

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 September 7, 2010

A meeting of the Fayetteville City Council will be held on September 7, 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

City Council Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the August 17, 2010 City Council meeting minutes. **APPROVED**
2. **National Wildlife Federation Community Wildlife Habitat:** A resolution authorizing an application for the City to be certified as a National Wildlife Federation Community Wildlife Habitat.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 155-10

3. **Watershed Conservation Resource Center Grant (White River):** A resolution authorizing application and acceptance, in partnership with the Watershed Conservation Resource Center, of an Arkansas Natural Resources Commission matching grant in the amount of \$200,000.00 for restoration of a portion of the White River near the Noland Wastewater Treatment Facility, and approving a budget adjustment in the amount of \$77,000.00 representing the City's match.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 156-10

4. **2010 Washington County Inter-Local Agreement (Animal Sheltering):** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County, Arkansas for calendar year 2010.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 157-10

5. **RFP #10-11 Plante & Moran, PLLC:** A resolution awarding RFP #10-11 and approving a contract with Plante & Moran, PLLC in an amount not to exceed \$60,000.00 for the performance of a city-wide information technology assessment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 158-10

6. **2010 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2010 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Grant in the amount of \$108,419.00 to the Fayetteville Police Department as a lead agency, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 159-10

7. **Access Management Plan Agreement Amendment (State Highway 265):** A resolution approving an amendment to the Access Management Plan Agreement, as prepared by the Arkansas Highway and Transportation Department, for State Highway 265.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 160-10

8. **Amend Resolution No. 131-10:** A resolution amending Resolution No. 131-10 to change all references from "Today in America" to "U.S. Media Television, Inc."

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 161-10

B. Unfinished Business:

1. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville. *This ordinance was left on the Second Reading at the June 15, 2010 City Council meeting. This ordinance was left on the Third Reading at the July 6, 2010 City Council meeting and Tabled to the September 7, 2010 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5347

- 2. ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses. *This ordinance was left on the Second Reading at the August 17, 2010 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5348

C. New Business:

- 1. RZN 10-3625 (Cedar Crest Academy):** An ordinance rezoning that property described in rezoning petition RZN 10-3625, for approximately 2.25 acres, located on the south side of Persimmon Street, northwest of Owl Creek Elementary School from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5349

- 2. RZN 10-3626 (Mathias Shopping Centers):** An ordinance rezoning that property described in rezoning petition RZN 10-3626, for approximately 1.2 acres, located at the northwest corner of Hwy 45 East and Box Avenue from R-O, Residential Office, to CS, Community Services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5350

- 3. Repeal and Replace §34.26 (Authority of City Employees to Contract with the City):** An ordinance to repeal §34.26 Authority of City Employees to Contract with the City and to enact a replacement §34.26 Limited Authority of City Employees to Provide Services to the City.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5351

- 4. Amend Chapters 151 & 162: (ADM 10-3630 Recycling and Collection Centers):** An ordinance amending the Unified Development Code Chapter 151: Definitions and Chapter 162: Use Conditions to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5352

- 5. Amend Chapter 161: Zoning Regulations (Use Unit 43 Animal Boarding & Training):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapter 161: Zoning Regulations to permit use unit 43, Animal Boarding and Training, in certain situations in commercial, industrial, mixed use, and residential-agricultural zoning districts.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5353

6. **Amend Resolution No. 76-06 Lierly Lane Subdivision:** A resolution to amend Resolution No. 76-06 to amend the site plan to replace five duplex lots with single family lots and change the lot once designated for the decentralized community septic system to single family lots and a developed park of about 2.5 acres.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 162-10

7. **Amend Ordinance No. 5344 (Watershed Conservation Resource Center):** An ordinance amending Ordinance No. 5344 to approve an amendment to the memorandum of understanding with the Watershed Conservation Resource Center (WCRC) to allow for projects on public lands owned by the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5354

Announcements:

Adjournment: 8:05 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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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				
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan	✓			

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

Subject:	Consent				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Thiel			
<u>Minutes</u> <u>Approved</u> <u>Passed</u> 155-10 thru 161-10	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan				

8-0

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

Subject:		ADM 09-3273 (Business Registry and License Program)			
Motion To:		Amend the effective date of the ordinance	Pass		
Motion By:		Thiel			
Seconded:		Lucas			
B. 1 Unfinished Business <u>passed</u> 5347	Lewis	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Petty	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	N		
	Lucas	✓	✓		
	Mayor Jordan				

8-0

6-2

Subject:		ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses)			
Motion To:		3rd Read	Amend - 3 Sections as proposed by Staff	Pass	
Motion By:		Petty	Thiel		
Seconded:		Lewis	Lucas		
B. 2 Unfinished Business <u>passed</u> 5348	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:					
RZN 10-3625 (Cedar Crest Academy)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Petty		
Seconded:		Gray	Gray		
C. 1 New Business <u>passed</u> 5349	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:					
RZN 10-3626 (Mathias Shopping Centers)					
Motion To:		2nd Read	3rd	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Petty	Ferrell		
C. 2 New Business <u>passed</u> 5350	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:		Repeal and Replace §34.26 (Authority of City Employees to Contract with the City)			
Motion To:		Amend Subsection E.	2nd Read	3rd Read	Pass
Motion By:		Ferrell	Petty	Gray	
Seconded:		Petty	Lewis	Petty	
C. 3 New Business <u>Passed</u> 5351	Lewis	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Petty	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Mayor Jordan				
		8-0	8-0	8-0	8-0

Subject:		Amend Chapters 151 & 162: (ADM 10-3630 Recycling and Collection Centers)			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Gray	Thiel		
Seconded:		Thiel	Petty		
C. 4 New Business <u>Passed</u> 5352	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				
		8-0	8-0	8-0	

Subject:		Amend Chapter 161: Zoning Regulations (Use Unit 43 Animal Boarding & Training)			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Gray		
Seconded:		Lewis	Lewis		
C. 5 New Business <u>passed</u> 5353	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	Absent during the vote.	✓	✓	
	Mayor Jordan				

7-0

8-0

8-0

Subject:		Amend Resolution No. 76-06 Lierly Lane Subdivision			
Motion To:		Approve			
Motion By:		Lewis			
Seconded:		Lucas			
C. 6 New Business <u>passed</u> 162-10	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan				

8-0

Subject:		Amend Ordinance No. 5344 (Watershed Conservation Resource Center)			
Motion To:					
Motion By:					
Seconded:					
C. 7 New Business passed 5354	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	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: **September 8, 2010**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of September 7, 2010**

1. **National Wildlife Federation Community Wildlife Habitat:** A resolution authorizing an application for the City to be certified as a National Wildlife Federation Community Wildlife Habitat.
2. **Watershed Conservation Resource Center Grant:** A resolution authorizing application and acceptance, in partnership with the Watershed Conservation Resource Center, of an Arkansas Natural Resources Commission matching grant in the amount of \$200,000.00 for restoration of a portion of the White River near the Noland Wastewater Treatment Facility, and approving a budget adjustment in the amount of \$77,000.00 representing the City's match.
3. **2010 Washington County Interlocal Agreement:** A resolution approving an Interlocal agreement between the City of Fayetteville and Washington County to provide animal sheltering services to Washington for calendar year 2010.
4. **RFP #10-11:** A resolution awarding RFP#10-11 and approving a contract with Plante & Moran, OLLC, in an amount not to exceed \$60,000.00, for the performance of a citywide Information Technology Assessment.
5. **2010 JAG Local Solicitation Award:** A resolution authorizing acceptance of a 2010 U.S. Department of Justice, Office of Justice Program, Bureau of Justice Assistance Grant in the amount of \$108,419.00 to the Fayetteville Police Department as a lead agency, and approving a budget adjustment.

6. **Access Management Plan Agreement Amendment:** A resolution approving an Amendment to the Access Management Plan Agreement, as prepared by the Arkansas Highway and Transportation Department, for State Highway 265.
7. **Resolution No. 131-10 Amendment:** A resolution amending Resolution No. 131-10 to change all references from "Today in America" to "U.S. Media Television, Inc."
8. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville Code by enacting a chapter to create a Business Registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville.
9. **Repeal and Replace §34.26 (Authority of City Employees to Contract with the City):** An ordinance to repeal §34.26 **Authority of City Employees to Contract with the City** and to enact a replacement §34.26 **Limited Authority of City Employees to Provide Services to the City**.
10. **Amendment to Resolution NO. 76-06 – Lierly Lane Subdivision:** A resolution to amend Resolution No. 76.06 to amend the site plan to replace five duplex lots with single family lots and change the lot once designated for the decentralized community septic system to single family lots and a developed park of about 2.5 acres.
11. **Amendment to Ordinance No. 5344:** An ordinance amending Ordinance No. 5344 to approve an amendment to the Memorandum of Understanding with the Watershed Conservation Resource Center to allow for projects on public lands owned by the City of Fayetteville.

Aldermen

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Left on the Third Reading

2. **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses. *This ordinance was left on the Second Reading at the August 17, 2010 City Council meeting.*

Left on the Second Reading

C. New Business:

- 1. RZN 10-3625 (Cedar Crest Academy):** An ordinance rezoning that property described in rezoning petition RZN 10-3625, for approximately 2.25 acres, located on the south side of Persimmon Street, northwest of Owl Creek Elementary School from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.
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AMENDMENT NO. 1
To The
ACCESS MANAGEMENT PLAN AGREEMENT
For
HIGHWAY 265 IN FAYETTEVILLE

- I. **PURPOSE OF AMENDMENT** – This amendment revises the Highway 265 Access Management Plan, which is Appendix A of the Access Management Plan Agreement.
- II. **AMENDMENT DESCRIPTION** – This amendment modifies Appendix A to include a median break at Coy Kaylor Drive, between median breaks 3 and 4, which are located at Par Court and Joyce Boulevard, respectively. The median break provided at Coy Kaylor Drive shall be a full directional break, but will not include a bulb out to accommodate u-turns.
- III. **JUSTIFICATION** – A traffic study prepared by a Professional Engineer indicates that the number of u-turns, and the delays associated with said u-turns, at Par Court and Joyce Boulevard will be reduced by providing an additional median break at Coy Kaylor Drive. Furthermore, no adverse impacts to through traffic on Highway 265 were identified in the study.

Pursuant to Resolution No. _____ of the Fayetteville City Council approved on the _____ day of _____, 2010.

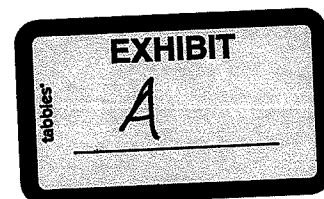
Mayor Lioneld Jordan

Pursuant to Resolution No. _____ of the Northwest Arkansas MPO approved on the _____ day of _____, 2010.

MPO Chairman

Pursuant to Minute Order No. _____ of the Arkansas State Highway Commission approved on the _____ day of _____, 2010.

Dan Flowers, Director
Arkansas State Highway and Transportation Department



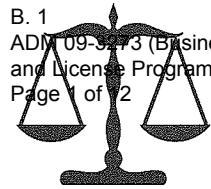
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

B. 1
ADM 09-5273 (Business Registry
and License Program)
Page 1 of 2



LEGAL DEPARTMENT

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Karen Minkel, Strategic Planning Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **September 1, 2010**

RE: **Business Registry and License Ordinance revised to change start date to September 1, 2011**

Pursuant to the City Council's request, I have made the numerous date changes needed to change the Business Registry and License Ordinance start date to September 1, 2011. This changes the fiscal year for licenses from the previous March 1st – February 28th to the proposed November 1st – October 31st. Late payment dates have also been adjusted accordingly. Finally the effective date of the ordinance has been set at September 1, 2011.

If the City Council wishes to move the effective date and fiscal year for the Business Registry and License ordinance, someone will need to move to amend the current ordinance before you to the new version which will be in your Final Agenda.

Please remember my earlier memo of June 16, 2010 to you in which I reviewed the statutory law for enacting citywide Business Registry and License program to require "a two-thirds (2/3) vote of all members (of the City Council) elected thereto" A.C.A. §26-77-102. **Thus to pass the Business Registry and License ordinance, six affirmative votes by City Council members are needed.** The Mayor cannot vote on this ordinance. (Attached is a copy of my June 16, 2010 memo.)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FAYETTEVILLE CODE BY ENACTING A CHAPTER TO CREATE A BUSINESS REGISTRY AND TO REQUIRE ANNUAL BUSINESS LICENSES FOR ALL BUSINESSES AND NON-PROFITS WITH LOCATIONS WITHIN FAYETTEVILLE

WHEREAS, collecting accurate business and employee data will help the City better track business growth, employment and development; and

WHEREAS, all information will be compiled and collected within the Business Registry which will be available to the businesses and public; and

WHEREAS, accurate reporting of new businesses entering Fayetteville and their addresses will assist Central Dispatch keeping their 911 information up-to-date; and

WHEREAS, accurate reporting of flammable or explosive material storage will provide increased safety for Fayetteville Fire Fighters responding to building fires; and

WHEREAS, the City's effort to collect overdue Hotel, Motel and Restaurant taxes will be assisted if the offending business could lose its business license for failing to promptly and completely remit to the City the taxes paid by its customers.

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 enacts **Chapter 118 Business Registry and Licenses** of the Fayetteville Code as shown below:

“Chapter 118 Business Registry and Licenses
“§118.01 Applicability.

“(A) General businesses.

“(1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.

“(2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

“(3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

“(B) Religious entities.

“Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The City Business License shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

“(C) Minors exempt.

“No individual under eighteen years of age shall be required to register or obtain a business license.

“(D) Individual landlords renting less than three dwelling units exempt.

“An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter.

“§118.02 Entry upon Business Registry and Issuance of Business License.

“(A) *Annual application required.*

“Every applicable business or other entity identified in §118.01 shall annually complete the Application For Business Registry And License (substantially as shown on Exhibit A and which can be administratively amended by the Mayor) and pay the appropriate fee as required by this chapter.

“(B) *Time for Application submittal.*

“Applications and annual renewals for existing business license holders shall be completed between September 1 and October 31 each year. Business licenses shall be issued for a fiscal year of November 1 to October 31. New businesses, businesses locating to Fayetteville or entities to which these provisions become applicable in the future shall register and obtain their business license within two months of their move into Fayetteville or commencement of activities.

“(C) *Fees.*

“(1) *Home based business.* A resident conducting a non-traffic generating occupation, profession or business within the resident’s dwelling unit who is registering for the first time shall pay an annual fee to submit an Application For Business Registry and License of \$22.00 if submitted by October 31, except if the home based business owner registers electronically, the owner shall receive a \$2.00 credit against the annual fee and pay only \$20.00.

Applications submitted after the October 31 deadline shall incur a fee of \$24.00 if submitted by November 30; \$26.00 if submitted by December 31; and \$30.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year’s renewal fee shall be \$15.00 if timely paid. Otherwise, late payment fees shall be as assessed above.

“(2) *All other (non-home based) businesses.* Annual fees to submit the business’s first Application For Business Registry and License shall be \$35.00 if submitted by October 31, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$32.00. Applications submitted after the October 31 deadline shall incur a fee of \$38.00 if submitted by November 30; \$41.00 if submitted by December 31, and \$52.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year’s renewal shall be \$15.00

if timely paid. Otherwise, the late payment fees shall be assessed as above.

“(3) *Partial year registration fee for new business.* If a new business or entity registers and applies for a license after March 1, the fee for the business license through November 30 of the same year shall be \$17.00 except that if a business registers electronically it shall receive a \$2.00 credit against its partial year fee and only be assessed \$15.00.

“(D) *Issuance of Business License.*

“(1) The Director of Development Services or designee shall promptly issue a business license to any applicable business or entity which properly completes the Application For Business Registry and License, pays the proper fee, and is not ineligible for a business license because of prior suspension or revocation of the license, lack of a required state or city permit, or violation of state law or city ordinance.

“(2) The registration and business license is not transferable nor assignable. Upon the sale, merger or transfer of business ownership, the new owner must register and apply for a new business license within thirty days of the date of transfer or reopening of the business.

“(3) If the Director of Development Services initially refuses to issue a business license, the applicant shall be entitled to a due process hearing before the Chief of Staff concerning the grounds for refusal to issue the license. An applicant can appeal the Chief of Staff’s decision to the City Council in the same manner prescribed for an appeal of the Chief of Staff’s decision to suspend or revoke a business license.

“(E) *Display of business license.*

“Every business and other entity receiving a business license shall prominently display the business license near any other licenses required for the business and issued by a government entity. The business license shall be displayed where customers or visitors entering the establishment will be able to view the business license.

“§118.03 **Suspension and Revocation of Business License**

“(A) *Grounds That Could Support Suspension or Revocation of Business License.*

“(1) Valid complaints that the Business License Holder is

operating the business in a dangerously unsanitary or unhealthy manner, or in such manner as to unreasonable and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.

“(2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.

“(3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City’s Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.

“(4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.

“(5) The business license was procured through fraud or misrepresentation.

“(B) *Notice.*

“If the Director of Development Services has reason to believe that grounds exist that could justify the suspension or revocation of a business license, the Director shall mail a letter to the Business Mailing Address shown on the application by first class mail notifying the business owner of the possible grounds to suspend or revoke the license and setting a due process hearing in not less than five nor more than ten business days. The Director shall also telephone the business owner using the Business Phone number provided on the Application (as well as the Emergency Phone Number if the owner cannot be reached on the Business Phone number) and provide the same information as is within the letter.

“(C) *Conduct of the Due Process Hearing.*

“(1) The Chief of Staff shall provide a reasonable space for the due process hearing and shall receive evidence from city employees or others about the grounds to suspend or revoke the business license.

“(2) The Business License Holder shall then be granted an opportunity to explain or provide evidence to rebut any allegations and to show why the business license should not be suspended or revoked.

“(3) After the Business License Holder has had a reasonable opportunity to explain his side, the Chief of Staff can do one of the

following depending upon the Chief of Staff's judgment of the seriousness of any proven ground:

“(i) Revoke the Business License.

“(ii) Suspend the Business License for not more than Thirty (30) days.

“(iii) Place the Business on probation status for not more than ninety (90) days on condition that the grounds causing the problems will be remedied by the business license owner and not be allowed to reoccur. If the business license owner complies with the probation, the probation status shall be lifted and no further action shall be taken. If the Chief of Staff determines that the business license owner has failed to correct the problems or new grounds or suspension or revocation have occurred, the Chief of Staff shall conduct a second due process hearing and consider all previous evidence whether or not the business license should be suspended or revoked.

“(iv) Refuse to revoke or suspend the license which shall remain valid. Any complaint about events leading to the hearing shall not be considered again.

“§118.04 Appeal To City Council

“Any person or entity whose license has been suspended or revoked pursuant to §118.03 may appeal such suspension or revocation to the City Council by providing the City Clerk's Office with a written request for City Council review within ten business days of the issuance of the suspension or revocation. The City Council may then determine, after a public hearing in which the business license owner may present evidence and explanations, whether the business owner's license should be suspended for not more than thirty (30) days, revoked because of the grounds presented, or that no suspension or revocation is warranted.

“§118.05 Penalty

“(A) *Fines.*

“No business or other entity who is required by this chapter to obtain a business license shall operate without having and displaying at the business a valid and current City of Fayetteville Business License. Operating without a license shall be a violation punishable by a fine of up to \$250.00 per day of operation.

“(B) *City Services Termination.*

“If a business or entity continues to operate without a valid and current City of Fayetteville Business License for a period of one week after notification by the Director of Development Services, the Mayor may order the withholding of all city services including water, sewer and solid waste for the business premises.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance shall go into effect on September 1, 2011 to begin the issuance process of business licenses with the requirement that all affected entities shall have applied for the business registry and received their licenses by November 1, 2011.

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

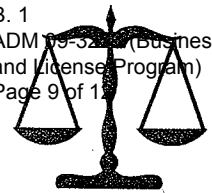
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

B. 1
ADM 99-52 (Business Registry
and License Program)
Page 9 of 12



LEGAL DEPARTMENT

TO: **Lioneld Jordan, Mayor**
City Council

CC: **Don Marr, Chief of Staff**
Karen Minkel, Strategic Planning Director

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read "Kit Williams", written over a horizontal line.

DATE: **June 16, 2010**

RE: **Two-thirds vote of all members elected to the City Council needed to pass Business Registry and License Ordinance**

I believe the Business Registry and License Ordinance is controlled by A.C.A. §26-77-102 **Authority to tax or license businesses.**

"Any city council ... shall have the power to enact, by a two-thirds (2/3) vote of all members elected thereto, ordinances requiring any person, firm, individual, or corporation who shall engage in, carry on, or follow any trade, business, profession, vocation, or calling, within the corporate limits of the city or town, to pay a license fee or tax"

I believe that the statute's use of the "fee or tax" phrase clearly expresses the legislative intent to grant **two** kinds of authorities to cities. The first is to license businesses, and the second is to tax businesses. The statute clearly gives a city the right to require "any person, firm, individual or corporation ... to pay a license **fee or tax**" *Id.* (emphasis added)

There is a clear and well established legal difference between a fee (an amount of money to offset the administrative costs of a city program or service) and a tax (a revenue generating exaction).

“The distinction between a tax and a fee is that government imposes a tax for general revenue purposes, but a fee is imposed in the government’s exercise of its police powers.” *Harris v. City of Little Rock*, 344 Ark. 95, 40 S.W. 3rd 214, 221 (2001) (citations omitted).

When the legislature chose to authorize a city to require payment of “a license fee or tax”, it must have intended to grant authority to cities to require payment of business license fees as well as occupational taxes through this statute.

“In construing a statute, we will presume that the General Assembly, in enacting it, possessed the full knowledge of the constitutional scope of its powers, full knowledge of prior legislation on the same subject, and full knowledge of judicial decisions under preexisting law. *Bunch v. State*, 344 Ark. 730, 43 S.W. 3d 132, 136 (2001) (citations omitted)

Because the legislature is presumed to have full knowledge of the distinction between “a license fee or tax”, it must have intended this statute’s requirements to apply to both a business license fee ordinance as well as a business license tax ordinance. Indeed, the Arkansas Supreme Court held “that the authority to impose an occupation licensing fee is expressly delegated to the City by the legislature under (the prior codification of A.C.A. §26-77-102)” *City of Mountain Home v. Drake*, 281 Ark. 336, 663 S.W. 2d 738, 739 (1984).

The Arkansas Supreme Court has long and repeatedly held that certain common sense rules should be used when interpreting a statute or ordinance.

"The basic rule of statutory construction is to give effect to the intent of the legislature. Where the language of a statute is plain and unambiguous, we determine legislative intent from the ordinary meaning of the language used. In considering the meaning of a statute, we construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language. We construe the statute so that no word is left void, superfluous or insignificant, and we give meaning and effect to every word in the statute, if possible. *CitiFinancial Mortgage Co., Inc. v. Matthews*, 372 Ark. 167, 271 S.W. 3rd 501, 506 (2008).

Although A.C.A. §26-77-102 clearly authorizes the City Council to enact a business license ordinance, there could be a question whether this very inclusive business registry and license ordinance, which is applicable to all non-governmental businesses and entities in Fayetteville, could be enacted under the more general police power statutes instead of A.C.A. §26-77-102. I do not believe this would legally be allowed by the Courts.

"We have long held that a general statute must yield when there is a specific statute involving particular subject matter." *Daimler Chrysler Services, Inc. v. Weiss*, 360 Ark. 188, 200 S.W. 3rd 405, 410 (2004).

"Further, it is blackletter law for statutory construction to give effect to the specific statute over the general." *Searcy Farm v. Merchants & Planters Bank*, 369 Ark. 487, 256 S.W. 3^d 496, 501 (2007).

Since this state statute clearly involves the particular subject matter of a city-wide business licensing program, our ordinance must be enacted according to its requirements.

Therefore, we must follow the requirements of A.C.A. 26-77-102 (a) to legally enact the Business Registry and License Ordinance. This statute requires **"a two-thirds (2/3) vote of all members elected thereto"** which refers back to "city council." This is virtually identical language to what is found in Amendment 7 to the Arkansas Constitution as what is needed to repeal an initiated Act **"two-thirds of all the members elected to ... the City Council"** This language has been interpreted by the Arkansas Supreme Court to exclude the Mayor from the right to vote on such repeal (or any emergency clause).

"The court found that the mayor was not an elected member of the City Council but only an ex-officio member by virtue of his executive position and therefore his vote could not be used in amending or repealing any part of an initiated act, and we concur."
Thompson v. Younts, 282 Ark. 524, 669 S.W. 2d 471, 474 (1984).

Because this statute uses the "members elected" to the City Council language, Mayor Jordan is prevented by A.C.A. §26-77-102 (a) from voting on this Business Registry and License Ordinance.

CONCLUSION

In order to pass, the Business Registry and License Ordinance will need six affirmative votes from the members elected to the Fayetteville City Council.

City of Fayetteville Staff Review Form

C. 7
Amend Ordinance No. 5344
(Watershed Conservation Resource Center)
Page 1 of 20

Added at
Agenda Session
8/31/10

City Council Agenda Items
and
Contracts, Leases or Agreements

9

10/7/2010

City Council Meeting Date
Agenda Items Only

John Coleman
Submitted By

Division

Sustainability
Department

Action Required:

City staff recommends approval of an addendum to the original Memorandum of Understanding (MOU) with Watershed Conservation Resource Center (WCRC) to allow for projects on public lands owned by 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

Finance and Internal Services Director

Date

Received in City Clerk's Office 08-31-10 A09:31 RCVD

Chief of Staff

Date

Received in Mayor's Office

Mayor

Date

Comments:



www.accessfayetteville.org

C. 7

Amend Ordinance No. 5344

(Watershed Conservation Resource Center)

Page 2 of 20

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

Council Meeting of September 7, 2010

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: John Coleman, Sustainability Director

Date: August 31, 2010

Subject: RE: Addendum to MOU with Watershed Conservation Resource Center

RECOMMENDATION

City staff recommends approval of an addendum to the original Memorandum of Understanding (MOU) with Watershed Conservation Resource Center (WCRC) to allow for projects on public lands owned by the City of Fayetteville.

BACKGROUND

On August 3, 2010 City Council approved a MOU with WCRC. The purpose of this Memorandum of Understanding (MOU) was to establish a general framework for cooperation between the WCRC and the CITY OF FAYETTEVILLE to 1) seek funding and conduct stream restoration projects to achieve the common goal of restoring unstable sections of streams to a morphologically stable form utilizing a natural channel design approach and 2) to work together on nonpoint source (NPS) related issues associated with reducing nutrients and improving riparian and other natural areas.

The WCRC is a nonprofit organization that strives to protect, conserve, and restore natural resources by utilizing the watershed approach, environmental outreach, and providing planning and technical assistance to landowners, communities, and government. The WCRC principals are regional experts and local leaders in implementing natural channel design-based stream restorations that meet multiple local and regional objectives relating to river channel instability, water quality, and ecological services.

The City has successfully partnered with WCRC to receive approximately \$470,000 in federal grants for stream restoration and is in discussions with federal grant agencies for approximately \$890,000 additional grant funds for stream restoration. WCRC has been instrumental in securing these funds due to their relationships with Federal grant agencies and their proven track record of successful stream restoration projects.

This MOU establishes a partnership between the City and WCRC whereby the WCRC will actively seek grant funding for stream restoration projects, and will allow the City the opportunity to quickly take advantage of opportunities identified. Initially, the MOU only included projects within the city limits of Fayetteville, but with the opportunity for a project at the Noland Wastewater Treatment Plant staff also wants to include public lands owned by the City of Fayetteville.

BUDGET IMPACT

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 5344 TO APPROVE AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING WITH THE WATERSHED CONSERVATION RESOURCE CENTER (WCRC) TO ALLOW FOR PROJECTS ON PUBLIC LANDS OWNED BY THE CITY OF FAYETTEVILLE

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 Ordinance No. 5344 to approve an amendment to the Memorandum of Understanding with the Watershed Conservation Resource Center (WCRC) to allow for projects on public lands owned by the City of Fayetteville. A copy of the revised Memorandum of Understanding is attached as Exhibit "A."

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

**AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE
WATERSHED CONSERVATION RESOURCE CENTER (WCRC) AND THE
CITY OF FAYETTEVILLE, ARKANSAS**

Section D(2)(a) of the Memorandum of Understanding (MOU) entered into and executed by and between the Watershed Conservation Resource Center (WCRC) and the City of Fayetteville, Arkansas (City) is hereby amended by the parties to read as follows:

“a. Identification of stream reaches that could benefit from stream restoration and prioritize, in streams within the City limits or on City-owned property.”

All other provisions of MOU remain in full force and effect.

WATERSHED CONSERVATION RESOURCE CENTER

Sandi J. Formica, Executive Director
Watershed Conservation Resource Center

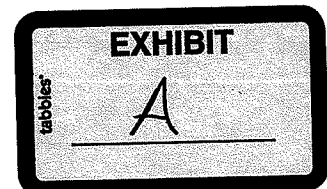
Date

CITY OF FAYETTEVILLE, ARKANSAS

Lioneld Jordan, Mayor
City of Fayetteville

Attest: _____
Sondra E. Smith, City Clerk/Treasurer
City of Fayetteville

Date



MEMORANDUM OF UNDERSTANDING
Between
Watershed Conservation Resource Center
And
City of Fayetteville

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

A. PURPOSE

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

B. STATEMENT OF MUTUAL INTERESTS AND BENEFITS

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

The WCRC and the CITY OF FAYETTEVILLE partnered and obtained a grant for the Restoration of a Tributary to Mud Creek, Fayetteville, AR. The project restored 1,200 feet of stream through Gulley Park and prevents an estimated minimum of 110,000 lbs/year of sediment from entering the stream system, resulting in 27 lbs/year of total phosphorus and 68 lbs/yr of total nitrogen reductions in the Illinois River basin. Additionally WCRC and the CITY OF FAYETTEVILLE formed partnerships for two current stream restoration projects which are also grant funded. The projects are summarized as follows:

Project	Grant Source	Status	Grant Funding	City of Fayetteville Funding	Total Project Cost
Restoration of a Tributary to Mud Creek	U.S. EPA 319 Grant through ANRC	complete	\$ 121,000	\$ 141,200	\$ 262,200
Stream Restoration Demonstration at Niokaska Creek in Sweetbriar Park	Environmental Protection Agency Region 6	current	\$ 234,000	\$ 78,000	\$ 317,000
Stream Restoration of the West Fork of the White River (WFWR) adjacent to the Fayetteville Executive Airport	U.S. EPA 319 Grant through ANRC	current	\$ 115,076	\$ 86,812	\$ 201,888

C. FEES AND PAYMENTS

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

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

D. THE WCRC:

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

E. THE CITY OF FAYETTEVILLE:

1. Shall coordinate all activities within the City of Fayetteville Divisions and Departments and between the CITY OF FAYETTEVILLE and the WCRC.
2. Shall assist with project activities and tasks.
3. Shall provide review and input into the final restoration designs.

4. Shall oversee activities and coordinate staff needed for implementation of the restoration designs.
5. Shall provide documentation of all project activities and associated matching funds.
6. Recognizes that their participation in stream restoration and NPS projects acquired is an integral component in carrying out a successful project that will result in improved water quality and habitat restoration.
7. Shall accomplish other specific tasks as detailed in each Task Order.

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

1. FREEDOM OF INFORMATION ACT (FOIA). CITY OF FAYETTEVILLE contract and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, the WCRC will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance. Any information furnished to the WCRC under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

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

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

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

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

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

Chris Brown, P.E., City Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
Phone: 479-575-8206

Fax: 479-575-8202
E-mail: cbrown@ci.fayetteville.ar.us

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

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

Sandi J. Formica, Executive Director
Watershed Conservation Resource Center

Date

Lioneld Jordan, Mayor
City of Fayetteville

Date

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

Date

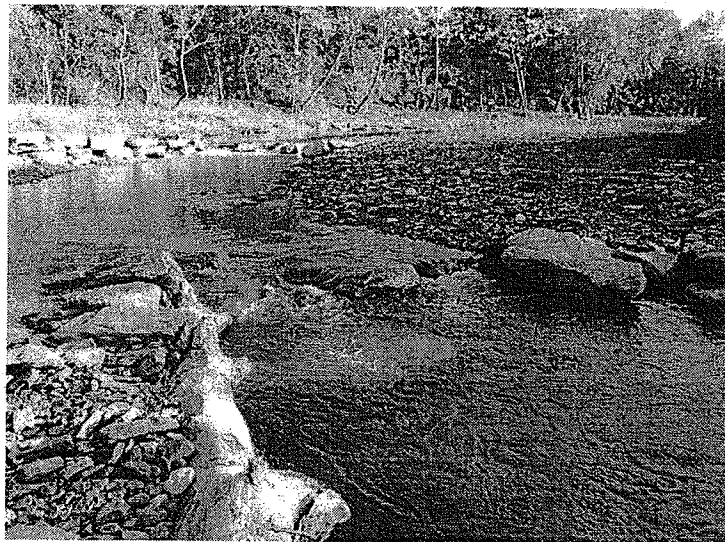
WCRC Statement of Qualifications

About the Watershed Conservation Resource Center

The Watershed Conservation Resource Center is a non-profit organization whose mission is "to protect, conserve, and restore natural resources by utilizing the watershed approach, environmental outreach, and providing planning and technical assistance to landowners, communities, and government."

The co-founders and principals of the Watershed Conservation Resource Center, Sandi J. Formica and Mathew Van Eps have extensive backgrounds and are leading regional experts in watershed management, watershed assessment, stream stability analysis, natural channel restoration design and the utilization of GIS for inventory and evaluation of natural resource condition. The Watershed Conservation Resource Center provides specialized assistance concerning watershed resource issues to a variety of organizations including; watershed groups; local, state and federal governments; non-profit organizations; conservation districts; and other entities that request assistance. The staff has a broad range of experience with the watershed approach and has spent many years working throughout Arkansas on a variety of watershed issues. The WCRC is located in Fayetteville, Arkansas and has a staff of five.

The Watershed Conservation Resource Center is engaged in several watershed assessment and stream restoration projects. At this time, the WCRC has received funding for the design of three stream restoration projects in northwest Arkansas, two of which are on the West Fork of the White River. The WCRC is currently engaged in projects that assess stream stability and include measurement of lateral erosion rates for developing streambank erosion prediction curves for various fluvial systems in Arkansas. WCRC staff has provided technical assistance and recommendations to state and federal



natural resource agencies regarding streambank stabilization projects in Arkansas. The WCRC is in the process of completing an USDA grant, to develop with a host of government entities, NGOs, and landowners a project plan for the restoration of unstable reaches on the West Fork White River, in Northwest Arkansas. This project includes collecting field data to develop a restoration design for priority reaches along with introducing natural channel restoration design concepts to state and federal programs. The staff of the WCRC has tremendous experience in project team coordination and working in a team oriented environment composed of various natural resource agencies from federal, state, and local levels along with landowners and non-government entities. The WCRC has also developed a regional training program and assists with the development and teaching of watershed based training courses that are attended by environmental professionals from around the country.



WCRC Statement of Qualifications

Restoration of a Tributary to Mud Creek, Fayetteville, AR

Funding Source: U.S. EPA 319 Grant through ANRC and City of Fayetteville

The WCRC was responsible for the design and implementation of a stream restoration project for a 1,200 ft section of stream that travels through an urban city park in Fayetteville, AR. Lateral erosion of streambanks in the park generated excessive amounts of sediment that was delivered to the Illinois River watershed. Also, the eroding streambanks posed safety hazards for park users and were encroaching on park infrastructure. The WCRC partnered with the City of Fayetteville (City) and obtained a U.S. Environmental Protection Agency (EPA) Section 319 grant administered through the Arkansas Natural Resources Commission (ANRC) to provide professional services to restore this unstable stream reach. The City provided matching funds for the project. A restoration design utilizing a natural channel design approach based on data from local reference reaches was developed and implemented by WCRC staff. The restoration was designed to minimize erosion, reduce sediment loads to the system, and enhance the aquatic habitat of the stream. The WCRC obtained all required permits and coordinated all implementation activities which include partnering with the most skilled restoration contractor in the nation to build the designed stream restoration and procurement of construction materials to be used that suit the City's aesthetic requirements. The design included a re-vegetation plan which involved planting 4,500 native plants to enhanced stream stability and the local ecosystem, while being aesthetically pleasing to park users. Since the restoration construction was completed in late August 2008, three major storm events have occurred at the site including tropical storm Ike which resulted in three times the design flow. The stream restoration remained effective through each of the events and it is estimated that the project prevents a minimum of 100,000 lbs/year of sediment from entering the stream system, while protecting park infrastructure. The WCRC continues to monitor the site to ensure that the restoration remains successful into the future and to provide guidance to the City for any maintenance that may be required. The proposed cost of this project was \$262,000 and the actual cost was \$262,000. The project was completed within the proposed timeframe.

Mid-South Watershed Training Program

Funding Source: U.S. EPA National Grant

The "Mid-South Watershed Training Program" (MSWTP) is a three year project funded by the EPA, in which a regional watershed training curriculum has been developed by the WCRC to provide the education and technical tools needed for environmental professionals, watershed coordinators, and watershed stakeholders to understand and apply the watershed approach as a means to conserve, restore, and protect natural resources. A series of intensive training courses are being offered, that provide sound, scientific methods for identifying sources and causes of NPS pollution; estimating contaminant loads; identifying BMPs and developing restoration strategies; estimating contaminant load reductions and costs; and performing planning, outreach, and long-range monitoring. The training courses provide the technical tools needed for developing comprehensive watershed plans that include the 'nine elements' listed in the National NPS Guidelines, and it benefits watersheds that cross both State and EPA region boundaries by providing courses that focus on regional land use and water quality issues. The MSWTP's target audience is environmental professionals from Arkansas, Missouri, and Oklahoma; where there are shared watersheds with some shared U.S. EPA regions. This regionally based program has provided the watershed management education opportunities to cultivate the ability of all levels of government to develop and implement comprehensive watershed programs. Course instructors range from local experts to internationally recognized environmental professionals. The WCRC has several project partners including Wildland Hydrology, TNC, Upper White River Foundation, University of Arkansas, USDA ARS, Audubon, U.S. EPA and Oklahoma State University.



WCRC Statement of Qualifications

Sediment and Nutrient Evaluation of Blossom Way Branch, Rogers, Arkansas

Funding Source: U.S. EPA 319 Grant through ANRC and City of Rogers

As part of a larger EPA 319 project, the City of Rogers (City) contracted with the WCRC to assess watershed conditions for sediment and nutrients and evaluate streambank erosion occurring in the Blossom Way watershed, a rapidly urbanizing watershed within the Illinois River basin. As part of this project, the WCRC conducted a detailed land use analysis using "heads-up" digitizing. The results of the land-use analysis were used to determine impervious surfaces and to estimate sediment and nutrient loads. The WCRC also developed streambank erosion prediction curves for the Osage Creek watershed. This included evaluating in the field over 400 streambanks; measuring erosion rates for approximately selected streambanks; and sampling bank materials to determine particle size distributions. The streambank erosion prediction curves were used to estimate sediment and phosphorus loads from eroding streambanks and load reductions that would be achieved from stream restoration projects. The WCRC also identified sources of nutrient and sediment from the various land uses in the Blossom Way watershed. Load contributions from sources were estimated using GIS data, other available data, published export coefficients, and simple to complex models or relationships. The results of this project will be used by the City to help with urban planning that promotes aesthetically pleasing greenways; excellent water quality; and preservation and restoration of habitat. The proposed cost for this work was \$87,000 and the actual cost was \$87,000. The project was completed on time within the proposed timeframe.

West Fork White River Watershed – Restoration of Priority Reaches Project Plan, Northwest Arkansas

Funding Source: USDA NRCS Grant through Conservation Partnership Initiative National Competition and In-kind Matching Funds from Project Partners

The WCRC and local partners received a grant to develop a locally based plan to reduce accelerated streambank erosion in the West Fork watershed. Within the West Fork White River (WFWR) watershed, an ADEQ assessment estimated that accelerated streambank erosion contributed 66% of an average sediment load of 35,795 tons/yr for the system and that one 0.7 mile reach contributed 25% of the streambank erosion load (Formica, et. al, 2004). Streambank erosion at a watershed scale was evaluated by developing and applying a prioritization method to the WFWR. The results of this project will be used in the watershed planning process to identify areas for restoration that will result in a significant sediment reduction and maximized habitat restoration. Based on field data and GIS analysis, twenty nine reaches were identified as needing restoration and were prioritized based upon criteria related to channel instability, sediment and nutrient contributions, and potential for success. The project also included seeking funding sources and community outreach. A demonstration restoration design using natural channel design techniques is in the process of being developed for one high priority site. Funding for this project is provided through a USDA Natural Resource Conservation Service "Conservation Partnership Initiative" grant. This project is ongoing, the project is on budget as established in the original work proposal.

Restoration of West Fork White River, Northwest Arkansas

Funding Source: U.S. EPA 319 Grant through ANRC and In-Kind Matching Funds from Project Partners

The WCRC with several local partners was awarded an EPA 319 grant from the Arkansas Natural Resources Commission to develop and implement a stream restoration design for an unstable reach on the West Fork White River (WFWR) in northwest Arkansas. The reach of river that was restored was



WCRC Statement of Qualifications

exhibiting signs of severe lateral streambank erosion and contributed over 1,400 tons of sediment per year. The WCRC utilized a natural channel design approach to restore the impacted reach. The restoration reduced streambank erosion and sediment loads to the WFWR, which is a major tributary within the Beaver Lake watershed, northwest Arkansas' primary drinking water source. The restoration also enhances the aquatic and terrestrial habitat of the stream system. Prior to restoration, the WCRC measured lateral streambank erosion to provide baseline data for evaluating the success of the project. Additionally, the WCRC used a portion of the grant funding to update regional curves that are used to assess stream channel dimensions at un-gaged stream sites. The contributing watershed area at the restoration site is approximately 18 mi². The length of the restoration reach was approximately 1,600 linear feet and involved coordination with three different landowners. Implementation of the restoration plan began in April of 2009 and was completed in September 2009. The WCRC was responsible for data collection, design development, acquisition of required permits, and all phases of implementation. The WCRC continues to monitor the site to ensure long-term success of the project by providing maintenance guidance to the affected landowner. This project was completed on time and within the budget established at the time the grant was initiated.

Assessment of Off Highway Vehicle (OHV) Trails in the Cove Creek Watershed, Lee Creek, Northwest Arkansas

Funding Source: U.S. EPA 319 Grant through ANRC and In-Kind Matching Funds from Project Partners

The WCRC partnered with the USDA Forest Service, Arkansas Game & Fish Commission, and the City of Fort Smith evaluates OHV trails and Best Management Practices (BMPs) to reduce sediment and habitat destruction for an area within the Lee Creek watershed. An assessment of the project area will provide information to identify restoration opportunities, recommend BMPs, water quality monitoring, and identify locations for stream bank and riparian restoration activities to be conducted. The WCRC is providing overall project management. Also, the WCRC has inventoried and mapped the existing roads, trails and nonpoint source areas of concern, within the project area. Specific areas were identified for targeting BMP applications, restoration practices, and identifying monitoring locations. The WCRC is monitoring impacts by evaluating the extent of soil erosion and the WEPP Roads model is being used to determine the magnitude of erosion expected from the current conditions that exist in the project area and compare it to the desired condition of the project area. The project is being funded through an EPA 319 grant along with matching funds from project partners.

Non Point Source Pollution (NPS) City of Fayetteville Phosphorus Reduction Plan

Funding Source: Geosyntec Consultants (City of Fayetteville)

The WCRC worked with a team of experts to develop a Phosphorus Reduction Plan for non-point source pollution for the City of Fayetteville. The WCRC's responsibility on this project included working with City staff to develop a stakeholder group to participate in the plan development and provide input. The WCRC developed two projects that were recommended to be funded by the stakeholder group. Implementation of these projects reduces phosphorus loads to the Beaver Lake Watershed and included using pasture renovation to increase rain water infiltration of pasture and other open spaces within the City and a stream restoration project that will reduce phosphorus contributions of over 400 lbs annually. The work was completed within the budget.



WCRC Statement of Qualifications

Geospatial Inventory and Assessment of Sediment from Unpaved Roads, Strawberry and Kings River Watersheds, AR

Funding Source: The Nature Conservancy

The WCRC partnered with the Nature Conservancy Arkansas Field Office (TNC) to evaluate unpaved roads in two rural watersheds in the Ozark Mountain Physiographic region. The WCRC evaluated 80 miles of unpaved roads in the North Big Creek watershed (a sub-watershed of the Strawberry River) and 60 miles in the Dry Fork Creek watershed (a sub-watershed of the Kings River). The project included two primary elements: 1) development of a GIS based inventory of unpaved road conditions and 2) estimation of sediment loads from unpaved roads entering the stream network using the U.S. Forest Service Water Erosion Prediction Project (WEPP) road model. Employing mobile GIS technology, the WCRC and TNC collected information that allowed the team to evaluate road conditions and identify road sections that were in the greatest need of implementation of BMPs to reduce sediment delivery to the stream network. The data was also used to generate maps to present findings to county road maintenance supervisors. Utilizing the data collected during the GIS inventory, the sediment load generated by the unpaved road network was estimated using the WEPP road model. Detailed information was collected for randomly selected road sections to create input data into the model. Based on the results of the modeled road sections, delivery coefficients were developed and sediment loads entering the stream network were estimated. The proposed cost for this work was \$30,000 and the actual cost was \$30,000. The work was completed on time based on the schedule established in the original work agreement.

Review of Existing Watershed Assessment Data for Bayou Bartholomew & Erosion Inventory on a Sub-Basin, South Arkansas

Funding Source: Winrock International (U.S. EPA Watershed Initiative Grant)

The WCRC was awarded a sub-contract from Winrock International for an assessment of a sub-watershed to Bayou Bartholomew. The work was funded as part of a Targeted Watershed Grant awarded by the EPA. Deep Bayou, a subwatershed in Bayou Bartholomew watershed, was selected for evaluation. Data and other information indicate that Deep Bayou generates a high annual sediment load and there is high average concentration of sediment. The existing data was evaluated and additional data was collected to serve as the basis of a water quality improvement plan that will reduce sedimentation. Streambank erosion was evaluated as a source of sediment within Deep Bayou. Bank erosion potential (bank erosion hazard index – BEHI and near bank shear stress - NBSS) was evaluated using a qualitative method that included parameters such as bank angle, bank height ratio, rooting depth, root density and bank protection. 14 miles of stream have been inventoried to determine streambank erosion potential. Streambanks that exhibited erosion potential of the highest qualitative categories were inventoried utilizing GPS, so that the streambanks with a high erosion potential could be mapped. By mapping these eroding streambanks, potential restoration sites were identified increasing the probability of restoration and sediment reduction. The proposed cost of this project was \$50,000 and the actual cost was \$50,000. This work was completed on time according to the proposed schedule established in the original contract.



Resume: Sandi J. Formica**Resume: Sandi J. Formica**

Ms. Formica is the co-founder and executive director of the Watershed Conservation Resource Center. She has a proven administrative ability in the development, implementation and management of environmental programs; supervision and evaluation of professional staff; grant development, writing and budgeting; and establishment of working relationships with a variety of government agencies, industries and the public. Demonstrated technical expertise of the watershed management approach; sediment and nutrient watershed assessment; nonpoint and point source pollution; development, execution and management of special environmental projects; data evaluation and interpretation; animal-waste management system design and BMPs; identification of effective best management practices; water quality monitoring; pollution prevention; and environmental chemical processes. Experienced and knowledgeable in fluvial geomorphology, stream stability and restoration; environmental model development and assessment; TMDL development and implementation; chemical analysis; environmental regulations; NPDES and state permitting; and technical report writing. Ms. Formica has special skills of effectively communicating scientific/engineering data and natural environmental processes to non-technical people and coordinating stakeholders to resolve environmental issues. She has created the Mid-south Watershed Training Program, which has been providing training courses instrumental to watershed management to environmental professional throughout the country since 2005. Instrumental in implementing the watershed approach in Arkansas by working directly with local communities and natural resource agencies. Principal Investigator on several applied research projects including watershed assessments which include data inventories, pollutant load estimates, source identification and prioritization, development of potential solutions, and watershed monitoring; evaluation of waste management systems and BMP implementation in protecting water, soil, and air quality; and development of local, volunteer-based programs which share resources to provide improved manure handling and utilization to minimize impact to environment and costs to farmers.

DETAILED EXPERIENCE

Executive Director (December 2004 to Present), Watershed Conservation Resource Center (WCRC), Little Rock, AR. Oversee and manages newly formed environmental non-profit organization. Responsible for project design; grant writing; developing budgets; providing technical assistance; and carrying-out watershed based projects. Current projects include a regional watershed education program for environmental

Watershed Conservation Resource Center**Executive Director****Years of Experience**

Twenty-seven

Education

M.S., 1984, Chemical Engineering. University of Arkansas, Fayetteville, AR.

B.S., 1982, with Honors. Chemical Engineering, University of Arkansas, Fayetteville, AR

Special Recognition

Partnership for Environmental Excellence Award EPA Region VI (Project Manager & Co-Principle Investigator for 319 Projects conducted in Buffalo River watershed)

Synergistic Activities

2000 – 2004; chair, Arkansas Watershed Advisory Group (AWAG): Initiated and help developed this multi-agency & organization working group that assists watershed partnerships in Arkansas

2002 and 2004; co-chair and chair, AWAG Watershed Conference: Developed, organized, and carried-out two state watershed conferences which focused on environmental training and education

October 2004; Arkansas Geomorphology Assessment Group: Initiated the forming of this group of professionals to encourage collaboration on assessment techniques and projects in Arkansas

1992 – 2009; instructor, presenter, & coordinator, Environmental Outreach: Throughout Arkansas, has developed presentations and training materials along with coordinating meetings & training on watershed management, BMPs, and assessment

Employment History

Watershed Conservation Resource Center, December 2004 to present. Arkansas Department of Environmental Quality, 1992 to 2004 FTN Associates, LTD., 1989 to 1992 Aluminum Company of America, 1989 St. Catherine's Indian School, 1986 to 1988 Badische Corporation, 1984 to 1985 University of Arkansas, Chemical Engineering Department, 1982 to 1984



Sandi J. Formica

professionals; unpaved road survey and sediment evaluation; stream bank erosion evaluation and prioritization; stream restoration design and implementation; and watershed sediment source and load estimate evaluation.

Environmental Preservation Division Chief (May 2001 to December 2004), Arkansas Department of Environmental Quality, Little Rock, AR.

Managed non-regulatory, technically-based Division of 11 employees with an annual budget of \$1 million. The Division consisted of three sections, Environmental Projects, Environmental Outreach, and Program Development. Programs and projects from these sections include applied research on effectiveness of best management practices at confined animal operations; watershed assessments which include evaluations of stream stability; development and implementation of watershed approach which includes providing both planning and technical assistance to watershed groups; providing water quality training to both high school teachers and students statewide; and the development of an agency pollution prevention program. All programs and projects emphasize implementation, education, and awareness. Over 9000 public contacts were made in 2002 from Division technical transfer workshops, information meetings, presentations, poster sessions, organizational meetings, and public outreach events.

Program Support Manager (January 1999 to April 2001), Arkansas Department of Environmental Quality, Little Rock, AR. Section Manager for the Watershed and Technical Support Section (WTSS) of the Environmental Preservation Division.

Responsible for the development, management, and administration of the WTSS program to 1) provided technical expertise and planning through proactive environmental projects that investigate both the environmental and economic benefits of potential solutions and 2) developed and implement state watershed strategies which focus on voluntary participation, local stakeholder involvement, and identifying viable solutions. Coordinated, supervised and evaluated the WTSS professional staff of five engineers and scientists. Secured funding for special projects including approximately two million dollars of environmental grant monies to help improve and protect the state's natural resources. Represented the ADEQ on several state environmental task force committees and has developed two committees to address swine and dairy manure management issues. Coordinated with other ADEQ divisions, state and federal agencies, universities, citizens and other groups to

Watershed Conservation Resource Center

Executive Director

Selected Publications:

S.J. Formica, M.A. Van Eps, M.A. Nelson, A.S. Cotter, T.L. Morris, J.M. Beck. "West Fork White River Watershed - Sediment Source Inventory and Evaluation." Proceedings from ASAE Conference "Self-Sustaining Solutions for Streams, Wetlands, and Watersheds," held September 12-15, 2004, St. Paul, MN.

M.A. Van Eps, S.J. Formica, T.L. Morris, J.M. Beck, A.S. Cotter. "Using a Bank Erosion Hazard Index (BEHI) to Estimate Annual Sediment Loads from Streambank Erosion in the West Fork White River Watershed." Proceedings from ASAE Conference "Self-Sustaining Solutions for Streams, Wetlands, and Watersheds," held September 12-15, 2004, St. Paul, MN.

Brye, K.R., T.L. Morris, D.M. Miller, S.J. Formica, M.A. Van Eps. 2004. "Estimating Bulk Density in Vertically Exposed Stoney Alluvium Using a Modified Excavation Method." Journal of Environmental Quality. In Press.

Formica, S.J.; Giese, J.; Kresse, T.M.; Morris, T.; and Van Eps, M.A. 2001. "Using Data, Communication, and Education to Improve Swine Waste Management in the Buffalo River Watershed." Published in the proceedings of the 2nd National Conference, "Nonpoint Source Pollution Information & Education Programs," to be held May 15-17, Chicago, IL.

