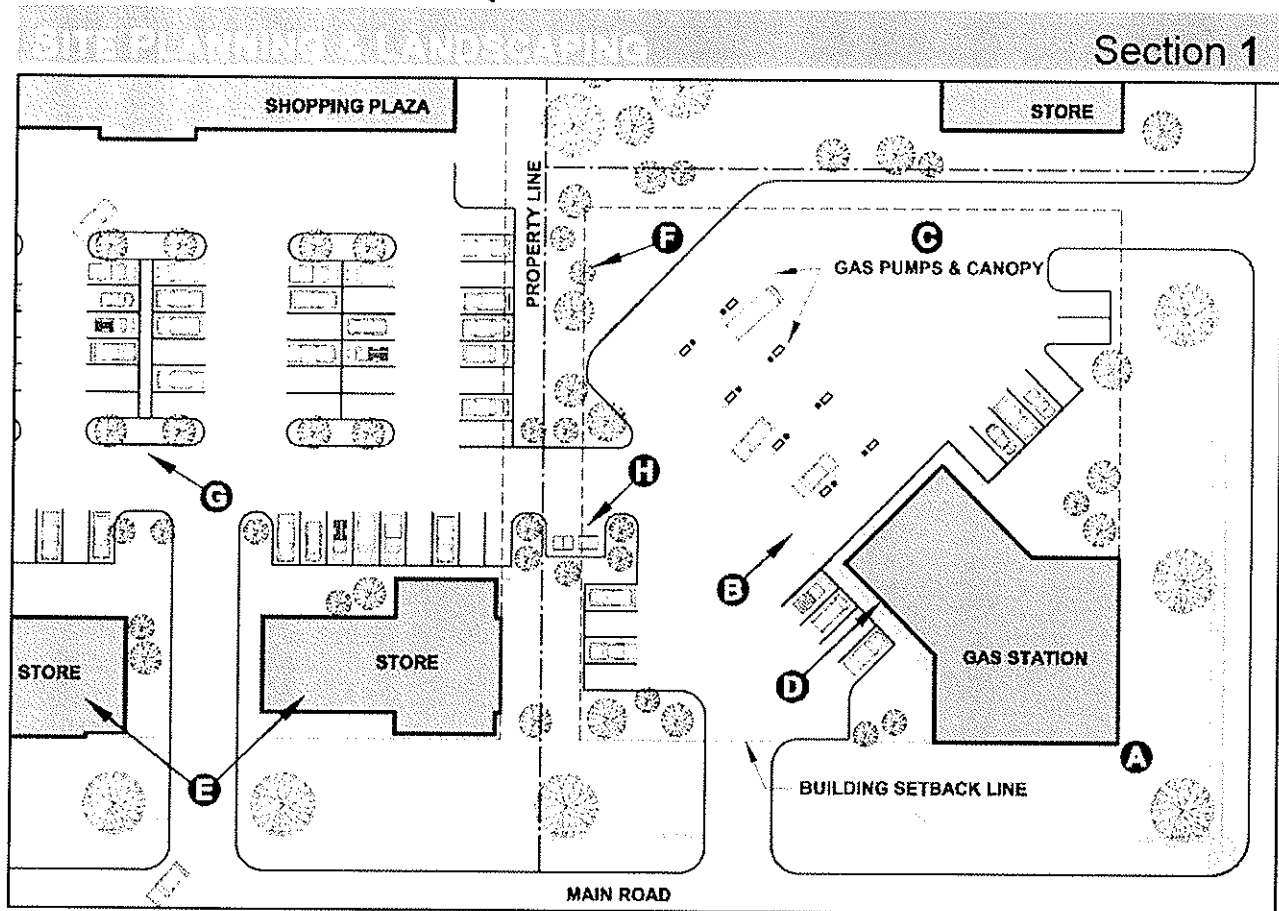


Figure 2: Redefining The Edges. Corner lots are especially important in defining the street. Special attention should be paid to bringing the building mass all the way out to meet the corner. Large shopping plazas should also attempt to infill the front of their lots with new commercial space to take advantage of the road frontage.