Formica, S.J.; Anderson, W.M.; Van Eps, M.A.; Morris, T.; and Srivastava, Puneet. 2001. "A Community Approach to Handling and Utilizing Dairy Manure in the Buffalo River Watershed." Published in the proceeding of the Natural Resource, Agriculture, and Engineering Service, "Dairy Manure Systems: Equipment and Technology," held March 20-22, Rochester, NY.

Formica, S.J.; Giese, J.; Kresse, T.M.; Morris, T.; Van Eps, M.A.; and Anderson, W.M. 2001. "Buffalo National River Watershed: Partnerships to Improve Swine Waste Management." EPA Section 319 Success Stories, Vol. 3.

Srivastava, Puneet; Formica, S.J.; and Van Eps, M.A. 2001. "A Watershed Approach to Assess the West Fork of the White River." Abstract published in the proceedings of Arkansas Water Resource Center, "TMDL and Related Water Quality Issues Conference" held April 3-4, Fayetteville, AR.

Pote, D.H.; Reed, B.A.; Daniel, T.C.; Nichols, D.J.; Moore, P.A., Jr.; Edwards, D.R.; and Formica, S.J. 2001. "Water-Quality Effects of Infiltration Rate and Manure Application Rate for Soils Receiving Swine Manure." Journal of Soil and Water Conservation, Vol. 56, No1.



Sandi J. Formica

address environmental issues and, specifically, initiated and chairs the Arkansas Watershed Advisory Group whose mission is "to assist interested citizens and organizations by promoting local voluntary approaches to watershed management and conservation." Developed and coordinates information workshops to provide an avenue of education and communication between government agencies, scientists and the public. Principal investigator, project manager, and technical expert for five nonpoint source pollution projects which involve watershed assessment; evaluation of waste management systems and BMPs in protecting water, soil and air quality; implementation of BMPs through education, training, community programs and cost-share assistance; and coordination of project technical teams, participants, and stakeholders. Developed new special projects and programs to address environmental concerns. Provides technical and planning expertise to other divisions, government agencies, farmers, conservation districts and industries. Projects have been recognized locally, regionally, and nationally for their technical integrity and success in partnership building among stakeholders.

Engineer II and Project Manager (November 1994 to December 1998), Arkansas Department of Pollution Control and Ecology, Little Rock, AR.

Environmental Preservation Division: Responsible for the development and management of a proactive technical support group focusing on solving environmental problems through investigating the environmental and economic benefits of potential solutions. Managed nonpoint source pollution projects (\$1.8 million) in which animal-waste management practices are evaluated for their effectiveness in protecting water quality and provides technical assistance to individuals, industries, and agency personnel. Coordinated with all state, federal, and/or private agencies involved in nonpoint source projects. Provides technical support to projects by performing the following:

- 1) Reviewed and evaluates existing waste management systems and designs, current waste management practices, and water quality data.
- 2) Developed water quality sampling plans, performs water quality evaluations, and assists with water quality modeling. Recruits funds to support the technical group and supervises two project field personnel and one engineer. Initiated the expansion of this group to include watershed management planning and modeling.



Watershed Conservation Resource Center

Executive Director

Selected Publications:

Funkhouser, J., Little, P., Brahana, V., Kresse, T., Anderson, M., Formica, S.J., and Huetter, T. 1999. "Methodology to Study the Effects of Animal production in Mantled Karst Aquifers of the Southern Ozarks." Proceedings from the AWRA Annual Summer Specialty Conference, "Science Into Policy: Water in the Public Realm/Wildland Hydrology" held June 30 - July 2, Bozeman, Montana.

Van Eps, M.A.; Formica, S.J.; Kresse, T.M.; Czarnomski, A.; Morris, T.; VanSchaik, E.; Giese, J. 1998. "Survey of Arkansas Swine Liquid Waste Systems." Proceedings from "International Conference on Agricultural Engineering" held in Oslo, Norway. Paper No. 98-E-017. (presentation by Formica)

Formica, S.J., Giese J., Kresse, T.M., Morris, T., VanSchaik, E. 1996. "A Review of Existing Liquid Waste Management Systems at Confined Swine Farms and their Effectiveness in Protecting Water Quality." Proceedings from the 9th Annual AWRA/AGWA Symposium. Little Rock, AR. (presentation by Formica)

Kresse, T.M., VanSchaik, E., Formica, S.J., and Morris T. 1996. "Ground Water Quality from Confined Swine Operations." Proceedings from the Conference on Diversity of Arkansas Water Resource Research. Arkansas Water Resources Center Publication No. MSC-195, p.30-36

Formica, S.J., Giese J., Kresse, T.M., Morris, T. April, 18-20, 1995. "Nonpoint Source Watershed Activities in the Buffalo River Watershed." Proceedings from U.S. EPA Watershed Success in Region 6, Part 1, p. 251-255.

Gross, M.A.; S.J. Formica; L.C. Gandy and J. Hestir. 1991. "A Comparison of Local Waste Materials for Sulfate Reducing Wetland Substrate." Proceedings from Constructed Wetlands for Water Quality Improvement, An International Symposium, Oct. 21-24, Pensacola, FL.

Gandy, L.C.; S.J. Formica and M.A. Gross. 1991. "An Evaluation of Vertical Flow Sulfate Reducing Wetlands to Treat Low pH, Low Sulfate Acid Mine Drainage Using Column Experiments." Proceedings from XII Annual National Symposium on Mining, p. 81-93.

Formica, S.J.; J.A. Baron; L.T. Thibodeaux and L.T. Valsaraj. 1988. PCB Transport into Lake Sediments; Conceptual Model and Laboratory Simulation. Env. Science and Tech., Vol. 22, No. 12, p. 1435.

Kresse, T.M.; L.J. Thibodeaux, and S.J. Formica. 1985. Desorption of PCB from Lake Sediment: Abstracts with Programs. South-Central section, Geol. Soc. Amer., Vol. 17, p. 163.

Sandi J. Formica 

Inspection Engineer II (February 1992 to September 1994), Arkansas Department of Pollution Control and Ecology, Little Rock, AR. Water Division:

Reviewed and evaluated engineering plans for the treatment/utilization of animal waste at agricultural facilities and wastewater at commercial facilities. Drafted State Water Permits and performed site visits at facilities. Assisted with the development of educational programs for operators and evaluation of water quality impacts from nonpoint source pollution.

Chemical Engineer (July 1989 to February 1992), FTN Associates, LTD., Little Rock, AR.

Experience in environmental model development, modeling, and model assessment. Performed several waste-load allocation studies, which involved water quality modeling. Participated in the development, design, and evaluation of a pilot-constructed wetland treatment system used to treat acid mine drainage. Participated in water quality assessment and evaluation studies, Toxicity Reduction Evaluation, and a wastewater treatment evaluation. Gained experience in NPDES permitting and knowledge of environmental regulations.

Chemical Engineer (January 1989 to June 1989), Aluminum Company of America, Bauxite, AR.

Designed experiments and performed testing for the development of new products in the Product Development Group. Supervised the research and development of an anion-absorbing chemical product for use in wastewater treatment process.

Secondary Mathematics and Science Teacher (August 1986 to May 1988), St. Catherine's Indian School, Santa Fe, NM.

Taught Geometry, Pre-Calculus, Chemistry and Physics to upper level high school students. Duties included daily class preparation, presentation of class material, evaluation of student's performance, and organization of physics and chemistry laboratory experiments.

Chemical Engineer (May 1984 to August 1985), Badische Corporation, Freeport, TX.

Designed projects to improve plant operations. Organized, coordinated and performed cost analysis of plant projects. Supervised work teams of 2-5 people for project installation. Performed design calculations and economic evaluations of potential chemical production processes. Performed quality control study by simulating chemical plant process in the laboratory.

Research and Departmental Assistant (August 1981 to April 1984), Chemical Engineering Department, University of Arkansas, Fayetteville, AR.

Designed and performed laboratory simulation of PCB-contaminated lake system while obtaining graduate degree. Developed and tested mathematical model of the system. Corrected student assignments in mass-transfer, kinetics, and thermodynamics during senior year of undergraduate school.



Resume: Matthew A. Van Eps, PE

Matthew Van Eps, PE, is the associate director and co-founder of the Watershed Conservation Resource Center. Mr. Van Eps possess a diverse and unique work experience history that has facilitated the development of specialized watershed assessment, conservation and restoration skills. He is currently the project engineer for three design and build stream restoration projects in Northwest Arkansas. His background has served to develop his scientific and philosophical understanding of the physical, chemical, biological, and anthropogenic processes affecting watershed resources. He has been a project engineer on numerous watershed assessment projects in both rural and urban settings. He was also the project engineer for several projects that evaluated the implementation of BMPs to reduce the impact of confined animal operation on water quality in Arkansas. Mr. Van Eps has a broad background in watershed management and has expertise in many aspects of the field including assessment, regulatory issues, stream stability analysis, stream restoration design practices, integration of stakeholder involvement, nutrient management, non-point source pollution; and BMP identification and implementation

Associate Director (December 2004 to Present), Watershed Conservation Resource Center (WCRC), Little Rock, AR. Provides technical, engineering, and project design expertise for recognized environmental nonprofit organization. Stream restoration design development and implementation project engineer. Responsible for all GIS applications; restoration design; and field data collection. Assists with budgeting; grant development; and project development.

Engineer PE, Environmental Projects Section Manager, AR Dept. of Environmental Quality September 1997-December 2004. West Fork White River Watershed Assessment.

Project engineer for a watershed assessment of the West Fork White River in Northwest Arkansas. Surveyed the West Fork White River (WFWR) and tributaries evaluating the erosion potential of stream banks using a Bank Erosion Hazard Index. Developed and implemented a progressive and efficient data collection and presentation process utilizing a GIS interface and hand-held computing technology. Selected suitable locations for the installation of permanent cross-section locations to assist in evaluating stream stability of the WFWR. Performed computations and analysis of geomorphology data collected for the WFWR assessment. Collected data to develop a bank erosion sediment delivery model. Reviewed Quality

Watershed Conservation Resource Center

Associate Director

PE License #: 10661

Years of Experience

Fourteen

Education

University of Arkansas- Fayetteville, Arkansas
Master of Engineering Degree in Environmental Engineering, December 1996

Virginia Polytechnic Institute and State University
- Blacksburg, Virginia
Bachelor of Science Degree in Chemical Engineering, May 1993

Professional Training

Dr. Rosgen's Wildland Hydrology Courses:

- Applied Fluvial Geomorphology
- River Morphology & Applications
- River Assessment & Monitoring
- River Restoration & Natural Channel Design

Special Recognition

Partnership for Environmental Excellence
Award EPA Region VI

Employment History

Watershed Conservation Resource Center
2004 - present
Arkansas Department of Environmental Quality
1997 - 2004
Challenge Environmental Laboratories 1997
University of Arkansas Civil Engineering Department
1994 to 1996

Synergistic Activities

Member of Green Infrastructure Environmental Subcommittee for Fayetteville Green Infrastructure Project 2009

Guest Lecturer for Ecological Engineering course at the University of Arkansas 2009

Guest Lecturer for Environmental Soil and Water Science course at the University of Arkansas 2009

Presented Stream Morphology concepts to attendees of the Region 6 MS4 annual meeting in 2007



Matthew A. Van Eps, PE

Assurance Project Plans (QAPP) to be submitted to the EPA addressing stormwater and biological sampling methods in the watershed.

Urban Watershed Assessment.

Principal investigator for assessing the condition of the Rock Creek watershed in Little Rock, Arkansas. Developed project proposal, work plan, budget, and EPA approved QAPP documentation for urban watershed assessment. Supervised and coordinated the collection and analysis of data including; landuse, impervious surface analysis, and delineation of watershed and sub-watershed boundaries utilizing GIS; utilization of visual watershed assessment methods and handheld PC GIS interface for rapid assessment and prioritization; evaluation of historical flow data to determine changes in local hydrology; development of a flow weighted storm water quality sampling program; and collected and evaluated fluvial geomorphology data to determine stream stability and restoration potential.

Fluvial Geomorphology Data Collection and Evaluation.

Collected and analyzed fluvial geomorphology data to establish relationships between watershed area and stream channel geometry for the Boston Mountain physiographic region. Obtained and evaluated historical USGS gage station records to determine flood return frequency as well as gage height and channel geometry relationships. Collected stream bank erosion data to develop relationship between stream bank erosion variables and erosion rates. Performed a bank erosion survey for the City of Rogers, Arkansas for 15 miles of Osage Creek and headwater tributaries. Provided comment, critical review and technical assistance on proposed stream bank stabilization projects to increase success and reduce costs. Received over 120 hours of fluvial geomorphology training from Dave Rosgen, P.H. Assisted Mr. Rosgen during training courses conducted in Northwest Arkansas, including selection of sites for students to observe geomorphologic process and providing assistance to students performing assessments in the field. Provided field based instruction of basic fluvial geomorphology concepts to attendees of the 1st Arkansas Watershed Advisory Group Conference in October 2002. He is an instructor for the Basic Field Techniques to Determine Stream Morphology training course presented by the WCRC Mid-South Watershed Training Program.

**Watershed Conservation
Resource Center****Associate Director****Selected Publications:**

M.A. Van Eps, S.J. Formica, T.L. Morris, J.M. Beck, A.S. Cotter. "Using a Bank Erosion Hazard Index (BEHI) to Estimate Annual Sediment Loads from Streambank Erosion in the West Fork White River Watershed." Proceedings from ASAE Conference "Self-Sustaining Solutions for Streams, Wetlands, and Watersheds," held September 12-15, 2004, St. Paul, MN.

S.J. Formica, M.A. Van Eps, M.A. Nelson, A.S. Cotter, T.L. Morris, J.M. Beck. "West Fork White River Watershed - Sediment Source Inventory and Evaluation." Proceedings from ASAE Conference "Self-Sustaining Solutions for Streams, Wetlands, and Watersheds," held September 12-15, 2004, St. Paul, MN.

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Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



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

**City of Fayetteville Arkansas
City Council Meeting Minutes
August 17, 2010**

A meeting of the Fayetteville City Council was held on August 17, 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 Gray, Thiel, Cook, Petty, Rhoads, Ferrell, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lucas

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Quarterly Report of the Financial Condition of the City – City Clerk Sondra Smith, Finance Director Paul Becker.

Sondra Smith: The quarterly report has been emailed to the City Council.

Paul Becker, Finance Director: This is through June so it is one half of the year. Sales tax is down 4.2% compared to budget. That will equate to about \$850,000 if it continues to the end of the year. Interest earnings are down. It appears that our cost containment plan is working. We are actually positive form where we had expected to be. The HMR taxes are down about 5% compared to budget and 2% compared to last year. Water and Sewer is down about 4% in usage. We are still generating a cash flow and we can still meet the capital plan.

Alderman Petty: How is this affecting the budget discussions for 2011? Are you going to project revenues to be flat again or are you projecting a decrease?

Paul Becker: At this point in time I'm going to project everything flat to this year. That is going to be a decrease from last year as far as sales taxes are concerned. I do not feel confident that anything is going to improve in the future.

Alderman Ferrell: If you're projecting about the same 3.5, the spending would correspondingly be down.

Agenda Additions:

None

Consent:

Approval of the July 20, 2010 and August 3, 2010 City Council meeting minutes.

Approved

Amend Resolution No. 98-09: A resolution to amend Resolution No. 98-09 to change all references from "Arkansas Western Gas Company" to "SourceGas, LLC."

Resolution 149-10 as recorded in the office of the City Clerk.

Bid #10-49 Danny Robinson Construction, LLC: A resolution awarding Bid #10-49 and authorizing a contract with Danny Robinson Construction, LLC in the amount of \$394,450.00 for renovation and lighting of the Wilson Park Trail, approving a 15% project contingency, and approving a budget adjustment.

Resolution 150-10 as recorded in the office of the City Clerk.

Arkansas Department of Aeronautics Grant: A resolution authorizing application and acceptance of an Arkansas Department of Aeronautics Grant in the amount of \$18,984.00 to be used for the repair of airport fuel farm overfill protection and inventory management systems and approving a budget adjustment.

Resolution 151-10 as recorded in the office of the City Clerk.

Arkansas Historic Preservation Program: A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of \$4,500.00 for travel and training expenses in support of the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the grant revenue.

Resolution 152-10 as recorded in the office of the City Clerk.

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

Unfinished Business:

None

New Business:

ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Internal Services and Development Director stated staff and Planning Commission are recommending approval of the ordinance amendment. He gave a brief description of the ordinance.

Alderman Ferrell: What is the zoning on the city shop?

Jeremy Pate: I think it's all industrial.

Alderman Ferrell: Would they be allowed to have vehicles there for a prolonged period of time?

Jeremy Pate: Potentially, it depends on the type of business. There are exemptions from the time frame depending on the use of the property. I don't think we would have a problem meeting our own regulation.

Alderman Lewis: Under parking and storage of certain vehicles that applies to residential as well?

Jeremy Pate: That's correct.

Jeremy Rose: After 45 days if the car is towed who would pay for it?

Jeremy Pate: The City would not be towing any vehicles after 45 days. If we received a complaint about a vehicle we would investigate and try to determine how long the vehicle had been there. If we determine it has been there longer than that period of time we would send a

violation notice to the property owner requesting they remedy that violation and become compliant with city codes.

Jeremy Rose: If the company was to move the vehicle would they charge the customers?

Don Marr, Chief of Staff: It would be whatever the business chose to do. It is not dictated in the ordinance and the City is not requiring a particular party to be responsible.

Billy Banks: This issue neglects an area for a hobbyist that builds or repairs automobiles and hotrods. Some of these are on commercial zoned properties. Where does that put us in that arena?

Jeremy Pate: Last year City Council passed an ordinance regarding Parking (Chapter 172). It included a hobbyist permit for vehicles like that. It would allow you an exemption.

Billy Banks: I didn't realize there was an exemption. Thank you.

A citizen stated he was a friend of Jeremy Rose. Is there an exemption so you can keep your car there longer?

Mayor Jordan: The Council is going to discuss this. Mr. Pate is a fair man. He will look at every situation and he will make determinations.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell asked to leave the ordinance on the second reading in case there was anyone from the public that wanted to come and speak on the issue.

This ordinance was left on the Second Reading.

RZN 10-3614 (WRMC): An ordinance rezoning that property described in rezoning petition RZN 10-3614, for approximately 4.37 acres, located at Lot 5 Brookstone Subdivision, the southeast corner of Wimberly Drive and Longview Street from R-O, Residential Office, to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Jeremy Pate stated staff and Planning Commission are recommending in favor of the ordinance. He gave a brief description of the ordinance.

Alderman Ferrell: We certainly need to be sensitive to health care and our hospital. As we continue with our transportation needs surrounding the hospital I certainly hope everything continues to work hand and hand.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis spoke on the drainage in the area. She stated that through the development process we need to look at what happens on this property.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

Ordinance 5344 as Recorded in the office of the City Clerk

VAC 10-3617 (Timmermans): An ordinance approving VAC 10-3617 submitted by Blew and Associates, Inc. for property located at 3968 Edgewater to vacate a utility easement, a total of 1,008 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a description of the ordinance. He stated we require the applicant to notify all utility representatives and city representatives. We received those responses back and all were in favor of the utility vacation, therefore we forwarded it to the Planning Commission who also recommended approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

Ordinance 5345 as Recorded in the office of the City Clerk

Amend §117.80 Definitions (Pedicabs): An ordinance to Amend **§117.80 Definitions** of the Fayetteville Code, to enact a new **Article IX Pedicabs of Chapter 117 Vehicle-Related Business** of the Fayetteville Code and to declare an emergency.

City Attorney Kit Williams read the ordinance.

Alderman Petty thanked everyone that has been involved. He gave a brief overview of the ordinance. I would like for suggestions to be brought back to us after sixty days.

City Attorney Kit Williams: The City Council asked that we address what the City Clerk brought forward about the public notification. He reviewed the section in question and read the proposed amendment.

Alderman Petty moved to amend the Exhibit, Section 117.101 (C) and 117.111 (C). Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Alderman Petty moved to require one mirror on a pedicab as opposed to two mirrors and to require that helmets be available for children. Alderman Lewis seconded the motion.

City Attorney Kit Williams: Do you have an age limit for the child, below a certain age they need to have a helmet?

Alderman Petty: No, the amendment was not to require that children wear a helmet but that it is available for them if their parents wish for them to wear one.

Todd Gilmore with Fayetteville Pedicab Company: We have no problem with keeping helmets under the seats to accommodate customers. We are also in complete agreement with the other amendments that have been made.

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

Todd Gilmore stated the Fayetteville Pedicab is very happy that you have decided to move in this direction. We think it is needed. We are concerned with the permitted zones of operation. We would like to request that the central and western zone be one zone. He explained their reasons for one zone as opposed to two zones.

Mayor Jordan: I would like the Transportation Department to be able to decide where you are going to be able to operate on some of the streets. I want us to come to some sort of agreement but I also want to keep everything safe.

City Attorney Kit Williams: The City Council can allow you to operate in both zones. You certainly can ask that you be able to operate in both zones.

Alderman Ferrell asked if the operators are going to be physically fit.

Todd Gilmore gave an explanation of the job training given to their employees.

Alderman Lewis asked how the zones were determined.

City Attorney Kit Williams gave a brief description of how the permitted zones were determined.

Alderman Petty: How do you feel about our Attorney's explanation about the zones? Do you feel they should be united into one zone or do you think the way it is written now is satisfactory?

Todd Gilmore: We would like to see them united. We feel it would be easier on the Police Department to regulate us. We would like to see it be one zone.

Alderman Thiel: At the Agenda Meeting there were concerns about the area around the University and whether or not pedicabs can operate around the University. Has it been determined that it is okay to go into that western zone.

Police Chief Greg Tabor: What I heard him say was that when something is coned off they would not be allowed in those areas during those times but it would be okay to be on the City Streets at any other time.

Alderman Thiel: So the Police Department doesn't have any problems with this?

Police Chief Greg Tabor: Absolutely not. I can tell you from an enforcement standpoint if we had one zone, and every company was authorized in the one zone, it makes it much easier because we are not having to identify which company it is and if they are or are not authorized for a particular zone.

Alderman Ferrell: I don't have a problem with that but as proposed there are two zones and the rates that are described in the ordinance are for one zone and a second zone.

City Attorney Kit Williams: We would need to revoke or delete the last sentence in subsection 117.12 (A).

Don Marr: Since one of the operators is speaking to a business model that includes the Baum Stadium baseball area I just want you to note that right now that is not included in either of these zones that are outlined. I hope you will visit whether these are the right boundaries or if they need to be adjusted.

Police Chief Greg Tabor: Right now as far south as you can go is Martin Luther King Jr. Blvd. so that would not include Baum Stadium.

Alderman Rhoads: What would you say the rate should be if it is one zone?

Todd Gilmore: When we looked at this business we found out very quickly, from successful pedicab businesses, that a rate isn't something that we charge. We can charge but we work off of gratuities and tips. Our rate right now is \$1 plus tips.

Alderman Rhoads: Unless you change your mind and decide to charge \$20.

City Attorney Kit Williams: I don't think they can do that without coming back to the City Council. Their rates are part of their application.

Mayor Jordan: If you are going to combine them I would stay with what the boundaries are and put them together.

City Attorney Kit Williams: It has never been suggested that it go south of Martin Luther King Jr. Blvd.

Alderman Petty: There have been some other suggestions made. We can handle baseball games with pre approved routes from the Transportation Director. The plan is to take the next 60 days, evaluate how things work, and come back to update the legislation with what is practical.

Alderman Rhoads moved to amend the ordinance to combine the two permitted zones of operation into one zone and to delete the fee for two zones. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Alderman Cook: There has been some discussion about allowing pedicabs on the trails system. I have some concerns about their access on the trails. The trails are 12 feet wide and the pedicabs are roughly 4 ½ feet wide.

Alderman Thiel: I thought we removed that part?

Alderman Cook: What is going to happen is they are going to request a regular route most likely from our Transportation Director. It's not just going to be for an event. I think it is going to be a full time thing.

Mayor Jordan: You are bringing up some concerns that I have.

Alderman Cook: I have concerns with mixing with the activity that is on there now because sometimes the trails are not wide enough at 12 feet because of the amount of activity on them. I'm not against what they are doing I am just concerned about them mixing with the traffic that is already on the trails system.

Mayor Jordan: We can try it for 60 days and if we are having issues then we can come back and do whatever we need to do.

Alderman Cook: We polled the Sidewalks and Trails Committee and it was split.

Mayor Jordan: We put a change in the ordinance on what they can and can't do.

Alderman Cook: I appreciate that.

Alderman Thiel: Kit, I thought we dealt with that at the Ordinance Review Committee. I thought your recommendation was that they wouldn't be allowed on trails.

City Attorney Kit Williams: Without the approval of the routes. It's only the streets within the permitted zone of operation that they are automatically allowed on. The trail use would have to be approved by the Transportation Director.

Mayor Jordan: That was the amendment I put in there before we went to Agenda Session.

Alderman Rhoads: The City Administration can say lets not use the trails for 60 days and see how things go verses the other way, which I would rather we do.

Alderman Petty: I would prefer that we allow them to use them for 60 days. I know it is the administrations decision but I think in the interest of experimentation that is a good idea. I think the main concern is that we have some sections of our trails that are not 12 feet in width. I think it is something the Transportation Director can work out.

Mayor Jordan: I would say that they will probably be allowed on certain portions of a trail.

Alderman Lewis: I like the idea of trying it and seeing how it works because we have created an entire new transportation plan with the trails including saying that they are part of our transportation system. I think pedicabs are starting to look at us because of our trails system.

Alderman Rhoads: I think we shouldn't try it for 60 days on the trails to get use to having people use the pedicabs on regular streets but make a commitment to try it after the 60 days.

Mayor Jordan: My concern is some of the trails are not very wide.

Alderman Petty: It is my intention that the businesses pay attention to the practices that are being put in place and what is practical between now and 60 days and come back with their comments and suggestions for improving the ordinance after they have had some experience operating in our town.

Don Marr: For clarification on the trial period, if staff approves a route on Scull Creek Trail, what would be the provision if it doesn't work to be able to change the route? Will that need to come back to the City Council?

City Attorney Kit Williams: The routes are all controlled by the Transportation Director both giving them and taking them away.

Don Marr: What is the process that allows us to do that?

City Attorney Kit Williams read subsection (D). *No Pedicab may operate on a City transportation trails without the express prior approval of the route and fare by the Transportation Services Director.* I think it is clear by this that if he withdraws his approval then there is no prior approval for continued use of the trail. He might want to approve a route for a trial period, for a particular time or time period, and not say they can use it anytime they want to. They may approve day light times when it might be safer and more visible. They may approve different sections of the trail that are wider. It is within his power to authorize or not authorize a Pedicab to use our transportation trails.

Todd Gilmore: In regards to the trail, as Ms. Lewis stated, one of the reasons that drew our business to Fayetteville is because they are a bike friendly city. That trail system was built to help carry people through the City of Fayetteville and help make it a lot safer. We feel our bikes, being 50 inches wide fit well within a six foot section of a traffic lane on a trail. We probably should crawl before we walk and we are very happy to operate within the zone and prove to you that we are not going to disrupt flow and people really want to utilize us. We want you to be aware that to help bring revenue into the Entertainment District that trail is a vital part of that.

Alderman Thiel: The discussion about the trails is going to be more with Terry than us. The ordinance permits the use of trails.

Alderman Ferrell moved to suspend the rules and go to the second reading as amended. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan thanked Alderman Petty for bringing the ordinance forward.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

Alderman Thiel moved to approve an Emergency Clause for the ordinance. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Mayor Jordan thanked the Ordinance Review Committee for their work on the ordinance.

Ordinance 5346 as Recorded in the office of the City Clerk

Public Hearing:

Certificate of Public Convenience and Necessity (Razorback Pedal Cab): A resolution to approve the granting of a Pedicab Certificate of Public Convenience and Necessity to the Razorback Pedal Cab.

Chief of Police Greg Tabor: We have an application from James and Nina Mason operating as Razorback Pedal Cab. They are requesting the approval of two pedal cabs. They have supplied us with all the appropriate documentation and they have listed on their application for rates “tips.”

Mayor Jordan: Is this the one that wants to change the name?

James Mason, applicant: I would like to change the name of the company to **Main Street Pedal Cab**. I would also like to have four cabs instead of two.

Alderman Petty: It looks like the equipment you bought is manufactured by a company called Main Street Pedicabs.

James Mason: Yes.

Alderman Petty: Do you think that is a good idea to name your company that.

James Mason: Those people are based out of Florida so I don’t think it will be a big problem.

City Attorney Kit Williams: We have researched the name you suggested and it is not listed in Arkansas as “A Doing Business As”. If you are going to operate under a fictitious name you will need to register that with the State. Your insurance must be under a corporation, yourself or something that is directly related to this. The Certificate of Public Convenience and Necessity, even it is granted by the City Council, cannot be issued by the City Clerk until there is proof of an insurance policy in affect that properly names your business as the covered entity.

James Mason: I turned all that in about a year ago to Sergeant Harter.

City Attorney Kit William: I think that was a proposal.

Chief Greg Tabor: That is correct. We have a letter in their name personally that advises they can issue a policy but there is not a policy in affect.

James Mason: Yes.

City Attorney Kit Williams: We do it this way because you don’t want to pay for a policy until you know you can operate but we can’t issue a certificate until we actually have the policy.

James Mason: Okay.

Mayor Jordan: What about the name change?

City Attorney Kit Williams: It is up to them what they want to call it.

Mayor Jordan: Do we need a motion?

City Attorney Kit Williams: No, he is just amending his application.

Alderman Thiel: All we are approving now is just their ability to go forward.

City Attorney Kit Williams: There are findings that the City Council is supposed to make according to the ordinance. You must find that the pedicab service is required by the Public Convenience and Necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provision of the sub chapter and then the City Clerk can issue the certificate. You do not need to find if they have adequate insurance. The City Clerk will determine that.

Chief Greg Tabor: There is another section in the ordinance that says at this point they need proof that someone is willing to give them insurance. Before the certificate is issued they must provide proof they have it. There are several items in the ordinance that need to be done once this certificate is approved.

City Attorney Kit Williams: I would ask the pedal cab companies to get with the Chief to help him with the training for drivers.

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

Resolution 153-10 as recorded in the office of the City Clerk.

Certificate of Public Convenience and Necessity (Fayetteville Pedicab Company): A resolution to approve the granting of a Pedicab Certificate of Public Convenience and Necessity to the Fayetteville Pedicab Company.

Chief Greg Tabor: We also have a certificate from Jason Sexton operating as Fayetteville Pedicab Company. He is requesting a maximum of eight pedicabs. He has provided a document from an insurance company saying they are willing to issue him insurance. He has listed his rate as a \$1 flat rate with tips.

City Attorney Kit Williams: Since we had two different required signs, one if it was rate only, one if it was gratuities only, if you authorize me to I will work with the pedicab companies to combine the two signs.

Todd Gilmore: The reason we put the \$1 rate is when we had discussions I thought you wanted us to have a rate. We are happy to work off of tips and gratuity as well.

Alderman Petty: Do you want to amend your application?

Todd Gilmore: No, we will keep it that way.

Nickel Potter, thanked the Council for making a bicycle friendly city. He spoke in favor of the ordinance.

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

Alderman Ferrell welcomed the new entrepreneurs and the entrepreneurs that are coming. I hope everything fairs well for you.

Resolution 154-10 as recorded in the office of the City Clerk.

Announcements:

Don Marr reminded City Council and citizens that the opening filling period for City Council seats runs through August 24th.

Meeting adjourned at 7:25 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer



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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director

Date: September 2, 2010

Subject: ADM 09-3466 UDC Chapter 151 and 164 vehicle related businesses – Proposed Amendments

After hearing discussion by the Council and members of the public since the last City Council meeting regarding this UDC amendment, staff has prepared some amendments that we wish for the Council to consider before voting on the ordinance as a whole. Following is a description of these amendments, and attached is a replacement ordinance that includes all of the recommended changes.

- 1) **Automotive repair shops.** Rather than state that no motor vehicle to be repaired shall be stored on the premises more than 45 days, staff proposes specifying the types of vehicles that are more typically complained about, e.g, vehicles that have broken windows, are wrecked, have doors or hoods missing, wheels are removed, etc. The amendment clarifies that if a vehicle is wrecked or has missing/damaged parts such that it can not be driven, it may be stored outside for a total of 45 days. If more time is needed to make the repairs, the vehicle needs to be moved indoors or to a different property. A vehicle that simply has a motor problem, needs interior work or is disabled for some other reason, but otherwise appears to be a fully whole and functional vehicle without missing or damaged body parts, would not be limited on the time it can remain stored outside.
- 2) **Parking on sidewalks.** This section is currently located under motor vehicle repair shops. It should more appropriately be located under "parking and storage of certain vehicles."
- 3) **Antique/hobbyist vehicles.** Staff added this language to §166.14 to clarify that antique/hobbyist vehicles are allowed to located on certain properties in the city, but if they are disabled, they must be stored inside.

In addition to these amendments, staff has also prepared, for consideration, an "exception" clause for the unique circumstances that may cause a motor vehicle repair shop owner to request that a wrecked or bodily disabled vehicle be stored outside on the property more than 45 days. This language has not been included in the ordinance draft attached, and if desired, should be included as an additional amendment. I generally prefer to not have another "unique circumstance" to review for this particular ordinance, for I feel that it would be hard for planning staff to determine the circumstance is unique or verifiable, without getting into a business's records regarding when they ordered a part, or where it is manufactured, etc. Staff's recommendation is for the 45 days

maximum to be tried first, and if it becomes a common or prevalent issue, staff can bring back to the Council an exception clause or look at extending the 45 days.

Exception Language

164.05 (E) *Exceptions*. A property owner that needs to request an extension to the maximum of 45 days of outdoor vehicle storage noted herein shall provide to the Planning Division evidence proving unique circumstances prevent the vehicle from being repaired within the 45 days, moved inside, or removed from the property. Such cases may be deemed suitable by the Planning Division, wherein the circumstance meets the purpose and intent of the ordinance. If the Planning Division approves the special exception, a permit letter will be issued for the address, indicating the time period that the specific vehicle(s) may continue to be stored on the property.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, CHAPTERS 151: DEFINITIONS AND 164: SUPPLEMENTARY ZONING REGULATIONS, IN ORDER TO INCLUDE ADDITIONAL DEFINITIONS AND REQUIREMENTS FOR VEHICLE RELATED BUSINESSES.

WHEREAS, the City of Fayetteville Unified Development Code was adopted to further the health, safety and general welfare of the community, and to promote an orderly and appropriate mix of land uses; and

WHEREAS, land uses that include the storage of disabled, wrecked, or inoperable vehicles can create a public nuisance and adversely impact surrounding properties and neighborhoods ; and

WHEREAS, the City of Fayetteville Unified Development Code should provide regulations that protect neighborhoods, commercial and industrial districts, and makes a livable community.

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: Definitions by inserting in alphabetical order the following definitions:

“Auto Salvage. (Zoning) The dismantling or wrecking of motor vehicles or trailers, or the storage, keeping, selling, buying, or dumping of any wrecked, scrapped, ruined, dismantled, disabled, or inoperable motor vehicle or motor vehicle part.”

“Junkyard. (Zoning) Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, discarded appliances, or other material in a condition such that it cannot be used for its original purposes.”

“Motor vehicle. (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)”

“Motor vehicle accessory store. (Zoning) Stores that sell new automobile parts, tires, and/or accessories.”

“Motor vehicle repair and body shop. (Zoning) Any property, building or portion thereof used for the service and repair of motor vehicles including major mechanical repair and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations.”

“Towing impound yard. (Zoning) A facility operated for the temporary storage of towed motor vehicles that are to be claimed by their title holders or agents, or transported to a repair shop.”

"Towing service. (Zoning) An establishment that provides for the removal of a motor vehicle by towing, carrying, hauling or pushing from public or private property when such vehicle has been ordered to be impounded to a public or private impound yard. This shall not include a "motor vehicle repair and body shop" use that has a tow truck and services vehicles on-site."

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §151.01: Definitions by renaming "Filling station (Zoning)" to "Gasoline service station. (Zoning)" and placing it in alphabetical order.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.05 Automobile Garages and enacts a replacement §164.05, as follows:

§164.05 Motor Vehicle Repair

In any district where permitted, gasoline service stations and motor vehicle repair and body shops shall be subject to the following regulations:

- (A) All appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line of agricultural or residential district.
- (B) Although temporarily inoperable, motor vehicles shall have substantially all of its main component parts attached, and where subject to a license, shall be currently and validly licensed for operation upon public streets and highways.
- (C) Vehicles or trailers that are wrecked, or that have missing or damaged parts such that it can not be maintained for driving, may not be stored outside longer than 45 days. If more time is needed for repairs, the vehicle or trailer shall be stored inside a building or removed from the property.
- (D) Abandoned vehicles shall not be stored on the premises.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.06 Automobile Wash Service by repealing the section and renaming the section "Reserved."

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.14 Parking And Storage Of Certain Vehicles and enacts a replacement §164.14, as follows:

§164.14 Parking And Storage of Certain Vehicles

- (A) Motor vehicles or trailers of any kind, which are required to be licensed, must have current license plates properly attached (unless completely enclosed within a building) except within the lot of the following legally operating businesses: vehicle sales, trailer sales, junkyards, and auto salvage yards.
- (B) Disabled motor vehicles or trailers, including antique/hobbyist vehicles, must be stored inside buildings unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.
- (C) Parking or storing wrecked or abandoned vehicles within residential districts is prohibited.
- (D) Vehicles in any zoning district shall be parked in such a way so they do not encroach upon a public sidewalk, or block pedestrian or vehicular use and visibility.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.18 (A) Automobile garages, §164.18 (B) Automobile wash service, and §164.18 (D) Industrial Parks, and renumbers the remaining subsections sequentially.

Section 7. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.18 to insert the following subsection:

- (D) Towing impound yards. An impound yard shall be subject to the following:

- (1) Motor vehicles shall not be stored on the premises longer than 45 days.
- (2) Impound yards shall be surrounding on all sides by a minimum 6 foot tall wood board privacy fence.

PASSED and **APPROVED** this the ____ day of ____, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

9/7/10 City Council
Agenda

C.3. Repeal & Replace
34.26 Authority of City
Employees to Contract
with the City.



LEGAL DEPARTMENT

TO: Mayor Jordan
City Council
Sondra Smith, City Clerk

CC: Connie Edmonston, Parks & Recreation Director

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", followed by a long horizontal line.

DATE: September 2, 2010

RE: §34.26 Limited Authority of City Employees To Provide Services
To The City

Connie asked to have scorekeepers added to umpires and referees in subsection (E) of this new code section. She reports that the Parks and Recreation Department frequently must obtain city employees as scorekeepers as well as referees and umpires. Connie requests that you amend the currently proposed ordinance to add scorekeepers in subsection (E).

Attached below is how §34.26 **Limited Authority of City Employees to Provide Services To the City** will read if scorekeepers are added to (E).

**“§34.26 Limited Authority of City Employee To Provide Services
To The City**

“An employee of the city shall be permitted to furnish services as an independent contractor to the City only if:

“(A) The employee fully discloses his or her direct or indirect financial interest in any contract or service agreement to the City Council and such services are approved by City Council Resolution;

“(B) No favoritism is allowed to the city employee over other possible service providers;

“(C) Such services are not of the same type as performed by the city employee in his or her regular city job, nor are services for the department wherein the employee works;

“(D) The employee’s immediate supervisor specifically approves such extension of employee service and ensures it will not adversely affect the employee’s regular city employment duties;

“(E) City employees who are not within the Parks and Recreation Department are specifically allowed to work as independent contractors as scorekeepers, referees and umpires for the Fayetteville Parks and Recreation Department without the need for a City Council Resolution.”

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 September 7, 2010

A meeting of the Fayetteville City Council will be held on September 7, 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

City Council Agenda Session Presentations:

1. Ice Storm Damage Grant Sample Tree Inventory Project Report – George Barker, Natural Resources Consulting, Inc.
2. High School Project Presentation

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the August 17, 2010 City Council meeting minutes.

2. **National Wildlife Federation Community Wildlife Habitat:** A resolution authorizing an application for the City to be certified as a National Wildlife Federation Community Wildlife Habitat.
3. **Watershed Conservation Resource Center Grant (White River):** A resolution authorizing application and acceptance, in partnership with the Watershed Conservation Resource Center, of an Arkansas Natural Resources Commission matching grant in the amount of \$200,000.00 for restoration of a portion of the White River near the Noland Wastewater Treatment Facility, and approving a budget adjustment in the amount of \$77,000.00 representing the City's match.
4. **2010 Washington County Inter-Local Agreement (Animal Sheltering):** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County, Arkansas for calendar year 2010.
5. **RFP #10-11 Plante & Moran, PLLC:** A resolution awarding RFP #10-11 and approving a contract with Plante & Moran, PLLC in an amount not to exceed \$60,000.00 for the performance of a city-wide information technology assessment.
6. **2010 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2010 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Grant in the amount of \$108,419.00 to the Fayetteville Police Department as a lead agency, and approving a budget adjustment.
7. **Access Management Plan Agreement Amendment (State Highway 265):** A resolution approving an amendment to the Access Management Plan Agreement, as prepared by the Arkansas Highway and Transportation Department, for State Highway 265.
8. **Amend Resolution No. 76-06 Lierly Lane Subdivision:** A resolution to amend Resolution No. 76-06 to amend the site plan to replace five duplex lots with single family lots and change the lot once designated for the decentralized community septic system to single family lots and a developed park of at least about 2.5 acres.
9. **Amend Resolution No. 131-10:** A resolution amending Resolution No. 131-10 to change all references from "Today in America" to "U.S. Media Television, Inc."

B. Unfinished Business:

1. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville. *This ordinance was left on the Second Reading at the June 15, 2010 City Council meeting. This ordinance was left on the Third Reading at the July 6, 2010 City Council meeting and Tabled to the September 7, 2010 City Council meeting.*

Left on the Third Reading

2. **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses. *This ordinance was left on the Second Reading at the August 17, 2010 City Council meeting.*

Left on the Second Reading

C. New Business:

1. **RZN 10-3625 (Cedar Crest Academy):** An ordinance rezoning that property described in rezoning petition RZN 10-3625, for approximately 2.25 acres, located on the south side of Persimmon Street, northwest of Owl Creek Elementary School from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.
2. **RZN 10-3626 (Mathias Shopping Centers):** An ordinance rezoning that property described in rezoning petition RZN 10-3626, for approximately 1.2 acres, located at the northwest corner of Hwy 45 East and Box Avenue from R-O, Residential Office, to CS, Community Services.
3. **Repeal and Replace §34.26:** An ordinance to repeal §34.26 Authority of City Employees to Contract with the City and to enact a replacement §34.26 Limited Authority of City Employees to Provide Services to the City.
4. **Amend Chapters 151 & 162: ADM 10-3630 Recycling and Collection Centers:** An ordinance amending the Unified Development Code Chapter 151: Definitions and Chapter 162: Use Conditions to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts.
5. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapter 161: Zoning Regulations to permit use unit 43, Animal Boarding and Training, in certain situations in commercial, industrial, mixed use, and residential-agricultural zoning districts.

Announcements:

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
National Wildlife Federation
Community Wildlife Habitat
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

John Coleman

Submitted By

Division

Sustainability

Department

Action Required:

Approval of resolution supporting the Environmental Action Committee in their goal to make Fayetteville the first National Wildlife Federation Community Wildlife Habitat in the state of Arkansas. There is no budget impact.

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

☐

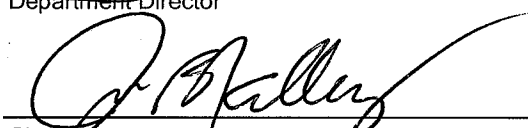
Budget Adjustment Attached

☐


Department Director

8/19/2010
Date

Previous Ordinance or Resolution #


City Attorney

8/19/10
Date

Original Contract Date:

Original Contract Number:

Paul A. Behr
Finance and Internal Services Director

8-19-2010
Date

Received in City Clerk's Office 08-19-10A11:51 RCVD


Chief of Staff

8-19-10
Date

Received in
Mayor's Office




Mayor

8/19/10
Date

Comments:

To: Fayetteville City Council

Thru: Don Marr, Chief of Staff

From: John Coleman, Sustainability Director *JC*

Date: August 19, 2010

Subject: Fayetteville Wildlife Habitat Project

RECOMMENDATION

Fayetteville City staff recommends approval for the Environmental Action Committee to pursue the designation of Fayetteville as the first National Wildlife Federation Certified Community Wildlife Habitat in the state of Arkansas.

BACKGROUND

A Community Wildlife Habitat is a community that provides habitat for wildlife throughout -- in individual backyards, on school grounds and in public areas such as parks, community gardens, places of worship and businesses. The National Wildlife Federation has developed a program that certifies communities that achieve certain criteria including number of properties registered, education initiatives, and specific community projects. Habitats are certified based on food and water sources available, places for cover, and sustainable gardening practices.

DISCUSSION

The Environmental Action Committee has adopted a goal of making Fayetteville the first certified community in the state of Arkansas. EAC members will act as the project lead in certification, education, community projects, and other required steps for achieving community certification.

BUDGET IMPACT

No budget impact.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING AN APPLICATION FOR THE CITY TO BE
CERTIFIED AS A NATIONAL WILDLIFE FEDERATION COMMUNITY
WILDLIFE HABITAT**

WHEREAS, the Fayetteville Forward Summit identified green infrastructure as a primary component of the quality of life in the City of Fayetteville; and

WHEREAS, the use of native plants and native landscaping result in protecting and enhancing the wildlife that contributes to a sustainable and healthy environment in the City; and

WHEREAS, urban ecosystems do not detect property lines or conventional boundaries, but instead rely on networks of green infrastructure and natural habitat to thrive; and

WHEREAS, community education is a fundamental part of obtaining the support of the citizens of the City to support ongoing clean air, clean water and water conservation initiatives; and

WHEREAS, the Environmental Action Committee serves to promote a safe and healthy environment to preserve the natural beauty of the environment in the City; and

WHEREAS, the National Wildlife Federation is nationally preeminent in the areas of education and assistance to the public in developing, and advocating for, natural areas, native landscapes and the creation of animal habitat; and

WHEREAS, the National Wildlife Federation Habitat Community Certification Program provides an excellent template for implementing sound natural space, native landscape and habitat development programs.

**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 to make application to the National Wildlife Federation for certification of the City as a National Wildlife Federation Community Wildlife Habitat.

PASSED and APPROVED this _____ day of _____, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Staff Review Form

A. 3
Watershed Conservation Resource
Center Grant (White River)
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

9-7-10

10/7/2010

City Council Meeting Date
Agenda Items Only

John Coleman

Submitted By

Wastewater Treatment Plant

Division

Utilities

Department

Action Required:

Fayetteville City staff recommends approval to provide \$77,000 in matching funds to the Watershed Conservation Resources Center (WCRC) for a \$200,000 grant from the Arkansas Natural Resources Commission (ANRC) and approval of the necessary budget adjustment. The funds will go towards the restoration of a section of the White River at the Noland Wastewater Treatment Facility (WWTF) (see attached "Sediment and Nutrient Loading Estimate").

\$ 77,000.00

Cost of this request

\$ 77,000.00

Category / Project Budget

White River Stream Restoration Project

Program Category / Project Name

5400.5800.5315.00

Account Number

\$ -

Funds Used to Date

Wastewater Treatment Plant Capital

Program / Project Category Name

10029.1001

Project Number

\$ 77,000.00

Remaining Balance

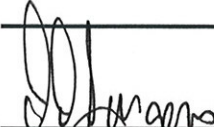
Contract Services

Fund Name

Budgeted Item

Budget Adjustment Attached

x

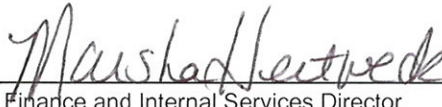

Department Director
19 Aug 10
Date

Previous Ordinance or Resolution #

Original Contract Date:


City Attorney
8-20-10
Date

Original Contract Number:


Finance and Internal Services Director
8/23/10
Date

Received in City
Clerk's Office

08-19-10 P03:02 RCVD

Kim G.


Chief of Staff
8/24/10
Date

Received in
Mayor's Office

ENTERED
8/20/10
JH


Mayor
8/23/10
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
David Jurgens, Utilities Director

From: John Coleman, Sustainability Director

Date: August 5, 2010

Subject: White River Stream Restoration Project, Noland Wastewater Treatment Plant Site

RECOMMENDATION

Fayetteville City staff recommends approval to provide \$77,000 in matching funds to the Watershed Conservation Resources Center (WCRC) for a \$200,000 grant from the Arkansas Natural Resources Commission (ANRC). The funds will go towards the restoration of a section of the White River at the Noland Wastewater Treatment Facility (WWTF) (see attached "Sediment and Nutrient Loading Estimate").

BACKGROUND

Due to this year's storm events the City has lost over fifteen feet of bank on the proposed section of the White River (see attachment aerial photos). The White River is on the ADEQ Arkansas impaired streams list and associated stream bank erosion directly increases the phosphorus loading in the river and Beaver Lake. By restoring this section of the river, studies indicate that the phosphorus loading would be reduced by 330 pounds per year which equates to 25 days of average discharge from the Noland Plant in current conditions.

DISCUSSION

This grant from ANRC, and the work to be executed, is similar to the stream restoration project at Drake Field. The work can be entirely completed on land owned by the City of Fayetteville as part of the Noland WWTF, but the WCRC will also attempt to obtain easements from adjacent landowners. If obtained, these will enhance the project, but are not critical to project completion. All City funds will be expended on work on City property. The grant requires a \$77,000 City match, which staff proposes to be paid for using Water/Sewer funds that are dedicated for site maintenance of the Noland property.

This grant, executed under the City's recently adopted agreement with the WCRC, will be used for the restoration of stream banks along the White River in order to reduce annual phosphorus and sediment loads entering the river. The Environmental Protection Agency is increasingly focused on non-point source pollution entering the watersheds in Northwest Arkansas. This project will provide another quality example of the City's ongoing commitment to watershed protection, and will count as matching funds to the Beaver Water District Nutrient Reduction Agreement.

BUDGET IMPACT

The City will utilize \$77,000 from WWTF operations funding as matching funds for the \$200,000 grant from the ANRC. The attached budget adjustment transfers savings in WWTF fuel consumption to the White River stream bank restoration project. As this project is effectively property maintenance of WWTP land, it is an appropriate expenditure of water/sewer funds.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION AND ACCEPTANCE, IN PARTNERSHIP WITH THE WATERSHED CONSERVATION RESOURCE CENTER, OF AN ARKANSAS NATURAL RESOURCES COMMISSION MATCHING GRANT IN THE AMOUNT OF \$200,000.00 FOR RESTORATION OF A PORTION OF THE WHITE RIVER NEAR THE NOLAND WASTEWATER TREATMENT FACILITY, AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$77,000.00 REPRESENTING THE CITY'S MATCH

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 acceptance, in partnership with the Watershed Conservation Resource Center, of an Arkansas Natural Resources Commission matching grant in the amount of \$200,000.00 for restoration of a portion of the White River near the Noland Wastewater Treatment Facility.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$77,000.00, a copy of which is attached as Exhibit "A," representing the City's match.

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

A. 3
Watershed Conservation Resource
Center Grant (White River)

Sediment and Nutrient Loading Estimate for Riverbank Erosion on the White River

A site visit was made in March 2010 by M.A. Van Eps, project engineer for the Watershed Conservation Resource Center (WCRC). During that visit photos of the eroding stream bank were taken. Based on the photos and observations made during the site visit, the following Bank Erosion Hazard Index (BEHI) attributes were qualified:

Bank Angle: 85 degrees
Bank Height Ratio: 1.5
Root Depth: 20% of bank height
Root Density: 20% of root area
Toe Protection: 0% of length
Bank Material: Silt Loam
Additional Material Points: +5

Near Bank Sheer Stress was estimated to be “very high” along the eroding bank.

The length of bank was estimated to be 700' in length.



The average height of the bank was estimated to be 13'.

Based on the BEHI variables, the BEHI rating would be “Very High”

Using the BEHI/NBSS stream bank erosion prediction curves for the West Fork White River basin, the rate of erosion for the bank at the WWTP property was estimated. The estimated annual rate of erosion would be 1.2 feet per year. This erosion rate would be the rate for a “typical” or “average” year where no significant flood events have taken place. Of course when larger storm events take place, the rate of lateral erosion would be greater. For example in 2009 several large storm events caused erosion rates of 10' for portions of the site.

An erosion rate of 1.2 ft/yr at the site would generate approximately 12,100 ft³/yr or 448 yd³ (30 dump truck loads) of sediment annually. That volume of sediment would have an equivalent weight of approximately 1,000 ton.

The amount of phosphorus in soils varies. A conservative concentration of phosphorus in soils is 0.34 lb/ton. At that concentration, the amount of phosphorus entering the White River from riverbank erosion would be 330 lb/yr.

Stabilization of this site would result in a reduction of sediment and phosphorus loads that would continue to be realized many years into the future. The water quality of Beaver Lake would be improved. Restoration will also improve aquatic habitat at the site. Without action, the site will continue to erode and the rate of erosion may increase over time.





0 215 430 860 1,290 Feet





Paul R. Noland WWTP Property
1,227.6 Acres



City of Fayetteville Staff Review Form

A. 4
2010 Washington County Inter-Local
Agreement (Animal Sheltering)
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

September 7, 2010
City Council Meeting Date
Agenda Items Only

Justine Middleton
Submitted By

Community Services
Division

Development Services
Department

Action Required:

Approval of the 2010 Interlocal Sheltering Contract with Washington County.

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. Bick
Department Director

08-04-2010
Date

Previous Ordinance or Resolution # _____

John B. Kelley
City Attorney

8-4-10
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Behr
Finance and Internal Services Director

8-4-2010
Date

Received in City Clerk's Office 08-04-10 P03:33 RCVD
AW

Don Man
Chief of Staff

8-5-10
Date

Received in Mayor's Office
8/5/10
F.H.

David L. Jordan
Mayor

8/5/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Yolanda Field, Dir. Community Services; Jeremy Pate, Dir. Development Services

From: Justine Middleton, Animal Services Superintendent

Date: August 3, 2010

Subject: Approval of 2010 Interlocal Sheltering Agreement with Washington County

PROPOSAL:

The previous Interlocal Sheltering Agreement expired December 31, 2009. New contracts were sent out to be reviewed and signed in January. The Interlocal Agreement with the County is only for a term of one year, running from January 1, 2010 to December 31, 2010.

RECOMMENDATION:

Staff recommends approval of the Interlocal Sheltering Agreement for the 2010 calendar year.

BUDGET IMPACT:

Revenue of \$103,650

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND WASHINGTON COUNTY, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO WASHINGTON COUNTY, ARKANSAS FOR CALENDAR YEAR 2010

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 an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County, Arkansas for calendar year 2010. A copy of the agreement, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute the Inter-Local Agreement with Washington County, Arkansas.

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND WASHINGTON COUNTY, ARKANSAS**

THIS AGREEMENT is entered into this _____ day of _____, 2010, by and between the **CITY OF FAYETTEVILLE**, and the **COUNTY OF WASHINGTON, ARKANSAS**, concerning the provision of animal sheltering services;

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and Washington County; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to Washington County.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by designated animal control officers of Washington County and any Washington County citizen that lives outside any incorporated city limits and who is not otherwise covered by a sheltering agreement. The term "sheltering services" shall include, but is not limited to, food, water, shelter, veterinarian care (basic care provided to be provided during normal working hours), euthanasia, impoundment, and quarantine (up to five days). This shall also include after hours access for the county animal control officers.

Article II

Washington County agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

Washington County sheltering services fees due for 2010 in the amount of \$103,650 said sum being based on the number of animals delivered to the shelter by Washington County citizens and designated animal control officers during the year 2009. Future charges will be calculated in the same manner at the rate of \$75 per animal. Washington County agrees to pay \$103,650, payments shall be made to the City of Fayetteville in the form of twelve (12) monthly payments \$10,887.50. Payments shall be due on or before the first day of each month.



Monthly Report for current year sheltering service activities will consist of a summary activity report and citizen intake forms. Monthly report packet will be mailed to the County Judge's Office, Attention: Quorum Court Secretary. If an animal is impounded or quarantined the cost of such shall be born by the owner; however, if the owner fails or refuses to retrieve any such animal, then after five (5) days it shall be forfeited to the shelter.

Article IV

This agreement shall begin on January 1, 2010 and end at midnight on December 31, 2010; however either party, upon 30 days written notice may terminate this agreement.

Article V

The City of Fayetteville agrees to provide assistance to Washington County in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the City of Fayetteville and Washington County.

Article VI

Neither the City of Fayetteville nor Washington County may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article VIII

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article IX

Washington County shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or Washington County under the Constitution and Statutes of the State of Arkansas.

Article X

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XI

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties.

IN WITNESS WHEREOF, the City of Fayetteville and Washington County have executed this Agreement on or as of the date first written above.

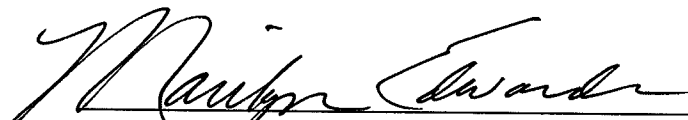
CITY OF FAYETTEVILLE, ARKANSAS

LIONELD JORDAN, Mayor

ATTEST:

SONDRA SMITH, City Clerk

WASHINGTON COUNTY, ARKANSAS



MARILYN EDWARDS, County Judge

ATTEST:



KAREN COMBS PRITCHARD, County Clerk



City of Fayetteville Staff Review Form

A. 5
RFP #10-11 Plante & Moran, PLLC
Page 1 of 98

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

Don Marr

Administration

Administration

Submitted By

Division

Department

Action Required:

A contract awarding RFP 10-11 to Plante & Moran, PLLC in an amount not to exceed \$60,000 to conduct a city-wide information technology assessment.

\$ 60,000.00

Cost of this request

\$ 80,000.00

Category / Project Budget

IT Assessment & Project Mgmt.

Program Category / Project Name

4470.9470.5315.00

Account Number

\$ 19,187.00

Funds Used to Date

IT Improvements

Program / Project Category Name

10013.1

Project Number

\$ 60,813.00

Remaining Balance

Sales Tax Capital

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Paul A. Bech

8-19-2010

Date

Previous Ordinance or Resolution #

City Attorney

Jr. Kelly

8-20-10

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Maisha Hestwood

8/23/10

Date

Received in City
Clerk's Office

08-20-10 P02:46 RCVD

Chief of Staff

Don Marr

8/24/10

Date

Received in
Mayor's Office

ENTERED
8/24/10
PH

Mayor

Donald Jordan

8/23/10

Date

Comments:



City Council Meeting Date:
9/7/2010

City Council Agenda Memo

To: Mayor and Members of the City Council
From: Don Marr, Chief of Staff
Thru: Mayor Jordan
Date: 8/20/2010
Subject: RFP 10-11 Information Technology Assessment Services

Recommendation:

The RFP 10-11 Selection Committee recommends that the City of Fayetteville, AR contract with Plante & Moran PLLC for conducting a city-wide information technology assessment and the development of a road map based on the findings of the IT Assessment that can be utilized for CIP and Budget Planning purposes.

Background:

During the Capital Improvement Projects Budget for 2010, the City Council approved \$80,000 for a IT Technology Assessment Project. City Staff followed the Professional Services selection process as outlined in City Purchasing policies. The Selection committee reviewed 8 proposals that were submitted in response to the City's RFP request, and the committee short listed two (2) finalist. Each finalist visited on-site and made presentations to the Selection Committee. The Selection Committee recommends the selected contractor unanimously. This IT assessment is focused on determining the current state and capabilities of the City's existing IT infrastructure and operations in regards to meeting the future needs and goals of the City. The assessment provides an independent analysis of the State of existing IT infrastructure, the state of current IT Governance practices, and the state of current IT management processes. The assessment will also provide an evaluation of current IT staffing levels and capabilities, and review of our existing applications portfolio, and will make recommendations regarding current and future applications portfolios and provide benchmarking data of IT operations against similarly situated cities, and finally this assessment will provide full recommendations regarding all aspects of Information Technology within the scope of the assessment. This contract is capped at \$60,000. The proposed contract is attached, along with the RFP 10-11 response that is referenced in the contract attached

Budget Impact:

\$80,000 is budgeted in the CIP and 2010 Approved Budget, for IT Assessment. We will be utilizing this budget and we believe the use of this expertise will allow us to better define a road map for future IT expenditures and productivity/efficiency and cost improvements for the City's IT projects.

RESOLUTION NO. _____

A RESOLUTION AWARDDING RFP # 10-11 AND APPROVING A CONTRACT WITH PLANTE & MORAN, PLLC, IN AN AMOUNT NOT TO EXCEED \$60,000.00, FOR THE PERFORMANCE OF A CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT

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 RFP # 10-11 and approves a contract, a copy of which is attached as Exhibit "A," with Plante & Moran, PLLC, in an amount not to exceed \$60,000.00, for the performance of a city-wide information technology assessment.

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
Contract Agreement

This contract executed this ____ day of _____, 2010, between the City of Fayetteville, Arkansas, and Plante & Moran, PLLC. In consideration of the mutual covenants contained herein, the parties agree as follows.

WITNESSETH:

WHEREAS, City has previously determined that it has a need for a CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT SERVICES; and

WHEREAS, City, after soliciting competitive proposals for such services pursuant to City of Fayetteville RFP 10-11 (herein after referred to as Request for Proposal or RFP), City has awarded this contract to Plante & Moran, PLLC; and

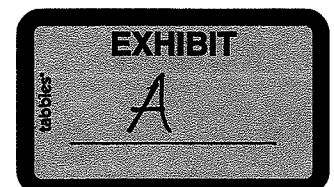
WHEREAS, Plante & Moran, PLLC has represented that it is able to satisfactorily provide these services according to the terms and conditions of the RFP, which are incorporated herein by reference, and the terms and conditions are contained herein; and

NOW THEREFORE, in consideration of the above and mutual covenants contained herein, the parties agree as follows:

1. Services to be Performed: Plante & Moran, PLLC hereby agrees to provide the City with A CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT SERVICES, as requested and more specifically outlined in the RFP, this agreement, and all subsequent official documents that form the Contract Documents for this Agreement.

2. Time of Service: Services shall be performed in a timely manner, according to the following project schedule:

Action	Date & Time
City Council Deadline	Friday, August 20, 2010
Agenda Session	Tuesday, August 31, 2010
City Council Meeting - award contract	Tuesday, September 07, 2010
Notice to Proceed	Friday, September 10, 2010



Firm begins work	Monday, September 13, 2010
On site info gathering (week of)	Monday, September 13, 2010
Preliminary results meeting on site	TBD
Final DRAFT due	Friday, October 22, 2010
Final report due - presented to City	Tuesday, October 26, 2010

3. Term of Agreement: Services performed pursuant to this Contract shall commence upon execution of this agreement and continue until project is complete, unless canceled or terminated within thirty (30) days written notice by either party.

4. Amendment of Contract: This Contract may be amended only by mutual agreement of the parties.

5. Assignment and Subcontracting: Plante & Moran, PLLC shall perform this contract. No assignment or subcontracting shall be allowed without the prior written consent of the City. In the event of a corporate acquisition and/or merger, Plante & Moran, PLLC shall provide written notice to the City within thirty (30) business days of such notice of action or upon the occurrence of said action, whichever occurs first. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a Proposer, which has disclosed its intent to assign or subcontract in its response to the RFP, without exception shall constitute approval for purposes of this Agreement.

6. Cancellation: The City of Fayetteville reserves the right to cancel this Contract, without cause, by giving thirty (30) days notice to Contractor of the intent to cancel, or with cause if at any time Contractor fails to fulfill or abide by any of the terms or conditions specified.

Failure of the Plante & Moran, PLLC to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.

In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source any services which have not been provided within the period of time

stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by the City.

In the event that sufficient budgeted funds are not available for a fiscal period, the City shall notify Plante & Moran, PLLC of such occurrence and the Contract shall terminate on the last day of the then current fiscal period without penalty or expense to the City. The City reserves the right to terminate within the thirty (30) day notice because of budgetary issues.

7. Compensation: As compensation for Plante & Moran, PLLC providing services to the City as described herein, the City shall pay Plante & Moran, PLLC in arrears, based on the submission of invoices for work completed and properly authorized. Compensation to Plante & Moran, PLLC for all services presented in the scope of work will be provided to the city for a not to exceed price of **\$60,000.00**.

8. Permits & Licenses: Plante & Moran, PLLC shall secure and maintain any and all permits and licenses required to complete this contract.

9. Minimum Insurance Requirements: Plante & Moran, PLLC shall maintain insurance in at least the amounts required in the RFP throughout the term of this contract. Plante & Moran, PLLC must provide a Certificate of Insurance in accordance with the insurance requirements listed within the RFP, evidencing such coverage prior to issuance of a purchase order or commencement of any work under this contract. Plante & Moran, PLLC shall ensure that any subcontractors or persons hired by subcontractors maintain the same level of insurance coverage as Plante & Moran, PLLC.

10. Indemnification: Plante & Moran, PLLC shall indemnify, pay the cost of defense, including but not limited to attorneys' fees, and hold harmless the City from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons, or property by or from the said Plante & Moran, PLLC; or by, or in consequence of any neglect in safeguarding the work; or on account of any act or omission, neglect or misconduct of Plante & Moran, PLLC; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, by-laws, ordinances, order of decree, except only such injury or damage as shall have been occasioned by the sole negligence of the City of Fayetteville. The first ten dollars (\$10.00) of compensation received by Plante & Moran, PLLC represents specific consideration for this indemnification obligation.

11. Governing Law & Jurisdiction: Legal jurisdiction to resolve any disputes shall be Washington County, Arkansas with Arkansas law applying to the case.

12. Severability: The terms and conditions of this agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity of legality of the remaining terms and conditions, and notwithstanding any such determination, this agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the agreement impossible to perform.

13. Changes in Scope or Price: Changes, modifications, or amendments in scope, price, or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

14. Freedom of Information Act: Documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Plante & Moran, PLLC will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

15. Documents Comprising Contract: The contract shall include this Agreement for CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT SERVICES, as well as the following documents, which are incorporated herein by reference.

- a. **Appendix A**: City of Fayetteville's Request for Proposal and all of its addenda and attachments issued on or about Friday, July 2, 2010;
- b. **Appendix B**: Plante & Moran, PLLC's August 18, 2010 revised Terms and Conditions.
- c. **Appendix C**: Plante & Moran, PLLC's Proposal; and
- d. **Appendix D**: Plante & Moran, PLLC's Certificate of Insurance as required, listing the City as an additional insured.

If there is a conflict between the terms of this Agreement and the above referenced documents, the conflict shall be resolved as follows: the terms of this Agreement shall prevail over the other documents, and the terms of the remaining documents shall be given preference in their above listed order.

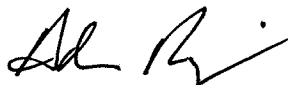
WITNESS OUR HANDS THIS _____ DAY OF _____, 2010.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

LIONELD JORDAN, Mayor

Attest:

Sondra Smith, City Clerk



CONTRACTOR

ADAM RUAN

BY PARTNER

NAME AND TITLE

ATTEST COMPANY SECRETARY

 PARTNER

27400 NORTHWESTERN HWY, SOUTHFIELD, MI.

BUSINESS ADDRESS



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8220
TDD (Telecommunication Device for the Deaf): 479.521.1316

REQUEST FOR PROPOSAL: RFP 10-11, City-wide Information Technology Assessment
DEADLINE: Thursday, July 22, 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: Friday, July 2, 2010

REQUEST FOR PROPOSAL **RFP 10-11, City-wide Information Technology Assessment**

No late proposals will be accepted. RFP's shall be submitted in sealed envelopes labeled "RFP 10-11, City-wide Information Technology Assessment" with the name and address of the bidder.

All Proposals shall be submitted in accordance with the attached City of Fayetteville specifications and bid 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. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

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 10-11, City-wide Information Technology Assessment
Advertisement

The City of Fayetteville, Arkansas is seeking sealed proposals from qualified firms / providers to perform a City-wide Information Technology Assessment.

To be considered, proposals shall be received at the City Administration Building, City Hall, Purchasing – Room 306, 113 West Mountain, Fayetteville, Arkansas before **Thursday, July 22, 2010 at 2:00 PM**, Central Standard Time. No late proposals shall be accepted.

Proposal forms must be downloaded from the City's web site at <http://www.accessfayetteville.org>. All questions regarding the RFP process should be directed to Andrea Foren at aforen@ci.fayetteville.ar.us or (479)575-8220.

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

Pursuant to Ark. Code Annotated 22-9-203, the City of Fayetteville encourages all qualified small, minority and women business enterprises to proposal and receives contracts for goods, services, and construction. Also, City of Fayetteville encourages all prospective Proposers to subcontract portions of their contract to qualified small, minority, and women business enterprises.

The City of Fayetteville reserves the right to reject any or all proposals and to waive irregularities therein, and all Proposers shall agree that such rejection shall be without liability on the part of the City of Fayetteville for any damage or claim brought by any Proposer because of such rejections, nor shall the Proposers seek any recourse of any kind against the City of Fayetteville because of such rejections. The filing of any Proposal in response to this invitation shall constitute an agreement of the Proposer to these conditions.

CITY OF FAYETTEVILLE

By: Andrea Foren, CPPB

Title: Purchasing Agent

Ad date: 07/02/2010

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
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City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION A: General Conditions

1. SUBMISSION OF PROPOSAL:

- a. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. The names of respondents only will be available after the deadline until a contract has been awarded by the Fayetteville City Council. All interested parties understand proposal documents will not be available until after a valid contract has been executed.
- b. Proposers shall submit a proposal based on documentation published by the Fayetteville Purchasing Division.
- c. Proposals shall be enclosed in sealed envelopes or packages addressed to the City of Fayetteville, Purchasing Division, Room 306, 113 W. Mountain, Fayetteville, AR 72701. The name, address of the firm and Bid, RFP, or RFQ number shall be on the outside of the packaging as well as on any packages enclosed in shipping containers or boxes.
- d. Proposals must follow the format of the RFP. Proposers should structure their responses to follow the sequence of the RFP.
- e. Proposers must have experience in work of the same or similar nature, and must provide references that will satisfy the City of Fayetteville. Proposer must furnish a reference list of five (5) clients for whom they have performed similar services and must provide information as requested in this document, at least two (2) of the five references shall be government references (state, county, city, etc).
- f. Proposer is advised that exceptions to any of the terms contained in this RFP or the attached service agreement must be identified in its response to the RFP. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

No oral interpretations will be made to any firms as to the meaning of specifications or any other contract documents. All questions pertaining to the terms and conditions or scope of work of this proposal must be sent in writing via e-mail to the Purchasing Department. Responses to questions may be handled as an addendum if the response would provide clarification to the requirements of the proposal. All such addenda shall become part of the contract documents. The City will not be responsible for any other explanation or interpretation of the proposed RFP made or given prior to the award of the contract.

3. DESCRIPTION OF SUPPLIES AND SERVICES:

Any manufacturer's names, trade name, brand name, catalog number, etc. used in specifications are for the purpose of describing and establishing general quality levels. Such references are NOT intended to be restrictive. Proposals will be considered for all brands that meet the quality of the specifications listed for any items.

4. RIGHTS OF CITY OF FAYETTEVILLE IN REQUEST FOR PROPOSAL PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the following:

- a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.
- b. The City of Fayetteville reserves the right to select the proposal that it believes will serve the best interest of the City.
- c. The City of Fayetteville reserves the right to accept or reject any or all proposals.
- d. The City of Fayetteville reserves the right to cancel the entire request for proposal.

- e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for proposal or in proposals submitted.
- f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or proposal data without changing the terms of the proposal.
- g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.

5. EVALUATION CRITERIA:

The evaluation criterion defines the factors that will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. Proposers shall include sufficient information to allow the selection committee to thoroughly evaluate and score proposals. Each proposal submitted shall be evaluated and ranked by a selection committee. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFP. Proposers are not guaranteed to be ranked.

6. COSTS INCURRED BY PROPOSERS:

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith, shall be borne solely by the Proposer(s). No payment will be made for any responses received, or for any other effort required of, or made by, the Proposer(s) prior to contract commencement.

7. ORAL PRESENTATION:

An oral presentation and/or interview may be requested of any firm, at the selection committee's discretion.

8. CONFLICT OF INTEREST:

- a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Authority of City Employee to Contract With The City" which states the following:
 - i. *An employee of the City shall be permitted to conduct business with the City, provided the contract or job is for services, is submitted as a competitive bid, is approved by the City Council following disclosure of the direct or indirect financial interest of the individual employee, and the total sum payable under the contract does NOT exceed \$500.00.*
- b. The Proposer shall promptly notify Andrea Foren, City Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the bidder's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

9. WITHDRAWAL OF PROPOSAL:

A proposal may be withdrawn prior to the time set for the proposal submittal, based on a written request from an authorized representative of the firm; however, a proposal shall not be withdrawn after the time set for the proposal.

10. LATE PROPOSAL OR MODIFICATIONS:

- a) Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Bidders should call the Purchasing Division at (479) 575-8220 to insure receipt of their submittal documents prior to opening time and date listed.

11. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

- a. The laws of the State of Arkansas apply to any purchase made under this request for proposal. Proposers shall comply with all local, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), & OSHA as applicable to this contract.
- b. 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.

12. PROVISION FOR OTHER AGENCIES:

Unless otherwise stipulated by the Proposer, the Proposer agrees to make available to all Government agencies, departments, municipalities, and counties, the proposal prices submitted in accordance with said proposal terms and conditions therein, should any said governmental entity desire to buy under this proposal. Eligible Users shall mean all state of Arkansas agencies, the legislative and judicial branches, political subdivisions (counties, local district school boards, community colleges, municipalities, counties, or other public agencies or authorities), which may desire to purchase under the terms and conditions of the contract.

13. COLLUSION:

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "Proposer certifies that his proposal is made without previous understanding, agreement, or connection with any person, firm or corporation making a proposal for the same item(s) and/or services and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

14. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

- a. The City of Fayetteville reserves the privilege of auditing a vendor's records as such records relate to purchases between the City and said vendor.
- b. 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 Freedom of Information Act request is presented to the City of Fayetteville, the (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.
- c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

15. CITY INDEMNIFICATION:

The successful Proposer(s) agrees to indemnify the City and hold it harmless from and against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the goods or any part thereof covered by this order, and such obligation shall survive acceptance of the goods and payment thereof by the City.

16. VARIANCE FROM STANDARD TERMS & CONDITIONS:

All standard terms and conditions stated in this request for proposal apply to this contract except as specifically stated in the subsequent sections of this document, which take precedence, and should be fully understood by Proposers prior to submitting a proposal on this requirement.

17. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

Persons with disabilities requiring reasonable accommodation to participate in this proceeding/event, should call 479.521.1316 (telecommunications device for the deaf), not later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

18. CERTIFICATE OF INSURANCE:

The successful Proposer shall provide a Certificate of Insurance in accordance with specifications listed in this request for proposal, prior to commencement of any work. Such certificate shall list the City of Fayetteville as an additional insured. Insurance shall remain valid throughout project completion.

19. PROCUREMENT POLICY FOR RECYCLED MATERIALS:

The City of Fayetteville wishes to encourage its Proposer to use recycled products in fulfilling contractual obligations to the City and that such practices will serve as a model for other public entities and private sector companies.

20. PAYMENTS AND INVOICING:

The Proposer must specify in their proposal the exact company name and address which must be the same as invoices submitted for payment as a result of award of this RFP. Further, the successful Proposer is responsible for immediately notifying the Purchasing Division of any company name change, which would cause invoicing to change from the name used at the time of the original RFP. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest or penalty for untimely payments. **Payments can be processed through Proposer's acceptance of Visa at no additional costs to the City for expedited payment processing.** The City will not agree to any nonrefundable deposit or retainer that would remain property of the Proposer even if the hourly work actually performed by the Proposer would not justify such fee. The City will not agree to allow any increase in hourly rates by the contract without PRIOR Fayetteville City Council approval.

21. CANCELLATION:

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.
- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City

22. ASSIGNMENT, SUBCONTRACTING, CORPORATE ACQUISITIONS AND/OR MERGERS:

- a. The Contractor shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFP.
- b. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a firm that has disclosed its intent to assign or subcontract in its response to the RFP, without exception shall constitute approval for purpose of this Agreement.

23. NON-EXCLUSIVE CONTRACT:

Award of this RFP shall impose no obligation on the City to utilize the vendor for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such an action to be in the City's best interest. In the case of multiple-term contracts, this provision shall apply separately to each item.

24. LOBBYING:

Lobbying of selection committee members, City of Fayetteville employees, or elected officials regarding request for proposals, request for qualifications, bids or contracts, during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, and agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the request for proposal, request for qualification, bid or contract, or has a pending bid protest is strictly prohibited either upon advertisement or on a date established by the City of Fayetteville and shall be prohibited until either an award is final or the protest is finally resolved by the City of Fayetteville; provided, however, nothing herein shall prohibit a prospective/bidder/proposer from contacting the Purchasing Division to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any request for proposal, request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

25. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this RFP from the Proposer. When approved by the City as an amendment to the contract and authorized in writing prior to work, the Contractor shall provide such additional requirements as may become necessary.

26. ADD OR DELETE LOCATIONS OR SERVICES:

The City reserves the right to unilaterally add or delete locations and/or services, either collectively or individually, at the City's sole option, at any time after award has been made as may be deemed necessary or in the best interests of the City. In such case, the Contractor(s) will be required to provide services to this contract in accordance with the terms, conditions, and specifications.

27. SERVICES AGREEMENT:

A written agreement, in substantially the form attached, incorporating the RFP and the successful proposal will be prepared by the City, signed by the successful proposer and presented to the City of Fayetteville for approval and signature of the Mayor.

28. INTEGRITY OF REQUEST FOR PROPOSAL (RFP) DOCUMENTS:

Proposers shall use the original RFP form(s) provided by the Purchasing Division and enter information only in the spaces where a response is requested. Proposers may use an attachment as an addendum to the RFP form(s) if sufficient space is not available on the original form for the Proposer to enter a complete response. **Any modifications or alterations to the original RFP documents by the Proposer, whether intentional or otherwise, will constitute grounds for rejection of such RFP response.** Any such modifications or alterations a Proposer wishes to propose shall be clearly stated in the Proposer's RFP response and presented in the form of an addendum to the original RFP documents.

29. OTHER GENERAL CONDITIONS:

- a) Proposer is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.

- b) Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the products and services presented. **Sales tax is not to be included in the bid price.** Applicable Arkansas sales tax laws will apply when necessary but will not be considered in award of this project.
- c) Each Proposer should state the anticipated number of days from the date of receipt of an order for delivery of services to the City of Fayetteville.
- d) Proposers must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.
- e) The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.
- f) The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation. 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.
- g) If products, components, or services other than those described in this bid document are proposed, the bidder must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- h) Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality, size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.
- i) **NOTE: Any uncertainties shall be brought to the attention to Andrea Foren immediately via telephone (479.575.8220) or e-mail (aforen@ci.fayetteville.ar.us). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms.**
- j) 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.
- k) "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."
- l) 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 Form"** containing 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.
- m) 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/or test requirements, but is not intended to limit a RFP's content or to exclude any relevant or essential data.

- n) 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.
- o) 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.
- p) 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..

30. EVALUATION CRITERIA & SELECTION COMMITTEE:

A selection committee has been appointed to oversee the selection process, which will include reviewing and evaluating each RFP response, interviewing the top candidates for selection, and any follow-up documentation or information requested from the top candidates.

The criteria listed below will be used by the City to evaluate and score responsive and qualified proposals. Proposers shall include sufficient information to allow the City to thoroughly evaluate and score their proposals. Each proposal submitted is not required to be ranked by the selection committee; however, all proposals will be evaluated. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed below, based on the evaluation of the selection committee.

- 1) 15% **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.
- 2) 15% **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. This section of the evaluation criteria includes the amount of work presently underway for your firm; please present this in your RFP.
- 3) 35% **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. The Firm's ability and commitment to complete the project in the timeframe outlined by the City will also be taken into consideration.
- 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 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) 15% **Price:** Complete pricing to the City for all services described herein.

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION B: Scope of Services and General Information

1) Introduction and Background

The City of Fayetteville, Arkansas is seeking sealed proposals from qualified firms / providers to perform a City-wide Information Technology Assessment. The City has hired a project management company, Accio.US, to assist with oversight of this assessment. This project management firm has also assisted the City in the preparation of this RFP.

About Fayetteville

Located in the Northwest corner of Arkansas and surrounded by the breathtaking Ozark Mountains, natural beauty frames Fayetteville. With a population over 70,000, and nearing half a million regionally, Fayetteville has all the resources and advantages of a large city, yet its unique quality of life and heritage set it apart.

- Home to the University of Arkansas, Fayetteville was positioned at Number 15 in Forbes' annual list of the top 100 metropolitan areas in the nation for businesses.
- US News and World Report in its newly released "2011 America's Best Colleges" guide, ranked University of Arkansas' Supply Chain Management and Logistics Specialty among the top 25 nationally.
- US News and World Report ranked the University of Arkansas' Sam M. Walton College of Business and the School of Law in the top tier of its 2011 edition of America's Best Graduate School.

Other rankings awarded to the City include:

- No. 2: Best Cities for Recession Recovery, 2009, Forbes.com
- No. 4: Best Places for Business and Careers, 2009 Forbes
- No. 6: Smarter Cities Ranking, 2009, Natural Resources Defense Council
- No. 7: Best Places to Live, Work and Play, 2008, Kiplinger
- No. 7: Top College Sports Towns, 2010 Forbes
- No. 9: Healthiest Housing Markets, 2009, Builder magazine

Mayor Lioneld Jordan

First elected in November of 2008, Lioneld Jordan is serving his first term as Mayor of the City of Fayetteville. He previously served as Vice Mayor for four years and eight years as Alderman from Ward Four, instituting the monthly ward meetings that serve as the model for his Town Hall Meetings as Mayor.

Mayor Jordan's priority projects for his first term include developing a comprehensive economic development program focused on Green Jobs that pay a living wage, providing open government that encourages citizen participation, effectively managing the City budget and enhancing the quality of life in Fayetteville by supporting sustainable development, environmental protection, a vibrant arts community, affordable housing, and alternative transportation.

Mayor Jordan is an advocate of using technology for enabling citizens to be more closely connected to the City. As part of his open government philosophy, the Mayor maintains an active presence on Facebook that provides citizens a means of direct communication.

The City's AccessFayetteville.org website contains a wealth of information regarding current activities, including streaming video of City Council meetings and other events. It serves as an information repository for City documents and information related to City planning. The Mayor's goal for the future is to enable the citizens to meet all their informational and transactional needs with the City via the AccessFayetteville.org website.

City Council

The Fayetteville City Council is in support of Mayor Jordan's open government philosophy. In their view, technology plays a key role both in serving citizens and facilitating internal operations.

Along with the emphasis placed on the City's external website, the Council's goal is for the City to realize internal operating improvements and efficiencies through the effective use of technology.

The Council also views as important the City's positioning in regard to making use of open-source software and outside software development resources. Access to City data via data warehousing strategies or open API's is desired in order to ensure an environment that can rapidly adapt to changing demands for information and applications.

The Council looks to the City-wide technology assessment to provide a view to the ability of the current technology base to meet the external and internal goals of the City. Specifically, the Council would like to see the City available technology functionality and operations compared against "best of class" in municipalities or business operations where possible.

Information Technology

The Information Technology Division operates within the Department of Administration, reporting to the Finance Director. It is made up of two distinct functional areas.

1. IT Operations and Support
2. Geographic Information Systems Operations

The Division is the central provider, coordinator and administrator of IT-related applications, hardware and infrastructure for all areas of the City except for Police and Fire. Police and Fire have IT staff reporting directly to their organizations responsible for supporting their specific technology.

The Division supports a range of stand alone Utilities that are part of the City's infrastructure.

The City has approximately 500 IT users within its overall staff of approximately 750. Approximately 150 of these users reside in Police and Fire.

PC desktops are the primary technology interface, with laptops and a variety of mobile devices in use across the City. There is no comprehensive mobile communications strategy in place today.

There is no standard desktop image in use. Desktop software purchases may be budgeted and made by City Divisions independent of central IT.

The City has at minimum 326 license users of Microsoft Office and 124 licensed users of Adobe Standard or Professional.

The City has a number of outlying network locations supported by T1 data lines provided primarily by AT&T.

IT planning has been traditionally aligned with the City's annual budget process. Operations and support historically have **primarily** focused on the major applications in use by the City.

- New World Financials and Utilities (AS/400)
- Hansen Public Safety
- ESRI GIS
- EMC Documentum - Document Management
- Novell GroupWise

On-going or planned projects for the next 12 months currently include:

- Data center server virtualization and migrations
- Network Core Switch replacement
- Installation of fiber to certain remote network sites
- Time and Attendance software

- AS/400 Hardware replacement/upgrade
- New World Utility Billing Software Upgrade
- New World Systems Parking Management software upgrade
- GIS ArcServer Upgrade - Upgrade and migrate the GIS SDE SQL server and data. New Versions of GIS software are expected to be released to July, 2010
- Paperless utility billing

While the City is currently in the early stages of a roll-out of new VoIP voice capability, the IT function has no responsibility other than IP networking related to that roll-out.

As part of Mayor Jordan's focus on open government, the past two years have seen an increased focus on development for the City's external web presence. In particular, there has been a strong desire to use technology to better enable all aspects of citizens' informational and transactional activities with the City.

A strong emphasis has been placed on adding functionality ranging from electronic document archives accessible from the main website to electronic billing and on-line bill payment for City services (utilities, waste). Progress has been slow and time lines to completion are not identified.

Video delivery via the City's external web presence has led to questions concerning the best strategies for archiving video that currently are unresolved.

City IT staff play the role of systems integrator for Division or Department activities that require integration between New World, Hansen and GIS software. Purchasing of many point solutions is initiated and driven by various Divisions within the City, with central IT involved in the processes and taking on back-end integration responsibilities.

Currently the City is experiencing user complaints regarding certain applications, network speed and overall reliability. Common understanding or consensus does not exist as to the source issues leading to these complaints.

These activities have generated frustration and concerns regarding the state of the City's underlying IT infrastructure, applications portfolio, operations, and IT staffing currently in place to support the increasing demands being placed upon it. Questions exist regarding the overall IT direction in regards to applications portfolio and meeting anticipated future needs.

In order to begin to address these concerns and questions, City Administration determined that an appropriate first step was to conduct an independent City-wide assessment of all matters pertaining to IT infrastructure and operations. The writing of this RFP document was commissioned in May, 2010. Accio.US of Fayetteville, Arkansas was selected to oversee the RFP preparation and will not be responding to this RFP.

RFP Preparation

In preparation for the construction of this RFP document and City-wide assessment activities to follow, the following actions were taken (information will be compiled and available in electronic format upon beginning of work):

- Interviews were conducted regarding IT matters with 15 key leaders within the City. These included Division and Department Heads, a City Council member, Internal Audit and selected others. The results of these interviews were compiled and informed the RFP preparation.
- Data gathering was commenced, including all documents pertaining to IT operations, applications user counts, hardware and software inventories for data centers, network and desktop hardware, WAN and LAN network documentation, hardware maintenance, software maintenance, software usage, project listings, capital budgeting and historical IT cost.
- An end-user survey instrument was created. The survey will be conducted and concluded by mid-July, 2010.

The hope is that assessment firm candidates will have a rich selection of data already gathered and available so that minimal time will be required during the assessment for information requests and responses. The goal of the City is that the bulk of the time spent in the IT assessment deal with the substantive issues and decisions facing the City going forward rather than boiler-plate activities and commentary.

2) City Technology Goals

- 2.1 Statement from the Mayor's 2010 State of the City Address - Technology Goals Directional Statement - Key Goals and Objectives of the City of Fayetteville

"We will invest in our technology infrastructure to make government more efficient, to save taxpayers money, and to make the City government more accessible and responsive."

- 2.2 City of Fayetteville Technology Goals

Make effective use of technology to enable the City of Fayetteville to:

- Improve operational effectiveness, efficiencies and responsiveness in all areas of City operations, with internal only or external facing to the citizens.
- Improve labor efficiencies and reduce or prevent the need for future staff additions
- Provide on-line facilities for citizens use in conducting business with the City
- Represent excellence in environmental stewardship - minimizing to use of paper and consumption of resources

- 2.3 Purpose, Goals / Objectives - City-wide Technology Assessment

Purpose: The City-wide Technology Assessment is being undertaken in order to determine the current state and capability of the City's existing IT infrastructure and operations in regards to meeting the future needs and goals of the City.

Specific Goals / Objectives of the Assessment are to receive:

- 2.3.1 Independent analysis of:

- The state of existing IT infrastructure
- The state of current IT Governance practices
- The state of current IT management processes

- 2.3.2 Evaluation of:

- Current IT staffing level and capability
- Existing applications portfolio

- 2.3.3 Recommendations regarding applications portfolio

- 2.3.4 Benchmarking of IT operations against similarly situated cities

- 2.3.5 Recommendations regarding all aspects of Information Technology within the scope of the Assessment

3) Scope

- 3.1 The Scope of the IT assessment includes all aspects of IT infrastructure, software portfolio, operations and staffing

- 3.1.1 Observations and interviews with City and IT staff/management and should be used as necessary in conducting the work

- 3.2 Out of Scope:

- 3.2.1 Any type of business process review outside of the areas of IT operations or specific use of applications software is not in scope.

- 3.2.2 Any business process review related to specific use of applications software should be solely for the purpose of assessment of the software.

4) Deliverables

- 4.1 Assessment of current technology infrastructure, including:

- 4.1.1 Security
- 4.1.2 Data network
- 4.1.3 Data center hardware and operations
- 4.1.4 Desktops and other end user hardware
- 4.1.5 End user software
- 4.1.6 Recommendations regarding current technology infrastructure
- 4.2 Assessment of current IT operations, including:
 - 4.2.1 IT Governance
 - 4.2.2 IT Organization
 - 4.2.3 IT Documentation
 - 4.2.4 IT Management processes
 - 4.2.5 Staff size and capabilities
 - 4.2.6 Software purchasing, development, maintenance and support processes
 - 4.2.7 End user computing and related support processes
 - 4.2.8 End user training
 - 4.2.9 IT Help Desk
 - 4.2.10 Recommendations regarding current IT operations
- 4.3 Assessment of existing applications and end-user software portfolio, including:
 - 4.3.1 State of the current software implementation(s)
 - 4.3.2 Informed commentary regarding the current implementation(s) suitability for meeting the City's Goals as well as current needs
 - 4.3.3 Assessment of existing software portfolio and delivered functionality against "best in class" municipalities.
 - 4.3.4 Recommendations regarding applications software portfolio: Upgrades, migrations to vendor's other products, or potential consideration of other vendor's software applications
- 4.4 Benchmarking of IT operations against similarly situated Cities. General criteria includes:
 - 4.4.1 Population range of 50,000 to 100,000
 - 4.4.2 Major university within city of at least 15,000 full time students
 - 4.4.3 City responsibility for public utilities, with utility service area extending beyond city limits
 - 4.4.4 City using New World, Hanson, or a similar type of comprehensive City management software package
 - 4.4.5 Example cities currently used as benchmarks for various City activities includes Ames, IA, Iowa City, IA, Champaign, IL, Columbia, MO, Denton, TX, Lawrence, KS, and Urbana, IL
- 4.5 Summary Report including:
 - 4.5.1 Summary of findings
 - 4.5.2 Key Issues facing the City regarding technology, both short-term and long-term
 - 4.5.3 Areas of greatest opportunities
 - 4.5.4 Identification of technologies not in use by the City of Fayetteville that may be applicable and appropriate for future consideration
 - 4.5.5 Recommended priorities and action plan

- 4.5.6 A discussion of implications, including financial and time frame where appropriate, related to key issues, areas of opportunity and recommended priorities and action plan

5) City Provided Resources

- 5.1 City staff will be provided to support the management study as required
- 5.2 IT staff will make themselves and IT resources available for review/discussion
- 5.3 The City will provide needed workspace and meeting facilities
- 5.4 The City will assist in coordinating resources and scheduling meetings as needed

6) Timeline

- 6.1. Timeline for RFP Process - *The timeline listed below is the City's estimation of time required to complete the RFP process. All efforts shall be made to abide by this schedule but it may change due to different circumstances.*
 - 6.1.1 RFP Notification - Friday, July 2, 2010
 - 6.1.2 Question period – through Thursday, July 15, 2010
 - 6.1.3 Proposals due - Friday, July 22, 2010 @ 2:00 PM CDT
 - 6.1.4 Interviews - Thursday August 5, Friday, August 6, 2010
 - 6.1.5 City Council Review and Approval -September 7, 2010
 - 6.1.6 Notice to Proceed -Friday, September 10, 2010
- 6.2. Timeline for project - *The City has developed the following general timeline:*
 - 6.2.1 Execute approved contract - by September 10, 2010
 - 6.2.2 Initiate on-site information gathering: Week beginning September 13, 2010
 - 6.2.3 Preliminary results meeting on site - Friday, October 8, 2010
 - 6.2.4 Final report draft due - Friday, October 22, 2010
 - 6.2.5 Final report completed and results presented to City: Tuesday, October 26, 2010

7) Qualifications

- 7.1 Firm must have a minimum of five years of IT consulting experience in one or more appropriate areas including IT Management, IT operations, IT project management, and IT strategic planning.
- 7.2 Firm must be experienced in providing IT consulting services for state, county or municipal government as well as for general business.
 - 7.2.1 Project overviews and references should be provided for a five (5) clients with projects conducted within the past three years, two of which should related to municipalities, including:
 - a. Client
 - b. Client description
 - c. Contact information for the Client contact person or project manager
 - d. Project scope - Please give quantitative indications if possible
 - e. Project description
 - f. Estimated cost of entire project
 - g. Description of the specific services provided

- h. Location where services were performed
 - i. Firm staff involved in the project that would be expected to participate in the City of Fayetteville project
 - j. A statement acknowledging if the project was completed on time and on budget or explanation of any variance
- 7.3 Lead consultant must have:
- 7.3.1 A minimum of three years of appropriate IT consulting experience in IT management and/or IT strategic planning
 - 7.3.2 Served as a lead consultant in a similar engagement with at least one government agency within the past three years
- 7.4 Additional consideration via the selection criteria is given for additional experience and for experience specific to municipal government with a similar scope of service to those being requested
- 7.5 Background information must be provided for each resource that would be assigned to work on this project, including:
- 7.5.1 Name and Title
 - 7.5.2 Referenced Projects participation
 - 7.5.3 Potential Project Role
 - 7.5.4 Years Experience with firm or other firms / companies:
 - a. Consulting
 - b. Other (describe)
 - 7.5.5 Education: Degree(s)/Year/Specialization
 - 7.5.6 Current Certification(s) / Registration(s)
 - 7.5.7 Other Experience & Qualifications relevant to the proposed project

8) RFP Response Format

All Proposers shall submit eleven (11) original copies of their proposal as well as one (1) electronic copy on a properly labeled CD or other electronic media device. **The electronic copy submitted should be contained into one (1) file.** The use of Adobe PDF documents is strongly recommended but not required. Files contained on the CD or electronic media shall not be restricted against saving or printing. The electronic copy shall be identical to the original papers submitted. Electronic copies shall not be submitted via e-mail to ANY City employees.

Proposals should be no more than twenty five (25) pages; single sided, standard, readable, print on standard 8.5x11 papers. The following items will not count toward the page limitations: appendix, cover sheet, letter of transmittal, resumes (no more than 1 page per person), and forms provided by the City for completion. The contents should be labeled as listed below.

- 8.1 Cover Sheet
- 8.2 Table of Contents
- 8.3 Letter of Transmittal
 - 8.3.1 Submitted on the provider's letterhead - no more than four (4) pages
 - 8.3.2 Concisely state the provider's understanding of the services required by the City
 - 8.3.3 Provide a summary of why the Respondent believes itself to be the most qualified

- 8.3.4 A statement granting the City and its representatives authorization to contact any previous client of the Respondent (or a Respondent's Team Member) for purposes of ascertaining an independent evaluation of the Respondent's or a Respondent's Team member's performance
- 8.3.5 Additional relevant information not requested elsewhere in this RFP
- 8.3.6 A statement indicating that to the best of the Respondent's abilities, all information contained in the RFP submittal is complete and accurate
- 8.3.7 The signature of the letter shall be that of a person authorized to represent and bind the firm/provider
- 8.4 Executive Summary
- 8.5 Firm Qualifications, including:
 - 8.5.1 Firm Overview, including:
 - a. Areas of specialization
 - b. Firm history
 - c. Location of home and branch offices;
 - d. Principal officers of the firm
 - e. Type of organization: Individual or sole proprietorship, professional corporation, partnership, joint venture, etc.
 - 8.5.2 Project References - see section 7.2
 - 8.5.3 Proposed Project Staffing - see section 7.5
 - 8.5.4 Other relevant information not otherwise requested
 - 8.5.5 Proof of insurance – The firm shall provide and maintain in force at all times during the term of the contract contemplated herein insurance for:
 - a. Workers' Compensation as required by Arkansas State Law, Commercial
 - b. General Liability, & Automobile Liability.
 - c. Proof of such shall be submitted prior to award of contract
- 8.6 Project Approach
 - 8.6.1 Proposed Project Charter statement
 - 8.6.2 Summary Overview of Approach
 - 8.6.3 Critical success factors
 - 8.6.4 Quality review process
 - 8.6.5 Project team - roles and responsibilities
 - 8.6.6 Project calendar, including:
 - a. High level work plan
 - b. Anticipated days on-site
 - c. Timing of specific resource involvement
 - 8.6.7 Communication strategy
 - 8.6.8 Project risk assessment
 - 8.6.9 Proposed deliverables
- 8.7 Pricing
 - 8.7.1 Pricing should be based on time and materials with a "do not exceed" pricing cap
 - 8.7.2 Hourly rates should be provided for all resources that will be assigned to the project

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION C: Statement of Disclosure – To Be Submitted With ALL Proposals

This page does not count towards page limitations set forth in this request for proposal or bid.

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

_____ 1) NO KNOWN RELATIONSHIP EXISTS

_____ 2) RELATIONSHIP EXISTS (Please explain)

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

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

Printed Name

Signature

Date

City of Fayetteville

RFP 10-11, City-wide Information Technology Assessment

SECTION D: 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: _____

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION E: Addendum Acknowledgement Form

Please acknowledge receipt of addenda for this invitation to bid or request for proposal by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE RECEIVED

Note: Prior to submitting the response to this solicitation, it is the responsibility of the firm submitting a response to confirm if any addenda have been issued. If such document(s) has been issued, acknowledge receipt by signature and date in the section above. Failure to do so may result in being considered non-responsive.

Information regarding addenda issued is available on the City of Fayetteville website under the Purchasing Division at www.accessfayetteville.org by selection "Bid's, RFP's, and RFQ's" under the "Business" heading.

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION F: Draft Agreement

This contract executed this ____ day of _____, 2010, between the City of Fayetteville, Arkansas, and Contractor. In consideration of the mutual covenants contained herein, the parties agree as follows.

WITNESSETH:

WHEREAS, City has previously determined that it has a need for a CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT SERVICES; and

WHEREAS, City, after soliciting competitive proposals for such services pursuant to City of Fayetteville RFP 10-11 (herein after referred to as Request for Proposal or RFP), City has awarded this contract to Contractor; and

WHEREAS, Contractor has represented that it is able to satisfactorily provide these services according to the terms and conditions of the RFP, which are incorporated herein by reference, and the terms and conditions are contained herein; and

NOW THEREFORE, in consideration of the above and mutual covenants contained herein, the parties agree as follows:

1. Services to be Performed: Contractor hereby agrees to provide the City with A CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT SERVICES, as requested and more specifically outlined in the RFP, this agreement, and all subsequent official documents that form the Contract Documents for this Agreement.

2. Time of Service: Services shall be performed in a timely manner, as specified in the RFP.

3. Term of Agreement: Services performed pursuant to this Contract shall commence upon execution of this agreement and continue until project is complete, unless canceled or terminated within thirty (30) days written notice by either party.

4. Amendment of Contract: This Contract may be amended only by mutual agreement of the parties.

5. Assignment and Subcontracting: Contractor shall perform this contract. No assignment or subcontracting shall be allowed without the prior written consent of the City. In the event of a corporate

acquisition and/or merger, Contractor shall provide written notice to the City within thirty (30) business days of such notice of action or upon the occurrence of said action, whichever occurs first. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a Proposer, which has disclosed its intent to assign or subcontract in its response to the RFP, without exception shall constitute approval for purposes of this Agreement.

6. Cancellation: The City of Fayetteville reserves the right to cancel this Contract, without cause, by giving thirty (30) days notice to Contractor of the intent to cancel, or with cause if at any time Contractor fails to fulfill or abide by any of the terms or conditions specified.

Failure of the Contractor to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.

In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by the City.

In the event that sufficient budgeted funds are not available for a fiscal period, the City shall notify Contractor of such occurrence and the Contract shall terminate on the last day of the then current fiscal period without penalty or expense to the City. The City reserves the right to terminate within the thirty (30) day notice because of budgetary issues.

7. Compensation: As compensation for Contractor providing services to the City as described herein, the City shall pay Contractor in arrears, based on the submission of invoices for work completed and properly authorized.

8. Permits & Licenses: Contractor shall secure and maintain any and all permits and licenses required to complete this contract.

9. Minimum Insurance Requirements: Contractor shall maintain insurance in at least the amounts required in the RFP throughout the term of this contract. Contractor must provide a Certificate of Insurance in

accordance with the insurance requirements listed within the RFP, evidencing such coverage prior to issuance of a purchase order or commencement of any work under this contract. Contractor shall ensure that any subcontractors or persons hired by subcontractors maintain the same level of insurance coverage as Contractor.

10. Indemnification: Contractor shall indemnify, pay the cost of defense, including but not limited to attorneys' fees, and hold harmless the City from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons, or property by or from the said Contractor; or by, or in consequence of any neglect in safeguarding the work; or on account of any act or omission, neglect or misconduct of Contractor ; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, by-laws, ordinances, order of decree, except only such injury or damage as shall have been occasioned by the sole negligence of the City of Fayetteville. The first ten dollars (\$10.00) of compensation received by Contractor represents specific consideration for this indemnification obligation.

11. Governing Law & Jurisdiction: Legal jurisdiction to resolve any disputes shall be Washington County, Arkansas with Arkansas law applying to the case.

12. Severability: The terms and conditions of this agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity of legality of the remaining terms and conditions, and notwithstanding any such determination, this agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the agreement impossible to perform.

13. Changes in Scope or Price: Changes, modifications, or amendments in scope, price, or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

14. Freedom of Information Act: Documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, 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 costs pursuant to the FOIA may be assessed for this compliance.

15. Documents Comprising Contract: The contract shall include this Agreement for CITY-WIDE INFORMATION TECHNOLOGY ASSESSMENT SERVICES, as well as the following documents, which are incorporated herein by reference.

- a. City of Fayetteville's Request for Proposal and all of its addenda and attachments issued on _____, 2010;
- b. Contractor's Certificate of Insurance as required, listing the City as an additional insured;
- c. Contractor's Proposal.

If there is a conflict between the terms of this Agreement and the above referenced documents, the conflict shall be resolved as follows: the terms of this Agreement shall prevail over the other documents, and the terms of the remaining documents shall be given preference in their above listed order.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2010.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

LIONELD JORDAN, Mayor

Attest:

Sondra Smith, City Clerk

CONTRACTOR

BY _____
NAME AND TITLE

ATTEST: COMPANY SECRETARY

BUSINESS ADDRESS

City of Fayetteville
RFP 10-11, City-wide Information Technology Services
Statement of No Submittal – If Applicable

In order to assist the Purchasing Division of Fayetteville in evaluating and improving our solicitation process, we are asking for completion of this form and returning via fax or e-mail. By submitting this form, it will assist us in evaluating all response, improving our bid solicitation process, and to maintain a positive relationship with our vendors.