1.12 Corner lots should try to place as much building mass near the intersection as possible to help anchor the lot and take advantage of the high visibility. (A)

1.13 Gas station canopies should be designed as an integral part of the station architecture whenever possible. This can allow for a visual or even physical connection which provides shelter between the vehicle and the building. (B) See Appendix 'A' for examples.

1.14 Alternative gas station layouts include placing the pumps near the rear of the lot while having the convenience store out in front near the street. (C) This helps to highlight the building, shield the utilitarian pump canopy and pulls the curb-cuts away from the intersection, creating easier access.

1.15 When it is not feasible to place the building entry directly on the front façade, attempts should be made to ensure that it is still readily visible and faces the main road or internal street. (D)

1.16 Older shopping plazas set back far from the street can benefit from developing the land at the front of their lot. This helps to define the street character and allows for more "one-stop" shopping and shared parking opportunities. (E)

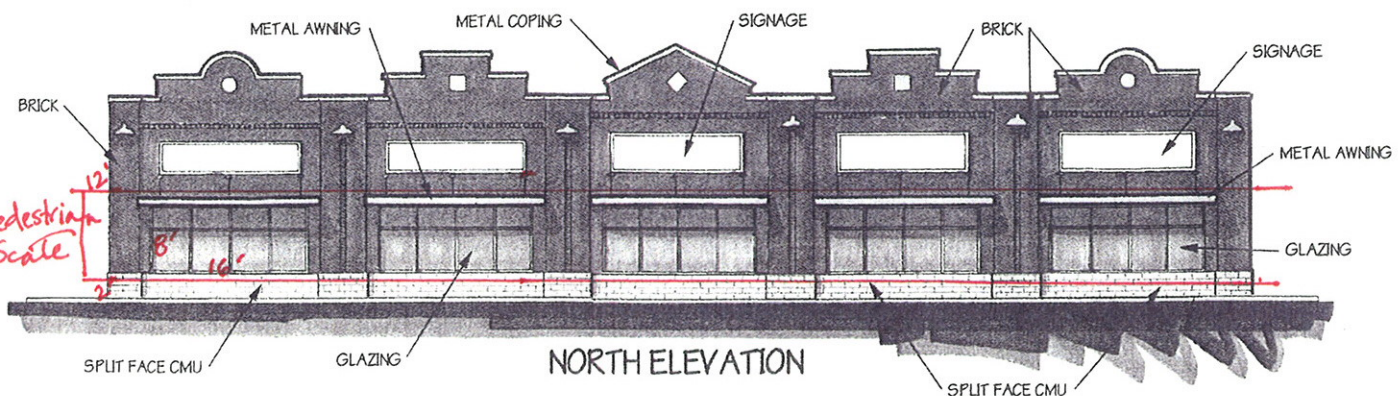
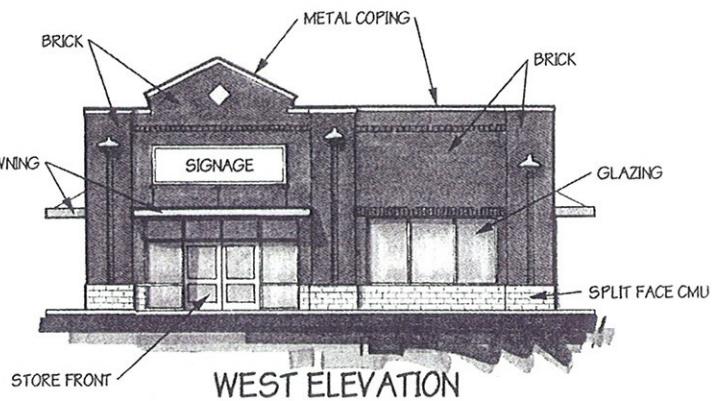
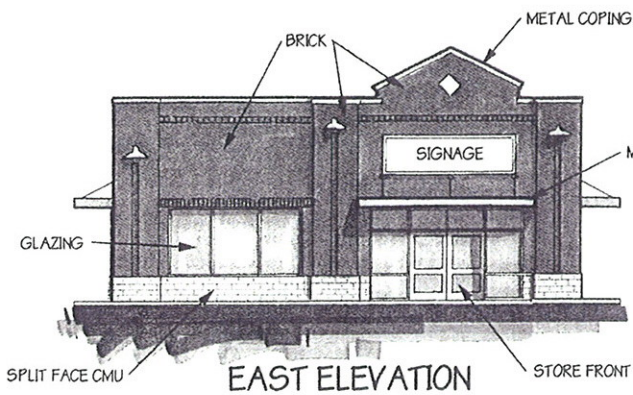
1.17 Provide trees and other landscape screening to shield large parking areas from adjacent lots. (F)

1.18 Large parking lots are encouraged to provide landscaped islands and walkways which help to break up the visual expanse of blacktop and encourage safe pedestrian travel areas. (G)

1.19 Some developments may benefit from having a shared access to a common dumpster location which both neighboring properties can use. (H)

1.20 All public access ways on the site should comply with the *Americans With Disabilities Act*. Visit their Web page www.usdoj.gov/crt/ada/adahom1.htm for more information.

Example of glass percentages



$$(8' \times 16') 5 = 640 \text{ s.f.} / 1,250 \text{ s.f.} = 51\% \text{ glazing}$$

FARMERS MARKET -- william kim fugitt, aia

Agenda Session 3/30/10

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 6, 2010**

A meeting of the Fayetteville City Council will be held on April 6, 2010 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

Agenda Session Presentations:

- ✓1. Botanical Gardens of the Ozarks Annual Report
- ✓2. Discussion of Nominating Committee Procedures – Kyle Cook
- ✓3. Sales Tax Update – Paul Becker

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

- ✓1. Approval of the March 16, 2010 City Council meeting minutes.

2. ✓ **Amend Resolution No. 138-06 Comprehensive Market Survey:** A resolution amending Resolution No. 138-06 to delay the requirement to perform a Comprehensive Market Survey from 2010 to 2012.

3. ✓ **Pressure Point Control Tactics Training Class:** A resolution amending the 2010 City Budget by approving a budget adjustment to authorize expenditures and recognize revenue in a total amount of \$640.00 related to a Fayetteville Police Department Pressure Point Control Tactics Training Class.

4. ④ **NEC, Inc. and H2 Engineering, Inc.:** A resolution approving contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for sewer improvements at Veterans Memorial Park, approving a project contingency of \$4,404.00, and approving a budget adjustment.

5. ✓ **Wildlife Hazard Assessment Grants:** A resolution authorizing application and approving acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$62,809.00 to fund a wildlife hazard assessment at Fayetteville Executive Airport-Drake Field, and approving a budget adjustment recognizing the grant revenue.

6. ✓ **Loomacres Wildlife Management:** A resolution approving a contract with Loomacres Wildlife Management in the amount of \$62,809.00 for the provision of a wildlife hazard assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.

7. ✓ **Kearney-National Inc. and/or Cooper Power Systems Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Kearney-National Inc. and/or Cooper Power Systems needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport.

B. Unfinished Business:

1. ✓ **Amend Chapter §114.02 Farmers' Market:** An ordinance to amend §114.02 Farmers' Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events. *This ordinance was left on the First Reading at the March 16, 2010 City Council meeting.*

Left on the First Reading

C. New Business:

1. ④ **Amend Police Department Policies:** A resolution approving amendments to Fayetteville Police Department Policies 12.2.1, Policies Procedures & Rules Development and Review; 22.3 Secondary Employment; 52.1.1, Office of Professional Standards; 61.2 Collision Investigation and 71.1.1, Detainee Transport.

2. **Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$343,000.00.
3. **Amend Chapter §97.086 Vending and Peddling:** An ordinance to amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers Market to operate in Lake Fayetteville Park.
4. **C B & I, Inc. Bid #10-17:** A resolution awarding Bid #10-17 and approving a contract with C B & I, Inc. in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank, approval of a \$49,000.00 contingency, and approval of a budget adjustment in the amount of \$1,600,000.00.
5. **Form-Based Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to modify existing and create new use units and Form-Based Zoning Districts that permit administrative development approval, and to create design standards for said districts.