We, the undersigned, have declined to bid for the following reason(s):

1. _____ We do not offer this service/product
2. _____ Our schedule would not permit us to perform
3. _____ Unable to meet specifications
4. _____ Insufficient time to respond to the Invitation to Bid
5. _____ We are unable to meet bond requirements
6. _____ Other (Explain)

*NAME OF FIRM: _____

*BUSINESS ADDRESS: _____

*CITY: _____ *STATE: _____ *ZIP: _____

*PHONE: _____ FAX: _____

*E-MAIL ADDRESS: _____

*BY : (PRINTED NAME) _____

*AUTHORIZED SIGNATURE: _____

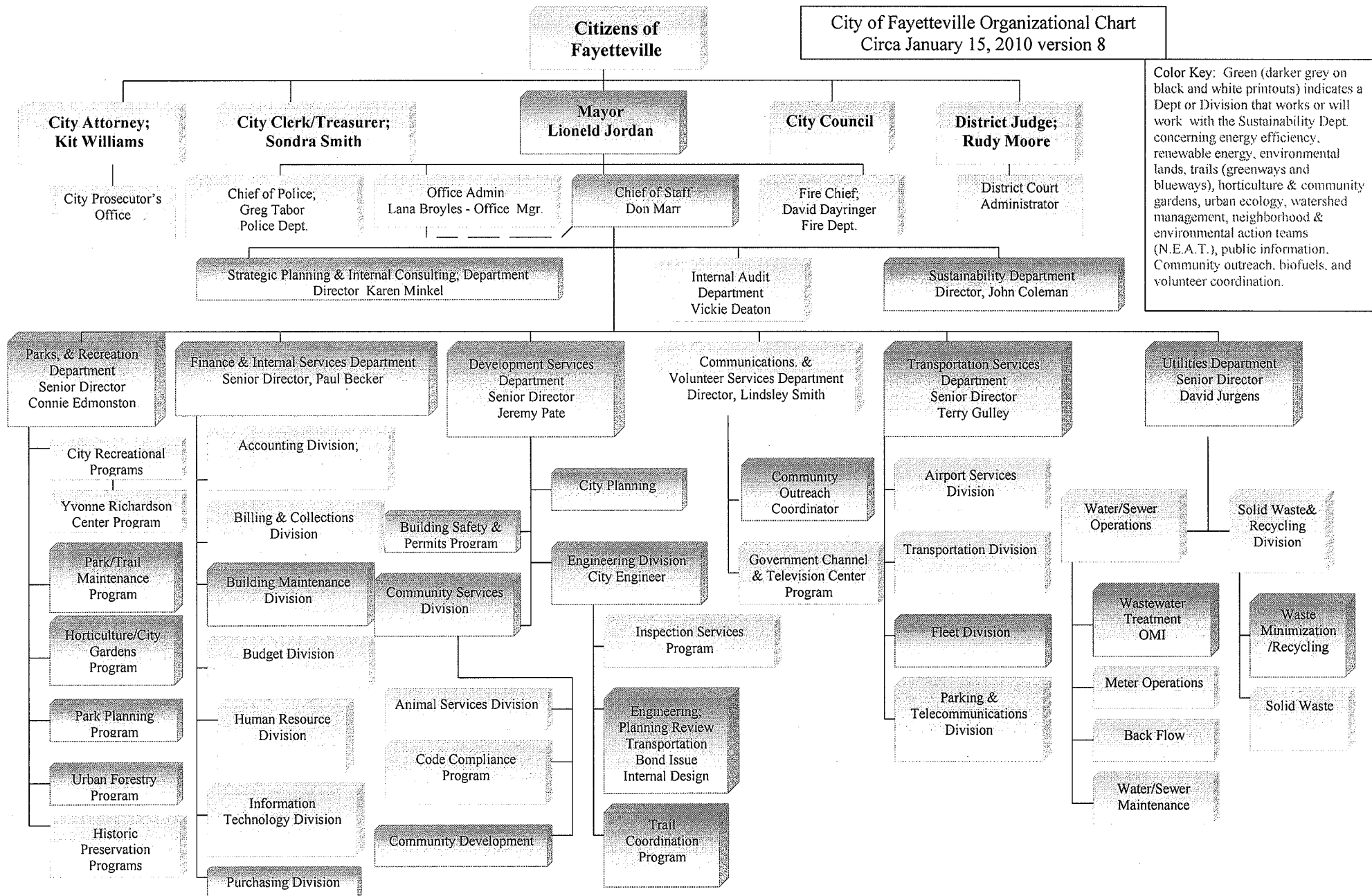
*TITLE: _____ *DATE: _____

*PLEASE LIST OTHER COMMENTS BELOW:

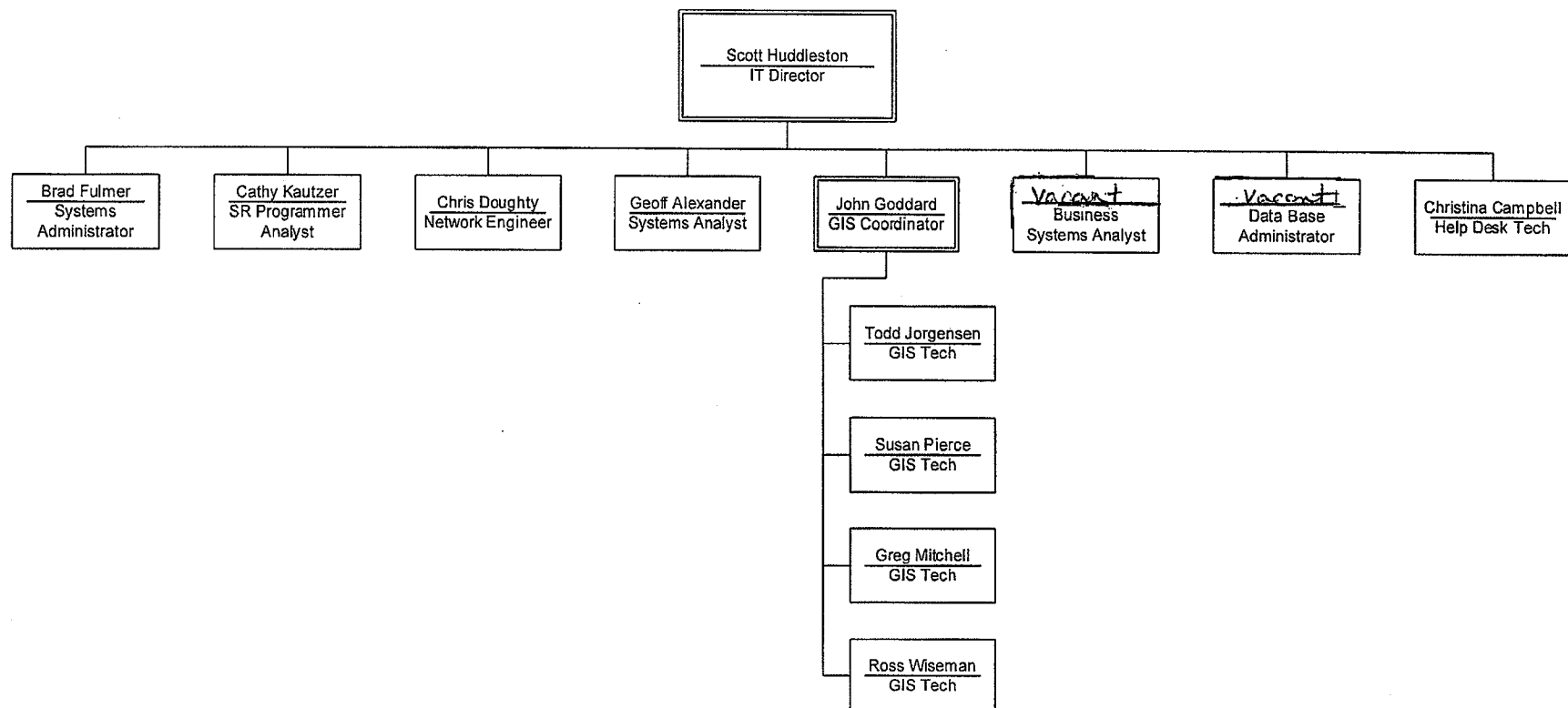
*Please note: We appreciate your feedback on this form and are very interested in your reason for not bidding. Please do not hesitate to contact us at 479-575-8220 if you have questions, comments, or concerns regarding these bid documents.

**Citizens of
Fayetteville**

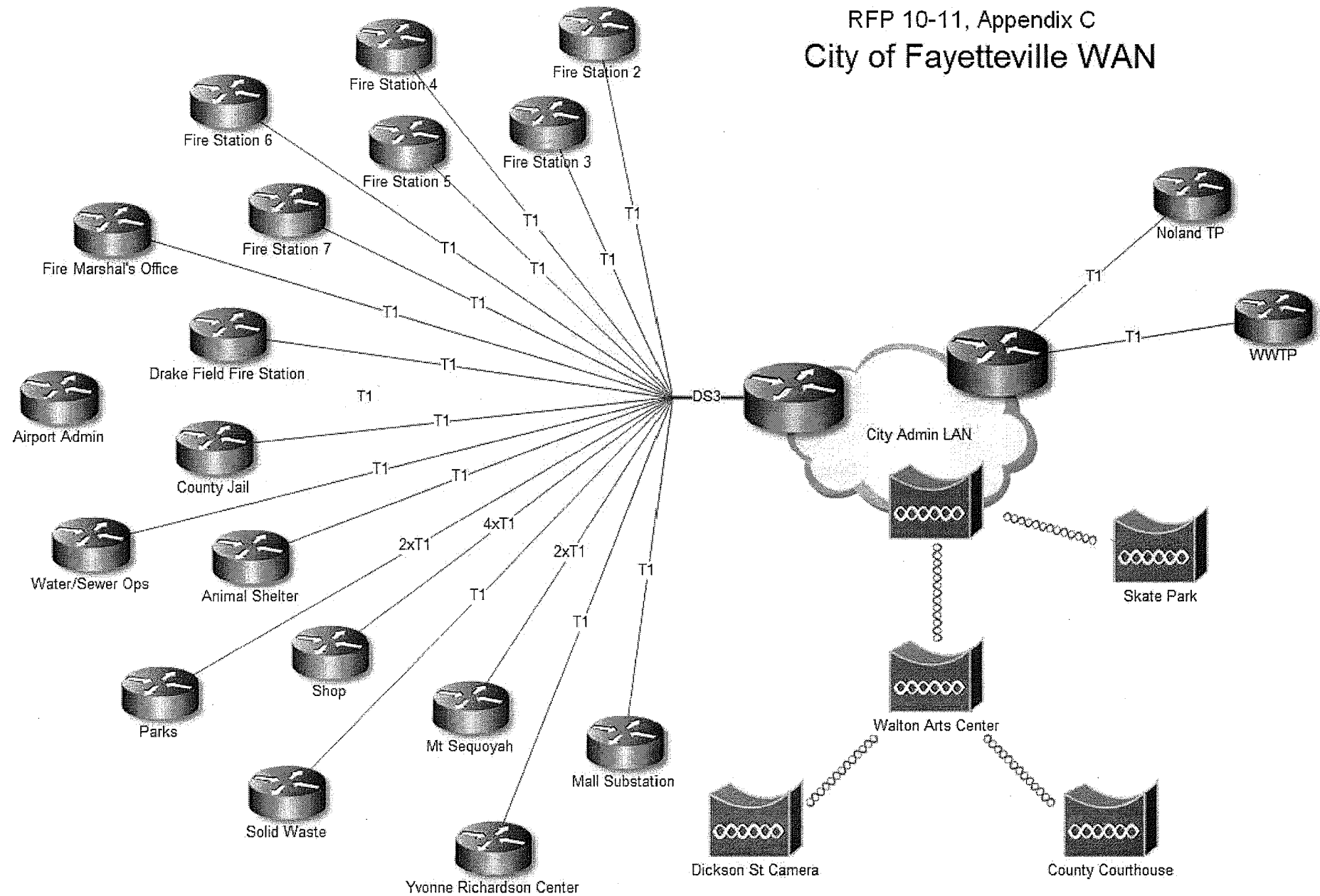
**City of Fayetteville Organizational Chart
Circa January 15, 2010 version 8**



Information Technology Organization Chart



City of Fayetteville WAN





www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

RFP 10-11, Addendum 1

RFP 10-11, City-wide Information Technology Assessment

City of Fayetteville – Purchasing Division
113 W. Mountain – Room 306
Fayetteville, AR 72701
Phone: 479.575.8220
E-Mail: aforen@ci.fayetteville.ar.us

Date: Monday, July 19, 2010

To: All interested parties

From: Andrea Foren, CPPB, Purchasing Agent

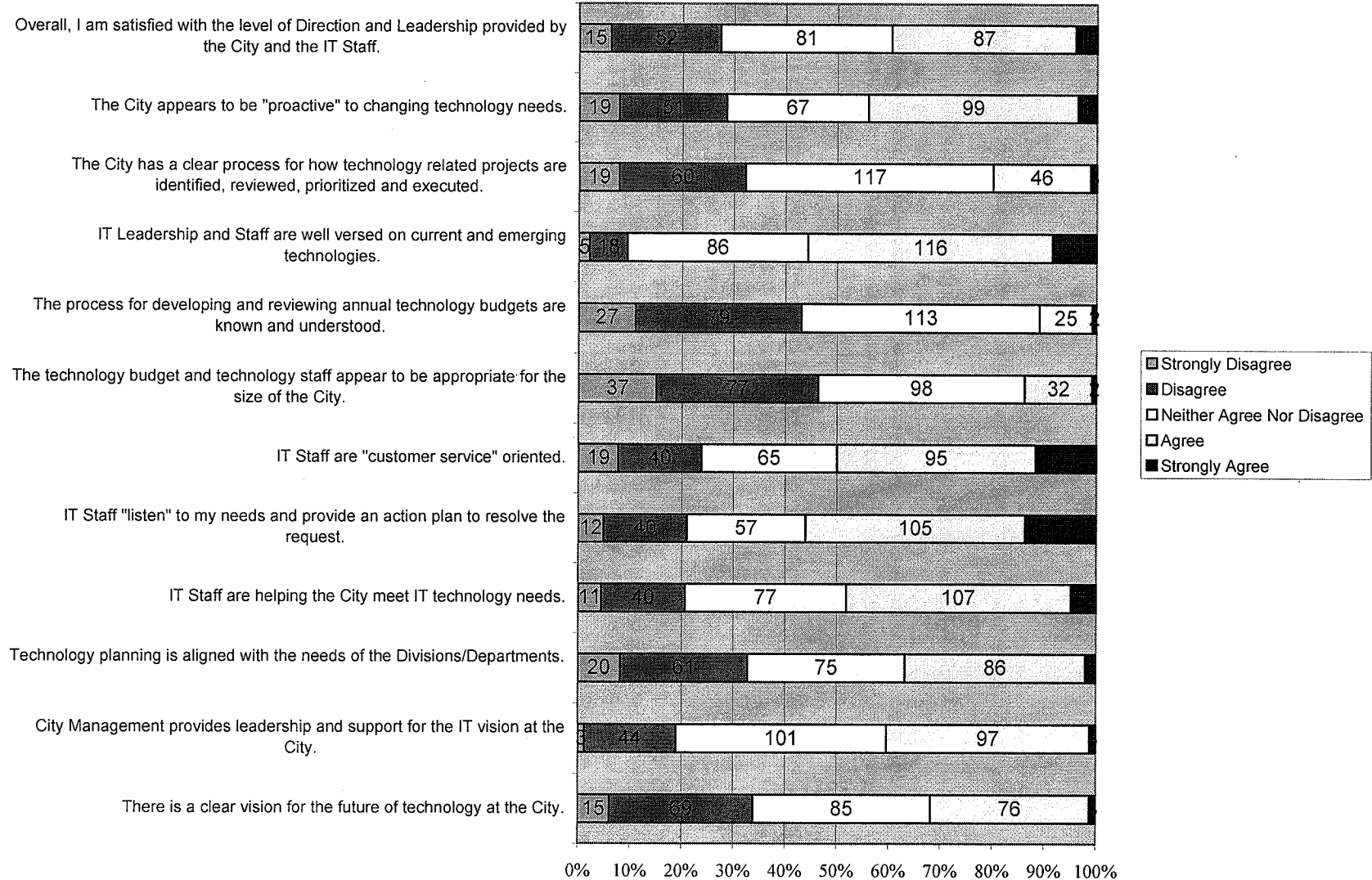
Notice: This addendum is hereby made a part of the proposal documents to the same extent as though it were originally included therein. Proposers should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification. Addendum shall be acknowledged in the appropriate form as provided in the RFP documents.

The following questions were presented by interested parties are hereby answered and made part of this RFP. All **answers** to questions are presented in **BOLD**.

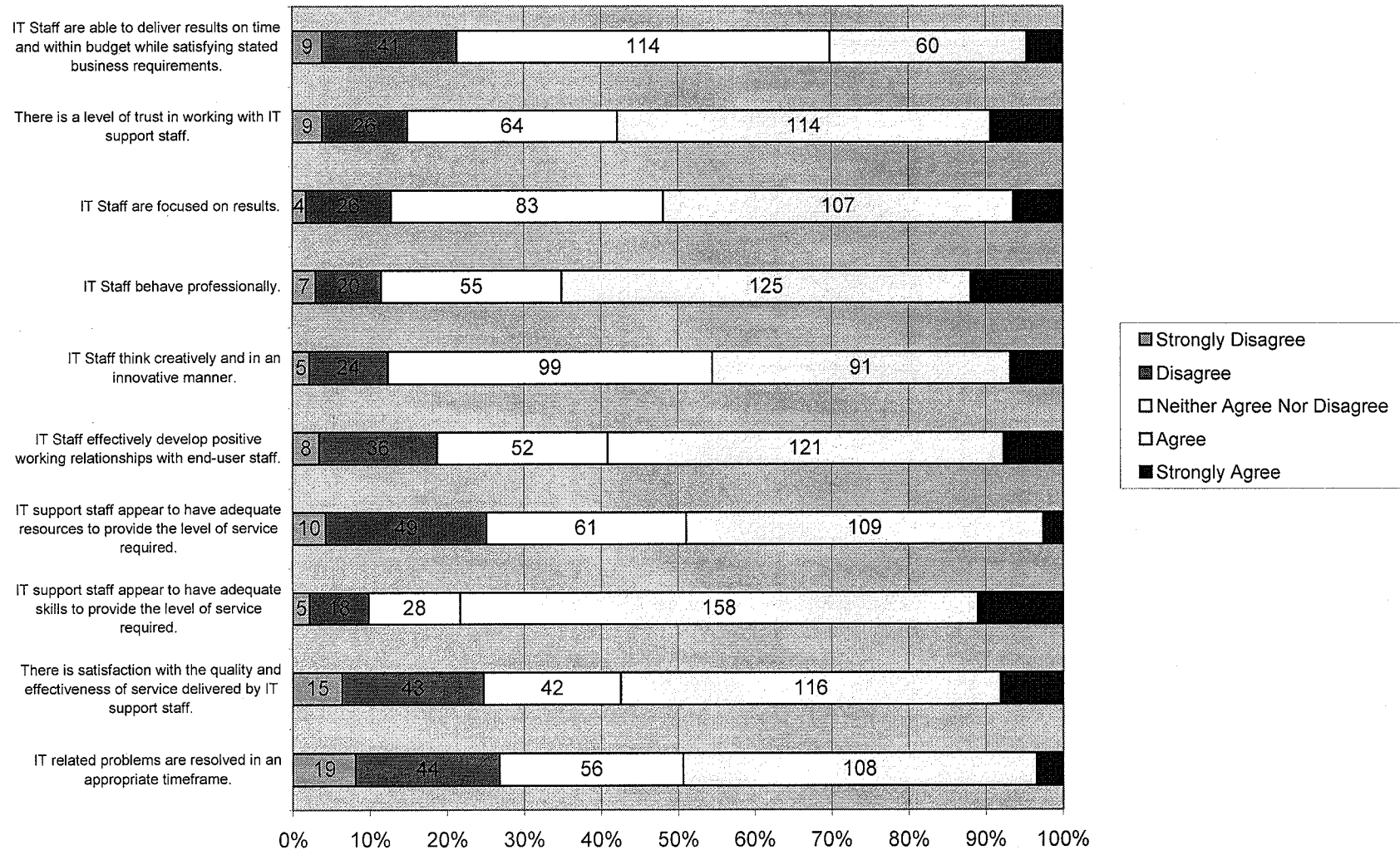
1. At the bottom of page 13 of the City's RFP 10-11, various RFP preparation efforts are described.
 - a. Does the data gathering effort include historical IT plans, current IT job descriptions, and detail concerning IT headcount and personnel turnover? **Yes**
 - b. Does the data gathering effort include collection of the various IT security and information assurance policies currently in force? **No**
 - c. Will information concerning hardware and software assets be presented in either database or Excel format? **Yes**
 - d. Will the results of a recent network discovery be included? **Network mapping and devices attached will be provided.**
 - e. Will the results of the City's most recent IT security audit be included, including the results of penetration tests? **There has not been a security audit within the past year.**
 - f. Will information being collected include existing contracts (i.e., maintenance and support, leases, etc.?) **Yes**
 - g. Will the data gathering effort flag desktops / servers that are not current with vendor supplied maintenance packages? **No desktops or servers are on extended maintenance except AS/400's.**
2. Are the City's IT costs "charged back" to user agencies? If so, will that data be made available as part of the data gathering effort? **There is no charge-back system in place.**
3. It is noted in the IT Organization Chart on page 29 the department has a help desk.
 - a. What level of support is provided – i.e., does the IT department field all questions, or are more common questions handled by "super users" in the various user agencies. If so, are these staff within the scope of the assessment? **The help desk is the primary first level of support for all areas of the city except for Police and Fire.**
 - b. Does the helpdesk use self-service tickets? If so, will such a repository be available as part of the data gathering effort? **Users do initiate help desk tickets. Ticket history will be available.**

4. Is there a formal IT change management process? **No “formal” process exists. Various levels of documentation exist depending on application.**
5. Is there a project management office within IT? **No formal PMO exists.**
6. What process is currently used to initiate an IT project? Document the project’s business case? Prioritize the project against other projects? **This discovery should be included within the assessment.**
7. Is there an active IT Steering Committee or IT Capital Investment Review Committee? **No formal IT committees exist.**
8. Would the City consider listing the specific applications in its software portfolio considered to be “in scope?” If not, on page 12 of the RFP the City excludes the Police and Fire Department from the scope of the RFP. Is the Municipal Court, including any community corrections agency, within the scope of the RFP? **The major applications “in scope” are listed on page 12 of the RFP. The assessment is intended to be city-wide and both Police and Fire are included in the scope of the assessment. The Municipal Court is also considered within the scope of the assessment. Note: The City also utilizes New World Public Safety software.**
9. How many departments will be interviewed as part of this project? **There were 16 different areas that were interviewed prior to the RFP being issued. It will be up to the assessment firm to determine the extent of interviews necessary as part of their work.**
10. Does the City have a required or anticipated amount of onsite time? **The City has no required amount of on-site time. It is anticipated that the assessment firm will make the determination of what is needed to perform the work. It is anticipated that some amount of on-site time will be needed to adequately perform the work.**
11. Reference page 13, RFP Preparation: This section states that an end-user survey will be conducted and concluded by mid-July 2010. Could the City provide a copy of this survey to potential bidders? **Yes – please see attachment to this addendum for survey results.**
12. Page 16, Section 6. The City has presented an aggressive timeframe for contract approval and notice to proceed. Does the City anticipate that it will adhere to this schedule? **Yes**
13. Page 16, Section 6.2.5. What is driving the City’s deadline to complete the final report by October 26, 2010? **The City would like the results of the assessment available in time to inform the 2011 capital budgeting process.**
14. Is a presentation to the City Council a requirement of the project? **No**
15. Page 18, Section 8.7. Can the City provide more detail on how pricing should be presented? **The City would like a “not to exceed” pricing quote that includes budgeted expenses. Hourly rates should be provided for all project team members. It is anticipated that billing will be at time & materials rates up to the “not to exceed” pricing.**
16. Does the City have a budget established for this project? If so, can the budgeted amount be made available? **The City does have an established budget for the project. As per the standard practice of the City, the budgeted amount will not be made available.**

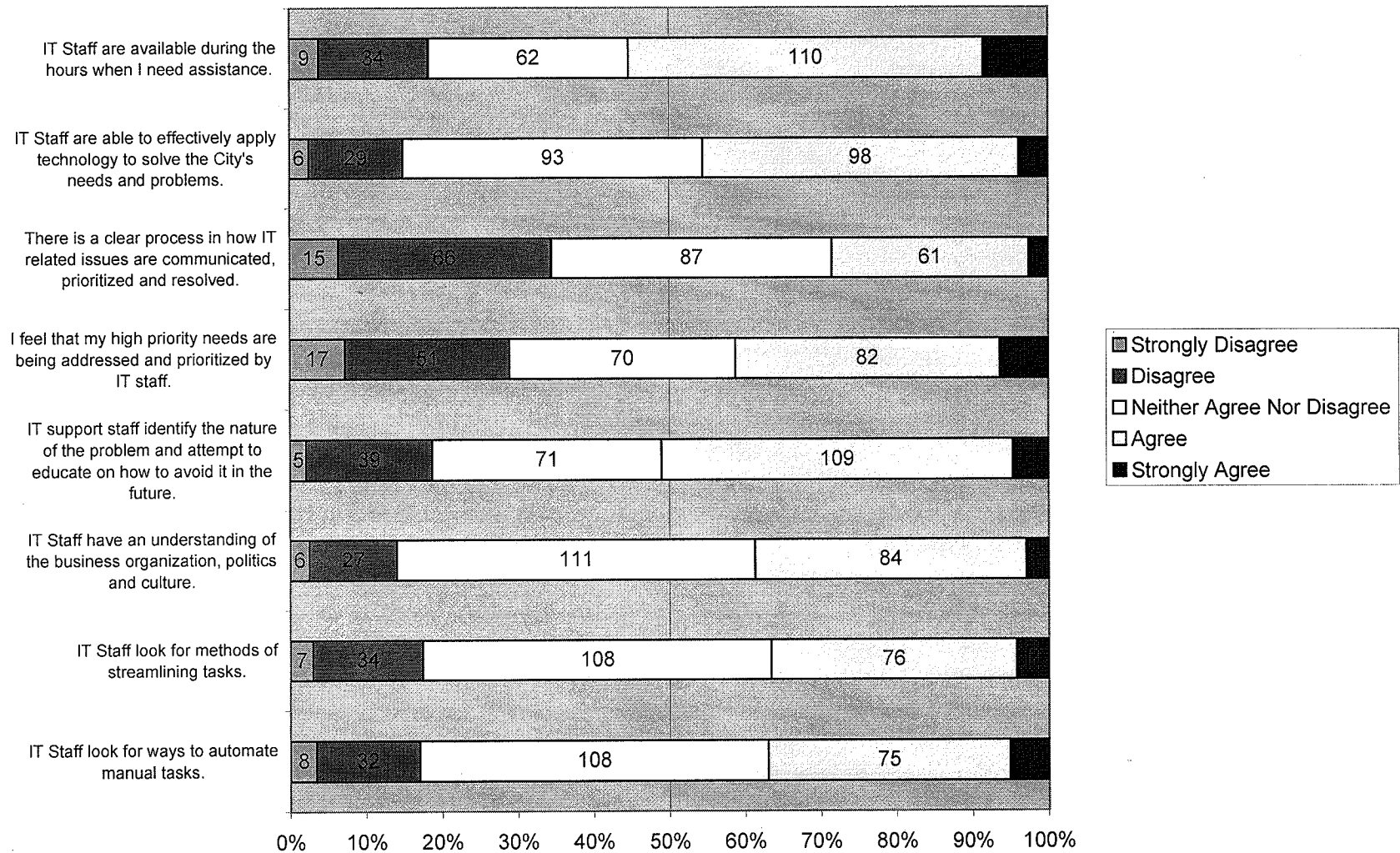
Direction and Leadership



Service and Support1



Service and Support2



IT Staff provide effective support in the following areas:

Overall, I am satisfied with the level of service and support from IT staff

Documentation Development

Project Management

Business Analysis

Technology Planning

End-user Technical Training

Information Requests and Report Development

Systems (if applicable)

Geographic Information

Network Support

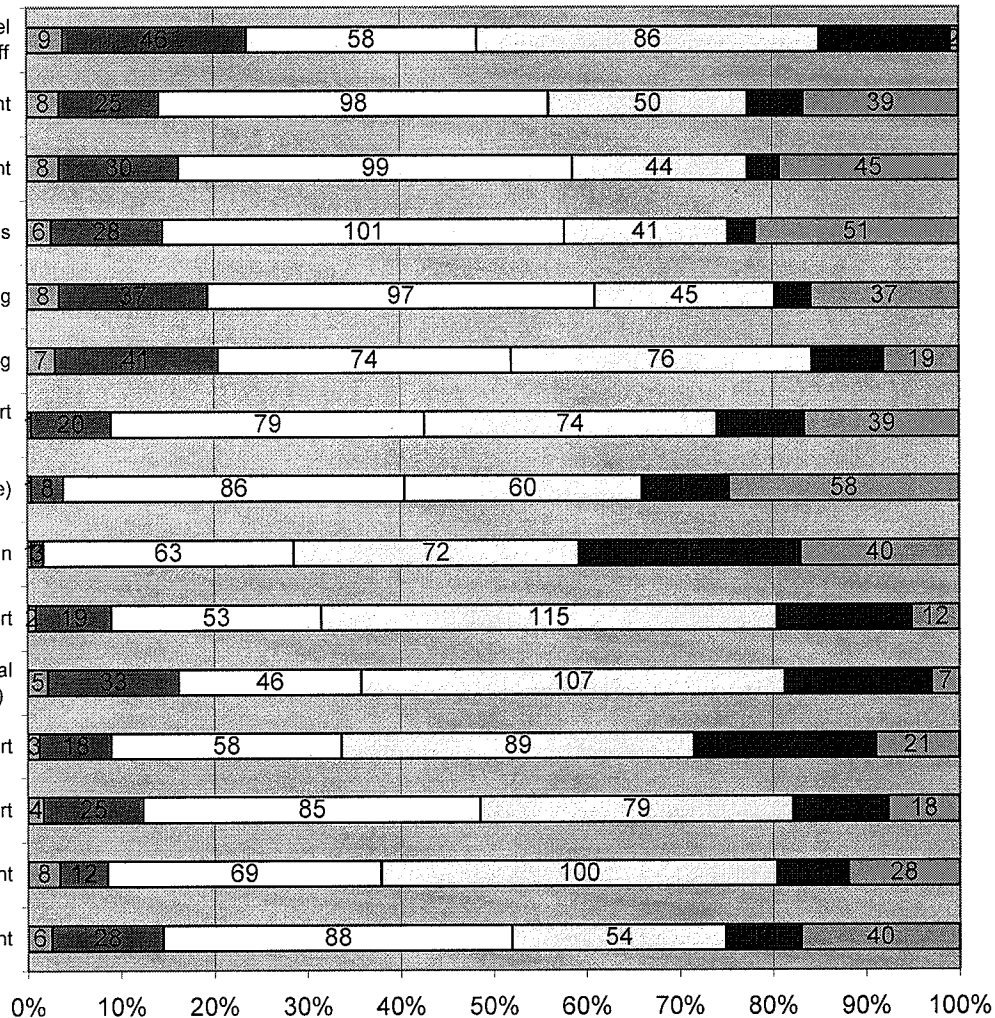
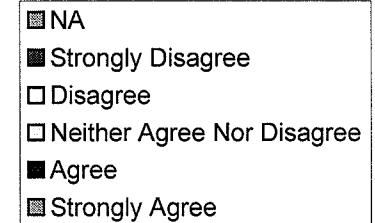
Desktop Support (personal computers, printers, etc.)

AS/400 Technical Support

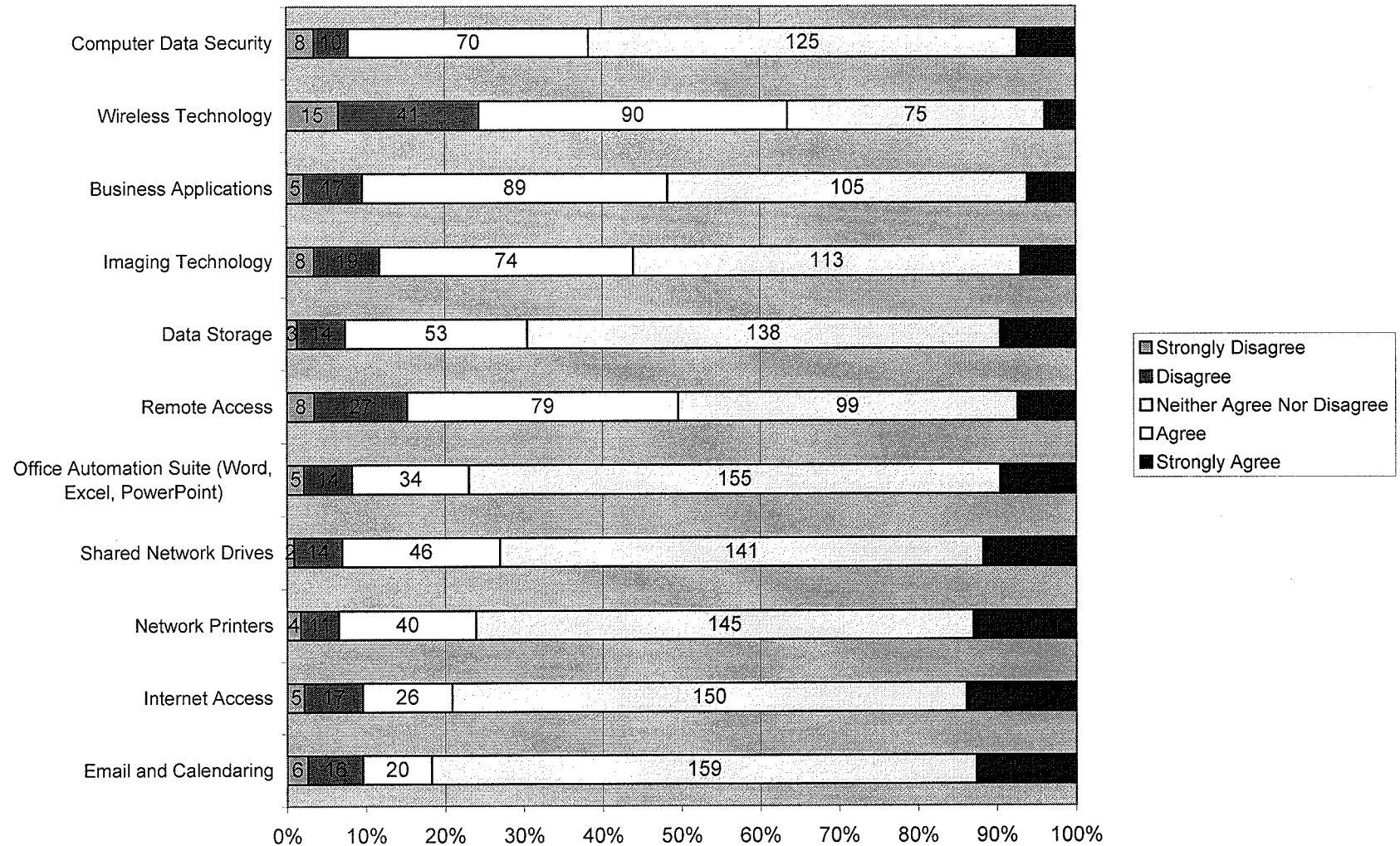
Application Support

Web/Intranet Development

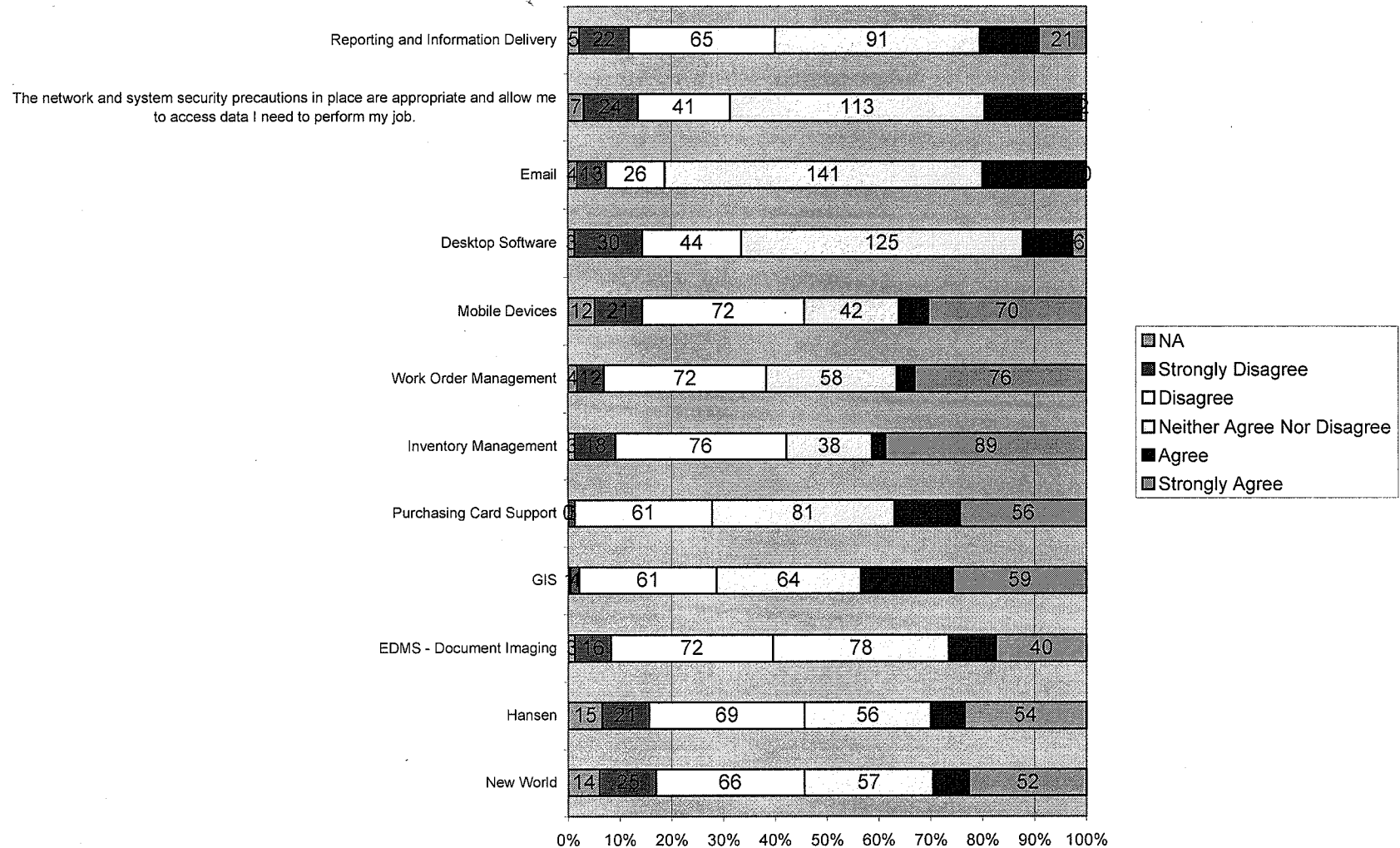
Application Development



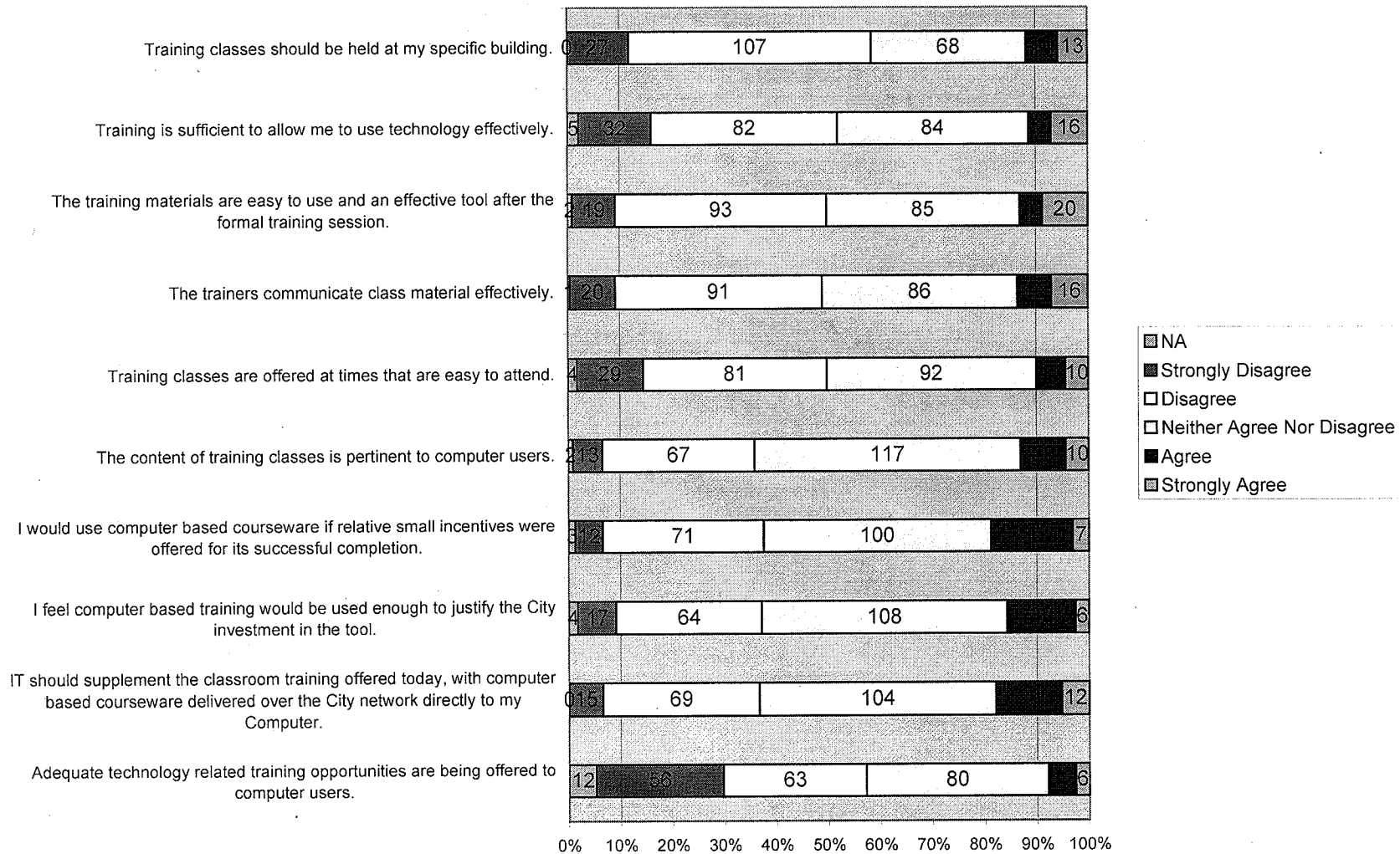
The designated technology is adequate for my current and future needs:



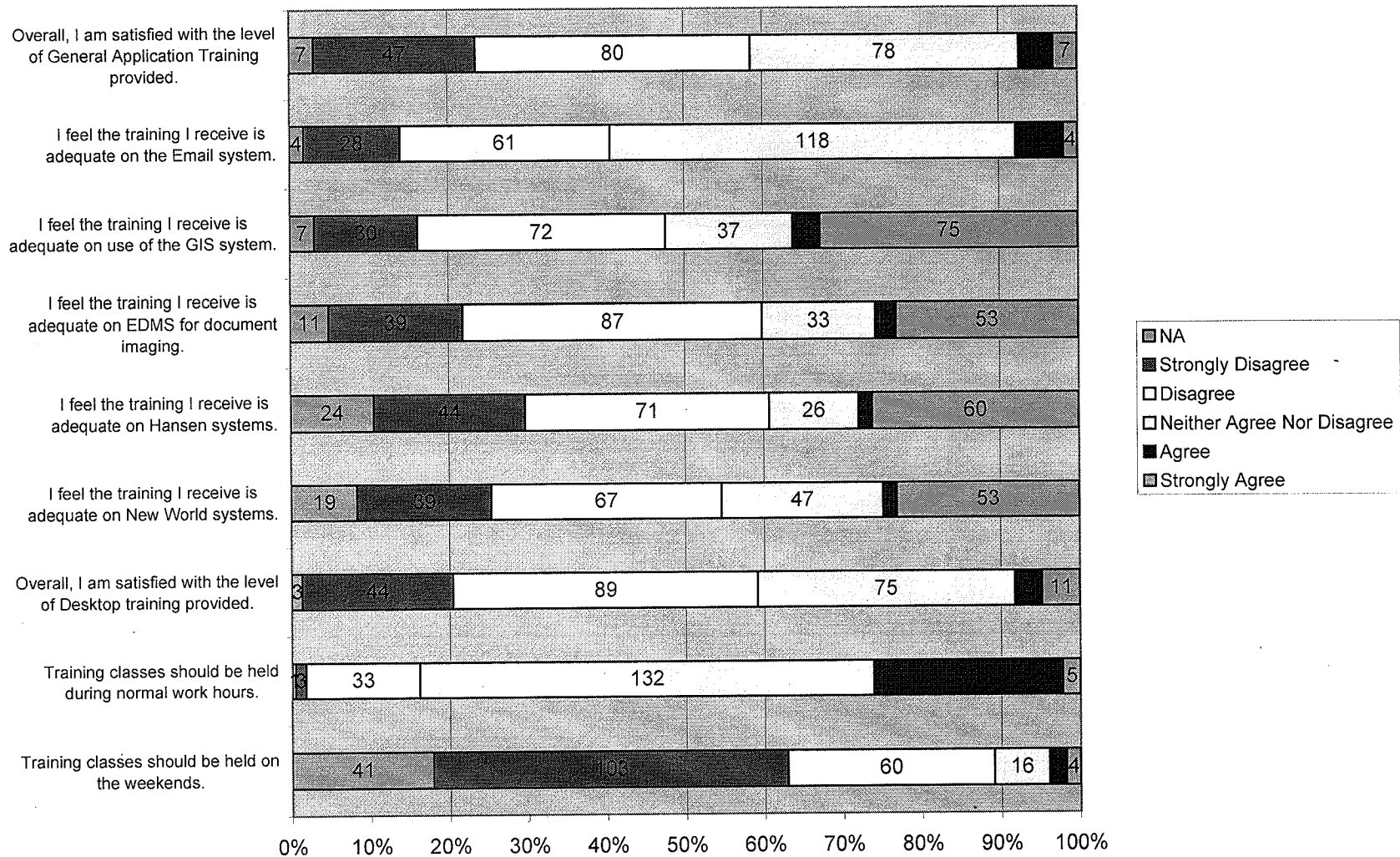
The designated specific technology is adequate for my current and future needs:



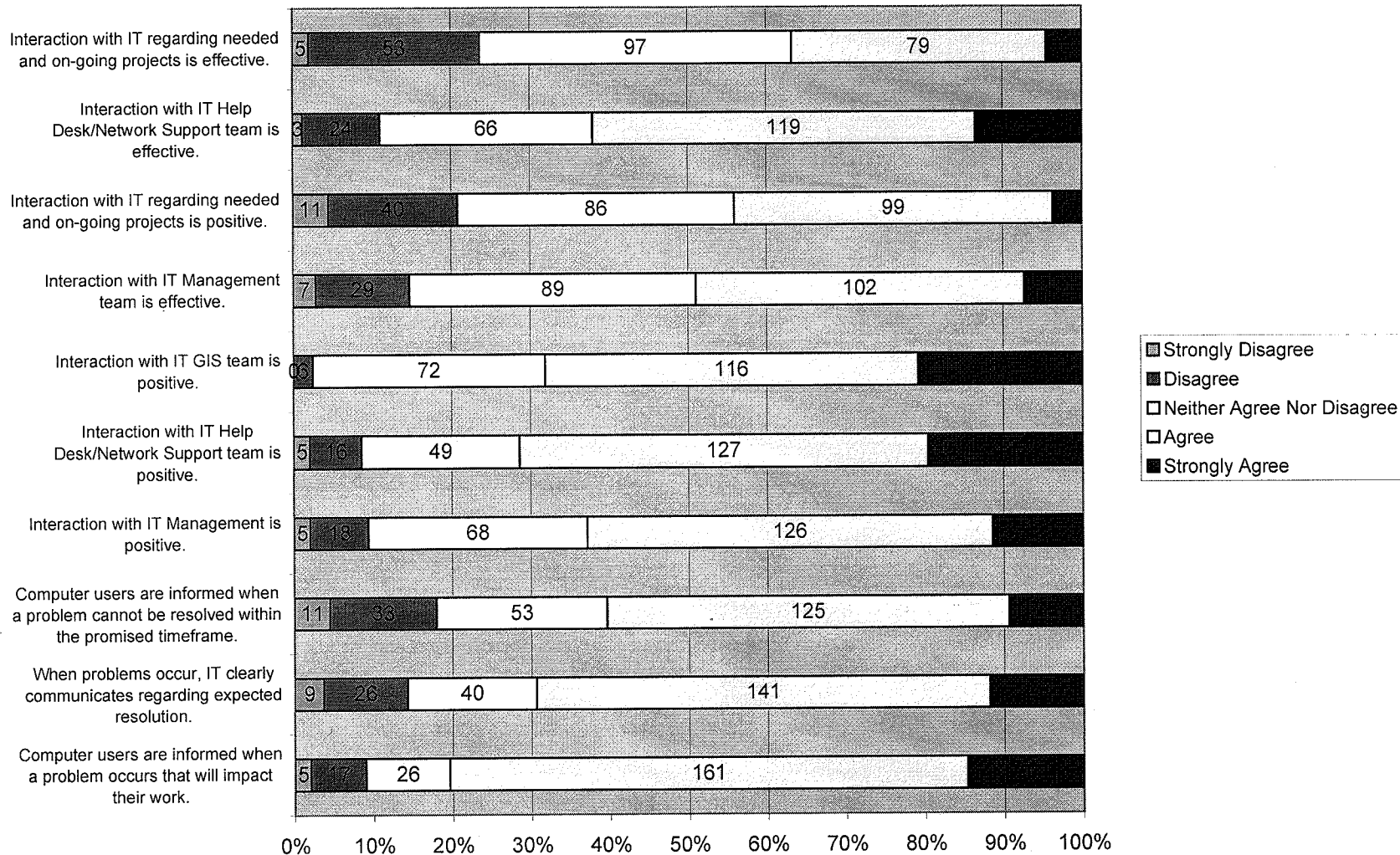
Training1



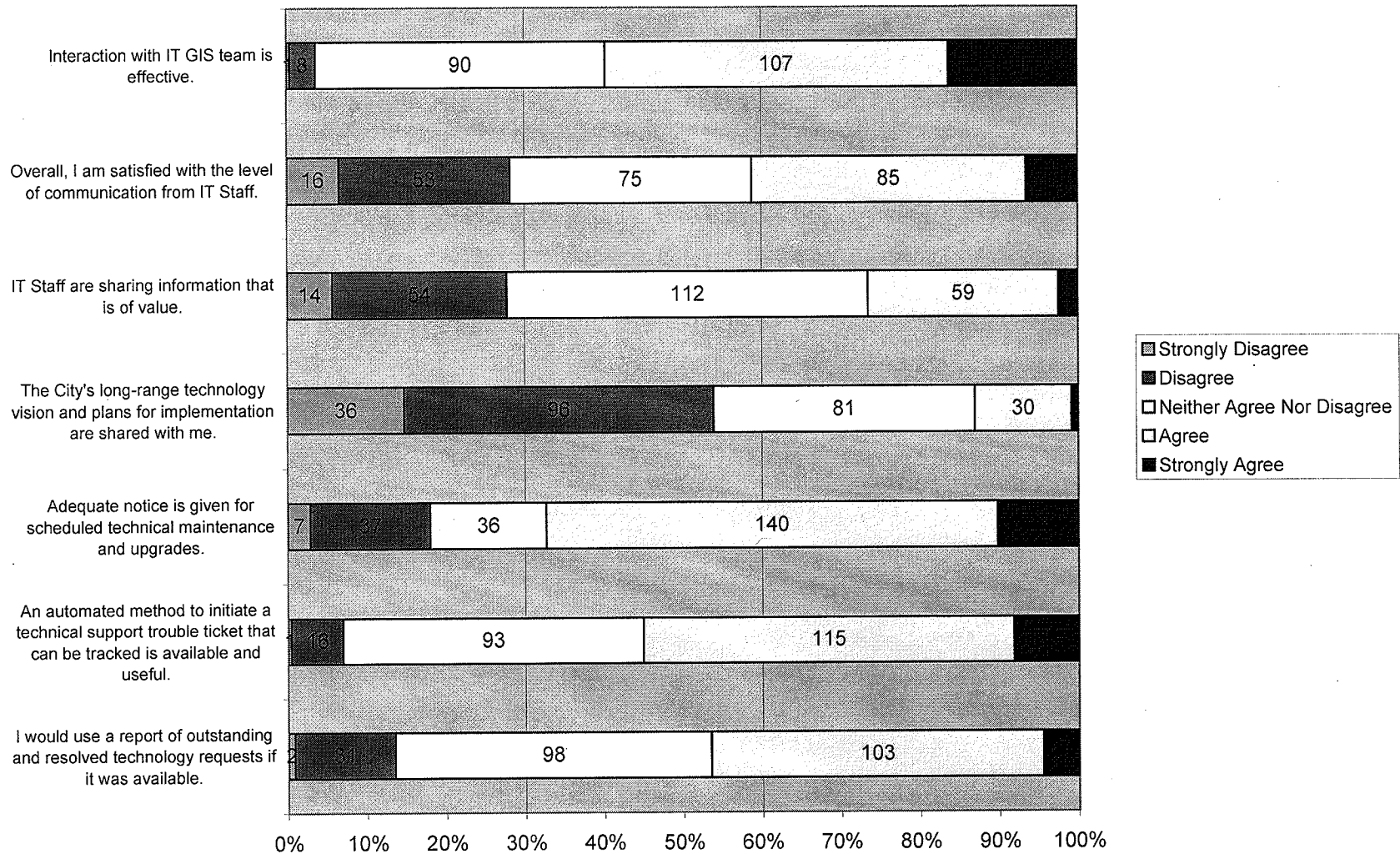
Training2



Communication1



Communication2





Plante & Moran, PLLC
27400 Northwestern Highway
P.O. Box 307
Southfield, MI 48037-0307
Tel: 248.352.2500
Fax: 248.352.0018
plantemoran.com

August 18, 2010

City of Fayetteville
Ms. Andrea Foren, Purchasing Agent
Purchasing Division – Room 306
113 West Mountain
Fayetteville, AR 72701

Dear Andrea:

Attached please find revised General Terms and conditions. This version includes mutually agreed upon changes and replaces pages 32 – 34 of our proposal.

Very truly yours,
PLANTE & MORAN, PLLC

A handwritten signature in black ink, appearing to read "Adam Rujan".