ADD: Consent Fayetteville Forward Event
Announcements:

1. **Form Based Code Workshop:** April 5, 2010 Room 326 at 4:30 p.m.

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.

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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.

Handwritten text, possibly a signature or date, located in the center of the page.

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 6, 2010**

A meeting of the Fayetteville City Council will be held on April 6, 2010 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

Agenda Session Presentations:

✓ 1. ~~Improvements to our Tree Preservation Code – Greg Howe~~

*Remove per Matthew
Petty & Don Marr*

2. Botanical Gardens of the Ozarks Annual Report

3. Discussion of Nominating Committee Procedures – Kyle Cook

✓ Sales Tax Update – Paul Becker

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the March 16, 2010 City Council meeting minutes.

Need
New Res.
from Kit

- ② **Amend City's Compensation Philosophy:** A resolution amending Resolution No. 138-06 to change the City's Compensation Philosophy for city employees.

3. **Pressure Point Control Tactics Training Class:** A resolution amending the 2010 city budget by approving a budget adjustment to authorize expenditures and recognize revenue in a total amount of \$640.00 related to a Fayetteville Police Department pressure point control tactics training class.

Moved to
NB #1

- ④ **Amend Police Department Policies:** A resolution approving amendments to Fayetteville Police Department Policies 12.2.1, Policies Procedures & Rules Development and Review; 22.3 Secondary Employment; 52.1.1, Office of Professional Standards; 61.2 Collision Investigation and 71.1.1, Detainee Transport.

Moved to
last on
Consent

- ⑤ **Loomacres Wildlife Management:** A resolution approving a contract with Loomacres Wildlife Management in the amount of \$62,809.00 for the provision of a wildlife hazard assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.

Moved to
NB #2

- ⑥ **Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$343,000.00.

7. **NEC, Inc. and H2 Engineering, Inc.:** A resolution approving contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$35,295.00 for sewer improvements at Veterans Memorial Park, approving a project contingency of \$4,404.00, and approving a budget adjustment.

8. **Federal Aviation Administration and the Arkansas Department of Aeronautics Grants:** A resolution authorizing application and approving acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$62,809.00 to fund a wildlife hazard assessment at Fayetteville Executive Airport-Drake Field, and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business:

1. **Amend Chapter 114.02 Farmers' Market:** An ordinance to amend §114.02 Farmers' Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events. *This ordinance was left on the First Reading at the March 16, 2010 City Council meeting.*

Left on the First Reading

C. Public Hearing:

- ① **Kearney-National Inc. and/or Cooper Power Systems Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Kearney-National Inc. and/or Cooper Power

Why is
this a
Public Hearing?

does not need
to be a Public Hearing.

Systems needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport.

D. New Business:

4. **Amend Chapter 97.086 Vending and Peddling:** An ordinance to amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers Market to operate in Lake Fayetteville Park.

2. **Amend Chapter 178: Alderman Petty's item**
Outdoor Vendors

*Matthew needs to sign 3/25/10
Need to leave on Matthew Petty*

3. **C B & I, Inc. Bid #10-17:** A resolution awarding Bid #10-17 and approving a contract with C B & I, Inc. in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank, approval of a \$49,000.00 contingency, and approval of a budget adjustment in the amount of \$1,600,000.00.

*requested
this be
removed & sent
to ordinance review*

4. **Amend Unified Development Code:** Per Jeremy this may not be ready for the agenda

Form Based Code

Need to leave on.

*before
placing
on the
agenda*

Announcements:

1. ~~City Council Tour: April 5, 2010~~

*Room 326 Schedule for 4:30
Form Based Code workshop. Booked*

Adjournment:

Kit has packet *Rec'd Packet* *5. Conditional Use Permit Review - Mayor pulled after the meeting.*

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