Adam Rujan
Partner

Proposal to Provide
Information Technology Consulting Assessment Services

Section 5: Appendix

5.1 General Terms and Conditions

Professional Services Agreement – Consulting Services
Addendum to Plante & Moran, PLLC Engagement Letter Dated July 21, 2010

This Professional Services Agreement is part of the engagement letter for our consulting services dated July 21, 2010 between Plante & Moran, PLLC (referred to herein as “P&M”, “we”, “our” or “us”) and the City of Fayetteville (referred to herein as “the City of Fayetteville”, “you” and “your”).

1. **Management Responsibilities** – The consulting services we will provide are inherently advisory in nature. We have no responsibility for any management decisions or management functions in connection with our engagement to provide these services. Further, you acknowledge that the City of Fayetteville is responsible for all such management decisions and management functions; for evaluating the adequacy and results of the services we will provide and accepting responsibility for the results of those services; and for establishing and maintaining internal controls, including monitoring ongoing activities, in connection with our engagement. You have designated Ms. Andrea Foren, Purchasing Agent to oversee the services we will provide.
2. **Nature of Services** – Our project activities will be based on information and records provided to us by the City of Fayetteville. We will rely on such underlying information and records and our project activities will not include audit or verification of the information and records provided to us in connection with our project activities.

The project activities we will perform will not constitute an examination or audit of any the City of Fayetteville financial statements or any other items, including the City of Fayetteville’s internal controls. This engagement also will not include preparation or review of any tax returns or consulting regarding tax matters. If you require financial statements or other financial information for third-party use, or if you require tax preparation or consulting services, a separate engagement letter will be required. Accordingly, you agree not to associate or make reference to P&M in connection with any financial statements or other financial information of the City of Fayetteville. In addition, our engagement is not designed and cannot be relied upon to disclose errors, fraud or illegal acts that may exist. However, we will inform you of any such matters that come to our attention.

3. **Use of Report** – At the conclusion of our project activities, we will provide you with a written report as described in the engagement letter. Our report will be restricted solely to use by management of the City of Fayetteville and you agree that our report will not be distributed to any outside parties for any purpose other than to carry out legal responsibilities of the City of Fayetteville. We will have no responsibility to update our report for any events or circumstances that occur or become known subsequent to the date of that report.
4. **Confidentiality, Ownership and Retention of Workpapers** – During the course of this engagement, P&M and P&M staff may have access to proprietary information of the City of Fayetteville, including, but not limited to, information regarding trade secrets, business methods, plans, or projects. We acknowledge that such information, regardless of its form, is confidential and proprietary to the City of Fayetteville, and we will not use such information for any purpose other than our consulting engagement or disclose such information to any other person or entity without the prior written consent of the City of Fayetteville.

In some circumstances, we may use local or international third-party service providers or P&M affiliates to assist us with our engagement. In order to enable these service providers to assist us in

Proposal to Provide
Information Technology Consulting Assessment Services

this capacity, we must disclose information to these service providers that is relevant to the services they provide. Disclosure of such information shall not constitute a breach of the provisions of this agreement.

In the interest of facilitating our services to you, we may communicate or exchange data by internet, e-mail, facsimile transmission or other methods. While we use our best efforts to keep such communications and transmissions secure in accordance with our obligations under applicable laws and professional standards, you recognize and accept that we have no control over the unauthorized interception of these communications or transmissions once they have been sent, and consent to our use of these electronic devices during this engagement.

Professional standards require that we create and retain certain workpapers for engagements of this nature. All workpapers created in the course of this engagement are and shall remain the property of P&M. We will maintain the confidentiality of all such workpapers as long as they remain in our possession.

Both the City of Fayetteville and P&M acknowledge, however, that we may be required to make our workpapers available to regulatory authorities or by court order or subpoena. Disclosure of confidential information in accordance with requirements of regulatory authorities or pursuant to court order, FOIA (Freedom of Information Act) or subpoena shall not constitute a breach of the provisions of this agreement. In the event that a request for any confidential information or workpapers covered by this agreement is made by regulatory authorities or pursuant to a court order or subpoena, we agree to inform the City of Fayetteville in a timely manner of such request and to cooperate with the City of Fayetteville should you attempt, at your cost, to limit such access. This provision will survive the termination of this agreement.

We reserve the right to destroy, and it is understood that we will destroy, workpapers created in the course of this engagement in accordance with our record retention and destruction policies, which are designed to meet all relevant regulatory requirements for retention of workpapers. P&M has no obligation to maintain workpapers other than for its own purposes or to meet those regulatory requirements.

Upon the City of Fayetteville's written request, we will, allow others to view any workpapers remaining in our possession.

5. **Fee Estimates** – In any circumstance where we have provided estimated fees, fixed fees or not to exceed fees, these estimated, fixed or not-to-exceed fees are based on the City of Fayetteville personnel providing P&M staff the assistance necessary to satisfy the City of Fayetteville responsibilities under the scope of services. This assistance includes availability and cooperation of those the City of Fayetteville personnel relevant to our project activities and providing needed information to us in a timely and orderly manner. In the event that undisclosed or unforeseeable facts regarding these matters causes the actual work required for this engagement to vary from our estimates, our estimated fees will be adjusted for the additional time we incur as a result.

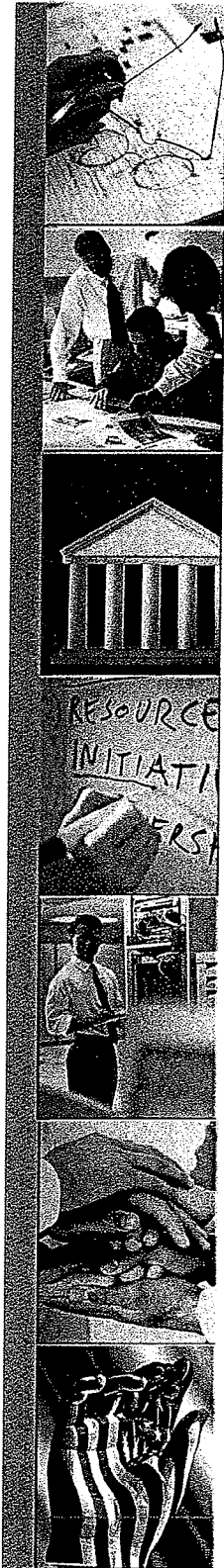
In any circumstance where our work is rescheduled, we offer no guarantee, express or implied, that we will be able to meet any previously established deadline related to the completion of our work. Because rescheduling our work imposes additional costs on us, in any circumstance where we have provided estimated fees, those estimated fees may be adjusted for additional time we incur as a result of rescheduling our work.

Any fee adjustments will be determined in accordance with the Fee Adjustments provision of this agreement.

Proposal to Provide
Information Technology Consulting Assessment Services

6. **Payment Terms** – Our invoices for professional services are due upon receipt unless otherwise specified in our engagement letter. In the event any of our invoices are not paid in accordance with the terms of this agreement, we may elect, at our sole discretion, to suspend work until we receive payment in full for all amounts due or terminate this engagement. In the event that work is suspended, for nonpayment or other reasons, and subsequently resumed, we offer no guarantee, express or implied, that we will be able to meet any previously established deadlines related to the completion of our consulting work or issuance of our consulting report upon resumption of our work.
7. **Fee Adjustments** – Any fee adjustments for reasons described in this agreement will be determined based on the actual time that P&M staff expend at the hourly rates stated in this agreement, plus all reasonable and necessary travel and out-of-pocket costs incurred, and included as an adjustment to our invoices related to this engagement. You acknowledge and agree that payment for all such fee adjustments will be made in accordance with the payment terms provided in this agreement.
8. **Termination of Engagement** – This agreement may be terminated by either party upon written notice. Upon notification of termination, our services will cease and our engagement will be deemed to have been completed. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination of this engagement.
9. **Conflicts of Interest** - Our engagement acceptance procedures include a check as to whether any conflicts of interest exists that would prevent our acceptance of this engagement. No such conflicts have been identified. You understand and acknowledge that P&M may be engaged to provide professional services, now or in the future, unrelated to this engagement to parties whose interests may not be consistent with yours.
10. **Agreement Not to Influence** – the City of Fayetteville and P&M each agree that each respective organization and its employees will not endeavor to influence the other's employees to seek any employment or other contractual arrangement with it, during this engagement or for a period of one year after termination of the engagement. The City of Fayetteville agrees that P&M employees are not "contract for hire." P&M may release the City of Fayetteville from these restrictions if the City of Fayetteville agrees to reimburse P&M for its recruiting, training, and administrative investment in the applicable employee. In such event, the reimbursement amount shall be equal to two hundred hours of billings at the hourly rate stated in this agreement for the P&M employee.

End of Professional Services Agreement – Consulting Services



Plante & Moran is a leading national provider of technology consulting to government clients. We bring a balance of technical expertise, industry insight, and commitment to our customers that is unparalleled.

Proposal to Provide Information Technology Consulting Assessment Services

City of Fayetteville, AR

Submitted by:
Plante & Moran, PLLC
27400 Northwestern Hwy.
Southfield, MI 48037-0307

Contact Information:
Mr. Adam Rujan, Partner
1-800-544-0203

plante
moran



Plante & Moran, PLLC
27400 Northwestern Highway
P.O. Box 307
Southfield, MI 48037-0307
Tel: 248.352.2500
Fax: 248.352.0018
plantemoran.com

July 21, 2010

City of Fayetteville
Ms. Andrea Foren, Purchasing Agent
Purchasing Division – Room 306
113 West Mountain
Fayetteville, AR 72701

Dear Ms. Foren

Plante & Moran, PLLC is pleased to respond to your Request for Proposal (RFP 10-11) to provide an independent City-wide Information Technology Assessment for the City of Fayetteville. It is our understanding that the City has a strong desire to use technology to better enable all aspects of citizens' information and transactional activities within the City. The City is also interested in improving its IT function including areas pertaining to IT organization, administration and assets as mentioned in the RFP and has decided to engage the services of an independent consultant to conduct a City-wide Information Technology Assessment. Based on information provided, we understand that the City maintains a significant IT investment, and operates in a comparatively sophisticated environment.

We believe that Plante & Moran is uniquely qualified to assist the City of Fayetteville in conducting this IT Assessment. Our team focuses exclusively on providing independent technology consulting services to cities and counties which are very similar to Fayetteville. Our clients and our base of benchmark information reflect numerous university towns and other sophisticated constituents. Notable clients have included: Ann Arbor, MI (UM), Flagstaff, AZ (NAU), Burrough of State College, PA (Penn State), Alexandria, VA (DC metro area) and Round Rock, TX (headquarters of Dell Computers). We strongly encourage you to call any of our current or past clients for references.

We believe that this base of experience is very helpful in understanding the constituents of the municipality, and consequently the goals and objectives of City management. Also, we have a fairly robust base of current benchmark information, allowing our team to focus on more value-added aspects of the project. Further, while we are very familiar with many of Fayetteville's major applications (e.g. New World, Hansen, ESRI), we are completely vendor independent allowing us to provide the best possible advice to clients.

Plante & Moran was founded as a professional services firm in 1924. We have been specializing in assisting municipalities with technology matters for over 30 years. Some highlights of our practice include:

City of Fayetteville, AR
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- Significant and recent experience in conducting Information Technology Assessments and related Technology Consulting for municipal clients including current and recent engagements for the following entities

- | | |
|----------------------------|-----------------------------|
| ○ City of Flagstaff, AZ | ○ City of Alexandria, VA* |
| ○ Santa Barbara County, CA | ○ City of Lee's Summit, MO* |
| ○ City of Asheville, NC | ○ Washtenaw County, MI* |
| ○ City of Ann Arbor, MI* | ○ City of Round Rock, TX |
| ○ Johnson County, KS | ○ City of Roswell, GA |
| ○ Waukesha County, WI | ○ City of Des Moines, IA |
| ○ City of Mesa, AZ* | ○ Oakland County, MI* |

*** -- denotes organizations that have been recognized by the Center for Digital Government as winners for their respective populations served*

- We have relevant experience conducting IT-related projects for municipalities that are the homes to major universities such as the City of Ann Arbor, MI (University of Michigan), City of Flagstaff, AZ (Northern AZ University) and have recently been engaged by the Borough of State College, PA (Penn State University).
- Within the public sector, we are independent from all hardware, software and communications products and solutions allowing us complete independence when recommending solutions for our public sector clients.
- Nearly 30 years experience in providing technology consulting services for municipal clients. Our project team has significant experience providing information technology consulting services to municipal clients.
- Significant experience in conducting studies and assisting in the deployment of relevant municipal technologies including wireless, VOIP, document management and ERP systems.
- High level of client satisfaction in performing municipal-based IT Assessments and Strategic Plans. Additionally, we have achieved a very high rate of repeat work with clients whom we had assisted in technology assessment and planning projects.
- Significant expertise in the area of IT Governance. In fact, our proposed Project Director, Adam Rujan, has recently contributed a chapter on the topic to a recent PTI published book.
- Active participation in numerous organizations serving the technology needs of our municipal clients including Public Technology Institute (PTI), Government Management Information Sciences (GMIS) and Governmental Finance Officers Association (GFOA)

Our proposed team blends the technology and municipal operations knowledge with seasoned, management consultants to work on this important initiative. We believe that based upon these experiences and the quality of our proposed team, we are well qualified to provide objective and comprehensive IT Assessment and Strategic Planning consulting services to the City. We encourage and authorize the City of Fayetteville and its representative's authorization to contact any previous client of Plante & Moran for purposes of ascertaining an independent evaluation of Plante & Moran's performance.

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If you have any questions concerning this proposal, please contact:

Mr. Adam Rujan, Partner
27400 Northwestern Hwy.
Southfield, MI 48037-0307
Phone Number: 248-223-3328
Adam.rujan@plantemoran.com

Mr. Rujan is authorized to contractually bind the Firm. Plante & Moran has provided our standards terms and conditions for the City's review. Our proposal is valid for 90 days from the response date. We acknowledge receipt of the City's Addendum Number 1 to this RFP.

To the best of our ability, Plante & Moran's response to the City of Fayetteville's RFP is complete and accurate.

Very truly yours,
PLANTE & MORAN, PLLC



Adam Rujan
Partner

Proposal to Provide
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Section 1: Executive Summary

1.1 Assumptions about the City of Fayetteville

The City of Fayetteville is located in the northwest corner of the State of Arkansas with a City population of approximately 70,000 residents. The City is the County seat of Washington County, AR providing a broad variety of municipal services to constituents and businesses within the region. The City is also part of a Metropolitan Area consisting of approximately 420,876 residents and is home to the University of Arkansas.

Like many municipalities, the City of Fayetteville is experiencing increased levels of constituent demand that is compounded by the difficult economic times that have impacted municipal budgets on a national basis. As a result, departments are being forced to “do more with less” and maximize use of existing resources. Technology is an enabler to achieving improved efficiencies in operational activities in a cost effective manner. At the same time, municipalities are also viewing their IT departments as needing to be cost effective with existing providers who can provide similar services from the private sector.

With these factors in mind, the City has determined that a City-wide, independent assessment of the Information Technology (IT) function is necessary to evaluate the IT functions and operations to improve internal practices and service delivery. The City has a desire to procure the services of an external consultant who is experienced in performing such projects within the municipal environment.

1.2 Proposed Solution

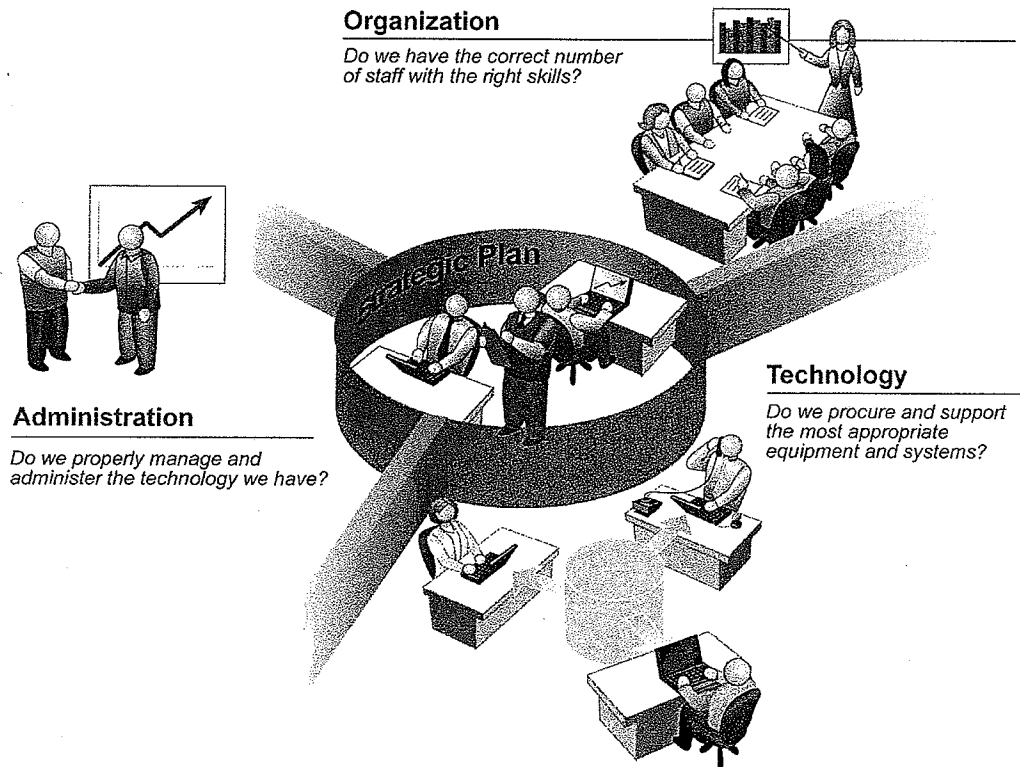
Plante & Moran, having conducted numerous similar IT Assessment projects for municipal-based organizations, proposes a set of activities that are intended to conduct a thorough and un-biased review of the City IT function. A summary of these activities that have been proven through the completion of numerous similar projects are as follows:

- Conduct Project Management Related Activities
- Collect and Review Documentation
- Conduct IT Staff Interviews
- Review and Assess Technical Environment
- Conduct On-Line End-User Survey
- Conduct Stakeholder Interviews
- Conduct Comparative Research
- Present Major Findings and Analysis
- Develop Draft IT Assessment Report
- Prepare Final Report and Oral Presentation

Our overall approach encourages participation and offers numerous opportunities for input from City stakeholders. In consultation with the City’s Information Technology Executive Team the end result of the project is intended to provide an overall assessment of the current IT environment at the City along with specific actionable items to improve the efficiency and effectiveness of departmental operations including areas of IT organization, administration and technology as illustrated on the graphic below.

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Assessment Areas



The specific differentiators that have been noted by our clients in our providing these services are as follows:

- Our firm has been performing technology consulting services to municipal clients for over 25 years with a consistent track record of outstanding client satisfaction. This is recognized through significant repeat work with clients in which we have performed up-front IT Assessment and/or IT Strategic Planning projects.
- All of the staff designated to this project has significant, recent and relevant experience in conducting IT Assessment projects for public sector organizations that are of the size and sophistication of the City of Fayetteville. Additionally, our staff have obtained certifications that are relevant to best serving our municipal clients including PMI's Project Management Professional (PMP), ECM Certified Practitioner certifications and ITIL V3 Foundation certification.
- Over the last several years, we have provided technology consulting services to a large number of municipal organizations who have been recognized as very progressive in their use of technology. Through these experiences, we have had a chance to view a large number of IT organizational structures, IT administrative functions and uses of technology that can be leveraged for the City of Fayetteville.
- Through extensive experience in performing similar projects, we have developed an extremely comprehensive IT Assessment tool that is used to evaluate all aspects of IT Organization, Administration and Technology.

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- Our consultants spend a significant amount of time researching and keeping abreast of “best practices” in the use of technology by municipal-based organizations. This includes reviewing IT Assessments and Strategic Technology Plans developed by leading municipalities, participation in seminars and training sessions on technologies relevant to municipalities, on-going dialogue with leading municipalities on their use of technology and on-going dialogue with vendors in the marketplace to identify activities, products, technologies and trends that may have a positive impact on our municipal clients including VOIP, video conferencing, document management and enterprise content management.
- We have had significant involvement in working with public sector organizations who have a desire to collaborate on technology initiatives.
- Significant experience in conducting operational studies including the effective use of technology for all departments within a municipal organizational structure.
- Significant experience in performing software selections for a variety of City departments in a variety of different product areas including ERP applications, asset management systems, identify management solutions, document management solutions and public safety/court technologies.
- Active participation in organizations dedicated to improving the use of technology in government including Public Technology Institute (PTI), Government Finance Officers Association (GFOA) and Government Management Information Sciences (GMIS). We are frequent speakers and presenters with these organizations and have recently authored a chapter on IT governance in a recent PTI book that has been published entitled “CIO Leadership for Cities and Counties – Emerging Trends and Practices”.
- Broad breadth of technology consulting services that includes applications planning, acquisition and implementation management; technology planning, communications and networking, e-government, IT assessments, project management and technology security assurance.
- Within the public sector, we are independent of all hardware, software, and networking products and vendors so we can be truly objective in conducting an un-biased IT Assessment for the City of Fayetteville.

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Section 2: Firm Qualifications

2.1 Firm Overview

Founded in 1924, Plante & Moran, PLLC is the twelfth largest management consulting and public accounting firm in the United States. Plante & Moran, PLLC operates as a partnership. Plante & Moran's staff of over 1,600 persons is organized into four major service areas: Management Consulting, Accounting and Auditing, Tax Consulting, and Personal Financial Planning Services.

Over the past several years, Plante & Moran has continually expanded the scope and experience of its Management Consulting Services Group. The firm is committed to continuing this growth by retaining and attracting qualified professionals to provide the broad range of management and technical services that are necessary to effectively serve the needs of our clients.

Plante & Moran takes great pride in the quality of services it provides to its clients. We have a rigorous set of quality controls designed to provide assurance that professional standards are followed and our clients receive a high quality product. Plante & Moran takes equal pride in our people and our professional work environment. Some of the facts about our firm that we are proud of include:

- Our partnership group is comprised of 19% women, which is the highest percentage of female equity partners among the nation's largest public accounting firms, according to CPA Personnel Report, a national public accounting trade publication.
- Staff turnover rate below 15% which is significantly lower than that of other national public accounting firms.
- The firm has been named to Fortune Magazine's "100 Best Companies to Work for in America" for the last eleven years.
- The firm is ranked 55th on list of Training magazine's "Top 100 Training Organizations"
- Plante & Moran's Management Consulting Group, consisting of over 125 dedicated consultants, is a versatile, full service consulting organization with a proven track record for providing quality professional services.

Our emphasis and commitment to management consulting has resulted in the extension of the consulting practice into all major aspects of government and education addressing our clients' unique needs related to information technology, security, compliance, and policy.

Plante & Moran has become a leader in providing services to governmental organizations. We presently work with over 200 County and local governments. Our professionals have made substantial commitments to working with local, County and state government agencies. Our extensive experience with governmental clients has enabled us to assemble a project team that we believe is uniquely qualified to perform the proposed project.

Plante & Moran currently has offices in Michigan, Ohio, Illinois, India, Mexico and China. The Firm operates as a Partnership with approximately 200 Partners and Entity Members. Adam Rujan, Partner will serve as the primary Partner and Project Director for the engagement with the City.

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2.1.1 Organization – Government Consulting Services

Because of our broad governmental client base, we are able to devote the necessary time to specialize and thus provide maximum service. To assist us in this specialization, we are members of numerous municipal government professional associations that have a focus on the application of technology for government including:

- **Public Technology Institute (PTI)**, a Non-Profit organization created by and for cities and counties that works with a core network of leading government officials to identify opportunities for technology research, share best practices, offer consultancies and pilot demonstrations, promote technology development initiatives and develop educational programming. Plante & Moran authored a chapter on IT governance in the recently published “CIO Leadership for Cities and Counties – Emerging Trends and Practices” book.
- **Government Management and Information Sciences (GMIS)**, an organization composed of municipal information technology directors with a primary goal to foster a unified effort among government entities to integrate and disseminate their respective research and design efforts in the area of automated information sciences.
- **Government Finance Officers Association (GFOA)**, an organization whose purpose is to enhance and promote the professional management of governments for the public benefit by identifying and developing financial policies and practices and promoting them through education, training and leadership.

As a result of our continuing involvement with government organizations at all levels, we have acquired in-depth knowledge and experience in dealing with relevant technical, operational and procedural issues. This experience and knowledge, and our commitment to assure objectivity and a high level of independence, are fundamental to our proven and consistent ability to meet the needs of our governmental clients.

To assure responsiveness to the needs of our clients, our consulting staff strives to maintain a high level of understanding of, and sensitivity to, the key issues that affect the operations of government organizations. At the current time, such issues include:

- IT Governance across complex organizations
- Increasing pressure to improve service despite shrinking budgets and diminishing resources
- Reduced state and local budgets due to the current economic slowdown
- Increasing competition from the private sector
- Lack of staff training that would be instrumental in organizational change
- Significant pressures from public interest groups
- Increased legislative involvement in budgeting, appropriating, and disbursing of funds
- Emerging awareness of the need to measure the benefits as well as the costs of services (i.e., cost effectiveness as well as cost efficiency)
- Privatization of services to achieve more effective services at a lower cost

Our professional staff, through training and experience, assists our clients in developing strategies for effectively coping with these, and other key management issues.

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2.1.2 Public Sector Services and Products

Plante & Moran has assumed a leadership role in providing consulting services to governmental entities. The range of services we provide includes the following:

- | | |
|---|---|
| ■ Technology Consulting & Solutions | ■ Human Capital Management and Development |
| ■ Communications & Networking Services | ■ Market Research Services |
| ■ Project Management and Oversight | ■ Business Planning and Feasibility Analysis |
| ■ Operations Analysis | ■ Employee Benefits Analysis |
| ■ Consolidation Studies | ■ Assurance Services |
| ■ Organizational Planning and Development | ■ Real-estate, Design and Construction Consulting |
| ■ Financial Management Services | |

The following sections highlight those services that are relevant to the engagement with the City of Fayetteville. Our approach to each consulting engagement is structured to provide the services and level of professional support required to meet the individual needs of the client. Although we have developed well-defined methodologies for conducting consulting engagements, we do not attempt to impose a rigid structure onto each assignment. Rather, we attempt to understand the fundamental challenges and opportunities of our clients and develop an approach that addresses those particular conditions.

The relevant project references and staff backgrounds will highlight our expertise in providing solutions to our clients. An overview of the services provided by our firm that are relevant to this project are described in detail in the following subsections.

2.1.2.1 Technology Consulting & Solutions Services

Plante & Moran's management consultants have made a significant commitment to assist governmental clients develop and implement appropriate technology. The services we offer address virtually all aspects of information systems including:

- Information Technology Assessments including:
 - Organization
 - Administration
 - Technology
- Strategic Information Technology planning
- Communications and networking including:
 - WAN/LAN architecture and development
 - Network analysis and optimization
 - Telecommunications
 - Voice/data/video integration
 - Performance assessment
 - Bandwidth utilization

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- Security assurance including:
 - Information system reviews
 - System trust services
 - Network security reviews
 - SAS/70 reviews
- Solution delivery including:
 - Needs assessment
 - Cost benefit analysis
 - Requirements definition
 - Software selection
 - Contract negotiations
 - Process improvement
 - Implementation management
- Outsourcing analysis
- e-Government Strategy and development
- Technology management
- Project management

We have developed significant research capabilities to assist our clients in new and emerging technologies and issues. In addition, our consultants are very active in making presentations to a variety of governmental organizations on current issues. Our library of resource materials is readily available to our consultants to effectively satisfy our clients' unique needs.

2.1.3 Additional Areas of Focus Qualifications

Like many IT Assessment projects the firm has conducted, clients typically have particular areas of interest to be explored. Our qualifications and capabilities in areas of interest likely to be reviewed as part of the project with the City are as follows:

Area of Interest	Firm Qualifications
Staff Structure	Our team has performed a significant number of IT staff structure reviews as part of IT assessment and planning projects or as an independent initiative. Through these efforts we have been exposed to a variety of staffing structures including the relationship between Central IT and distributed IT units that frequently will evolve into a larger governance structure assessment. Furthermore, we have done extensive benchmarking of other municipal-based organizations using those metrics to conduct comparative analysis against the client's staffing structure.

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Area of Interest	Firm Qualifications
Portfolio Management	Through our experiences in conducting IT Plans and Assessments for numerous municipal clients we have had the opportunity to view a number of approaches and processes supported by various tools to maintain a current and complete project portfolio. Typically, project portfolio management is a major facet of overall IT governance development with our clients.
Infrastructure	Our Communications and Networking practice includes staff who have been involved on IT planning and assessment projects to conduct a full assessment of IT infrastructure including hardware, data, communications, networking, server, storage and data center environments.
Disaster Recovery	Our Security Assurance practice includes staff who are focused on the development and/or review of Disaster Recovery, Business Continuity and COOP plans.
Help Desk / ITIL	Our staff have significant experience in conducting help desk assessments as part of IT planning and assessment projects. Additionally, we have staff who are ITIL V3 Foundation Certified.
Project and Task Management	Our staff have significant background in project management procedures, methods and tools. We use project management techniques and supporting tools on our technology planning initiatives that are covered in more detail in our project work plan. This includes the use of MS Project and MS SharePoint as a collaborative environment for managing client projects.
Industry Standards	Our Operations Improvement practice within the firm has significant experience in the development and deployment of Balanced Scorecard programs for our clients more specifically in the Manufacturing sector. Our governmental consulting staff have implemented a number of these concepts for our clients although not specifically under the mantra of Balanced Scorecard to include the establishment of metrics for measuring IT performance and the tools and methods for monitoring and reporting on these metrics.

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Area of Interest	Firm Qualifications
Internet / Intranet	Our Web Services group has experience in developing e-government strategies and significant experience in deploying both Internet and Intranet sites for public sector clients. Additionally, our IT tech planning and assessment projects include the review of a City's overall approach towards Internet, Intranet, e-government, portals and Web 2.0 technologies. Through our involvement at PTI we have also been exposed to creative uses of web technologies by other governmental jurisdictions.
Policies and Service Level Agreement	Our staff have significant experience in the review of IT policies, procedures and service level agreements. Through numerous projects that we have conducted over the last several years we have developed a repository of IT policies and procedures used by other municipal jurisdictions.

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Information Technology Consulting Assessment Services

2.2 Project References

Plante & Moran has a significant number of references that are directly relevant to this project that encompass the following types of projects:

- Enterprise, business area specific and technology specific IT Assessments and Information Technology Plans for public sector clients that include, as a major part of the planning process, a comprehensive review and assessment of the existing IT organization, administration and technology environment
- Other projects that reflect our deep understanding of municipal operations
- IT Sourcing related projects

Within the last four years, we have conducted IT Assessments and/or IT Strategic Plans for the following public sector clients with the project title and periods of performance noted. Further details on these assessments and plans are provided in the reference section below.

Client Name	Project Title	Period of Performance
City of Flagstaff, AZ	IT Assessment	May 2010 – July 2010
City of Alexandria, VA	IT Assessment	October 2009 – April 2010
Gwinnett County, GA	IT Strategic and 1-Year Tactical Plan	Feb 2009 – May 2009
City of Round Rock, TX	IT Strategic Plan	Sep 2008 – Apr 2009
Spartanburg County, SC	IT Assessment and Strategic Technology Plan	Aug 2008 – Jan 2009
Coconino County, AZ	IT Assessment and Strategic Technology Plan	Apr 2008 – Oct 2008
City of Des Moines, IA	IT Assessment and Strategic Technology Plan	Jan 2008 – Apr 2008
City of Lee's Summit, MO	IT Assessment and Strategic Technology Plan Update	Apr 2007 – Aug 2007
Johnson County, KS	IT Assessment and Strategic Technology Plan	May 2006 – Jun 2007
Waukesha County, WI	IT Assessment and Strategic Technology Plan	Dec 2006 – Jun 2007
Shelby Township, MI	Strategic Information Technology Plan	Spring 2006 – Fall 2006
Van Buren Township, MI	Strategic Information Technology Plan	Aug 2005 – Jan 2006
Lake County, IL	IT Assessment	Jul 2005 – Nov 2005
DuPage County, IL	Strategic Technology Plan	Jan 2005 – Oct 2005
Ottawa County, MI	IT Assessment	Aug 2004 – Mar 2005
City of Ann Arbor, MI	Strategic Information Technology Plan	Dec 2004 – Jun 2006

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Information Technology Assessment and IT Strategic Planning References

The following references highlight our recent IT Assessment and/or IT Strategic Planning projects that we have performed for our municipal client. **All of the referenced projects were completed on-time and within budget.**

City of Flagstaff, AZ

Mr. Ladd Vagen
IT Director
211 West Aspen Avenue
Flagstaff, AZ 86001
(928)213-2801

IT Assessment and Plan

Conducted an Information Technology Assessment and developed a Strategic Technology Plan for the City that included a review of all aspects of the organization, administration and use of technology within the County.

Specific areas of focus included Organizational Support Structure, Infrastructure, and IT Governance.

Contract Period: May 2010 - current

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$50,000

Participation: Rujan, Zyla, Chalasani

City of Alexandria, VA

Mr. Tom Trobridge
IT Director
301 King St.
Alexandria, VA 22314
(703)746-3001

IT Assessment

Conducted an Information Technology Assessment for the City that included a review of all aspects of the organization, administration and use of technology within the City.

Specific areas of focus included Organizational Support Structure, Infrastructure, and IT Governance.

Contract Period: October 2009 – April 2010

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$100,000

Participation: Rujan, Bagley, Chalasani

Proposal to Provide
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City of Des Moines, IA

Mr. Michael Matthes
Assistant City Manager
400 Robert D. Ray Drive
Des Moines, IA 50309-1891
515-283-4049

IT Assessment and Strategic Technology Plan

Conducted an Information Technology Assessment and developed a Strategic Technology Plan for the City that included a review of all aspects of the organization, administration and use of technology within the County.

Specific areas of focus included Organizational Support Structure, Infrastructure, and IT Governance.

Contract Period: January 2008 – April 2008

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$135,000

Participation: Rujan, Zyla, Chalasani

Spartanburg County, SC

Mr. Chris Story Assistant
County Administrator
366 North Church Street
Spartanburg, SC 29303
Phone: 864-596-2526

IT Assessment / Strategic Technology Plan

Conducted an Information Technology Assessment for the County that included a review of all aspects of organization, administration and use of technology within the County. As part of the engagement we conducted IT departmental interviews, IT Staff interviews, an end-user survey of all County staff and a benchmarking survey of peer County organizations from across the country.

The outcome of the project was a detailed assessment of current County IT operations and the development of an IT Strategic and Tactical Plan to guide the deployment of technology over the next few years. The two-year tactical plan identified those projects to undertake in support of the long-term IT strategic plan.

Contract Period: September 2008 – January 2009

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$85,000

Participation: Rujan, Zyla, McKinley

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Gwinnett County, GA

Mr. John Matelski
Director of ITS/CIO
75 Langley Drive
Lawrenceville, GA 30045-6900
770-822-8953

IT Strategic Plan and Tactical Plan

Plante & Moran was engaged by the County to conduct a comprehensive Information Technology (IT) Assessment and also to develop a County-wide IT Strategic Plan including a one-year tactical plan. A number of activities were performed as part of the planning process as follows:

- Conducted interviews with County-IT and departmental IT staff
- Conducted interviews with departmental and line of business staff
- Conducted County-wide web-based benchmarking survey
- Conducted detailed review of various aspects of the IT organization
- Conducted detailed reviews of selected functional areas including GIS, FileNet and SAP

The outcome of the project was a detailed assessment of current County IT operations and the development of an IT Strategic Plan to guide the deployment of technology over the next five years. The one-year tactical plan identified those projects to undertake over the next year in support of the long-term IT strategic plan.

Contract Period: January 2009 – July 2009

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$175,000

Participation: Rujan, Bagley, Zyla, Eiler, Chalasani

City of Round Rock, TX

Mr. Daniel Saucedo
Applications Manager
221 E. Main Street
Round Rock, TX 78664
512-218-5439

IT Assessment, Strategic Technology Plan

Conducted an IT Assessment and Strategic Technology Plan for the City that encompassed all aspects of technology, including significant process re-design work and return on investment modeling.

Contract Period: September 2008 – April 2009

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$150,000

Participation: Rujan, Zyla, Chalasani

Proposal to Provide
Information Technology Consulting Assessment Services

Johnson County, KS

Mr. Jack Clegg
IT Director
111 S. Cherry Street
Suite 2400
Olathe, KS 66061-3441
913-715-1515

**Information Technology Assessment and Strategic
Technology Plan**

As part of the County's recurring technology planning process, we conducted an IT assessment and developed a County-wide strategic technology plan for all areas of County technology operations. The development of the Plan included specific reviews of the County ITS and remote County IT departments, e-government initiatives, telecommunications environment and GIS. Information used in the development of the Plan was supplemented with a County-wide end-user survey and metrics-based benchmarking against peer Counties considered leaders in the use of technology. A major component of the project was providing assistance to the County in establishing an IT governance structure.

Contract Period: May 2006 – June 2007

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$175,000

Participation: Rujan, Eiler, Chalasani

Lake County, IL

Mr. Barry Burton
County Administrator
18 N. County Road
Waukegan, IL 60085-4350
847-377-2250

IT Assessment

Conducted an Information Technology Assessment for the County that included a review of all aspects of organization, administration and use of technology within the County. As part of the engagement we conducted IT departmental interviews, interviews with all County staff departments, an end-user survey of all County staff and a benchmarking survey of peer County organizations from across the country. Specific areas of focus included IT governance, GIS, telecommunications and identifying opportunities for alternative delivery of services.

Contract Period: July 2005 – Nov 2005

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$100,000

Participation: Rujan, Eiler

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Waukesha County, WI

Mr. Mike Biagioli
Manager, Information
Technology
515 W. Moreland Blvd.
Waukesha County, WI 53188
262-548-7610

**Information Technology Assessment and Strategic
Technology Plan**

Conducting an Information Technology Assessment and developed a Strategic Technology Plan for the County that included a review of all aspects of organization, administration and use of technology within the County. During the project input was gathered from the following sources:

- IT departmental interviews
- interviews with all County staff departments
- End-user survey of all County staff
- Benchmarking survey of peer County organizations from across the country

Specific areas of focus included e-Government, Telecommunications, Wireless, Constituent Resource Management (CRM), and Enterprise Content Management (ECM).

Contract Period: December 2006 – June 2007

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$150,000

Participation: Rujan, Eiler, Warner

City of Ann Arbor, MI

Mr. Dan Rainey
IT Director
100 North Fifth Avenue
Ann Arbor, MI 48104
734-994-2794

IT Assessment and Strategic Information Technology Plan

Conducted an IT Assessment and developed a Strategic Information Technology Plan for the City to guide the deployment of technology over the next three years. Specific areas of focus included document management, e-government, collaboration, land management systems, asset management systems, telecommunications and financial management systems.

Contract Period: December 2004 – June 2006

Locations: City offices and Plante & Moran office in Southfield, MI

Cost: \$75,000

Participation: Rujan, Eiler

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2.3 Proposed Project Staffing

The following table summarizes the role that each individual will perform on the project and up to five associated references. It should be noted that all of the references are those that were conducted by staff while employed at Plante & Moran. The firm is committed to making these staff available to fulfill their individual responsibilities on the project and, as such, we have not provided estimated weekly work schedules. Additional information is provided in the Appendix, Resumes Section.

Team Member and Working Title	Project Role	Work Responsibilities	Relevant References
Adam Rujan Project Director Plante & Moran Total: 25 yrs Firm: 21 yrs	Partner	Engagement Partner who will be responsible for the overall success of the project.	Round Rock, TX Spartanburg County, SC Flagstaff, AZ Des Moines, IA City of Alexandria, VA
Dennis Bagley Project Manager Plante & Moran Total: 20 yrs Firm: 14 yrs	Project Manager	Project manager who will manage the day-to-day activities on the project and also act as the lead consultant on the project.	Gwinnett County, GA City of Alexandria, VA City of Ann Arbor, MI Town of Hempstead, NY County of Kent, MI
Sri Chalasani Sr. Network Eng Plante & Moran Total: 11 yrs Firm: 3 yrs	Project Consultant	Responsible for leading the infrastructure review aspects of the project.	City of Des Moines, IA City of Lee's Summit, MO Coconino County, AZ Gwinnett County, GA City of Round Rock, TX
Laurie Zyla Consultant Plante & Moran Total: 5 yrs Firm: 3 yrs	Project Consultant	Consultant who will conduct a number of the end-user interviews and other project tasks.	Coconino County, AZ City of Des Moines, IA City of Cleveland, OH Spartanburg County, SC Gwinnett County, GA
John Bissa Partner Plante & Moran Total: 15 yrs Firm: 9 yrs	Technical Specialist	Internet / Intranet Expertise	Wayne County, MI Monroe County, MI City of Ann Arbor, MI Gwinnett County, GA Cedar Rapids, IA

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Section 3: Project Approach

3.1 Project Charter Statement

A Project Charter provides a statement of the scope, objectives and participants in the project. It provides a definition of roles and responsibilities, outlines the project objectives and provides a timeline for the project. Plante & Moran will prepare a Project Charter for the project with the City during Project Initiation activities.

3.2 Summary Overview of Approach

Plante & Moran has been performing municipal-wide Information Technology Assessments for over twenty years for our public sector clients. Through these experiences we have developed specific tools, techniques and methods for performing these projects. A comprehensive IT assessment for an organization encompasses a review of the Organization, Administration and Technology.

City of Fayetteville, AR Project Scope Assessment Topical Areas		
Organization	Administration	Technology
Governance: ■ Organization structure: ■ Organization benchmarks ■ Succession planning ■ Staff compensation Support: ■ Staff complement ■ Staff development ■ Job descriptions ■ Staff competencies ■ Performance evaluations ■ Recruiting ■ External service providers ■ User liaisons ■ Steering Committee role ■ Service Level Agreements User Satisfaction: ■ Responsiveness ■ Effectiveness ■ Communication	Service Delivery: ■ Project Mgmt approach ■ Service level agreements ■ Problem reporting ■ Helpdesk Administration ■ Network/workstation Mgt ■ Software deployment ■ Performance reporting ■ Vendor management ■ Application development ■ Patch management ■ Operating procedures IT Strategy: ■ Long range planning ■ Project prioritization ■ Technology procurement ■ Budgeting ■ Project portfolio mgmt ■ Business case development ■ Standards	Internet: ■ Remote access ■ Web site & security ■ Content mgmt ■ Web strategy Network (LAN/WAN): ■ Servers ■ NOS ■ Cabling ■ Network electronics ■ Storage ■ Security Applications: ■ Enterprise applications ■ Security ■ Reporting ■ Interfaces ■ Databases ■ Platforms and tools

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Organization	Administration	Technology
IT Leadership: ■ Technical ■ Business ■ Behavioral	Policy & Security: ■ User policies & procedures ■ IT policies & procedures ■ Business continuity planning ■ Security Management	End-User Computing: ■ Workstation strategy ■ Office automation ■ Operating system ■ Refresh

3.3 Description of Project Approach

1. Conduct Project Initiation Activities

Project initiation activities will be conducted to introduce the project team, finalize the project scope, deliverables and timetables. These objectives will be accomplished through the development of a project organizational structure, project charter, detailed project plan, and regularly scheduled progress meetings. These steps are described below.

2. Define Project Organizational Structure

Our approach to each consulting engagement is structured to provide the services and level of professional support required to meet the individual needs of the client. We will work jointly with the City Project Manager to design a process that will meet the overall needs of the City. As standard practice in the majority of our engagements, especially those related to technology and process transformation, we have designed a very collaborative approach to create high probability of implementation success.

3. Develop Project Charter

At the start of the project, a project charter will be developed that will provide a framework for the following areas of focus:

- Project overview
- Vision statement
- Project stakeholders
- Project influences
- Scope plan (both in and out of scope items)
- Project staffing

4. Develop Detailed Project Plan

We will incorporate the following into a detailed Microsoft Project™ Plan:

- Major phases and milestones
- Work tasks and their due dates with assigned responsibility

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5. Develop Communication Plan

Communication in connection with a project of this magnitude is very important, especially when considering the number of stakeholders involved. We anticipate that the Collaboration Center will be a primary repository/vehicle for communication regarding the project. We will also work with the City's project manager to prepare and present a draft Communication Plan to finalize which will consider the various stakeholder groups and the best methods/content for each.

6. Establish Project Collaboration Center

Over the last few years, collaboration environments such as Microsoft's SharePoint Portal have become increasingly viable tools in which to establish project collaboration environments for large-scale projects. These environments can serve a variety of purposes including acting as a repository for documentation developed during the course of an IT Assessment engagement. As a firm, we have significant expertise in the use SharePoint as an overall project repository for our engagements. We will work with the City in the establishment of a project collaboration environment using MOSS that will last for the duration of the entire project.

7. Schedule and Moderate Project Status Meetings

Continuous feedback is the key to a successful implementation. In this way, problems can either be avoided entirely, or addressed early on, to minimize wasted effort and keep the project on schedule. We will schedule meetings and / or conference calls with the City to:

- Report on the status of the Project work plan and timeline
- Re-schedule tasks as necessary
- Discuss major open issues / risks and develop strategies to address them

8. Conduct Project Kick-Off Meeting

We intend to conduct a project kick-off meeting that will define the objectives, timing, scope, anticipated City staff involvement and other items relevant to the project. We will discuss with the City who should attend this session.

Information collected during this meeting will provide additional input into the development of the Project Charter.

Collect and Review Documentation

Plante & Moran will review existing documentation to gain a comprehensive understanding of the City's current technology environment. Documents to be reviewed are anticipated to include the following:

- Previous Strategic Technology Plan and departmental specific technology plans
- Internal customer service surveys
- Expenditures on technology, both budgeted and actual, for 2006 – current (hardware, software, networking, services, line charges, support, maintenance, etc.)
- Other technology-related study results
- Existing departmental business plans

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- Brief description of current/planned technology projects and system enhancement activities
- System issues/enhancement requests tracking log
- Service level agreements with City departments, if available
- Scope of services provided and technologies supported by the IT department
- IT staff job duties, responsibilities and job descriptions
- Departmental Organization Chart
- City Mission Statement
- Location of all sites involved on the project
- Technology standards
- Current hardware/software/technologies inventory
- System context diagram showing interfaces and integration points between major City applications and external entities
- Current network infrastructure and diagrams
- Help desk log
- Help desk software
- Project management methodology
- Listing and description of current IT-related policies and procedures
- Listing and description of current IT-related projects
- Listing and description of relevant State and local systems that interface with or are used by the County
- Listing and description of current IT-related support areas outside of central IT
- Other relevant documents to obtain an understanding of the current City IT environment

9. Conduct IT Staff Interviews

We will meet with the City IT Department staff to review their areas of support and other organizational, administrative and technology support components. We anticipate meeting with IT management and potentially all IT department staff to provide an explanation of the project, what we anticipate doing on the project and explain the IT survey that will be distributed to IT staff. This survey is intended to gather information in the following areas:

- Job duties and responsibilities
- Job requirements and resources
- Organization structure
- Work volume
- Communication / working relationship
- Other comments / suggestions

This survey is intended to be completed and submitted to our staff in confidence so as to obtain the best possible information. Typically, we achieve near 100% compliance in having IT staff complete the questionnaire. Additionally, we will conduct interviews with IT staff who are not part of the City IT department that provide technology support.

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10. Review and Assess Technical Environment

Numerous specific areas of focus to be assessed were identified in the RFP. Our approach will apply to each of these areas and the other assessment areas to include:

- Data collection and review
- Interviews with appropriate IT support staff, business groups, process owners and key process end-users
- Development of gap analysis
- Development and review of findings and specific recommendations for each of these areas including identification of near-term and long-term projects

We will conduct an extensive review of the existing technical environment at the City including all aspects of hardware, software, networking, telecommunications and relevant security for all of the various components. Various components of the technical environment will be further assessed as part of the interviews and assessment surveys conducted with City staff as well as through the web-based survey that will be distributed to all City staff.

11. Conduct On-Line End-User Survey (Option)

We will review, with client staff, the existing end user survey to determine suitability for the IT Assessment. If necessary we will conduct an on-line survey.

We will use the results of the online survey to identify satisfaction with services provided by the IT Department(s) and satisfaction with technologies in use within the City. This survey will include the following topic areas:

- Direction and Leadership
- Communication
- Service & Support
- General City Technology
- Training

A comprehensive analysis of the information will be provided to the City as part of our final report. From the survey results, we can identify gaps between current levels of service and desired levels of service as well as gaps where current technology is not meeting the needs of a particular department, area, or City as a whole. Having conducted a similar survey with a number of other City-based clients will allow us the opportunity to perform comparative analysis to determine specific areas of strength and opportunities for improvement.

12. Conduct Stakeholder Interviews (Group and Individual)

We will schedule and conduct up to 20 meetings with staff within the City departments, including management and end-users, to:

- Solicit feedback regarding project prioritization and governance
- Discuss the departments' perceptions as to how IT can improve
- Clarify any questions as a result of end-user survey

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- Assess how information about IT requests are gathered
- Discuss how the scope of IT initiatives are defined, and how the initiatives are justified, approved, funded/budgeted, and prioritized
- Discuss the approach taken to align IT initiatives with operational priorities
- Discuss the typical approach to project management
- Identify current and anticipated information and technology needs over the next five years

We will likely organize these interviews around Line of Business (LOB) orientation in which we will bring together staff from various departments who have similar interests to discuss their technology needs. We anticipate conducting up to 10 such interviews.

13. Conduct Comparative Research (Option)

We will review, with client staff, the need to supplement existing benchmark data. Plante & Moran currently possess a fairly rich amount of information.

We will utilize comparative research with other entities similar to the City using a variety of sources. We will take the results from our “Best Practices” research and conduct applicable comparisons with the City to include the following areas:

- Departmental structure and staffing patterns
- Information technology funding levels and the allocation of those funds
- Alternate service delivery options that are being used
- Technology maturity in the use of various technologies (e.g., document imaging, e-government, CRM, etc.)
- Other areas deemed necessary

We will target municipalities which include the following general criteria as defined by the City in your RFP:

- Population range: 50,000 – 100,000
- Major university within city of at least 15,000 full time students
- City responsibility for public utilities, with utility service area extending beyond city limits
- City using New World, Hanson or similar type comprehensive City management software package

14. Develop Draft Information Technology Assessment Report

We will develop a draft Information Technology Assessment Report that summarizes all of the findings and recommendations from previous work steps. The findings and recommendations discussed previously will be translated into a report that will include the following:

- Executive Summary section
- Management Summary section

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- Overall SWOT Analysis
- Proposed ranking of strategic issues
- IT Assessment results for the areas of Organization, Administration and Technology to include:
- Comparative research results
- Alternate IT Service Delivery options review
- Supporting appendices

15. Prepare Final Report

Upon review and feedback regarding the draft report, we will prepare a final report and submit it to the City.

3.4 Critical Success Factors

The following factors have been identified as factors that are critical to the successful completion of any IT initiative.

- City Council commitment and leadership
- Department senior management commitment and leadership
- Cross department cooperation and coordination with IT and with each other
- Departmental participation in setting information technology direction
- Strong leadership in the IT department as well as a clear vision for the future that is clearly communicated and understood by County staff
- Compliance/adherence to information technology architecture and standards
- Managed expectations for information technology initiatives
- Education/training of information staff and departmental staff involved in the deployment and maintenance of information technology assets
- The establishment of an executive Steering Committee for IT to help establish City technology priorities

3.5 Quality Review Process

Plante & Moran assigns a Project Director who is either a Partner or Senior Manager with the Firm. It is the Project Director's responsibility to ensure the delivery of quality deliverables. The Project Director reviews project deliverables prior to distribution to the client. This process ensures the appropriate level of quality review and adherence to Plante & Moran's methodology and standards.

During the past 20 years, Plante & Moran has continually refined its methodology and standards for performing IT Assessments. As a result, we have a rigorous process involving standardized tools, techniques and best practices to ensure quality results.

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3.6 Project Team – Roles & Responsibilities

Consultant	Title	Role
Adam Rujan	Partner	Engagement Partner who will be responsible for the overall success of the project.
Dennis Bagley	Manager	Project manager who will manage the day-to-day activities on the project and also act as the lead consultant on the project.
Sri Chalasani	Senior Consultant	Responsible for leading the infrastructure review aspects of the project.
Laurie Zyla	Consultant	Consultant who will conduct a number of the end-user interviews.
John Bissa	Partner	Internet / Intranet Expertise

3.7 Project Calendar

Major Activity	Timing	Days On-Site
1. Conduct Project Initiation Activities	Week 1	
2. Define a Project Organizational Structure	Week 1	
3. Develop a Project Charter	Week 1	
4. Develop a Detailed Project Work Plan	Week 1	
5. Establish Project Collaboration Center	Week 1	
6. Conduct Periodic Status Meetings	Week 1 - 6	
7. Conduct Project Kick-Off Meeting	Week 2	1
8. Collect and Review Documentation	Week 2	
9. Conduct IT Staff Interviews	Week 3	2
10. Review and Assess Technical Environment	Week 3	
11. Conduct On-Line End-User Survey*	Week 3	
12. Conduct Stakeholder Interviews	Week 4	4
13. Conduct Comparative Research**	Week 2-4	
14. Develop Draft IT Assessment Report	Week 6	1
15. Prepare Final Report	Week 7	

*We acknowledge that the City will complete an IT End-User Survey during July 2010 and will use the results of the survey to supplement our findings. However, depending on the questions used in the survey, we may be limited in comparing the City's responses to those from other municipalities we have worked with if the City decides not to complete Activity 11.

**Plante & Moran has access to a rich set of benchmark information. We will review this data with the client to determine if any supplemental data collection will be necessary.

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We commit to completing a Draft IT Assessment Report within a six week period from the project start date as requested by the City.

3.8 Project Risk Assessment

As part of our Project Management Approach, Plante & Moran will work with the City Project Manager to continually monitor risks that may arise. We will hold bi-weekly conference calls with the City Project Manager to discuss project risks, escalation and mitigation strategies.

3.9 Project Deliverables

As articulated in our Description of Project Approach, included in the Appendix, we will provide the following deliverables:

- | | |
|------------------------|---------------------------|
| ■ Project Charter | ■ IT Assessment Report |
| ■ Communication Plan | ■ End User Survey Results |
| ■ Collaboration Center | ■ Presentation |
| ■ Project Work Plan | |

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Section 4: Pricing

Plante & Moran provides a not-to-exceed fee of \$60,000 to complete the tasks provided in our project work plan. This fee is inclusive of all travel and incidental expenses. Our not-to-exceed fee is based on a blended rate of \$235 per hour for the estimated number of hours expected to complete project activities.

Specific rates include:

Project Director:	\$235/hour
Project Manager:	\$235/hour
Senior Consultant:	\$235/hour
Consultant:	\$235/hour

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Section 5: Appendix

5.1 General Terms and Conditions

Professional Services Agreement – Consulting Services
Addendum to Plante & Moran, PLLC Engagement Letter Dated July 21, 2010

This Professional Services Agreement is part of the engagement letter for our consulting services dated July 21, 2010 between Plante & Moran, PLLC (referred to herein as “P&M”, “we”, “our” or “us”) and the City of Fayetteville (referred to herein as “the City of Fayetteville”, “you” and “your”).

1. **Management Responsibilities** – The consulting services we will provide are inherently advisory in nature. We have no responsibility for any management decisions or management functions in connection with our engagement to provide these services. Further, you acknowledge that the City of Fayetteville is responsible for all such management decisions and management functions; for evaluating the adequacy and results of the services we will provide and accepting responsibility for the results of those services; and for establishing and maintaining internal controls, including monitoring ongoing activities, in connection with our engagement. You have designated Ms. Andrea Foren, Purchasing Agent to oversee the services we will provide.
2. **Nature of Services** – Our project activities will be based on information and records provided to us by the City of Fayetteville. We will rely on such underlying information and records and our project activities will not include audit or verification of the information and records provided to us in connection with our project activities.

The project activities we will perform will not constitute an examination or audit of any the City of Fayetteville financial statements or any other items, including the City of Fayetteville’s internal controls. This engagement also will not include preparation or review of any tax returns or consulting regarding tax matters. If you require financial statements or other financial information for third-party use, or if you require tax preparation or consulting services, a separate engagement letter will be required. Accordingly, you agree not to associate or make reference to P&M in connection with any financial statements or other financial information of the City of Fayetteville. In addition, our engagement is not designed and cannot be relied upon to disclose errors, fraud or illegal acts that may exist. However, we will inform you of any such matters that come to our attention.

3. **Use of Report** – At the conclusion of our project activities, we will provide you with a written report as described in the engagement letter. Our report will be restricted solely to use by management of the City of Fayetteville and you agree that our report will not be distributed to any outside parties for any purpose other than to carry out legal responsibilities of the City of Fayetteville. We will have no responsibility to update our report for any events or circumstances that occur or become known subsequent to the date of that report.
4. **Confidentiality, Ownership and Retention of Workpapers** – During the course of this engagement, P&M and P&M staff may have access to proprietary information of the City of Fayetteville, including, but not limited to, information regarding trade secrets, business methods, plans, or projects. We acknowledge that such information, regardless of its form, is confidential and proprietary to the City of Fayetteville, and we will not use such information for any purpose other than our consulting engagement or disclose such information to any other person or entity without the prior written consent of the City of Fayetteville.

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In some circumstances, we may use local or international third-party service providers or P&M affiliates to assist us with our engagement. In order to enable these service providers to assist us in this capacity, we must disclose information to these service providers that is relevant to the services they provide. Disclosure of such information shall not constitute a breach of the provisions of this agreement.

In the interest of facilitating our services to you, we may communicate or exchange data by internet, e-mail, facsimile transmission or other methods. While we use our best efforts to keep such communications and transmissions secure in accordance with our obligations under applicable laws and professional standards, you recognize and accept that we have no control over the unauthorized interception of these communications or transmissions once they have been sent, and consent to our use of these electronic devices during this engagement.

Professional standards require that we create and retain certain workpapers for engagements of this nature. All workpapers created in the course of this engagement are and shall remain the property of P&M. We will maintain the confidentiality of all such workpapers as long as they remain in our possession.

Both the City of Fayetteville and P&M acknowledge, however, that we may be required to make our workpapers available to regulatory authorities or by court order or subpoena. Disclosure of confidential information in accordance with requirements of regulatory authorities or pursuant to court order or subpoena shall not constitute a breach of the provisions of this agreement. In the event that a request for any confidential information or workpapers covered by this agreement is made by regulatory authorities or pursuant to a court order or subpoena, we agree to inform the City of Fayetteville in a timely manner of such request and to cooperate with the City of Fayetteville should you attempt, at your cost, to limit such access. This provision will survive the termination of this agreement.

We reserve the right to destroy, and it is understood that we will destroy, workpapers created in the course of this engagement in accordance with our record retention and destruction policies, which are designed to meet all relevant regulatory requirements for retention of workpapers. P&M has no obligation to maintain workpapers other than for its own purposes or to meet those regulatory requirements.

Upon the City of Fayetteville's written request, we may, at our sole discretion, allow others to view any workpapers remaining in our possession if there is a specific business purpose for such a review. We will evaluate each written request independently. You acknowledge and agree that we will have no obligation to provide such access or to provide copies of our workpapers, without regard to whether access had been granted with respect to any prior requests.

5. **Fee Estimates** – In any circumstance where we have provided estimated fees, fixed fees or not to exceed fees, these estimated, fixed or not-to-exceed fees are based on the City of Fayetteville personnel providing P&M staff the assistance necessary to satisfy the City of Fayetteville responsibilities under the scope of services. This assistance includes availability and cooperation of those the City of Fayetteville personnel relevant to our project activities and providing needed information to us in a timely and orderly manner. In the event that undisclosed or unforeseeable facts regarding these matters causes the actual work required for this engagement to vary from our estimates, our estimated fees will be adjusted for the additional time we incur as a result.

In any circumstance where our work is rescheduled, we offer no guarantee, express or implied, that we will be able to meet any previously established deadline related to the completion of our work. Because rescheduling our work imposes additional costs on us, in any circumstance where we have

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provided estimated fees, those estimated fees may be adjusted for additional time we incur as a result of rescheduling our work.

Any fee adjustments will be determined in accordance with the Fee Adjustments provision of this agreement.

6. **Payment Terms** – Our invoices for professional services are due upon receipt unless otherwise specified in our engagement letter. In the event any of our invoices are not paid in accordance with the terms of this agreement, we may elect, at our sole discretion, to suspend work until we receive payment in full for all amounts due or terminate this engagement. In the event that work is suspended, for nonpayment or other reasons, and subsequently resumed, we offer no guarantee, express or implied, that we will be able to meet any previously established deadlines related to the completion of our consulting work or issuance of our consulting report upon resumption of our work.
7. **Fee Adjustments** – Any fee adjustments for reasons described in this agreement will be determined based on the actual time that P&M staff expend at the hourly rates stated in this agreement, plus all reasonable and necessary travel and out-of-pocket costs incurred, and included as an adjustment to our invoices related to this engagement. You acknowledge and agree that payment for all such fee adjustments will be made in accordance with the payment terms provided in this agreement.
8. **Termination of Engagement** – This agreement may be terminated by either party upon written notice. Upon notification of termination, our services will cease and our engagement will be deemed to have been completed. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination of this engagement.
9. **Hold Harmless and Indemnification** – As a condition of this engagement, the City of Fayetteville agrees to hold P&M, and all of its partners and staff, harmless against any losses, claims, damages, or liabilities, to which P&M may become subject in connection with services performed in the engagement, unless a court having jurisdiction shall have determined in a final judgment that such loss, claim, damage, or liability resulted primarily from the willful misconduct or gross negligence of P&M, or one of its partners or staff. This hold harmless includes the agreement to reimburse P&M for any legal or other expenses incurred by P&M, as incurred, in connection with investigating or defending any such losses, claims, damages, or liabilities. This provision shall survive any termination of this engagement.
10. **Conflicts of Interest** – Our engagement acceptance procedures include a check as to whether any conflicts of interest exists that would prevent our acceptance of this engagement. No such conflicts have been identified. You understand and acknowledge that P&M may be engaged to provide professional services, now or in the future, unrelated to this engagement to parties whose interests may not be consistent with yours.
11. **Agreement Not to Influence** – the City of Fayetteville and P&M each agree that each respective organization and its employees will not endeavor to influence the other's employees to seek any employment or other contractual arrangement with it, during this engagement or for a period of one year after termination of the engagement. The City of Fayetteville agrees that P&M employees are not "contract for hire." P&M may release the City of Fayetteville from these restrictions if the City of Fayetteville agrees to reimburse P&M for its recruiting, training, and administrative investment in the applicable employee. In such event, the reimbursement amount shall be equal to two hundred hours of billings at the hourly rate stated in this agreement for the P&M employee.

End of Professional Services Agreement – Consulting Services

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5.2 Resumes

Adam Rujan



Present Position:

Partner
Technology Consulting & Solutions

Experiences Include:

Technology Planning: Experience in developing strategic technology plans and conducting information technology assessments for governmental clients that includes the establishment of technology strategies and recommended projects. Through these efforts, he has gained a vast level of experience on technologies relevant to the various areas of government including ERP solutions, CRM solutions, imaging technologies, wireless technologies and others.

Process Redesign and Information Technology Assistance: Projects typically include assisting clients realize the full potential of technology, including re-engineering, productivity improvement, benefits realization analyses and post implementation reviews. Experiences also include project management system implementation, planning and selection, and data processing internal controls reviews.

Organization and Management Studies: Engagements have varied from analysis of specific functional activities to comprehensive studies of underlying operating policies, procedures, and organizational principles. Analyses have included reviewing resource utilization, future roles and levels of service to be provided, alignment of programs and services, communication channels and working relationships within and outside the organization, supervisory management styles and practices, position requirements and skill levels, administrative practices and training requirements.

Operations & Financial Analysis: Project objectives typically focus on increasing efficiency, identifying and evaluating alternative methods for revenue enhancement, cost/benefit studies. Specific activities have included detailed review and analysis of operational policies and procedures, operational controls, reporting and administrative controls, fiscal and reimbursement practices, the identification of non-value added work activities, and process re-engineering.

Change Management Assistance: Assisted various organizations in understanding and applying the concepts of Change Management and assessing readiness for Change. Engagements have varied from staff and customer surveys and assessments to modifying organizational structures and developing staff training programs. Critical components of our approach typically include empowering client work groups and coaching staff in evaluating various available options for change.

Prior Organizational Affiliations:

Detroit Medical Center; Detroit, Michigan

- Manager of Consulting Services in the Management Consulting Group, experience included:
- Implemented and monitored ongoing productivity management systems.
- Developed and implemented nursing patient classification systems.
- Conducted operational reviews for hospitals, ambulatory care and health care related organizations.
- Managed a small staff of computer and management engineering professionals

Education:

University of Michigan – Master of Business Administration
Wayne State University – Bachelor of Industrial Engineering

Professional Affiliations:

- Public Technology Institute (PTI)
- Metropolitan Affairs Coalition, Board member
- Michigan Government Finance Officers Association (MGFOA), past Board member
- Government Finance Officers Association (GFOA)

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Dennis Bagley

Present Position:

Senior Manager
Technology Consulting & Solutions



Experiences Include:

Project Management: Assists clients to ensure technology planning, selection implementation and process improvement projects are delivered on-time and within budget. Provides project management oversight on both system implementation and system development projects. Manages projects using project management body of knowledge (PMBOK) tools and techniques. Project management efforts include: issues management, resource management, scope management, change management, quality assurance, status reporting and meetings, budget/cost management, procurement and risk management. Prepares and presents project status, budgets and other reports to Management Teams and Executives and recommends strategies for improving project results. Develops detailed project plans and budgets using Microsoft Project.

Information Technology Assessment and Planning: Assists clients with the assessment of their existing information technology capabilities with respect to IT organization, administration and application software. Prepares Information Technology Strategic Plans to ensure alignment of IT strategies with overall organization strategies. Identifies and ensures maximum realization of return on investment in IT. Projects included strategies for deployment of enterprise resource planning (ERP), document imaging, accounting, payroll and other information systems. Prepares multi-year technology plans and budgets and presents to Boards, Executives and Management Teams.

Process Improvement and Operations Reviews: Assists clients with projects to improve performance of their internal business processes. Conducts benchmark and best practices research and prepares process measures and performance improvement systems. Results include significant elimination of wasted activities, and investment in information technology aimed at greater than 2:1 return on investment. Designed and developed process improvement tools which are used on a Firm-wide basis.

Information Systems Selection: Assists numerous clients in the evaluation and selection of enterprise resource planning (ERP) and other information systems. Conducts focus group sessions and ensure maximum participation by staff in order to increase the chances of project success. Prepares detailed software requirements, compiled customized vendor lists, prepared comprehensive Request for Proposal (RFP) documents, and assists clients with analysis of proposals and identification of preferred vendors.

Information Technology Budgeting and Contract Negotiations. Assists clients with preparation of multi-year information technology cost projections encompassing all operating and capital expenditures. Prepares detailed financial models and impacts of IT expenditures on financial statements.

Contract Negotiations: Assists numerous clients with IT contract negotiations resulting in overall cost reduction and improvement in service levels. Negotiated over 20 contracts during the past three years resulting in \$100,000+ client savings in many cases. Assists clients with contract negotiations involving software license, maintenance and support, services, hardware, hosting and outsourcing.

Prior Organizational Affiliations:

Delta Dental Plan of Michigan

Senior Business Systems Analyst. Developed large scale information systems, managed the on-going development efforts of third party software developers, managed internal programming efforts for on-going maintenance of existing systems, and assisted in developing guidelines for software quality assurance. Wrote custom reports using report writer and data extraction tools.

Coopers & Lybrand

Consultant. Assisted clients in the development of information systems, managed the development efforts of a third party software vendor, assisted in the development of a large-scale systems implementation plan, and selected, implemented and managed a local area network. Wrote and tested programs written in COBOL, C, PL/1, Fortran, Pascal and JCL.

Education:

University of Michigan, Ann Arbor, Michigan; Master of Business Administration

Rotterdam School of Management (RSM), Erasmus University, Rotterdam, the Netherlands; MBA International Exchange Program

University of Michigan-Dearborn, Dearborn, Michigan; Bachelor of Science, Computer Science

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Sri Chalasani

Present Position

Senior Systems Engineer
Technology Consulting & Solutions



Experience includes:

Strategic Planning: Participate in long term technology plan meetings for customers. Develop short and long term strategies (planning & budgets) to accomplish plan objectives. Collect and interpret quantitative and qualitative data for design considerations. Technical lead to develop high level network architectures and design standards that blends client requirements with industry best practices.

Network System Design: Consulted on numerous projects involving needs assessments, design, specification (RFI/RFP/RFQ) and selection of Local & Wide Area Networks (LAN/WAN) ranging from single site to multi-site environments. Network design, specifications and analysis involved technologies such as: Wide / Metro Area Network (Fiber Infrastructure & Bandwidth Services), Local and Wide Area Network Electronics (Ethernet & ATM), Voice Over IP (VoIP) Systems with Unified Messaging, Wireless Access & Security (hotzones & hotspots), Centralized Network Security Systems, Video Conferencing Systems (H.320 / H.321 / H.323), IP based Video Broadcast, Video-On-Demand, and Surveillance Systems, Server Farms, Desktop Systems & Peripherals, Networks Attached Storage (NAS) and Storage Area Network (SAN) solutions, Server Load Balancing, Network Management Systems & Software, and Support & Maintenance Services. Post equipment/services procurement responsibilities include participation and development of physical and logical network plans for client's internal or third party integration teams, establish equipment configuration requirements and guidelines, and performance requirements.

Broadband Wireless Systems: Technical consulting on building, city, and county wide broadband wireless solutions (hotspots & hotzones). Responsibilities are to translate the vision and goals of the client into technical solutions and specifications.

Research & Business Analysis: Conduct research and business analysis for system migration. This involved researching multiple solutions, analyze solutions against client requirements, and provide business case analysis including budgeting, ROI, and migration timelines.

Network & Security Auditing: Conduct technology audit on customer's network that involved a detailed analysis and reporting of clients' network and system infrastructure. Conduct network performance analysis to identify and rectify network / application related issues. Conduct internal and external IT security audits using ethical hacking procedures to identify network vulnerabilities. Create detailed reports on identified vulnerabilities and associated remediation's.

Network Systems Project Management: Responsible for providing project management oversight on network implementation projects to include coordination across multiple vendors, establish and maintain schedules. Other responsibilities include progress tracking, evaluate project implementations to stated design specifications, conflict resolution, manage change order controls, conduct punch list audits, and eventual sign-off for the project.

Prior Organizational Affiliations

Innovate Technology Consulting Group

Technical consulting services on planning, design, project management and implementation of integrated technology solutions primarily for public sector organizations.

Education

Wayne State University — Master of Business Administration

Western Michigan University — Master of Science (Computer Sciences)

Bangalore University — Bachelor of Engineering (Electronics & Communications)

Professional Affiliations and Certifications

- Advanced Networking Technologies
- VoIP & Unified Messaging Systems
- Video Over IP Systems (video streaming and video conferencing)
- Metro Wireless Solutions
- Project Management

Proposal to Provide
Information Technology Consulting Assessment Services

Laurie Zyla

Present Position

Consultant
Technology Consulting & Solutions



Experience

Technology Planning: Experience with technology planning and assessment projects. Assists government clients with short- and long-range technology planning; budgeting; project management; system selection; and vendor and staff management. Projects included needs assessments, requirements definition, vendor selection and contract negotiation. Also assists clients with strategic planning, including assessing and managing the impact of technology implementation on client operations.

Technology Implementation: Experience with the full lifecycle of design and implementation of network infrastructure for a major global telecommunications organization. Assists clients with management and implementation of software, hardware, operating systems, and network infrastructure. Implementation responsibilities include project management, selection, implementation planning, budgeting, staffing, training, business process improvement and evaluation.

Technology Support: Experience supporting e-Business infrastructure, including server configuration and maintenance, customer support, data security, system monitoring, and project management. Assists in providing on-going network management and administration services to government clients.

Government Programs: Experience working with government and community groups to support initiatives like economic development, coalition development, collaborative solutions, and e-government. Assists clients with organization development, constituent research, community-based solutions, and establishing government partnerships.

Prior Organizational Affiliations

Motorola, Inc.

Systems Engineer, Global e-Business Internet Strategies – Maintained hardware and software components of corporate e-Business environment; designed project infrastructure/architecture; facilitated system monitoring and backups; managed the full lifecycle of new website projects

Education

Brandeis University – Master of Business Administration

University of Michigan – Bachelor of Science, Computer Science

Affiliations and Certifications

- Net Impact – New Leaders For Better Business
- Michigan Suburbs Alliance

Proposal to Provide
Information Technology Consulting Assessment Services

John Bissa

Present Position

Partner
Web Development Team



Experiences Include

Web Application Strategy and Implementation Management: Developed web strategy and planning documents for a wide variety of public and private sector clients. Assisted clients in the development of Internet/intranet application priorities and budgets. Managed large, multi-discipline teams during the implementation of full-function web sites, including content management and portal solutions, e-Commerce and multi-language sites.

Interim Information Technology Management: Provided IT leadership and management functions for various clients as a direct report to the executive management. Responsibilities included vendor and staff management, budgetary authority, system and vendor selection and systems implementation planning.

Project Management: Extensive project management experience over a wide range of technology implementation projects. Responsibilities include managing meetings, correspondence, budgets, vendor-client interaction, and vendor responsiveness. Completed several courses in preparation for PMP designation.

Information Systems Selection: Assisted public and private sector clients in the selection of information technology systems and software. Prepared detailed software and hardware specifications and prepared comprehensive Request for Proposal documents. Analyzed proposals and identified preferred vendors. Application software includes public safety systems, integrated financial and accounting systems, education support systems, and judicial management systems.

Prior Organizational Affiliations

Naval Aviator, United States Navy

Education

- United States Naval Academy – Bachelor of Science, General Engineering/Political Science
- The Catholic University of America – Master of Arts, International Affairs
- The University of Florida – Master of Business Administration



For more information contact:

Adam Rujan, Partner

1-800-544-0203

Adam.Rujan@plantemoran.com

plantemoran.com



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8220
TDD (Telecommunication Device for the Deaf): 479.521.1316

REQUEST FOR PROPOSAL: RFP 10-11, City-wide Information Technology Assessment
DEADLINE: Thursday, July 22, 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: Friday, July 2, 2010

REQUEST FOR PROPOSAL
RFP 10-11, City-wide Information Technology Assessment

No late proposals will be accepted. RFP's shall be submitted in sealed envelopes labeled "RFP 10-11, City-wide Information Technology Assessment" with the name and address of the bidder.

All Proposals shall be submitted in accordance with the attached City of Fayetteville specifications and bid 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. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

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: Plante & Moran, PLLC

Contact Person: Adam Rujan Title: Partner

E-Mail: adam.rujan@plantemoran.com Phone: 800.544.0203

Business Address: 27400 Northwestern Hwy

City: Southfield State: Michigan Zip: 48034

Signature:  Date: July 21, 2010

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION C: Statement of Disclosure – To Be Submitted With ALL Proposals

This page does not count towards page limitations set forth in this request for proposal or bid.

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

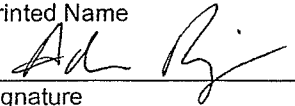
 X 1) NO KNOWN RELATIONSHIP EXISTS

 2) RELATIONSHIP EXISTS (Please explain)

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

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

Adam Rujan, Partner

Printed Name


Signature
July 21, 2010

Date

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION D: 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: Plante & Moran, PLLC

Name of Primary Contact: Adam Rujan

Title of Primary Contact: Partner

Phone#1 (cell preferred): 248-223-3328 Phone#2: _____

E-Mail Address: adam.rujan@plantemoran.com

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: _____

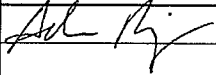
E-Mail Address: _____

Date: July 21, 2010

Signed: 

City of Fayetteville
RFP 10-11, City-wide Information Technology Assessment
SECTION E: Addendum Acknowledgement Form

Please acknowledge receipt of addenda for this invitation to bid or request for proposal by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE RECEIVED
1	 Adam Rujan, Partner	July 19, 2010

Note: Prior to submitting the response to this solicitation, it is the responsibility of the firm submitting a response to confirm if any addenda have been issued. If such document(s) has been issued, acknowledge receipt by signature and date in the section above. Failure to do so may result in being considered non-responsive.

Information regarding addenda issued is available on the City of Fayetteville website under the Purchasing Division at www.accessfayetteville.org by selection "Bid's, RFP's, and RFQ's" under the "Business" heading.

City of Fayetteville Staff Review Form

A. 6
2010 Justice Assistance Grant
Local Solicitation Award
Page 1 of 18

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

9/7/2010

City Council Meeting Date
Agenda Items Only

G. Tabor
Submitted By

Patrol
Division

Police
Department

Action Required:

Acceptance of the 2010 Justice Assistance Grant (JAG) Local Solicitation award and approval of a budget adjustment in the amount of \$108,419.00. This grant does not require any matching funds.

\$ 108,419.00
Cost of this request

\$ 108,419.00
Category / Project Budget

JAG Local Solicitation - 2010
Program Category / Project Name

1010-2920-various
Account Number

\$ -
Funds Used to Date

Grant
Program / Project Category Name

09022-2010
Project Number

\$ 108,419.00
Remaining Balance

General
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

08-19-10 P03:32 RCVD

Chief of Staff

Date

Received in
Mayor's Office



Mayor

Date

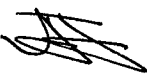
Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan

From: Greg Tabor, Chief of Police 

Date: August 20, 2010

Subject: 2010 Justice Assistance Grant Local Solicitation Award

PROPOSAL:

The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance has awarded the 2010 Justice Assistance Grant (JAG) for local agencies. This grant award is based in part on population and violent crime rates and is given to Fayetteville, Springdale and Washington County to share. This is the sixth year for this grant to be a shared grant with these other agencies.

The Fayetteville Police Department is the lead agency for this grant award in the amount of \$108,419. Fayetteville was awarded \$48,478 to be spent on a document scanner, handheld e-ticket system, miscellaneous furniture, and audio/video equipment. Within this grant award, Springdale will receive \$41,342 to purchase an automotive diagnostic computer and duty hand guns. Washington County will receive \$18,599 to purchase a sport utility vehicle. Please see budget detail worksheet for complete listing of purchases to be made with this grant funding.

RECOMMENDATION:

Staff recommends acceptance of the 2010 JAG Local Solicitation Grant Award and approval of a budget adjustment in the amount of \$108,419.00 for the purchase of law enforcement equipment. If you should have any comments or question regarding this grant award, please contact me at extension 500.

BUDGET IMPACT:

None. This grant does not require any local cash matching funds.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A 2010 U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$108,419.00 TO THE FAYETTEVILLE POLICE DEPARTMENT AS A LEAD AGENCY, 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 authorizes acceptance of a 2010 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Grant in the amount of \$108,419.00 to the Fayetteville Police Department as a lead agency.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached hereto as Exhibit "A."

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 6
2010 Justice Assistance Grant
Local Solicitation Award

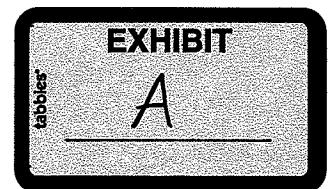
Budget Year 2010	Department: Police Division: Police Program: Police Projects	Request Date 9/7/2010	Adjustment Number
--------------------------------	--	-------------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

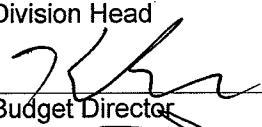
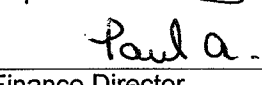
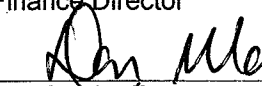
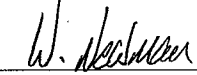
Non-matching grant funds from the 2010 JAG Local Solicitation grant award for the purchase of law enforcement equipment.

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

Recognize grant revenue from the 2010 JAG Local Solicitation grant award.



Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Minor Equipment	1010.2920.5210.00	48,478		09022 . 2010
Transfer to Springdale	1010.2920.5737.00	41,342		09022 . 2010
Transfer to Washington County Sheriff	1010.2920.5738.00	18,599		09022 . 2010
Federal Grants - Operational	1010.0001.4309.01		108,419	09022 . 2010
				:
				:
TOTAL		<u>108,419</u>	<u>108,419</u>	

Division Head  Date: 8-18-10 Budget Director  Date: 8-19-10 Department Director  Date: 8-20-2010 Finance Director  Date: 8-20-10 Chief of Staff  Date: 7/23/10 Mayor  Date:	Requested By  #NAME? Budget & Research Use Only Type: A B C <u>D</u> E Description: _____ 0 General Ledger Date _____ Posted to General Ledger Initial _____ Date _____ Posted to Project Accounting Initial _____ Date _____
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**Edward Byrne Memorial
JAG - Local Solicitation
FY 2010**

A. 6
2010 Justice Assistance Grant
Local Solicitation Award
Page 5 of 18

Budget Detail Worksheet

A. Personnel

Name/Position	Computation	Cost
		-
	Total Personnel	-

B. Fringe Benefits

Name/Position	Computation	Cost
		-
	Total Fringe Benefits	-

Total Personnel & Fringe Benefits \$ -

C. Travel

Purpose	Computation	Cost
		-
	Total Travel	-

\$ -

D. Equipment

Item	Computation	Cost
<u>City of Fayetteville</u>		
Kodak i1440 Scanner	1 scanner @ \$5,100 tax inc	\$ 5,100.00
Handheld E-ticket System w/ printer	1 E-ticket System @ \$5,678 tax inc	5,678.00
	Total Fayetteville Equipment	\$ 10,778.00

<u>City of Springdale</u>		
Modis Diagnostic Computer and Case	1 Computer @ \$5,725.58 tax inc	\$ 5,725.58
	Total Springdale Equipment	\$ 5,725.58

<u>Washington County Sheriffs Office</u>		
2wd Special Police SUV	1 Vehicle @ \$18,599 tax inc	\$ 18,599.00
	Total Washington County Equipment	\$ 18,599.00

Total Equipment \$ 35,102.58

E. Supplies

Item	Computation	Cost
<u>City of Fayetteville</u>		
Squad Room Furniture	Misc Furniture - see budget narrative	\$ 5,000.00
Briefing Room Furniture	Misc Furniture - see budget narrative	5,000.00
Briefing Room Media Equipment	Computer, LCD & Wiring @ \$3,000 tax inc	3,000.00
Motorcycle Communication System	3 Comm Systems @ \$2,520 each tax inc	7,560.00
Interview Room Audio/Video Equipment	3 A/V Systems @ \$2,166.66 each	6,500.00
Security Door Lock System - CID	1 Security System @ \$2,820 tax inc	2,820.00
Criminal Investigation Division Furniture	Misc Furniture - see budget narrative	5,000.00
Bravo Pro DVD-burner Replacement	1 DVD-burner @ \$2,820 tax inc	2,820.00
	Total Fayetteville Equipment	\$ 37,700.00

<u>City of Springdale</u>		
Glock Duty Hand Gun	89 Hand Guns @ \$148.78 each tax inc	\$ 13,241.42
Blackhawk Holsters and Zippos Light	125 Holsters/Lights @ \$179 each tax inc	22,375.00
	Total Springdale Equipment	\$ 35,616.42

Total Supplies \$ 73,316.42

Budget Detail Worksheet

F. Construction

Purpose

Cost

-

Total Construction

-

G. Consultants

Name of Consultant

Cost

-

Total Consultants

-

H. Other Costs

Description

Cost

-

Total Other Costs

-

Budget Total

\$ 108,419.00



Department of Justice
Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs

Washington, D.C. 20531

August 18, 2010

The Honorable Lioneld Jordan
City of Fayetteville
100 A. West Rock Street
Fayetteville, AR 72701-6069

Dear Mayor Jordan:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 10 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation in the amount of \$108,419 for City of Fayetteville.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Jennifer Lague, Program Manager at (202) 305-8064; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Burch II", is located below the word "Sincerely,".

James H. Burch II
Acting Director

Enclosures



Department of Justice
Office of Justice Programs
Office for Civil Rights

Washington, D.C. 20531

August 18, 2010

The Honorable Lioneld Jordan
City of Fayetteville
100 A. West Rock Street
Fayetteville, AR 72701-6069

Dear Mayor Jordan:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial aid from OJP, its component offices and bureaus, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) comply with applicable Federal civil rights statutes and regulations. We at OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

Ensuring Access to Federally Assisted Programs

As you know, Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

Ensuring Equal Treatment for Faith-Based Organizations

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the Department of Justice funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see OCR's website at <http://www.ojp.usdoj.gov/ocr/etfbo.htm>.

State Administering Agencies and faith-based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit faith-based organizations applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to this Office.

Enforcing Civil Rights Laws

All recipients of Federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements: (1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEO), 28 C.F.R. § 42.301-.308, and (2) submitting to OCR Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

1) Meeting the EEO Requirement

In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8.B, or certain Federal grant program requirements, your organization must comply with the following EEO reporting requirements:

If your organization has received an award for \$500,000 or more and has 50 or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare an EEO and submit it to OCR for review **within 60 days from the date of this letter**. For assistance in developing an EEO, please consult OCR's website at <http://www.ojp.usdoj.gov/ocr/eop.htm>. You may also request technical assistance from an EEO specialist at OCR by dialing (202) 616-3208.

If your organization received an award between \$25,000 and \$500,000 and has 50 or more employees, your organization still has to prepare an EEO, but it does not have to submit the EEO to OCR for review. Instead, your organization has to maintain the EEO on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eop.htm>.

If your organization received an award for less than \$25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEO requirement. However, your organization must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eop.htm>.

2) Submitting Findings of Discrimination

In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against your organization after a due process hearing, on the ground of race, color, religion, national origin, or sex, your organization must submit a copy of the finding to OCR for review.

Ensuring the Compliance of Subrecipients

If your organization makes subawards to other agencies, you are responsible for assuring that subrecipients also comply with all of the applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEO, reporting Findings of Discrimination, and providing language services to LEP persons. State agencies that make subawards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

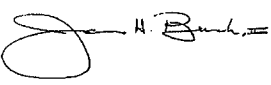
If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at <http://www.ojp.usdoj.gov/ocr/>.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

 Department of Justice Office of Justice Programs Bureau of Justice Assistance		Grant		PAGE 1 OF 5																
1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Fayetteville 100 A. West Rock Street Fayetteville, AR 72701-6069		4. AWARD NUMBER: 2010-DJ-BX-0533																		
		5. PROJECT PERIOD: FROM 10/01/2009 TO 09/30/2013 BUDGET PERIOD: FROM 10/01/2009 TO 09/30/2013																		
		6. AWARD DATE 08/18/2010	7. ACTION																	
1A. GRANTEE IRS/VENDOR NO. 716018462		8. SUPPLEMENT NUMBER 00		Initial																
		9. PREVIOUS AWARD AMOUNT \$ 0																		
3. PROJECT TITLE 2010 JAG Local Solicitation		10. AMOUNT OF THIS AWARD \$ 108,419																		
		11. TOTAL AWARD \$ 108,419																		
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).																				
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY10 (BJA - JAG) 42 USC 3750, et seq.																				
15. METHOD OF PAYMENT GPRS																				
AGENCY APPROVAL		GRANTEE ACCEPTANCE																		
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL James H. Burch II Acting Director		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Lionel Jordan Mayor																		
17. SIGNATURE OF APPROVING OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL		19A. DATE																
AGENCY USE ONLY																				
20. ACCOUNTING CLASSIFICATION CODES <table border="1"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>OFC.</th> <th>DIV. REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>108419</td> </tr> </tbody> </table>		FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT	X	B	DJ	80	00	00		108419	21. JDJUGT1328		
FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT													
X	B	DJ	80	00	00		108419													

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Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 2 OF 5

PROJECT NUMBER 2010-DJ-BX-0533

AWARD DATE 08/18/2010

SPECIAL CONDITIONS

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.
3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

mail:

Office of the Inspector General
U.S. Department of Justice
Investigations Division
950 Pennsylvania Avenue, N.W.
Room 4706
Washington, DC 20530

e-mail: oig.hotline@usdoj.gov

hotline: (contact information in English and Spanish): (800) 869-4499

or hotline fax: (202) 616-9881

Additional information is available from the DOJ OIG website at www.usdoj.gov/oig.

6. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.
7. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.



Department of Justice
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**AWARD CONTINUATION
SHEET
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PROJECT NUMBER 2010-DJ-BX-0533

AWARD DATE 08/18/2010

SPECIAL CONDITIONS

8. To support public safety and justice information sharing, OJP requires the grantee to use the National Information Exchange Model (NIEM) specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas generated as a result of this grant to the component registry as specified in the guidelines. For more information on compliance with this special condition, visit <http://www.niem.gov/implementationguide.php>.
9. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.
10. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocr/equal_fbo.htm.
11. The recipient acknowledges that all programs funded through subawards, whether at the state or local levels, must conform to the grant program requirements as stated in BJA program guidance.
12. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.
13. The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to <http://www.it.ojp.gov/default.aspx?area=policyAndPractice&page=1046>.
14. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
15. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
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Grant**

PAGE 4 OF 5

PROJECT NUMBER 2010-DJ-BX-0533

AWARD DATE 08/18/2010

SPECIAL CONDITIONS

16. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <http://www.ojp.usdoj.gov/BJA/resource/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

17. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to the Bureau of Justice Assistance no later than 90 days after the end of the grant period, along with the final submission of the Federal Financial Report (SF-425).
18. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.



Department of Justice
 Office of Justice Programs
 Bureau of Justice Assistance

**AWARD CONTINUATION
 SHEET
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AWARD DATE 08/18/2010

SPECIAL CONDITIONS

19. Award recipients must submit quarterly a Federal Financial Report (SF-425) and annual performance reports through GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.
20. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.
21. The grantee agrees that within 120 days of award acceptance, each member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). All current and new task force members are required to complete this training once during the life of the award, or once every four years if multiple awards include this requirement. This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).
22. Recipient may not expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received documentation demonstrating that the state or local governing body review and/or community notification requirements have been met and has issued a Grant Adjustment Notice (GAN) releasing this special condition.



Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Fayetteville

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <http://www.ojp.usdoj.gov/BJA/resource/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

	Department of Justice Office of Justice Programs Bureau of Justice Assistance		GRANT MANAGER'S MEMORANDUM, PT. I PROJECT SUMMARY Grant	
	PROJECT NUMBER 2010-DJ-BX-0533	PAGE 1 OF 1		
This project is supported under FY10 (BJA - JAG) 42 USC 3750, et seq.				
1. STAFF CONTACT (Name & telephone number)		2. PROJECT DIRECTOR (Name, address & telephone number)		
Jennifer Luge (202) 305-8064		Judy Cohea Support Services Manager 100-A West Rock Street Fayetteville, AR 72701-6191 (479) 587-3581		
3a. TITLE OF THE PROGRAM FY 2010 Justice Assistance Grant Program			3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)	
4. TITLE OF PROJECT 2010 JAG Local Solicitation				
5. NAME & ADDRESS OF GRANTEE		6. NAME & ADDRESS OF SUBGRANTEE		
City of Fayetteville 100 A. West Rock Street Fayetteville, AR 72701-6069				
7. PROGRAM PERIOD FROM: 10/01/2009 TO: 09/30/2013		8. BUDGET PERIOD FROM: 10/01/2009 TO: 09/30/2013		
9. AMOUNT OF AWARD \$ 108,419		10. DATE OF AWARD 08/18/2010		
11. SECOND YEAR'S BUDGET		12. SECOND YEAR'S BUDGET AMOUNT		
13. THIRD YEAR'S BUDGET PERIOD		14. THIRD YEAR'S BUDGET AMOUNT		
15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse) The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation). The disparate jurisdictions consisting of the city of Fayetteville, Washington County, and the city of Springdale will share this JAG award in the amount of \$108,419. The city of Fayetteville, serving as the fiscal agent, will utilize \$48,478 to purchase a scanner, handheld e-ticket system, furniture, motorcycle				

communication systems, audio and visual equipment, security door lock system, and a DVD burner. Washington County will utilize \$18,599 to purchase a patrol vehicle. The city of Springdale will utilize \$41,342 to purchase a computer, handguns, holsters, and lights.

NCA/NCF

City of Fayetteville Staff Review Form

A. 7
Access Management Plan Agreement
Amendment (State Highway 265)
Page 1 of 14

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

9/7/2010

City Council Meeting Date
Agenda Items Only

Chris Brown Engineering Development Services
Submitted By Division Department

Action Required:

A Resolution Approving an Amendment to the Access Management Plan Agreement for Highway 265 in Fayetteville

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

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature] 08-19-2010 Previous Ordinance or Resolution # 34-09
Department Director Date

[Signature] 8-20-10 Original Contract Date: _____
City Attorney Date Original Contract Number: _____

[Signature] 8/23/10
Finance and Internal Services Director Date

[Signature] 8/24/10
Chief of Staff Date

[Signature] 8/23/10
Mayor Date

Received in City Clerk's Office 08-20-10 12:08 RCVD

Kim G.

Received in Mayor's Office

ENTERED
8/20/10
P.H.

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

Council Meeting of September 7, 2010

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

From: Chris Brown, City Engineer *CB*

Date: August 18, 2010

Subject: A Resolution Approving an Amendment to the Access Management Plan Agreement for Highway 265 in Fayetteville

PROPOSAL:

Arkansas Highway 265 is planned for widening and improvement by the Arkansas Highway and Transportation Department (AHTD) in 2010-2012. Planned improvements include widening to 4 lanes between Mission Boulevard and Joyce Boulevard, with a center turn lane between Mission Blvd. and Township Street, and a center median between Township and Joyce, with median breaks in 4 locations: Ferguson Avenue/Candlewood Drive, Old Wire Road, Par Court, and Joyce Blvd.

As part of the planning and development of this project, the attached Access Management Plan was prepared and approved by the City of Fayetteville, AHTD, and the Northwest Arkansas Regional Planning Commission in 2009. The plan includes the following general design concepts:

- Median breaks generally spaced at ¼ mile intervals
- Traffic signals generally spaced at ½ mile intervals
- Allowance for u-turns at all median breaks
- Allowance for additional median breaks, "if there is an identified safety or operational problem, or both, at an adjacent intersection with an existing median break".

Recently, the Engineering Division received a request for an additional median break on Highway 265 at Coy Kaylor Drive, between Joyce Blvd. and Par Court, to provide for left turns into and out of Coy Kaylor Drive. A traffic study prepared by Peters and Associates, Inc. and submitted with this request includes the following statements:

- Northbound u-turns at Joyce Blvd. and southbound u-turns at Par Court will be reduced by adding a median break at Coy Kaylor
- Vehicle delays due to u-turns will be reduced at Joyce Blvd. during the pm peak hour, and at Par Court both in the am and pm peak hours by adding a median break at Coy Kaylor
- There are no identified adverse impacts on the north-south through vehicle movements on Highway 265 with a median break at Coy Kaylor

It should be noted that the amendment to the Access Management Plan Agreement between the City, NWARPC, and AHTD must be approved by all three entities. If this amendment is approved by the City Council, staff will notify the other two entities of this approval and will request their consideration of the amendment.

RECOMMENDATION:

Staff recommends approval of an amendment to the Access Management Plan Agreement for Highway 265 to allow a full median break at Coy Kaylor Drive, with the stipulation that u-turns will not be accommodated at this location. This recommendation is made for the following reasons:

- Coy Kaylor is located approximately 0.17 miles from the Joyce Blvd intersection; therefore, locating a median break in this location would not be inconsistent with the Access Management Plan intent of median breaks generally spaced at $\frac{1}{4}$ (0.25) mile intervals
- This median break will serve a 135 unit apartment complex, as compared to the 72 residences served by the median break at Par Court, and the 24 units served by a median break at Sterling Court north of Joyce Boulevard (in the next phase of Highway 265 improvements).
- The operation of the intersections of Hwy 265 with Joyce Blvd. and with Par Court will be improved due to the reduction of the number of u-turns at these intersections.
- Through vehicle movements (according to the traffic study prepared by Peters and Associates) on Highway 265 will not be adversely affected
- Accommodation of u-turns would require changes to the curb line, and possibly require additional right of way. Since u-turns can be made at both Joyce and at Par Court, allowance for them at this intersection is not necessary.

This item was presented to the Street Committee at the March 30, 2010 meeting. The Street Committee voted 4-0 to recommend approval by the City Council.

BUDGET IMPACT:

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE ACCESS
MANAGEMENT PLAN AGREEMENT, AS PREPARED BY THE
ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT, FOR
STATE HIGHWAY 265

**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 an amendment, a copy of which is attached as Exhibit "A," to the access management plan agreement, as prepared by the Arkansas Highway and Transportation Department, for State Highway 265.

PASSED and **APPROVED** this 7th day of September, 2010.

APPROVED:

ATTEST:

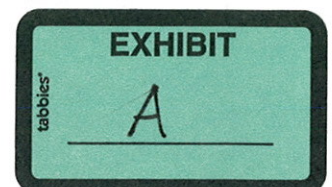
By: _____
LIONELD JORDAN, Mayor

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



ACCESS MANAGEMENT PLAN AGREEMENT For HIGHWAY 265 IN FAYETTEVILLE

- I. **PARTIES** – This agreement is made between the City of Fayetteville (the City), the Arkansas State Highway Commission (the Commission) acting through the Arkansas State Highway and Transportation Department (the Department) and the Northwest Arkansas Regional Planning Commission as the designated metropolitan planning organization for Northwest Arkansas under federal transportation regulations (the MPO). Although a very short portion of the east side of the corridor north and south of Clear Creek Drive is in the City of Springdale, Springdale is not a formal party to the agreement. However, Springdale officials have been consulted during the Plan development and will be consulted on the rare occasion that Springdale property may be impacted.
- II. **ROUTE** – This access management agreement pertains to Highway 265, also known as Crossover Road south of Clear Creek Drive and Old Missouri Road to the north, from the intersection with Township Street north to the intersection with Ivey Lane, (the Roadway). See Appendix A, Figure 1.
- III. **STATEMENT OF PURPOSE** – Highway 265 is a principal arterial on the City master street plan and serves as an intra-regional arterial roadway connecting the City to its economic region. The primary purpose for this agreement is to protect the capacity of the roadway to carry significant local and intra-regional traffic while increasing the safety for drivers, bicyclists, and pedestrians that use this facility. It is the intent of this agreement to provide access to abutting properties consistent with this objective.
- IV. **AUTHORITY** – Both the City and the Commission have specific legal authority to regulate access to public roads. In the case of the City, it is found in Arkansas Code Annotated 14-56-419. In the case of the Commission, it is found in Arkansas Code Annotated 27-65-107. The MPO is hereby granted standing in this access management agreement by the City and the Commission in recognition of its role in transportation planning within the metropolitan area.
- V. **ACCESS PLAN** – Management of access to the roadway is necessary to achieve the primary purpose of the agreement. The access management plan (the Plan) is detailed in Appendix A. The Plan is a Specific Access Management Plan in which all median breaks are specifically identified. Standards for driveways are also established to be applied during plat review



prior to development approval by the City. In addition, any property interconnect agreements and requirements or new local roadways needed to facilitate median construction are included in this Plan.

VI. AGREEMENT ADOPTION/TERMINATION/MODIFICATION – This agreement will be deemed adopted when passed in identical form by the Fayetteville City Council, the Northwest Arkansas MPO, and the Arkansas State Highway Commission and signed by their proper representatives. This agreement may be terminated or modified, in whole or in part only by mutual agreement of all of the parties as evidenced by resolutions adopted by each governing body.

VII. PLAN ADMINISTRATION –

A. Permit Application.

A permit issued by the Department will be required for new driveway access to the Roadway. Any legal person owning property abutting the Roadway may request a driveway access permit. The permit will be requested through a designated administrative process from the City of Fayetteville. The applicant is required to submit a detailed plan for the driveway including a map showing its exact location and a design that shows the curb radii, driveway throat width and length, and that specifies the projected volume of turns into and out of the driveway. Any joint access agreements with other property owners should also be submitted.

After review of the application, the City determines whether the request is within the allowable parameters established by the Plan. If so, the City stamps the detailed plan with a review signature block (Appendix B), signs it indicating approval, enters any approval conditions in the comment section, and returns to the applicant. The applicant will then submit the stamped plan to the Department's District 4 Permit Officer for review. If the City has approved the application as evidenced by the signature of a properly designated administrative representative and if the application meets all Department criteria for issuance of such a permit, the Department will sign the approval block and issue a permit to the applicant. If the signature of a designated City representative is missing from the permit application, the Department will not issue a permit.

In the rare case that a driveway permit is submitted to the Department in the short section within the City of Springdale, all signatories will be informed of

the application and will make a joint determination in consultation with the City of Springdale.

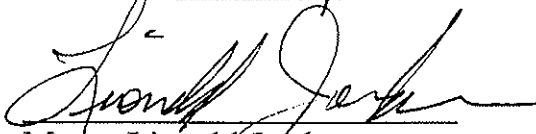
B. Amending the Plan.

A Plan amendment (variance) will be considered at the request of any of the parties to this agreement or at the request of an applicant whose permit request has been denied by any of the parties.

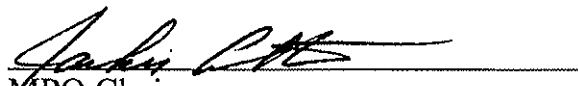
The proposed amendment must be adopted in identical form by the Fayetteville City Council, the Northwest Arkansas MPO, and the Arkansas State Highway Commission to become effective.

The Plan will be updated immediately after construction of each widened portion of the Roadway is completed to reflect any changes to driveway location due to that construction if necessary.

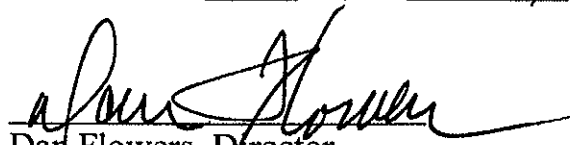
Pursuant to Resolution No. 34-09 of the Fayetteville City Council approved on the 3rd day of February, 2009


Mayor Lioneld Jordan

Pursuant to Resolution No. 2-09 of the Northwest Arkansas MPO approved on the 25th day of February, 2009

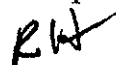

MPO Chairman

Pursuant to Minute Order No. 2009-021 of the Arkansas State Highway Commission approved on the 7th day of January, 2009


Dan Flowers, Director
Arkansas State Highway and Transportation Department







APPENDIX A

HIGHWAY 265 ACCESS MANAGEMENT PLAN

Design Concept

As a principal arterial, the proposed design for Highway 265 from Township to Ivey Lane (Figure 1) is intended to balance the need to provide for long distance travel on the roadway and reasonable access to abutting properties while at the same time maintaining the capacity of the roadway to operate in a safe and efficient manner. Consequently, access to abutting property is subordinate to the goal of traffic movement and subject to necessary management of entrances and exits.

Design Elements

Raised median-divided facility

- Median breaks generally spaced at 1/4 mile intervals
- Traffic signals generally spaced at 1/2 mile intervals

Future signal locations at median breaks will be determined by meeting warrants, on a case by case basis.

Future median breaks may be considered if there is an identified safety or operational problem, or both, at an adjacent intersection with an existing median break.

Quick turn-around (bulb-out) design at all median breaks to allow U-turns. Nine (9) full directional median breaks (identified by MB# on the following maps) with quick turnarounds at the following locations:

- MB #1 - Ferguson Avenue/Candlewood Drive,
- MB #2 - Old Wire Road,
- MB #3 - Par Court,
- MB #4 - Joyce Boulevard,
- MB #5 - Sterling Court,
- MB #6 - West Zion Road,
- MB #7 - East Zion Road,
- MB #8 - Hearthstone Drive, and
- MB #9 - Albright Road.

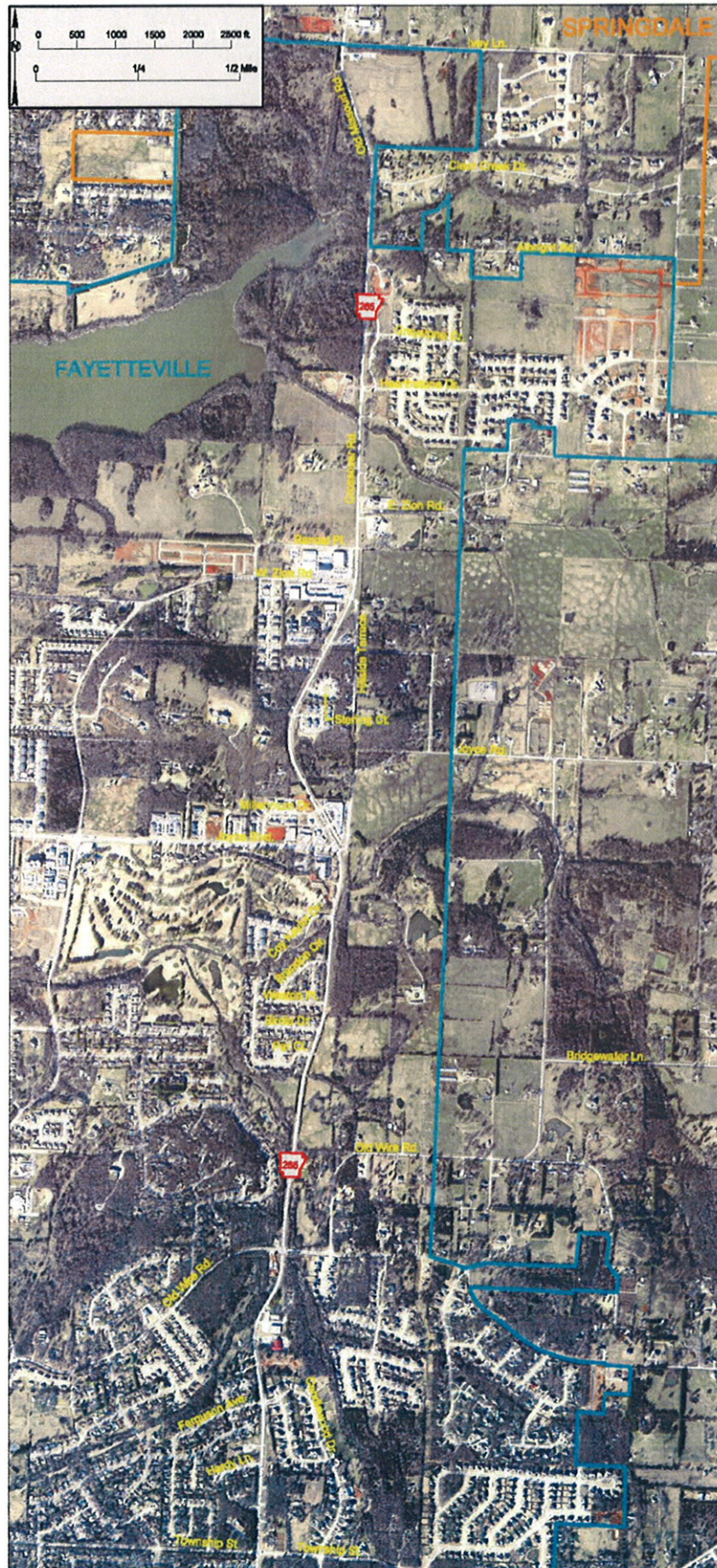


Figure 1 – Highway 265 Access Management Plan Corridor

Minimum access point (driveway or street intersection) spacing of 300 feet from centerline of driveway or street intersection. No parcels along the Roadway shall be subdivided into lot sizes too small to meet the minimum access point spacing requirement unless a written easement agreement is executed between adjacent properties.

Existing driveways (identified by ED# on the following maps) in place at the date of the adoption of this Plan that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions: (a) When new access connection permits are requested; (b) Upon expansion or improvements to commercial or multi-family residential property greater than 50 percent of the assessed property value or gross floor area or volume; or (c) As roadway improvements allow.

The location and number of existing driveways shall be updated and amended into the Plan immediately after construction of each widened portion of the Roadway is completed.

Property that fronts the Roadway and a lower-classification street should place higher priority on accessing the lower-classification street.



Figure 2
 Highway 265 Existing Driveways - Township to Joyce
 As of March 2008



ALDERMAN AGENDA REQUEST FORM

A. 8
Amend Resolution No. 76-06
Lierly Lane Subdivision
Page 1 of 32

FOR: COUNCIL MEETING OF September 07, 2010

FROM: Sarah Lewis

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

ADM 10-3649: (Lierly Lane Subdivision Amendment):

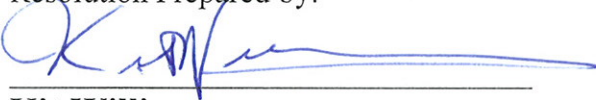
A resolution to amend Resolution 76-06 for Lierly Lane Subdivision

APPROVED FOR AGENDA:


Council Member Sarah Lewis

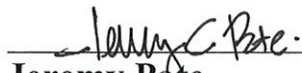
8/24/10
Date

Resolution Prepared by:


Kit Williams
City Attorney

8-23-2010
Date

Packet Prepared by:


Jeremy Pate
Director of Development Services

08.20.2010
Date

08-20-10P01:43 RCVD



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

From: Jeremy Pate, Development Services Director 

Date: August 19, 2010

Subject: ADM 10-3649 (Lierly Lane Subdivision Amendment)

RECOMMENDATION

City Council Member Sarah Lewis has sponsored this item to be considered by the City Council. Staff recommends the City Council adopt a resolution amending Resolution 76-06 to permit the owner of certain property within Lierly Lane Subdivision to reduce the amount of duplex units and increase the amount of single family units within the development, and to require the property owner to install improvements within the open space lot for neighborhood enjoyment and use, as described herein.

BACKGROUND

Lierly Lane Subdivision is located within the city limits, north of Clabber Creek and adjacent to the City's northwest Planning Area boundary. The subdivision was approved in 2005 for development in Washington County, to county standards, with a decentralized community septic system. In 2006 the developers petitioned the City of Fayetteville to permit public sanitary sewer to be extended outside the city limits and into the development, which is not permitted without express approval of the City Council. The City Council voted to approve the request, with several stipulations. Resolution 76-06 (attached) outlines these stipulations, which include requiring the developer to submit for annexation, payment of impact fees, installation of infrastructure, etc. As part of the agreement, the developer secured rights to construct 16 duplex lots and 43 single family lots, for a total of 75 units on 59 lots. The duplexes are considered non-conforming, as they are not permitted within the RSF-4 district unless by conditional use permit. The property was eventually annexed, infrastructure developed, and several of the lots were built upon.

DISCUSSION

The property being discussed with this request is comprised of lots 40, 50, 31, 32, 52-56 and 62 within Lierly Lane Subdivision, and is under different ownership than the original developer. There are ten lots, all undeveloped: five of these lots are duplex lots, four are single family lots, and Lot 62 is an open space lot containing 3.7 acres, formerly the location planned for the community septic system. The current owner wishes to change the manner in which these lots are developed by changing the duplex lots to single family lots and adding single family lots in a portion of the open space area to make up the difference. Ultimately several more single family lots will be created in the "Subject Area" identified on the maps; however, the density will remain close to the same, as the right to develop duplexes on five of the lots will be removed if the request is approved as proposed. In addition, the property owner proposed to develop the remaining 2 ½ acres as a park for neighborhood use.

- Lierly Lane Subdivision is shown on Exhibit A.
- Lots 31, 32, 40, 50 and 56 are duplex lots that would be converted to single family lots (Exhibit B).
 - Lot 40 (2 units) becomes 1 SF unit
 - Lot 50 (2 units) becomes 1 SF unit
 - The remaining lots in the "Subject Area" (lots 31-32, 52-56 and 62) would be reconfigured in a manner to allow for additional single family dwellings and a roughly 2.5 acre developed park. The current permitted number of units within this area is 10 (4 SF and 3 duplex). The proposed number would be 13 single family units. As mentioned before, the net increase overall in this proposal is one dwelling unit, when you reduce the duplex units otherwise permitted in the areas outside the subject area. While the exact layout has not been determined, several options are being considered (Exhibit C).
- The remaining portion of Lot 62 would be developed as a neighborhood park, with the owner committing to several amenities (Exhibit D) that will ensure the park meets a measurable standard. The construction of the park is recommended to be completed before the 8th building permit on the lots in question is issued.

Staff recommends approval of the resolution to amend Resolution 76-06, with the following conditions:

- 1) All of the duplex lots within the lots described in this proposal (Exhibit B) shall be converted to single family lots, and shall not be permitted to be constructed with a duplex.
- 2) Development of the additional lots shall conform to the Unified Development Code.
- 3) The park area shall consist of no less than 2.4 acres, and shall be constructed to the measurable standard as identified within the submitted documents (Exhibits C and D). The park shall be completed before the 8th building permit on the lots in question is issued.
- 4) Two separate points of public access to the park shall be retained, from Berseis Drive and from Cassius Lane. All documents shall reflect that the park is open for the use and enjoyment of the residents of the Lierly Lane neighborhood.
- 5) Parks fees shall be paid in accordance with the current fee structure, based upon the type and number of dwelling units constructed, prior to issuance of building permits.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO AMEND RESOLUTION NO. 76-06 TO AMEND THE SITE PLAN TO REPLACE FIVE DUPLEX LOTS WITH SINGLE FAMILY LOTS AND CHANGE THE LOT ONCE DESIGNATED FOR THE DECENTRALIZED COMMUNITY SEPTIC SYSTEM TO SINGLE FAMILY LOTS AND A DEVELOPED PARK OF ABOUT 2.5 ACRES

WHEREAS, on April 1, 2006, the Fayetteville City Council approved Resolution No. 76-06 allowing extension of city sewer to Lierly Lane Subdivision which adjoined our city limits and approved an Annexation Agreement with the development; and

WHEREAS, the developer complied and annexed this subdivision into the city of Fayetteville and several lots have been developed with houses or duplexes built; and

WHEREAS, the new owner of the Lierly Lane Subdivision wishes to change five duplex lots to single family lots and utilize a portion of the unconstructed community septic system lot for additional single family lots and a developed park of about 2.5 acres.

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. 76-06 by altering the terms and conditions and site plan approved by that Resolution as follows:

(A) The five duplex lots shown on Exhibit B shall be changed to single family lots.

(B) The site plan shall be modified to approve the fourteen lots shown on Exhibit C to include the developed park area of about 2.5 acres and thirteen single family lots designed as shown on Exhibit C.

(C) All new lots must conform to the Unified Development Code.

(D) The park area must be developed as shown on Exhibit C and detailed on Exhibit D and shall be open to the Lierly Lane Subdivision residents before the 8th building permit is issued for lots within Exhibit C.

(E) Two separate points of public access to the park shall be established from Berseis Drive and Cassius Lane.

(F) Parks fees for residential units that would be assessed at a higher rate because of this amendment must pay such increase prior to receiving a building permit.

PASSED and **APPROVED** this 7th day of September, 2010.

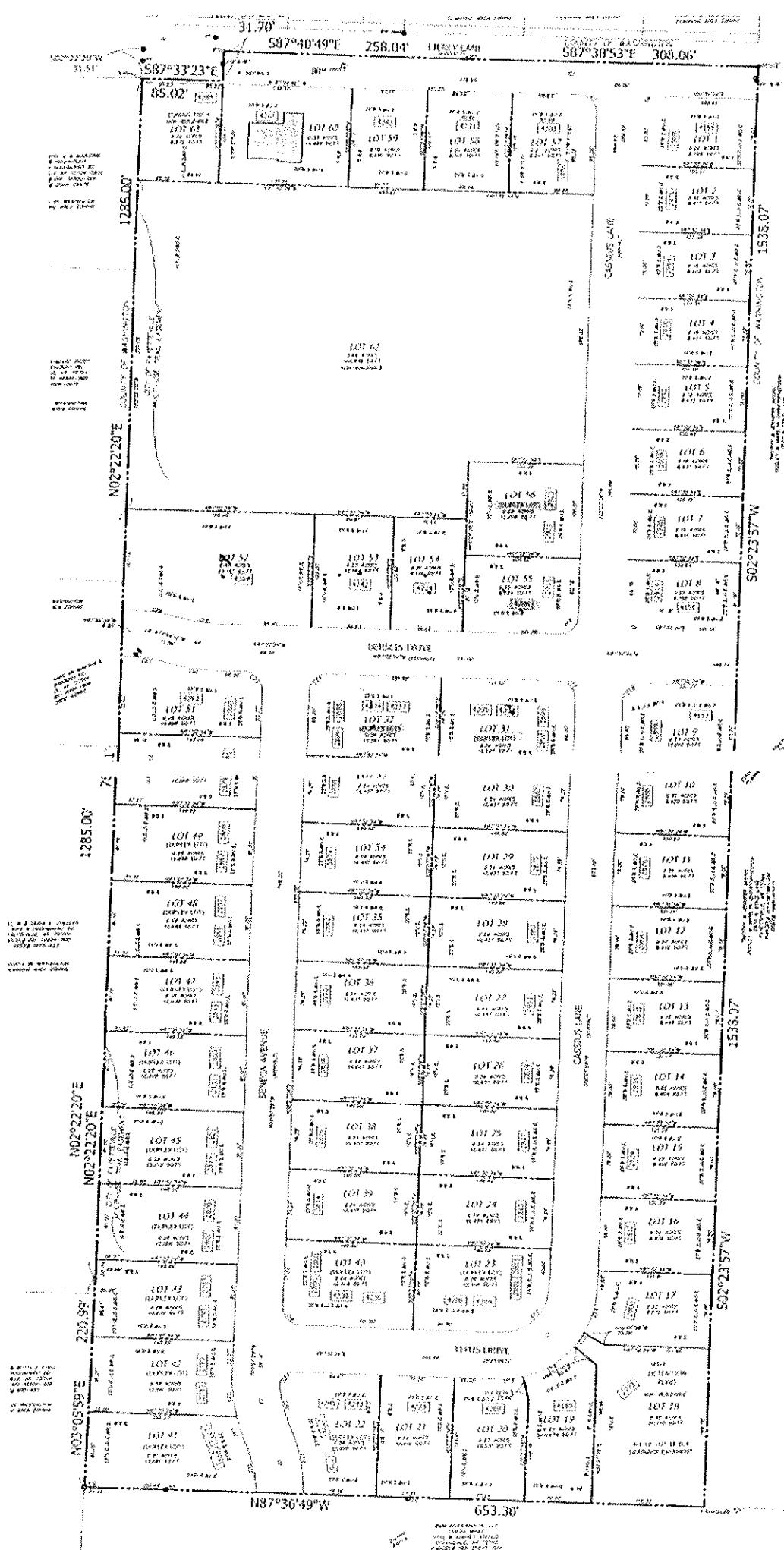
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

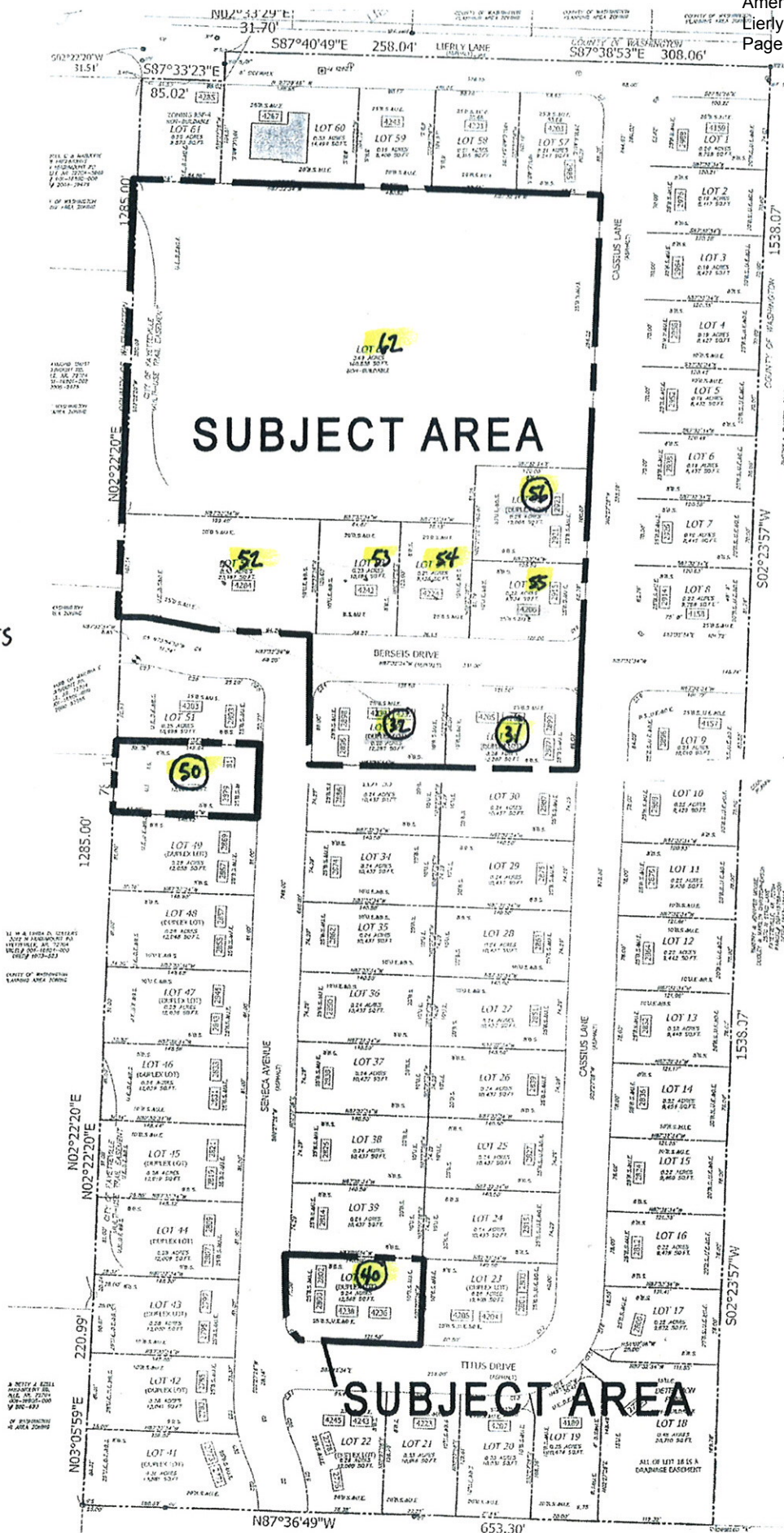
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT A



5 DUPLEX LOTS
 4 SINGLE FAMILY LOTS
 1 OPEN SPACE LOT
 14 TOTAL DWELLING UNITS

EXHIBIT B



Development Summary

14 Single Family Lots

EXHIBIT "C"
OPTION 1

A. 8
Amend Resolution No. 76-06
Lierly Lane Subdivision
Page 8 of 32

LIERLY LANE

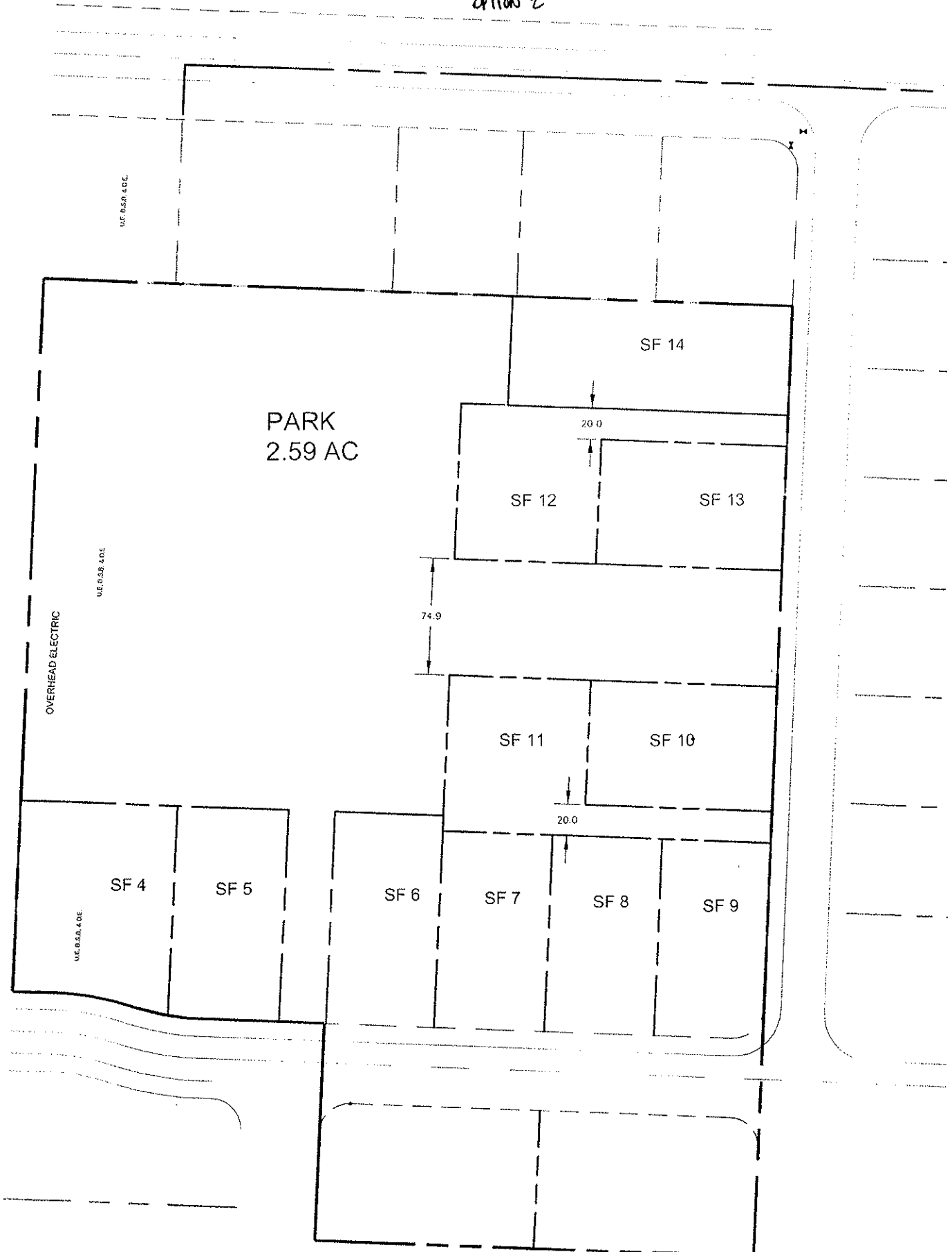


TANDEM LOT

EXHIBIT "C"

A. 8
Amend Resolution No. 76-06
Lierly Lane Subdivision
Page 9 of 32

OPTION 2



Lierly Lane Elements To Be Included Within Park

Item No.	Description	Quantity	Unit
GRADING AND SOIL			
1	Grading Labor with Tractor	10.00	Hour
2	Pesticide Spray	1.00	Lump Sum
3	Topsoil Haul-in	3.00	Dump Loads
Sub-total (GRADING)			
ELEMENTS			
4	Benches	2.00	Each
5	Soccer Goal	2.00	Each
6	Frisby Golf Goal	4.00	Each
7	5' gravel path - no steel edging	600.00	LF
Sub-total (PLANTERS AND WALLS)			
TREES, SHRUBS, GRASS			
8	Trees (1" to 2" caliber)	15	Each
9	Shrubs	30	Each
10	Watering	1	Lump Sum
11	Seed and Straw	0.33	Acre
12	Wildflower Meadow	0.44	Acre
Sub-total (TREES AND SHRUBS)			

August 20, 2010

Attn: Jeremy Pate
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Lierly Lane Resolution # 76-06

City Council

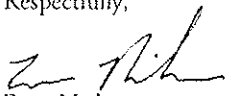
We request that the City Council amend Resolution 76-06 to allow five duplex lots to be reconfigured as single family lots, and four of the single family lots surrounding the open field to be reconfigured to allow for 6 single family lots and a park, as shown in the attached exhibits. We are requesting a net increase of one unit. We request this extra lot in order for construction of the park to be financially viable.

The requested changes will more suitably blend with the surrounding single family homes, as the duplex lots would likely become rentals. Again, it is our intent that by reorganizing the lots, the remaining acreage, 2.4 to 2.67 acres, dependent upon the plat, of open space will be more properly designed and maintained as park space, thereby creating an identity within the Lierly Lane subdivision.

The owner commits to the listed park improvements attached as an exhibit and to agree upon a time line to install/develop various items that will ensure the park meets a measurable set of standards. They include walking paths, trees, shrubs, an open meadow, lawn and seating areas, along with soccer and Frisbee golf goals.

We appreciate your consideration in this matter.

Respectfully,



Evan Niehues
Appian, Inc.

July 20, 2010

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Lierly Lane

To whom it may concern,

I am authorizing Steve Aust and Appian, Inc. to act as my authorizing or signing agent and liaison with the City of Fayetteville, Washington County, or necessary subconsultants through the rezoning and platting process for lots located within Lierly Lane in The City of Fayetteville, Washington Co, AR.

TTO, LLC
Owner Signature

[Signature]
Printed Name

Resolution 76-06 & Supporting Documents

RESOLUTION NO. 76-06

**A RESOLUTION TO ALLOW EXTENSION OF SEWER SERVICE
OUTSIDE THE CITY'S CORPORATE LIMITS ON A 23 ACRE
PARCEL ON LIERLY LANE ADJACENT TO THE CITY LIMITS**

WHEREAS, § 51.113 (c) Sewer connections outside the city states that "the city's sewerage system shall not be extended outside the city's corporate limits except on express approval of the City Council"; and

WHEREAS, applicant Blind Squirrel, LLC has requested that the City Council grant its express approval to allow extension of City Sewer mains at the applicant's expense to access its 23 acre parcel south of Lierly Lane and adjacent to the City's corporate limits the legal description to such property being attached hereto as Exhibit A (the "Property"); and

WHEREAS, applicant has agreed that as a condition of granting this extension of sewer service, the 23 acre parcel will be developed in accordance with the terms and condition of that certain Annexation Agreement for Sewer on Lierly Lane for the City of Fayetteville, Arkansas, a copy which is attached hereto as Exhibit B (the "Contract"); and

WHEREAS, the City's sewer service to the Property shall be allowed regardless of whether annexation of the Property into the City is approved or denied by the City Council; and

WHEREAS, the applicant has agreed to petition for annexation into the City of Fayetteville in the manner described in the Contract; and

WHEREAS, the applicant agrees that any impact fees (now including water, sewer, fire, police, and parks land) including future enacted impact fees if in existence when development occurs shall be paid as if the parcel was within the city limits, and other fees will be paid at the time of final plat approval. The parks fee shall be set at the preliminary plat rate.

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

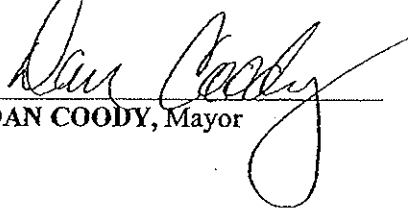
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a resolution to allow extension of sewer service outside the City's corporate limits on a 23-acre parcel owned by the applicant Blind Squirrel, LLC south of Lierly Lane, adjacent to the City's corporate limits the legal description to such property being attached hereto as Exhibit A (the

"Property"), conditional upon the applicant or any successor in interest fully complying with and completing all offered conditions as shown in the Whereas clauses of this Resolution.

PASSED and **APPROVED** this 18th day of April, 2006.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk

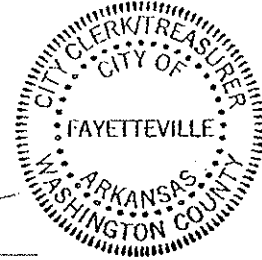


EXHIBIT "A"

SURVEY DESCRIPTION OF PROPOSED LIERLY LANE SUBDIVISION:

PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID SW1/4 OF THE NE1/4; THENCE S02°22'20"W 31.51 FEET TO A FOUND IRON PIN AND THE POINT OF BEGINNING; THENCE S87°33'23"E 85.02 FEET; THENCE N02°33'29"E 31.70 FEET; THENCE S87°40'49"E 258.04 FEET; THENCE S87°38'53"E 308.06 FEET; THENCE S02°23'57"W 1538.07 FEET; THENCE N87°36'49"W 653.30 FEET; THENCE N03°05'59"E 220.99 FEET; THENCE N02°22'20"E 1285.00 FEET TO THE POINT OF BEGINNING, CONTAINING 22.92 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

EXHIBIT "B"

**ANNEXATION AGREEMENT FOR SEWER ON
LIERLY LANE FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

For the purpose of attempting to obtain approval of a request for a Variance to the City of Fayetteville City Sewer Ordinance (the "Ordinance"), Blind Squirrel, LLC, an Arkansas limited liability company (the "Petitioner") being the current owner and developer of that certain real property and improvements thereon located in Washington County, Arkansas and more particularly described on Exhibit A attached hereto (the "Property"), hereby voluntarily enters into, executes and delivers to the City of Fayetteville, Arkansas ("Fayetteville") this Annexation Agreement for Sewer on Lierly Lane for the City of Fayetteville, Arkansas (the "Agreement") for the purpose of being legally bound hereto in accordance with its terms and conditions.

In exchange for Fayetteville irrevocably granting and conveying to Petitioner, its successors and assigns (collectively, the Owner") a Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto, the Petitioner expressly grants to Fayetteville the right to enforce any and all of the terms of this Agreement in the Circuit Court of Washington County, Arkansas and agrees that if Owner or Owner's successors or assigns violate any term of this Agreement, substantial irreparable damage justifying injunctive relief will have been done to Fayetteville and its citizens. The Petitioner acknowledges that the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Agreement in considering whether to approve Petitioner's request for a Variance to the City Sewer Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto.

Subject to the terms and conditions of this Agreement and specifically provided that no later than April 30, 2006 the Fayetteville City Council approves Petitioner's Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto, Petitioner hereby covenants and assures Fayetteville that the Owner shall be responsible for the following items and the Property shall be restricted in the following manner:

1. All fees and charges will be paid in full as if the subdivision developed within the Property were within Fayetteville, Arkansas. With respect to each separate lot within the subdivision located within the Property all of such fees and charges will be paid in accordance with the following current fee schedules:

Impact Fees	As water meters are set
Fire & Police Fees	At issuance of Certificate of Occupancy
Parks Fees	At Time of Annexation
Building Permits	As Construction progresses in the regular manner required by Fayetteville.

2. The Property shall be zoned as a modified RSF-4 with de-facto conditional uses allowing 16 duplexes on the lots shown on Exhibit B attached hereto. The development on the Property will consist of 16 duplexes and 43 single-family units. Lot Lines will be adjusted from the current plan to meet City minimums.

3. Owner will file for annexation within five days of the passage of the resolution.

4. Immediately upon passage of the resolution approving this Agreement and the Fayetteville City Council approving Petitioner's Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto, and Owner completing its site work on the Property, Owner shall have all rights and privileges to, and shall be fully authorized to, commence any and all building and residential construction within the subdivision on the Property. All such construction will be to the regular and customary standards of Fayetteville and shall be subject to fair and customary inspection if such is determined, in good faith by Fayetteville, to be necessary and appropriate.

5. Notwithstanding anything contained in this Agreement to the contrary, the issuance and approval of the final plat of the development of the Property shall not be adversely affected, in any manner by, or withheld, delayed or conditioned in any manner whatsoever, as a result of the annexation of the Property into Fayetteville.

6. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Agreement shall be filed for record in the Washington County Circuit Clerk's office after Petitioner's Variance is approved and effective in the manner described in this Agreement and, provided such approval and effectiveness is obtained, shall be noted on any Final Plat or Large Scale Development which includes some or all of the Property.

7. This Agreement, and all of its terms and conditions, shall terminate automatically and without any act or deed, if prior to May 1, 2006, the Fayetteville City Council does not approve Petitioner's Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto.

[Remainder of Page Intentionally Blank; Signatures on Following Page]

In Witness Whereof and in agreement with all the terms and conditions stated in this Agreement, Blind Squirrel, LLC, as the owner and developer of the Property voluntarily offer all such assurances and signs its name below.

BLIND SQUIRREL, LLC

By: [Signature]

ACKNOWLEDGEMENT

STATE OF ARKANSAS)

) ss.

COUNTY OF WASHINGTON)

And now on this the 30th day of March, 2006, appeared before me, Robert N. Schmitt and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the Annexation Agreement for Sewer on Lierly Lane for the City of Fayetteville, Arkansas and signed hi/her name above.

[Signature]
Notary Public

My Commission Expires:

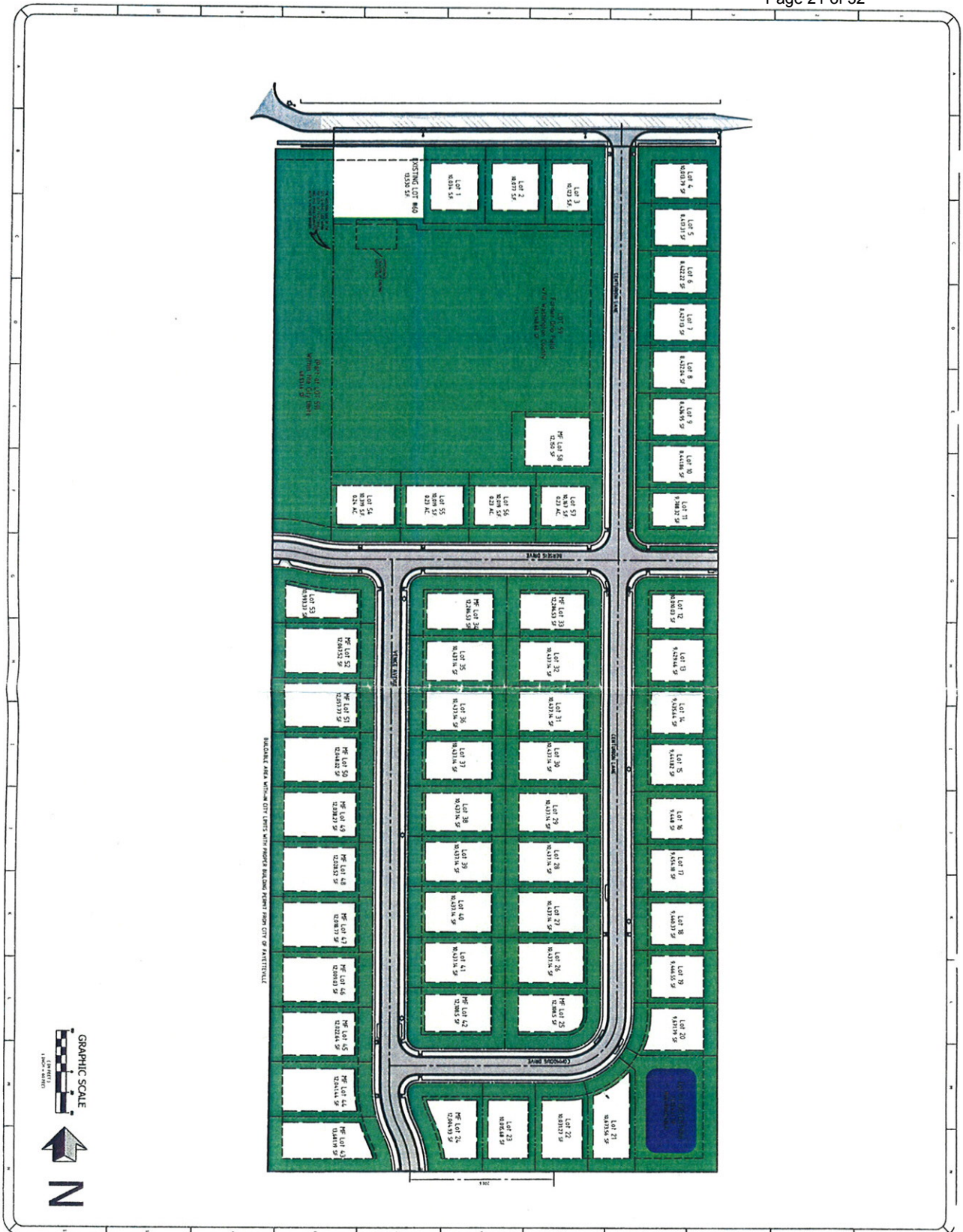
7-17-2008



SURVEY DESCRIPTION OF PROPOSED LIERLY LANE SUBDIVISION:

PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID SW1/4 OF THE NE1/4; THENCE S02°22'20"W 31.51 FEET TO A FOUND IRON PIN AND THE POINT OF BEGINNING; THENCE S87°33'23"E 85.02 FEET; THENCE N02°33'29"E 31.70 FEET; THENCE S87°40'49"E 258.04 FEET; THENCE S87°38'53"E 308.06 FEET; THENCE S02°23'57"W 1538.07 FEET; THENCE N87°36'49"W 653.30 FEET; THENCE N03°05'59"E 220.99 FEET; THENCE N02°22'20"E 1285.00 FEET TO THE POINT OF BEGINNING, CONTAINING 22.92 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.



DATE:	
	
This drawing is "PRELIMINARY - NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below.	
N. Arthur Scott, P.E.	
DATE	



SC Meeting of January 10, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: January 10, 2007

SC Approved

Updated 1-19-07

FPL 06-2395: Final Plat (LIERLY LANE S/D, 205/206): Submitted by N. ARTHUR SCOTT for property located at SW OF THE INTERSECTION OF LIERLY LANE AND HUGHMOUNT RD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 22.92 acres. The request is for the final plat of a residential subdivision with 42 single family lots and 16 two-family lots. Planner: Suzanne Morgan

Findings:

Proposal: The applicant requests approval of a final plat for Lierly Lane Subdivision. The subject property contains approximately 22.92 acres and is within the RSF-4 zoning district. The property is proposed to be subdivided into a total 62 lots, of which there are 42 new single family lots and 16 new two-family lots. See Table 1 for a detailed list of the uses of each lot. The number of lots proposed is more than what was approved with the Preliminary Plat, but matches that allowed by Resolution 76-06, a resolution that permitted the extension of sewer to the property when it was in the Planning Area. The addition of lots requires Planning Commission approval, prior to the approval of the final plat.

Table 1: Lot Uses

Use	Lot Number(s)	Total Lots
Single Family (Existing Dwelling)	60	1
Single Family (New Lots)	1-17, 19-21, 24-30, 33-39, 51-55, 57-59	42
Duplex	22, 23, 31, 32, 34, 40-50, 56	16
Detention Pond (Drainage Easement)	18	1
Unbuildable Lot (OHE & Easement)	35	1
Unbuildable, but reserved for future development	76	1
		62 Total Lots

Background: The final plat was tabled at the December 28, 2006 Subdivision Committee for the applicant to make required revisions and to address sanitary sewer access to Lot 54.

On July 11, 2005, the Planning Commission approved the development of 57 buildable lots. The developer petitioned the Water and Sewer Committee and the City Council for a connection to the City's municipal sewer system, which was approved, by contract and resolution. The plans reviewed by the City Council represented more lots than what was approved by the Planning Commission, with 42 new single family lots (excluding the existing dwelling) and 16 two-family lots. There were several conditions placed upon the applicant as part of the contract, including petitioning for annexation/rezoning (approved), payment of all impact fees, etc. The City Council also accepted, as part of the resolution to extend sewer, an agreement stipulating that if the property is rezoned, de facto conditional uses allowing each of the duplex lots will be recognized. Additionally, the lots were to be modified to meet the bulk and area regulations for two-family lots within the RSF-4 zoning district at the time of final plat. Planning Staff has recommended the duplex lots be processed as Conditional Use Permit requests, for them to be recognized officially, and not be considered non-conforming uses once they are constructed.

Surrounding Zoning and Uses:

DIRECTION	LAND USE	ZONING
North	Single-family	Planning Area
South	Undeveloped SF (Clabber Creek Ph. 5)	RSF-4
East	Single-family	Planning Area
West	Single-family	Planning Area

Water & Sewer: Water and sanitary sewer have been extended to serve this development. However, it appears that Lot 32 does not have legal access to sewer. Either a sewer main needs to be extended or a lot line adjusted to meet this requirement, prior to approval of the final plat.

Right-of-way being dedicated: The applicant will be dedicating 39.08' right-of-way from centerline of Lierly Lane, a Collector Street, for a total 70' right-of-way. This change from the Preliminary Plat was made by the developer to create an adequate cross-section containing the 28-foot wide street while not encroaching into adjacent property to the north. Internal streets are to be platted as Local streets with 28' wide streets within 50' of right-of-way.

Park land: Fees are due in the amount of \$41,070 for 74 single family units (each duplex counts as two single family units). Fees are due prior to the signing of final plat. Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation System.

Trail Comments:

Background: The first section of Clabber Creek Trail, located to the south is nearing completion to the south of this project. The City would like to provide a trail connection from Hughmount road and Lierly Lane to the new trail.

Request: We request a multi-use trail easement be added on top of the transition line easement as shown along the west boundary of the project. The width of this easement will correspond with the transition easement, but is approximately 50 feet, as shown. The language for the easement will be provided for including on the Final Plat.

Tree Preservation: A Tree Preservation Plan was not required for this subdivision because the development was approved when the property was in the County. Tree preservation/mitigation was not required by the agreement offered by the applicant and accepted by the City Council at the time the City approved the extension of sewer to the property.

Recommendation: Staff recommends approval of **FPL 06-2394** with the following conditions:

Conditions of Approval:

1. The applicant shall submit a guarantee (letter of credit, bond, or cash) of \$1,000 per lot prior to the recordation of the final plat for contributions to an interim solution to wastewater capacity concerns in the Owl Creek/Hamestring Creek basin, if the improvement is required. Final determination of the contribution shall be made by the City Engineer.
2. Prior to recordation of the final plat, the developer shall pay an assessment of \$19,121.60 for a percentage of the future bridge construction over Clabber Creek. *The subject property is within the Clabber Creek Bridge Assessment area. A proportionate assessment is required of the developer, based on a methodology that calculates the number of vehicle trips generated by the proposed development. This number has been updated to reflect 42 SF units and 16 2-F units.*
3. Staff recommends the addition of a multi-use trail easement atop of the transition line easement as shown along the west boundary of the project. The width of this easement will correspond with the transition easement, but is approximately 50 feet, as shown. The language for the easement will be provided from staff and included on the Final Plat.
4. Any additional development of the property shall require City Council approval and an amendment to Resolution No. 76-06.
5. Lots 57 and 58 shall share an access from Lierly Lane, a Collector Street. Lots 1 and 57 shall access the interior street, as opposed to Lierly Lane.
6. Right-of-way for Lierly Lane to fulfill Master Street Plan requirements shall be dedicated by the final plat.
7. Lot 62 shall be shown on the plat as unbuildable until such time as the City of Fayetteville approves further development of the overall 22.92-acre tract, pursuant to Resolution 76-06, subject to the attached contract (Exhibit "B").
8. The applicant shall pay Parks fees in the amount of ~~\$41,070~~ ^{modified} for 74 single family units (each duplex counts as two single family units) prior to recordation of the final plat.

9. The two-family dwellings shall be permitted in accordance with City of Fayetteville requirements. However, this use shall be considered non-conforming until such time as the Planning Commission approves a conditional use permit for the individual duplex lot.
10. Lot 18 is a unbuildable lot, reserved for the use of detention and to be owned and maintained by the P.O.A. for the subdivision.
11. Street lights on all interior streets and along Lierly Lane shall be installed or guaranteed with a maximum separation of 300 feet along all streets prior to final plat recordation.
12. Sidewalks shall be installed or guaranteed prior to recordation of the final plat. Sidewalks adjacent to Lierly Lane, Lot 18 and Lot 62 shall be installed, not guaranteed, prior to recordation of the final plat.
13. The applicant shall install future street extension signs at Berseis Drive street stub-outs prior to recordation of the final plat.
14. Subdivision area signage shall be permitted in accordance with applicable city codes.
15. The applicant shall verify if the easement along the western property line is exclusive for Ozark Electric Cooperative Corporation, and, if so, that the designation of the exclusive electric easement as a utility easement and drainage easement is acceptable. If not, the applicant shall make whatever modifications necessary to the plat to satisfy the requirements of the City and affected utility companies.
16. James Smith is listed on the plat as the officer that will sign for Blind Squirrel LLC. He needs to be the one who signs for the owner on the application unless proof can be supplied that Mike McDonald is a part of that LLC.
17. The applicant shall submit for final plat review comments by Planning and Engineering Staff from the City prior to application of signatures. The following comments have been identified to be addressed at this time:
 - a. Clarify the path of the utility easement between lots 55 and 56.
 - b. Please number the Site Specific Notes. Please read through and remove irrelevant notes. (Coordinate with staff)
 - c. The GIS Division shall approve the legal description prior to recordation.

Standard Conditions of Approval:

18. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
19. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks,

parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

20. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
-

Subdivision Committee Action: ☒ Approved ☐ Forwarded to PC ☐ Tabled

Motion: Trumbo

Second: Bryant

Vote: 3-0-0

Date: January 11, 2007

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council

THROUGH: Gary Dumas, Operations Director

FROM: Tim Conklin, Planning and Development Management Director

DATE: March 31, 2006

SUBJECT: A Resolution To Allow Extension Of Sewer Service Outside The City's
Corporate Limits On A 23-Acre Parcel On Lierly Lane Adjacent To
The City Limits

RECOMMENDATION

Staff recommends approval of the request to allow extension of sewer service outside the City's corporate limits on a 23-acre parcel known as Lierly Lane Subdivision located on Lierly Lane, adjacent to the city limits subject to the annexation agreement marked as Exhibit "B". The Fayetteville Sewer Committee recommended this extension by a vote of 3-1.

BACKGROUND

The Fayetteville Planning Commission approved a preliminary plat for Lierly Lane Subdivision (59 lots) on July 11, 2005 within the Fayetteville Planning Area and adjacent to the City limits. At the time of plat approval, the applicant had proposed and designed a decentralized sewer system to serve the 59-lot development. At the time of platting, the staff report indicated single family homes to be built within the development.

The applicant has agreed to annex, pay impact fees, and develop in accordance with all City Unified Development ordinance requirements based on the development being in the City. The development is at a construction stage that requires the applicant to move forward with a decentralized sewer system or sewer prior to annexation.

The applicant is requesting zoning and conditional use approval, if annexed by City Council, to allow 16 lots be developed with duplexes and 43 lots be developed with single family homes.

§51.113 (c) of the Fayetteville Code of Ordinances states sewer connections shall not be extended outside the city's corporate limits except on express approval of the City Council.

The applicant, Blind Squirrel, LLC, has requested City Council grant its express approval to allow extension of sewer outside the City at the applicant's expense to access its development prior to annexation.

The agreement requires the owner to file for annexation within five days if the resolution is passed by City Council. In the event the annexation fails, this resolution will still allow the right for this development to connect to City sewer.

BUDGET IMPACT

The applicant has agreed to pay for all associated infrastructure cost, impact fees, and meet all city development requirements. This project will provide additional park fees and police, fire, and sewer impact fees.

Lierly Lane Sewer Service Extension: A resolution to allow extension of sewer service outside the City's corporate limits on a 23 acre parcel on Lierly Lane adjacent to the city limits.

Tim Conklin: This item did go to the Water and Sewer Committee. The developer is at a point in the subdivision construction process that a decision needs to be made whether or not a decentralized sewer system will be installed or will the City allow sewer to be extended outside the city limits. The applicant has provided to you additional information, a letter from the State Health Department that encourages when available to tie onto city sewer, a site plan that shows which lots will have single family and which lots will have duplex lots and there is also a letter addressed to our Water and Sewer Wastewater Director regarding their request to tie onto the city sewer system. They have provided an annexation agreement and have agreed to pay all impact fees. They have agreed to apply for annexation within five days if this resolution is passed this evening. If you allow them to tie onto the sewer the agreement is that it is not contingent on the zoning issue, they would still be allowed to tie onto the sewer if the annexation does not pass. They are adjacent to the City limits to the south of the Clabber Creek Subdivision.

Alderman Jordan: I did not support this the first time it came to the Water and Sewer Committee simply because I was concerned about the capacity of the sewer. When they applied again there were some conditions that we agreed on.

Alderman Thiel: They are expecting us to zone this to the standards they have put before us. We don't have to do that right?

Tim Conklin: That is correct you do not have to do that.

Alderman Thiel: Why don't they come to us with an annexation and a zoning request?

Applicant: We came to the Water and Sewer Committee eight to nine months ago and explored the option of tying on to city sewer. At that time it was not approved. We knew there was concern about the annexation policy and we believed that it was unlikely that we would be annexed. When we received our approval from the State Board of Health they also had a letter that recommended that the City of Fayetteville tie us on, with that we reapplied. We have agreed to pay all the fees; in addition to that we will pay to connect the sewer to the existing sewer in Clabber Creek. We think this is a win win for the City of Fayetteville. One concern the neighbors had was the decentralized system.

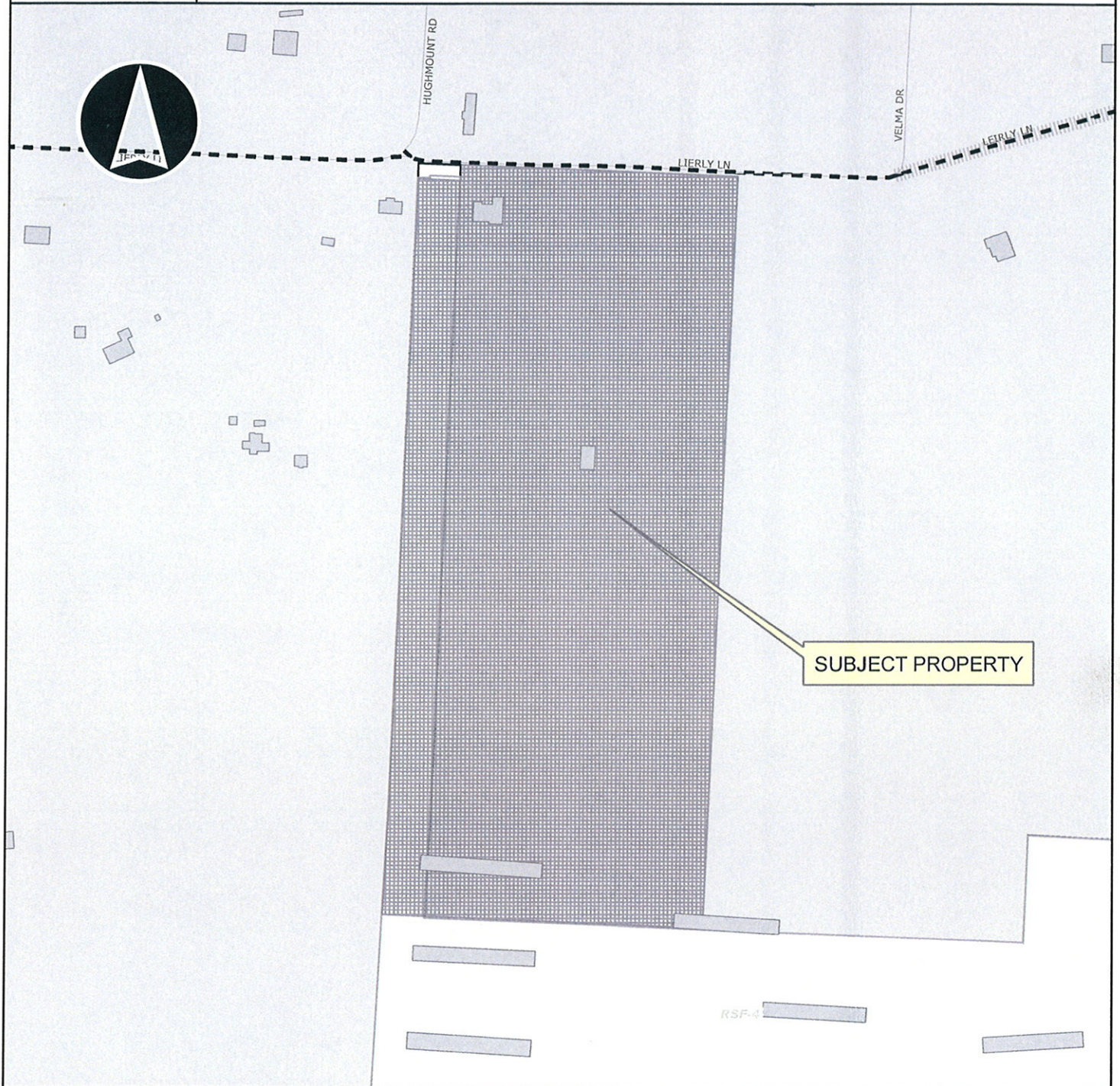
Alderman Jordan moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 5-2. Alderman Ferrell, Lucas, Jordan and Marr voting yes. Alderman Thiel and Cook voting no. Mayor Coody voted yes to pass the resolution. Alderman Rhoads and Reynolds were absent.

Resolution No. 76-06 as Recorded in the Office of the City Clerk.

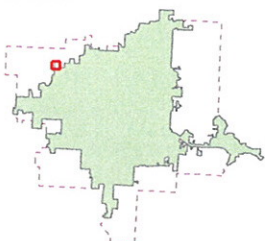
PPL05-1433

Close Up View

LIERLY LANE



Overview



Legend

PPL05-1433

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile

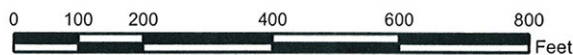
500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

Outside City



PPL05-1433

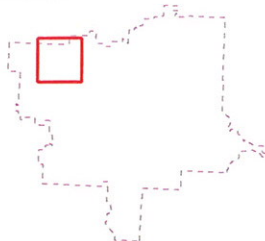
One Mile View

LIERLY LANE

A. 8
Amend Resolution No. 76-06
Lierly Lane Subdivision
Page 31 of 32



Overview



Legend

Subject Property

PPL05-1433

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1250.25 0.5 0.75 1

Miles

City of Fayetteville Staff Review Form

A. 9
Amend Resolution No. 131-10
Page 1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

Lindsley Smith

Submitted By

Communications

Division

Communications

Department

Action Required:

A Resolution To Amend Resolution No. 13110 To Change All References From "Today in America" to "U.S. Media Television Inc."

\$19,800.00

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

1010.6600.5315.00

Account Number

\$

Funds Used to Date

Program / Project Category Name

08050.1001

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

XX

Department Director

8-20-2010

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

8/20/2010

Date

Original Contract Number:

Finance and Internal Services Director

8/23/10

Date

Received in City
Clerk's Office

08-20-10P04:06

REV D

Chief of Staff

8/24/10

Date

Received in
Mayor's Office



Mayor

8/23/10

Date

Comments:



www.accessfayetteville.org

To: City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: Lindsley Smith, Communication Director
Fayetteville Communication Department

Date: August 20, 2010

Subject: Amendment to cost share agreement for the program "America's Best Hidden Gem Environments for Business" to be included in the "Business in America Today" series by Today in America to change the name "Today in America" to the parent company name "U.S. Media Television Inc."

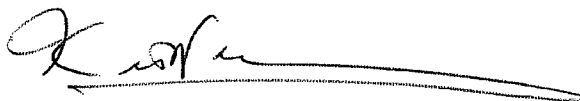
RECOMMENDATION:

Please pass the amended resolution.

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Lindsley Smith, Communications & Marketing Director

FROM: Kit Williams, City Attorney



DATE: August 20, 2010

RE: "Today in America" to "U.S. Media Television, Inc."

Just like the Resolution we had to amend for "Arkansas Western Gas" to "SourceGas" at the last City Council meeting, we need to amend Resolution No. 131-10 you just passed. U.S. Media Television, Inc. produces several shows including "Today in America" which is how they prepared their contract for us. Our Purchasing Department caught the problem that "Today in America" was not the proper contracting party (No Federal tax ID number), and so we requested and will receive prior to your City Council meeting, a properly signed contract with "U.S. Media Television, Inc." I believed we needed to amend the Resolution to reflect this proper contracting party.

Our good Purchasing and Accounting procedures are designed to and did catch this type of problem before any checks were written.

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 131-10 TO CHANGE ALL REFERENCES FROM "TODAY IN AMERICA" TO "U.S. MEDIA TELEVISION, INC."

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. 131-10 to change all references from "Today in America" to "U.S. Media Television, Inc."

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

PARTICIPATION AGREEMENT

Date: July 2, 2010 Project No: TIA-97033dc
Participant: City of Fayetteville, Arkansas
Authorized by: Mayor Lioneld Jordan
Market: National (See Distribution Checklist) Associate Producer: Dave Corvair
Show: Today in America with Terry Bradshaw Feature: 5 minute feature

U.S. Media Television, Inc. ("PRODUCTION COMPANY"):

- 1) PRODUCTION COMPANY will provide a complete licensed and insured production and scriptwriting team (field production, graphics, music, voice-overs, program editing, set design and lighting) for domestic taping and completion of feature for PARTICIPANT.
- 2) PRODUCTION COMPANY agrees to have host, Terry Bradshaw, do PARTICIPANT'S segment voice-over and provide them with a copy of its segment, including a show open. PRODUCTION COMPANY hereby grants to PARTICIPANT permanent, complete, and unrestricted licensing rights to the segment and the show open, which PARTICIPANT may use for any legal purpose.
- 3) This feature will be used on the *Today in America* show airing one (1) time nationally on FOX Business Network, and 19 times regionally through a combination of CNN Headline News and/or Regional News Networks in up to 15 markets as indicated on the distribution checklist. All airings to occur 6:00 a.m. to 11:00 p.m.
- 4) PRODUCTION COMPANY will include the PARTICIPANT in conjunction with the promotions of the series in any available editorial articles, as well as, press releases distributed to relevant industry organizations targeting consumer and business networking sites.
- 5) Content to include, but not limited to: interviews with city representative(s), chamber of commerce representative and CEO; discussion to educate our viewers on the attractive business climate; explain how the city came together for a common vision for the future; give viewers insight into the life style; explore available facilities & land; give insight into the role university incubators play; focus on examples of successful companies and take a look at the education system, and discuss the availability of quality healthcare.
- 6) PRODUCTION Company will refund scheduling fee to PARTICIPANT if all aspects of the Agreement are not met within 12 months assuming PARTICIPANT does not withhold reasonable approvals.

City of Fayetteville, Arkansas ("PARTICIPANT"):

- 1) PARTICIPANT will provide input into the scripting by filling out a PARTICIPANT questionnaire, reviewing and signing off on feature outline for accuracy, filling out and approving production schedules and providing literature as well as background information. PARTICIPANT is required to sign off and approve script and final edited segment before going to network. All press releases must be pre-approved by both parties prior to release.
- 2) PARTICIPANT understands and acknowledges that the PRODUCTION COMPANY will immediately begin work on certain aspects of the PARTICIPANT'S feature and delegate personnel in association with the development, promotion, scheduling, pre-production and production with the goal to have the script developed within thirty to forty five days upon PARTICIPANT returning the Editorial Information Form.
- 3) \$19,800 USD is the total scheduling fee. PARTICIPANT will incur no additional cost relating to the parameters of this agreement.
- 4) PARTICIPANT acknowledges and agrees to pay the total scheduling fee as follows: 1/2 due thirty days from agreement execution, and 1/2 due sixty days from agreement execution.
- 5) PARTICIPANT, if appropriate, will provide end user for testimonial, company spokesperson, talent and products for shooting.

The parties agree that Florida law applies and the jurisdiction and venue for any action regarding this agreement shall lie exclusively in the courts of Broward County, Florida if PARTICIPANT initiates proceedings, likewise, the parties agree that Arkansas law applies and jurisdiction and venue for any action shall lie exclusively in the courts of Washington County, Arkansas if PRODUCTION COMPANY initiates proceedings. Once both parties authorize this agreement, Participant does irrevocably commit to participate in the television program described above and does further agree to provide the questionnaire and literature in a timely manner. All aspects of the agreement will be completed within twelve months or sooner of agreement execution assuming Participant does not withhold reasonable approvals. As stated, Today in America and its national television show has no direct affiliation with the networks in which they air on. Today in America purchases the time through cable providers, networks and/or other media sellers. This agreement contains the full and complete understandings between the parties whether written or oral, pertaining thereto, and cannot be modified except by a written instrument signed by each party hereto.

Authorized Representative - Participant

Company /Position/ Print name

Date

U.S. Media Television, Inc. Representative

CEO of U.S. Media Television, Inc.

Date

[Signature] PAUL SCOTT 8/23/2010

City of Fayetteville Staff Review Form

A. 9
Amend Resolution No. 131-10
Page 6 of 12
Today in America Contract
Page 1 of 6

Added at
Agenda Session
7-13-10
Consent

City Council Agenda Items
and
Contracts, Leases or Agreements

7/20/2010

City Council Meeting Date
Agenda Items Only

Lindsley Smith

Submitted By

Communications

Division

Communications

Department

Action Required:

Approval of a cost share agreement to produce a video pertaining to the City of Fayetteville and it's economic development and approval of the attached budget adjustment in the amount of \$19,800.

\$ 19,800.00

Cost of this request

\$ -

Category / Project Budget

Program Category / Project Name

1010.6600.5315.00

Account Number

\$ -

Funds Used to Date

Program / Project Category Name

08050.1001

Project Number

\$ -

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Lindsley Smith
Department Director

7-9-2010
Date

Previous Ordinance or Resolution #

Chris Kelly
City Attorney

7-12-10
Date

Original Contract Date:

Original Contract Number:

Paul A. Buler
Finance and Internal Services Director

7-12-2010
Date

07-09-10P02:38 RCVD
Received in City
Clerk's Office

Wayne Mann
Chief of Staff

7-12-10
Date

Received in
Mayor's Office

ENTERED
7/12/10 BCP

Dionne Jordan
Mayor

7/13/10
Date

Comments:

To: City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: Lindsley Smith, Communication Director
Fayetteville Communication Department

Date: July 9, 2010

Subject: Cost share agreement with Today in America for complete licensed and insured production of Fayetteville as a top environment for doing business in America

RECOMMENDATION

Staff recommends approval of a cost share agreement with Today in America Production Company for an economic development program highlighting Fayetteville as a top environment for business. The project is a key part of our economic development strategy to create new jobs in Fayetteville; funding will be from the Economic Development Fund dedicated to that effort and has no impact on general revenues.

BACKGROUND

The Associate Producer of the television series "Today in America" contacted Mayor Lioneld Jordan and informed him that Today in America is currently working on an upcoming segment on "America's Best Hidden Gem Environments for Business," to be included in our "Business in America Today" series and that they are looking at Fayetteville as being highlighted for this program. They requested two interview sessions to determine issues such as Fayetteville's business climate, economic development initiatives, how Fayetteville is economically positioned in this national economic climate, and other inquiries to determine if Fayetteville would qualify for inclusion in the Business in America Today segment. Mayor Jordan, Lindsley Smith and Fritz Gisler for production advice and information, Steve Clark for up-to-date Fayetteville economic development data and business climates, and Chief of Staff Don Marr met with producers of Today in America and it was determined that Fayetteville would be a highlighted city. An agreement was sent for review and edited as requested by the City of Fayetteville's City Attorney's office. The cost share for the City of Fayetteville for this five-minute production and national and regional mass media placement on this program is \$19,800. Based on the cost of national media placement, the low cost v. the great benefit to Fayetteville's economic development, economy, and job growth and retention; I (Lindsley Smith), the City's Communication Director am over city production services and media buys, made a recommendation to move forward on

this excellent opportunity for Fayetteville to be highlighted on "Today in America" and I and the Government Channel will be working with the Today in America production company as needed to help in setting up interviews and filming locations.

DISCUSSION

The program segment relates to industry trends and how certain cities are helping to address these specific trends. In choosing Fayetteville, Today in America was particularly interested in the unique Fayetteville Forward program of the City in guiding the city's economic development plan, the high quality of life in the city, the ease for businesses interested in Fayetteville for acquiring site-selection data, the University of Arkansas and the importance of their incubators, strong education and healthcare, the many honors of Fayetteville such as Forbes Magazine listing Fayetteville as #2 Best Cities for Recession Recovery and #4 Fastest Metropolitan Statistical Area for Job Growth and the 1st in Income Growth, Forbes list for #6 top Newsweek Magazine listing Fayetteville High School on the Best High Schools list, Sperling listing as the top affordable place to live and work in the United States, and the Business Week listing Fayetteville as #2 in the best places to raise your kids.

In this economic climate, it is imperative that Fayetteville communicate to a broader audience, a mass audience particularly targeted to potential businesses that can bring job growth and retention to Fayetteville. After this production and national and regional showing of Fayetteville on Today in America, the City of Fayetteville retains the permanent, complete, and unrestricted licensing rights to the segment and the show open, which the City of Fayetteville may use for any future purpose. The Production Company of Today in America will also be including the City of Fayetteville in conjunction with the promotions of the series in any available editorial articles, press releases, conferences, networking sites, and other outlets to highlight both the program and the city of Fayetteville as a highlight city in this program segment on "America's Best Hidden Gem Environments for Business".

BUDGET IMPACT

The Economic Development Fund balance for this project.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH TODAY IN AMERICA IN THE AMOUNT OF \$19,800.00 FOR THE PRODUCTION OF A TELEVISION SEGMENT PERTAINING TO ECONOMIC DEVELOPMENT IN FAYETTEVILLE 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 a contract with Today in America in the amount of \$19,800.00 for the production of a television segment pertaining to economic development in Fayetteville. A copy of the contract is attached as Exhibit "A."

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "B."

PASSED and APPROVED this 20th day of July, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

PARTICIPATION AGREEMENT

Date: July 2, 2010 Project No: TIAN-97033dc
 Participant: City of Fayetteville, Arkansas
 Authorized by: Mayor Lioneld Jordan
 Market: National (See Distribution Checklist) Associate Producer: Dave Corvair
 Show: Today in America with Terry Bradshaw Feature: 5 minute feature

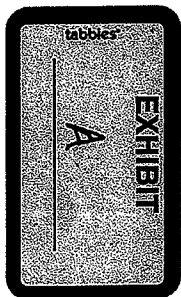
Today in America ("PRODUCTION COMPANY"):

- 1) PRODUCTION COMPANY will provide a complete licensed and insured production and scriptwriting team (field production, graphics, music, voice-overs, program editing, set design and lighting) for domestic taping and completion of feature for PARTICIPANT.
- 2) PRODUCTION COMPANY agrees to have host, Terry Bradshaw, do PARTICIPANT'S segment voice-over and provide them with a copy of its segment, including a show open. PRODUCTION COMPANY hereby grants to PARTICIPANT permanent, complete, and unrestricted licensing rights to the segment and the show open, which PARTICIPANT may use for any legal purpose.
- 3) This feature will be used on the *Today in America* show airing one (1) time nationally on FOX Business Network, and 19 times regionally through a combination of CNN Headline News and/or Regional News Networks in up to 15 markets as indicated on the distribution checklist. All airings to occur 6:00 a.m. to 11:00 p.m.
- 4) PRODUCTION COMPANY will include the PARTICIPANT in conjunction with the promotions of the series in any available editorial articles, as well as, press releases distributed to relevant industry organizations targeting consumer and business networking sites.
- 5) Content to include, but not limited to: interviews with city representative(s), chamber of commerce representative and CEO; discussion to educate our viewers on the attractive business climate; explain how the city came together for a common vision for the future; give viewers insight into the life style; explore available facilities & land; give insight into the role university incubators play; focus on examples of successful companies and take a look at the education system, and discuss the availability of quality healthcare.

City of Fayetteville, Arkansas ("PARTICIPANT"):

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- 4) PARTICIPANT acknowledges and agrees to pay the total scheduling fee as follows: 1/2 due thirty days from agreement execution, and 1/2 due sixty days from agreement execution.
- 5) PARTICIPANT, if appropriate, will provide end user for testimonial, company spokesperson, talent and products for shooting.

The parties agree that Florida law applies and the jurisdiction and venue for any action regarding this agreement shall lie exclusively in the courts of Broward County, Florida if PARTICIPANT initiates proceedings, likewise, the parties agree that Arkansas law applies and jurisdiction and venue for any action shall lie exclusively in the courts of Washington County, Arkansas if PRODUCTION COMPANY initiates proceedings. Once both parties authorize this agreement, Participant does irrevocably commit to participate in the television program described above and does further agree to provide the questionnaire and literature in a timely manner. All aspects of the agreement will be completed within twelve months or sooner of agreement execution assuming Participant does not withhold reasonable approvals. As stated, Today in America and its national television show has no direct affiliation with the networks in which they air on. Today in America purchases the time through cable providers, networks and/or other media sellers. This agreement contains the full and complete understandings between the parties whether written or oral, pertaining thereto, and cannot be modified except by a written instrument signed by each party hereto.



Authorized Representative - Participant

Company /Position/ Print name

Date

Today in America Representative

CEO of Today in America

Date

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

A. 9
Amend Resolution No. 131-10
Page 11 of 12
Today in America Contract
Page 6 of 6

Budget Year 2010	Department: General Government Division: Miscellaneous Program: Miscellaneous	Request Date 7/20/2010	Adjustment Number
--------------------------------	--	--------------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

To produce a video pertaining to economic development in Fayetteville.

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

There are sufficient funds from the sale of Wilson Springs that are designated for use as economic development.

Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Contract Services	1010.6600.5315.00	19,800		08050 1001
Use Of Designated Fund Balance	1010.0001.4999.98		19,800	08050 1001
				.
				.
				.
TOTAL		19,800	19,800	

[Signature] 7-9-10
Division Head Date

[Signature] 7-9-10
Budget Director Date

[Signature] 7-9-10
Department Director Date

[Signature] 7-9-2010
Finance Director Date

[Signature] 7/20/10
Chief of Staff Date

[Signature] 7/12/10
Mayor Date

Requested By _____
kspringer

Budget & Research Use Only

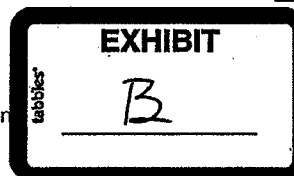
Type: A B C D E

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

6/15/2010

City Council Meeting Date
Agenda Items Only

Karen Minkel

Submitted By

Division

Strategic Planning

Department

Action Required:

ADM 09-3273 (Business Registry and License Program): Submitted by Strategic Planning Staff to approve an ordinance to amend the Fayetteville Code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations in 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

5/27/10

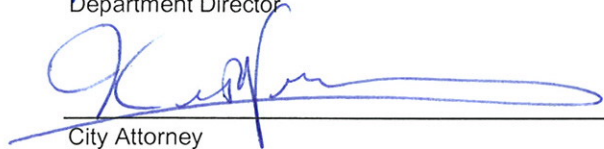
Date

Previous Ordinance or Resolution #

Original Contract Date:

none

Original Contract Number:


 City Attorney

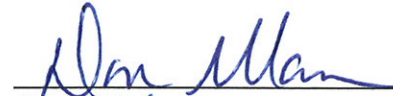
5-28-10

Date


 Finance and Internal Services Director

5-28-10

Date

Received in City
Clerk's Office

 Chief of Staff

5-28-10

Date

Received in
Mayor's Office

 Mayor

6/1/10

Date

Comments:

Added to September 7, 2010 City Council Mtg.
 Revised January 15, 2009
 Left on the Second Reading at the 6-15-10 cc mtg.

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Don Marr, Chief of Staff

From: Karen Minkel, Strategic Planning and Internal Consulting Director *KM.*

Date: May 26, 2010

Subject: ADM 09-3273: Administrative Item (Business Registry and License Program): Approval of an ordinance to amend the Fayetteville Code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations in Fayetteville.

PROPOSAL:

Strategic Planning staff began researching the feasibility of a business registry program in March 2009 at the request of Alderwoman Shirley Lucas and the Fayetteville Chamber of Commerce due to a lack of publicly accessible data about businesses located within City boundaries. This lack of data negatively affects the City's ability to measure economic development performance and ensure public safety.

Economic Development: The lack of data prevents economic development organizations from providing statistics on job growth and business sector growth and ultimately providing meaningful economic performance measures. Some of these measures include new jobs created and new businesses opened. Without a systematic method for collecting this information, confidence in the accuracy of the measures is compromised.

In addition, the economic development team at the Chamber of Commerce has stated that knowing Fayetteville's business demographics will enable them to find complementary businesses for prospective companies, support retention and expansion and promote existing businesses. Generating this information currently is at best inefficient and, at worst, impossible.

Public Safety: The lack of data also contributes to inefficiencies and public safety concerns. The Central Dispatch Division, the Fire Marshal's Office and the Arkansas Department of Health all spend significant time attempting to track new business openings, moves and re-namings. This lack of information significantly hinders the Fire Marshal's goal of preventing hazardous situations. Anecdotal evidence indicates that the Fire Marshal's office stumbles across a handful of business establishments each year after they have opened or just days before opening that did not undergo a fire inspection. In addition, the City lacks information on the storage of hazardous materials and installation of fire suppression systems. The accuracy of this information is crucial for responding to emergencies safely, effectively and efficiently.

The Ordinance Review Committee discussed the proposed ordinance on January 20, March 3, March 24 and April 21 of 2010. The Committee voted 4-0 to forward the ordinance to the full City Council with neither a recommendation for approval nor denial.

A full outline of the methodology and ordinance components is included in the attached report. Below is a summary of the major requirements.

Who Must Register: All businesses, institutions, corporations, LLCs, LLPs, partnerships, nonprofit associations, sole proprietorships or other non-governmental entities with a business with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to apply for a license. Businesses with multiple physical locations would have to obtain a separate license for each address. Religious entities, minors, and landlords with less than three dwelling units and not operating as a corporation, LLC, or LLP shall be exempt.

Program Start Date: The ordinance designates a renewal and application period between January 1 and February 28 each year, with an effective start date of January 3, 2011.

Fee: A cost-recovery fee of \$35 will be charged for a paper business application and \$32 for an electronic application, which reflects the cost-savings to the City. Home based businesses will be charged a fee of \$22.00 for a paper business application and \$20.00 for an electronic application. This review process will replace the existing Certificate of Zoning review process, which currently costs \$25. Renewal fees will be \$15 for all businesses.

New Businesses and Relocations: If a business or institution applies for a new license after September 1, the fee through February 28 of the next year will be half the fee of an annual renewal.

Penalties: Failure to submit a complete application by February 28 will result in the following fees.

- Less than 30 days late: 10% late charge
- 31-60 days late: 20% late charge
- >60 days late: 50% late charge

Grounds for suspension or revocation:

- 1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such a manner as to unreasonably and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.
- 2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.
- 3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City's Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.
- 4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.
- 5) The business license was procured through fraud or misrepresentation.

Process for suspension or revocation: If the Development Services Director has reason to believe that grounds exist that could justify a suspension or revocation, the Director shall send a letter by first class mail and set a date for a due process hearing, which will be conducted by the Chief of Staff.

Appeals process: If the Chief of Staff determines that the license shall be suspended or revoked, the license holder shall have ten days to submit a written appeal to the City Clerk's office. If an appeal is submitted, the

appeal will be heard by the City Council and the City Council will make a final determination. If a written appeal is not submitted to the City Clerk's office during the ten-day period, the license owner automatically waives all rights to the appeal process.

Enforcement: If a license is suspended or revoked and the business continues to operate, each day of operation will constitute a separate violation. The City may withhold all municipal services, including water, sewer and solid waste services, if the business continues to operate with a suspended or revoked license.

Comparison to Other Cities *(Information accurate as of July 2009)*

City	Approximate Fee	Late fee charges	Other
North Little Rock	\$45-\$1,440	25% penalty if <3 months overdue 50% penalty if >3 months overdue	Additional charges based on employee numbers and stock. Has a renewal period (Jan. 1-Mar. 31)
Hot Springs	\$50-\$1,200	10% penalty after 30 days	
Springdale	\$20		Additional charges based on number of employees
Lowell	\$50	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Rogers	\$50-\$300	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Little Rock	\$75-\$102,000 (avg. \$500)	10% penalty after 30 days add'l 10% penalty after 60 days 30% penalty after 90 days	Additional charges based on number of employees and/or stock
Fort Smith	\$0	None	
Fayetteville (proposed)	\$35-paper \$32-electronic Home based business fees: \$22-paper \$20-electronic	10% penalty if late less than 30 days 20% penalty after 30 days 50% penalty after 60 days	

RECOMMENDATION:

Staff recommends that City Council approve an ordinance to amend the Fayetteville Code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations in Fayetteville.

BUDGET IMPACT:

This program is based on a cost-recovery model, which will make the program cost neutral.



Business Registry and Licensing Program

Prepared by the City of Fayetteville Strategic Planning and Internal
Consulting Department
125 W. Mountain St.
Fayetteville, Ar. 72701
479-575-8267

Updated April 22, 2010

Summary

Strategic Planning staff began researching the feasibility of a business registry program at the request of Alderwoman Shirley Lucas and the Fayetteville Chamber of Commerce in March 2009. The following report outlines the benefits and associated costs of establishing and operating a business registry and licensing program and the relevant departmental responsibilities.

A registry and licensing program will provide the following benefits:

- timely and accurate economic performance data addressing job and industry growth;
- accurate public safety data regarding location, fire suppression systems and the storage of hazardous materials; and
- leverage for the City Prosecutor's office in pursuing tax and code violations.

A three-step cost-recovery methodology determined that the expected cost of processing one business license is \$34.80. This cost includes labor and materials and takes into account that some applications will be processed with a minimum of effort while others will need additional staff time to resolve outstanding issues. The methodology also differentiates between a paper application and an electronic application process; the electronic process will result in a cost-savings of \$4.83, most of which can be passed on to the customer. In addition, the renewal license process will require less staff time, costing only \$15.17.

The project team included:

Don Marr, Chief of Staff;

Jeremy Pate, Development Services Director;

Paul Becker, Finance and Internal Services Director;

Sondra Smith, City Clerk;

Scott Huddleston, Information Technology Director;

Marsha Hertweck, Accounting Director;

Shelly Turberville, Accounting Manager;

Rainy Laycox, Billing and Collections Manager.

The Police Department, Central Dispatch Division, Fire Department City Attorney, Community Services Division, GIS Division, Internal Audit and City Prosecutor's office provided additional feedback on the process and materials.

Issue

The City of Fayetteville currently lacks publicly accessible data about businesses located within its boundaries. This lack of data negatively affects the City's ability to measure economic development performance, ensure public safety and enforce code compliance and tax payment.

Economic Development: The lack of data prevents economic development organizations from providing statistics on job growth and business sector growth and ultimately providing meaningful economic performance measures. Some of these measures include new jobs created and new businesses opened. Without a systematic method for collecting this information, confidence in the accuracy of the measures will be compromised.

Public Safety: The lack of data also contributes to inefficiencies and public safety concerns. The Central Dispatch Division, the Fire Marshal's Office and the Arkansas Department of Health all spend significant time attempting to track new business openings, moves and re-namings. This lack of information significantly hinders the Fire Marshal's goal of preventing hazardous situations. Anecdotal evidence indicates that the Fire Marshal's office stumbles across a handful of business establishments each year after they have opened or just days before opening that did not undergo a fire inspection. In addition, the City lacks information on the storage of hazardous materials and installation of fire suppression systems. The accuracy of this information is crucial for responding to emergencies safely, effectively and efficiently.

The Arkansas Department of Health also lacks information about restaurants and food related businesses in Fayetteville, resulting in inefficiencies in its ongoing inspection program. Determining when businesses open, relocate or close also takes significant staff time that could be better spent providing inspection services, according to an interview with James Shumate, Arkansas Health Department Inspector. The haphazard process also increases the likelihood that a restaurant or other food service provider will slip through the cracks, which if a problem arises, could be detrimental to the health of Fayetteville's citizens and visitors.

Law Enforcement: A business registry and license program will also assist the City Prosecutor's Office in addressing code and tax violations. An ordinance that requires a business license in order to conduct business in the City of Fayetteville will provide additional leverage for the City Prosecutor's office in resolving code and tax violations before they result in a warrant or criminal summons.

Methodology

Staff determined the costs to the City through a three-step process.

Step one: Staff created a process flow chart that illustrates how staff would process an application, incorporating electronic and manual steps. This model also shows the average time it would take each staff member to complete a task. These time allotments were determined after conversations with staff members who would be responsible for the task or who complete similar tasks as part of their daily activities. Colors on the flow chart distinguish between departments. The model incorporates the current certificate of zoning review process, and most additional tasks occur in Development Services. The Accounting Division will review for HMR tax violations and the Fire Marshal's office will review new businesses.

Step two: Staff determined the labor cost per minute using the weighted market salary, which includes benefits, for each staff member identified in the process model. The spreadsheet separated components of the process in order to identify the costs of a paper versus electronic application submittal as well as the initial start-up costs and follow-up costs if an application is unable to be processed. In addition, the spreadsheet calculates the costs associated with materials and mailings. The methodology assumes that there are at least 2,600 businesses in Fayetteville that would be required to register based on a survey completed in 2003 by the City that counted 2,595 businesses within the City limits.

Step three: A decision tree diagram was utilized to determine the expected costs to the City. The diagram incorporates the probability of different events into the cost model, enabling an approximation of the expected costs of processing one license. Assumptions about the assigned probabilities were based on similar City processes and experiences. For example, initial online payments for utility bills averaged two percent upon initial rollout in 2002. Staff assumed this percentage would likely be greater in 2010 and predicted that approximately five percent of businesses would utilize online application and payment services. The Diagram also accounts for initial start up and ongoing costs, which include creating the online application and payment capabilities and annual notifications, respectively. Separate models were utilized to determine renewal costs and costs for home based businesses.

The models determined the following:

- 1) The total expected cost for processing one license is \$34.80.
- 2) The completion of an online application results in a savings of \$4.83 to the City, most of which can be passed on to the customer after covering the service charge associated with online payments.

- 3) The total expected cost for processing one renewal application is \$15.17.
- 4) The total expected cost for processing one home based business license is \$22.49 for a paper application.

Comparison to other Cities in Arkansas¹

Fayetteville is the only city in Arkansas with a population greater than 50,000 that does not require a business license. Springdale, Rogers, Lowell, Fort Smith, Siloam Springs, Benton, Cabot, Jacksonville, Hot Springs, North Little Rock, Little Rock, Pine Bluff, Sherwood and Eureka Springs all require a business license to conduct business within their city limits.

Cities in Arkansas employ a wide range of methods to determine costs to the applicant. Most other cities charge a base fee depending on the type of business and then add costs based on the number employees and/or a percentage of total stock value. For example, Springdale charges a base fee of \$20 and then an additional \$2.50 for each employee up to 25 employees; the fee is an additional \$1.00 for every employee after the first 25. Little Rock charges \$200 plus 0.24% of stock.

Table 1: The average fee for all the cities below except Springdale and Fort Smith are greater than Fayetteville's proposed fee.

City	Fee	Late fee charges	Other
North Little Rock	\$45-\$1,440	25% penalty if <3 months overdue 50% penalty if >3 months overdue	Additional charges based on employee numbers and stock. Also has a renewal period (Jan. 1-Mar. 31)
Hot Springs	\$50-\$1,200	10% penalty after 30 days	
Springdale	\$20		Additional charges based on number of employees

¹ The information provided in the table is accurate as of July 2009.

Lowell	\$50	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Rogers	\$50-\$300	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Little Rock	\$75-\$102,000 (avg. \$500)	10% penalty after 30 days add'l 10% penalty after 60 days 30% penalty after 90 days	Additional charges based on number of employees and/or stock
Fort Smith	\$0	None	
Fayetteville (proposed)	\$35-paper \$32-electronic Home based business fees: \$22-paper \$20-electronic	10% penalty if late less than 30 days 20% penalty after 30 days 50% penalty after 60 days	Proposed renewal fee is \$15.00

Program Structure

Who Must Register

All businesses, institutions, corporations, LLCs, LLPs, partnerships, nonprofit associations, sole proprietorships or other non-governmental entities with a business with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to apply for a license. Businesses with multiple physical locations would have to obtain a separate license for each address. Religious entities, minors, and landlords with less than three dwelling units and not operating as a corporation, LLC, or LLP shall be exempt.

Program Start Date

The IT Division estimates that approximately six months will be needed to complete the electronic processing and online payment capabilities. The

ordinance designates a renewal and application period between January 1 and February 28 each year, with an effective start date of January 3, 2011.

General Requirements

Fee: A cost-recovery fee of \$35 will be charged for a paper business application and \$32 for an electronic application, which reflects the cost-savings to the City. Home based businesses will be charged a fee of \$22.00 for a paper business application and \$20.00 for an electronic application. This review process will replace the existing Certificate of Zoning review process, which currently costs \$25. Renewal fees will be \$15 for all businesses.

New Businesses and Relocations: If a business or institution applies for a new license after September 1, the fee through February 28 of the next year will be half the fee of an annual renewal.

Posting: Each license shall be posted in a highly visible place where the business, occupation or profession is carried on, and the holder of such license shall exhibit such license to any designated agent or official of the city upon request.

Transfer: A business license shall be nontransferable from one person to another nor from one location to another.

Penalties: Failure to submit a complete application by February 28 will result in the following fees.

- Less than 30 days late: (10%)
- 31-60 days late: (20%)
- >60 days late: (50%)

Grounds for suspension or revocation:

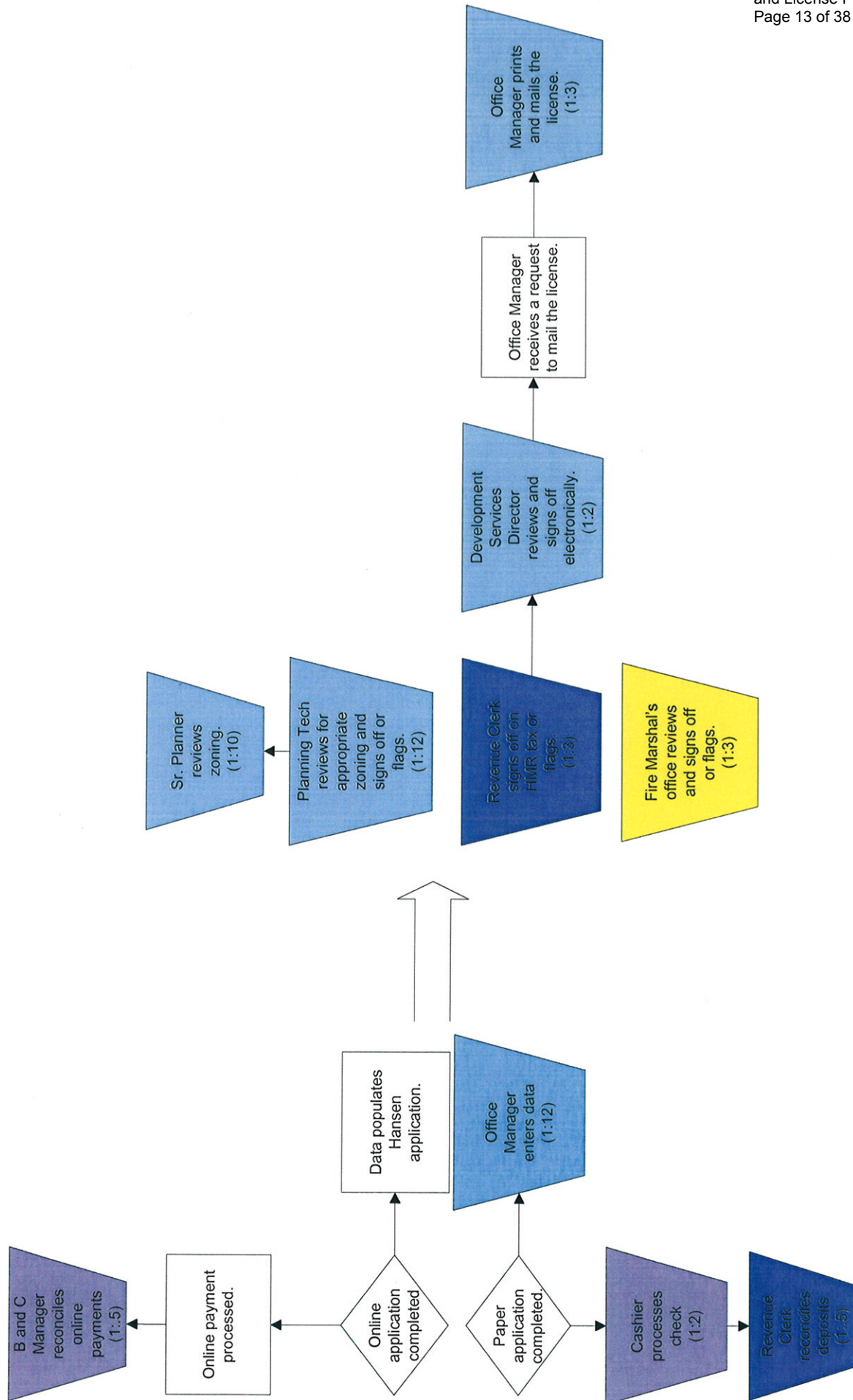
- 1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such a manner as to unreasonably and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.
- 2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.
- 3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City's Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.
- 4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.
- 5) The business license was procured through fraud or misrepresentation.

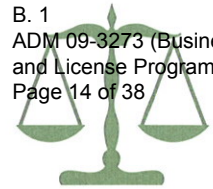
Process for suspension or revocation: If the Development Services Director has reason to believe that grounds exist that could justify a suspension or revocation, the Director shall send a letter by first class mail and set a date for a due process hearing, which will be conducted by the Chief of Staff.

Appeals process: If the Chief of Staff determines that the license shall be suspended or revoked, the license holder shall have ten days to submit a written appeal to the City Clerk's office. If an appeal is submitted, the appeal will be heard by the City Council and the City Council will make a final determination. If a written appeal is not submitted to the City Clerk's office during the ten-day period, the license owner automatically waives all rights to the appeal process.

Enforcement: If a license is suspended or revoked and the business continues to operate, each day of operation will constitute a separate violation. The City may withhold all municipal services, including water, sewer and solid waste services, if the business continues to operate with a suspended or revoked license.

Business Registry Application Process





TO: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **June 16, 2010**

RE: **Business Registry and License Ordinance**

Attached please find the corrected version of the ordinance which should be **substituted for** the version used in the June 15th Agenda. I found four minor errors in the ordinance as I read it aloud to the City Council and public last night. I did read it correctly. The errors that I caught and have now been corrected were:

(1) Lack of **“NOW, THEREFORE”** after the Whereas clauses and before **“BE IT ORDAINED ...”**

(2) §118.03 (C)(iii): omission of “evidence” after “consider all previous” near the end of (iii) on page 7.

(3) §118.05 **Penalty**

Improper use of subsection (1) under both (A) and (B) when there was no subsection (2). Both “(1)”s have been deleted.

These are all “scriveners errors” that do not change the meaning or substance of the ordinance and thus do not need City Council action, but can be administratively corrected. Please discard the incorrect version.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FAYETTEVILLE CODE
BY ENACTING A CHAPTER TO CREATE A BUSINESS
REGISTRY AND TO REQUIRE ANNUAL BUSINESS
LICENSES FOR ALL BUSINESSES AND NON-PROFITS WITH
LOCATIONS WITHIN FAYETTEVILLE

WHEREAS, collecting accurate business and employee data will help the City better track business growth, employment and development; and

WHEREAS, all information will be compiled and collected within the Business Registry which will be available to the businesses and public; and

WHEREAS, accurate reporting of new businesses entering Fayetteville and their addresses will assist Central Dispatch keeping their 911 information up-to-date; and

WHEREAS, accurate reporting of flammable or explosive material storage will provide increased safety for Fayetteville Fire Fighters responding to building fires; and

WHEREAS, the City's effort to collect overdue Hotel, Motel and Restaurant taxes will be assisted if the offending business could lose its business license for failing to promptly and completely remit to the City the taxes paid by its customers.

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 enacts **Chapter 118 Business Registry and Licenses** of the Fayetteville Code as shown below:

"Chapter 118 Business Registry and Licenses

"§118.01 Applicability.

"(A) General businesses.

"(1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.

"(2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

"(3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

"(B) Religious entities.

"Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The City Business License shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

"(C) Minors exempt.

"No individual under eighteen years of age shall be required to register or obtain a business license.

“(D) Individual landlords renting less than three dwelling units exempt.

“An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter.

“§118.02 Entry upon Business Registry and Issuance of Business License.

“(A) Annual application required.

“Every applicable business or other entity identified in §118.01 shall annually complete the Application For Business Registry And License (substantially as shown on Exhibit A and which can be administratively amended by the Mayor) and pay the appropriate fee as required by this chapter.

“(B) Time for Application submittal.

“Applications and annual renewals for existing business license holders shall be completed between January 1 and February 28 each year. Business licenses shall be issued for a fiscal year of March 1 to February 28. New businesses, businesses locating to Fayetteville or entities to which these provisions become applicable in the future shall register and obtain their business license within two months of their move into Fayetteville or commencement of activities.

“(C) Fees.

“(1) *Home based business.* A resident conducting a non-traffic generating occupation, profession or business within the resident’s dwelling unit who is registering for the first time shall pay an annual fee to submit an Application For Business Registry and License of \$22.00 if submitted by February 28, except if the home based business owner registers electronically, the owner shall receive a \$2.00 credit against the annual fee and pay only \$20.00.

Applications submitted after the February 28 deadline shall incur a fee of \$24.00 if submitted by March 31; \$26.00 if submitted by April 30, and \$30.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal fee shall be \$15.00 if timely paid. Otherwise, late payment fees shall be as assessed above.

“(2) All other (non-home based) businesses. Annual fees to submit the business's first Application For Business Registry and License shall be \$35.00 if submitted by February 28, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$32.00. Applications submitted after the February 28 deadline shall incur a fee of \$38.00 if submitted by March 31; \$41.00 if submitted by April 30, and \$52.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal shall be \$15.00 if timely paid. Otherwise, the late payment fees shall be assessed as above.

“(3) Partial year registration fee for new business. If a new business or entity registers and applies for a license after September 1, the fee for the business license through February 28 of the next year shall be \$17.00 except that if a business registers electronically it shall receive a \$2.00 credit against its partial year fee and only be assessed \$15.00.

“(D) Issuance of Business License.

“(1) The Director of Development Services or designee shall promptly issue a business license to any applicable business or entity which properly completes the Application For Business Registry and License, pays the proper fee, and is not ineligible for a business license because of prior suspension or revocation of the license, lack of a required state or city permit, or violation of state law or city ordinance.

“(2) The registration and business license is not transferable nor assignable. Upon the sale, merger or transfer of business ownership, the new owner must register and apply for a new business license within thirty days of the date of transfer or reopening of the business.

“(3) If the Director of Development Services initially refuses to issue a business license, the applicant shall be entitled to a due process hearing before the Chief of Staff concerning the grounds for refusal to issue the license. An applicant can appeal the Chief of Staff’s decision to the City Council in the same manner prescribed for an appeal of the Chief of Staff’s decision to suspend or revoke a business license.

“(E) *Display of business license.*

“Every business and other entity receiving a business license shall prominently display the business license near any other licenses required for the business and issued by a government entity. The business license shall be displayed where customers or visitors entering the establishment will be able to view the business license.

“§118.03 Suspension and Revocation of Business License

“(A) *Grounds That Could Support Suspension or Revocation of Business License.*

“(1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such manner as to unreasonable and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.

“(2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.

“(3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City’s Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.

“(4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.

“(5) The business license was procured through fraud or misrepresentation.

“(B) *Notice.*

“If the Director of Development Services has reason to believe that grounds exist that could justify the suspension or revocation of a business license, the Director shall mail a letter to the Business Mailing Address shown on the application by first class mail notifying the business owner of the possible grounds to suspend or revoke the license and setting a due process hearing in not less than five nor more than ten business days. The Director shall also telephone the business owner using the Business Phone number provided on the Application (as well as the Emergency Phone Number if the owner cannot be reached on the Business Phone number) and provide the same information as is within the letter.

“(C) *Conduct of the Due Process Hearing.*

“(1) The Chief of Staff shall provide a reasonable space for the due process hearing and shall receive evidence from city employees or others about the grounds to suspend or revoke the business license.

“(2) The Business License Holder shall then be granted an opportunity to explain or provide evidence to rebut any allegations and to show why the business license should not be suspended or revoked.

“(3) After the Business License Holder has had a reasonable opportunity to explain his side, the Chief of Staff can do one of the following depending upon the Chief of Staff’s judgment of the seriousness of any proven ground:

“(i) Revoke the Business License.

“(ii) Suspend the Business License for not more than Thirty (30) days.

“(iii) Place the Business on probation status for not more than ninety (90) days on condition that the grounds causing

the problems will be remedied by the business license owner and not be allowed to reoccur. If the business license owner complies with the probation, the probation status shall be lifted and no further action shall be taken. If the Chief of Staff determines that the business license owner has failed to correct the problems or new grounds or suspension or revocation have occurred, the Chief of Staff shall conduct a second due process hearing and consider all previous evidence whether or not the business license should be suspended or revoked.

“(iv) Refuse to revoke or suspend the license which shall remain valid. Any complaint about events leading to the hearing shall not be considered again.

“§118.04 Appeal To City Council

“Any person or entity whose license has been suspended or revoked pursuant to §118.03 may appeal such suspension or revocation to the City Council by providing the City Clerk’s Office with a written request for City Council review within ten business days of the issuance of the suspension or revocation. The City Council may then determine, after a public hearing in which the business license owner may present evidence and explanations, whether the business owner’s license should be suspended for not more than thirty (30) days, revoked because of the grounds presented, or that no suspension or revocation is warranted.

“§118.05 Penalty

“(A) *Fines.*

“No business or other entity who is required by this chapter to obtain a business license shall operate without having and displaying at the business a valid and current City of Fayetteville Business License. Operating without a license shall be a violation punishable by a fine of up to \$250.00 per day of operation.

“(B) *City Services Termination.*

“If a business or entity continues to operate without a valid and current City of Fayetteville Business License for a period of one

week after notification by the Director of Development Services, the Mayor may order the withholding of all city services including water, sewer and solid waste for the business premises."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance shall go into effect on January 3, 2011 to begin the issuance process of business licenses with the requirement that all affected entities shall have applied for the business registry and received their licenses by March 1, 2011.

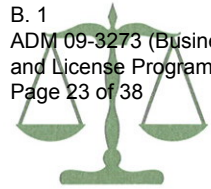
PASSED and **APPROVED** this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



TO: **Lioneld Jordan**, Mayor
City Council

CC: **Don Marr**, Chief of Staff
Karen Minkel, Strategic Planning Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **June 16, 2010**

RE: **Two-thirds vote of all members elected to the City Council needed to pass Business Registry and License Ordinance**

I believe the Business Registry and License Ordinance is controlled by A.C.A. §26-77-102 **Authority to tax or license businesses.**

“Any city council ... shall have the power to enact, by a two-thirds (2/3) vote of all members elected thereto, ordinances requiring any person, firm, individual, or corporation who shall engage in, carry on, or follow any trade, business, profession, vocation, or calling, within the corporate limits of the city or town, to pay a license fee or tax”

I believe that the statute's use of the “fee or tax” phrase clearly expresses the legislative intent to grant **two** kinds of authorities to cities. The first is to license businesses, and the second is to tax businesses. The statute clearly gives a city the right to require “any person, firm, individual or corporation ... to pay a license **fee or tax**” *Id.* (emphasis added)

There is a clear and well established legal difference between a fee (an amount of money to offset the administrative costs of a city program or service) and a tax (a revenue generating exaction).

“The distinction between a tax and a fee is that government imposes a tax for general revenue purposes, but a fee is imposed in the government’s exercise of its police powers.” *Harris v. City of Little Rock*, 344 Ark. 95, 40 S.W. 3rd 214, 221 (2001) (citations omitted).

When the legislature chose to authorize a city to require payment of “a license fee or tax”, it must have intended to grant authority to cities to require payment of business license fees as well as occupational taxes through this statute.

“In construing a statute, we will presume that the General Assembly, in enacting it, possessed the full knowledge of the constitutional scope of its powers, full knowledge of prior legislation on the same subject, and full knowledge of judicial decisions under preexisting law. *Bunch v. State*, 344 Ark. 730, 43 S.W. 3d 132, 136 (2001) (citations omitted)

Because the legislature is presumed to have full knowledge of the distinction between “a license fee or tax”, it must have intended this statute’s requirements to apply to both a business license fee ordinance as well as a business license tax ordinance. Indeed, the Arkansas Supreme Court held “that the authority to impose an occupation licensing fee is expressly delegated to the City by the legislature under (the prior codification of A.C.A. §26-77-102)” *City of Mountain Home v. Drake*, 281 Ark. 336, 663 S.W. 2d 738, 739 (1984).

The Arkansas Supreme Court has long and repeatedly held that certain common sense rules should be used when interpreting a statute or ordinance.

“The basic rule of statutory construction is to give effect to the intent of the legislature. Where the language of a statute is plain and unambiguous, we determine legislative intent from the ordinary meaning of the language used. In considering the meaning of a statute, we construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language. We construe the statute so that no word is left void, superfluous or insignificant, and we give meaning and effect to every word in the statute, if possible. *CitiFinancial Mortgage Co., Inc. v. Matthews*, 372 Ark. 167, 271 S.W. 3rd 501, 506 (2008).

Although A.C.A. §26-77-102 clearly authorizes the City Council to enact a business license ordinance, there could be a question whether this very inclusive business registry and license ordinance, which is applicable to all non-governmental businesses and entities in Fayetteville, could be enacted under the more general police power statutes instead of A.C.A. §26-77-102. I do not believe this would legally be allowed by the Courts.

“We have long held that a general statute must yield when there is a specific statute involving particular subject matter.” *Daimler Chrysler Services, Inc. v. Weiss*, 360 Ark. 188, 200 S.W. 3rd 405, 410 (2004).

“Further, it is blackletter law for statutory construction to give effect to the specific statute over the general.” *Searcy Farm v. Merchants & Planters Bank*, 369 Ark. 487, 256 S.W. 3^d 496, 501 (2007).

Since this state statute clearly involves the particular subject matter of a city-wide business licensing program, our ordinance must be enacted according to its requirements.

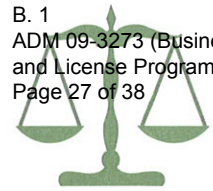
Therefore, we must follow the requirements of A.C.A. 26-77-102 (a) to legally enact the Business Registry and License Ordinance. This statute requires **"a two-thirds (2/3) vote of all members elected thereto"** which refers back to "city council." This is virtually identical language to what is found in Amendment 7 to the Arkansas Constitution as what is needed to repeal an initiated Act **" two-thirds of all the members elected to ... the City Council"** This language has been interpreted by the Arkansas Supreme Court to exclude the Mayor from the right to vote on such repeal (or any emergency clause).

"The court found that the mayor was not an elected member of the City Council but only an ex-officio member by virtue of his executive position and therefore his vote could not be used in amending or repealing any part of an initiated act, and we concur."
Thompson v. Younts, 282 Ark. 524, 669 S.W. 2d 471, 474 (1984).

Because this statute uses the "members elected" to the City Council language, Mayor Jordan is prevented by A.C.A. §26-77-102 (a) from voting on this Business Registry and License Ordinance.

CONCLUSION

In order to pass, the Business Registry and License Ordinance will need six affirmative votes from the members elected to the Fayetteville City Council.



TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Karen Minkel, Strategic Planning Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read 'Kit Williams', followed by a long horizontal line.

DATE: **May 28, 2010**

RE: **Business Registry and License Ordinance referral to City Council**

After at least four Ordinance Review Committee meetings and one meeting conducted by Eva Madison through her position with Fayetteville Forward, the Ordinance Review Committee has agreed that the ordinance they are forwarding to you is in its preferred form and content. The Ordinance Review Committee neither recommended approval nor denial of the proposed Business Registry and License Ordinance, but wanted to present it to the full City Council for further public comment and final decision.

This ordinance is designed to require virtually every person or nongovernmental entity conducting business or nonprofit work from a Fayetteville location to fill out an application, pay a fee, register for the City Business Registry, and obtain a business license to conduct business, professional or nonprofit activity in Fayetteville

The proposed fee for the Business Registry application has been reduced from the initially proposed \$64.00 to the currently proposed \$35.00 for most businesses and nonprofits and to \$22.00 for "home based businesses." The annual renewal has been dropped even further to \$15.00 (less than a quarter of the initial proposal).

I believe enacting the proposed ordinance is within the power and authority of the City Council. I take no position on the merits or drawbacks of establishing a business license requirement.

BUSINESS LICENSE HISTORY IN FAYETTEVILLE

The Fayetteville occupation license tax was imposed by the voters (3,013 for and 2,507 against) in an election on May 26, 1976. The license fee was \$50.00 for each "professional"; \$15.00 for each "non-professional employer", plus \$6.00 for each employee (up to \$500 for a business). Other independent workers (non-employees) working 30 hours or more weekly were supposed to pay \$15.00.

On July 7, 1981, the City of Fayetteville Board of Directors unanimously passed a motion to approve a recommendation from the Board Finance Committee that stated in part: "The Board has reaffirmed, however, that the city will cancel the occupation license tax ... if the city-county sales tax passes." (Board of Directors meeting minutes) The sales tax passed and is still in effect today. On August 4, 1981, the Fayetteville Board passed Ordinance No. 2739 "An Ordinance Repealing The Fayetteville Occupation Tax."

I was initially concerned that the efficient city staff might actually be able to administer the business registry and license program for less than the proposed \$64.00 fee (\$57.00 for internet application). I asked that the anticipated city savings (for 911 dispatch, etc.) be deducted from the administrative costs to ensure the City would not be making a "profit" on the business license fee which would legally change this fee into a tax. . *City of Texarkana v. Hudgins Produce Company*, 112 Ark. 17, 164 S.W. 739 (1914); *Carpenter v. City of Little Rock*, 101 Ark. 238, 142 S.W. 163 (1911).

The proposed fee now takes into account all anticipated savings for the City and has been reduced about 50% (and more than 75% for renewals). These lower fees ensure that there should be no successful legal challenges to the amount of the fee proposed by staff and approved by the Ordinance Review Committee. The Courts grant discretion to the City Council to fix a reasonable fee. *City of Fayetteville v. Carter*, 52 Ark. 301, 12 S.W. 573 (1889).

Revised

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FAYETTEVILLE CODE
BY ENACTING A CHAPTER TO CREATE A BUSINESS
REGISTRY AND TO REQUIRE ANNUAL BUSINESS
LICENSES FOR ALL BUSINESSES AND NON-PROFITS WITH
LOCATIONS WITHIN FAYETTEVILLE

WHEREAS, collecting accurate business and employee data will help the City better track business growth, employment and development; and

WHEREAS, all information will be compiled and collected within the Business Registry which will be available to the businesses and public; and

WHEREAS, accurate reporting of new businesses entering Fayetteville and their addresses will assist Central Dispatch keeping their 911 information up-to-date; and

WHEREAS, accurate reporting of flammable or explosive material storage will provide increased safety for Fayetteville Fire Fighters responding to building fires; and

WHEREAS, the City's effort to collect overdue Hotel, Motel and Restaurant taxes will be assisted if the offending business could lose its business license for failing to promptly and completely remit to the City the taxes paid by its customers.

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 enacts **Chapter 118 Business Registry and Licenses** of the Fayetteville Code as shown below:

"Chapter 118 Business Registry and Licenses

"§118.01 Applicability.

"(A) General businesses.

"(1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.

"(2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

"(3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

"(B) Religious entities.

"Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The City Business License shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

"(C) Minors exempt.

"No individual under eighteen years of age shall be required to register or obtain a business license.

"(D) Individual landlords renting less than three dwelling units exempt.

"An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter.

"§118.02 Entry upon Business Registry and Issuance of Business License.

"(A) Annual application required.

"Every applicable business or other entity identified in §118.01 shall annually complete the Application For Business Registry And License (substantially as shown on Exhibit A and which can be administratively amended by the Mayor) and pay the appropriate fee as required by this chapter.

"(B) Time for Application submittal.

"Applications and annual renewals for existing business license holders shall be completed between January 1 and February 28 each year. Business licenses shall be issued for a fiscal year of March 1 to February 28. New businesses, businesses locating to Fayetteville or entities to which these provisions become applicable in the future shall register and obtain their business license within two months of their move into Fayetteville or commencement of activities.

"(C) Fees.

"(1) Home based business. A resident conducting a non-traffic generating occupation, profession or business within the resident's dwelling unit who is registering for the first time shall pay an annual fee to submit an Application For Business Registry and License of \$22.00 if submitted by February 28, except if the home based business owner registers electronically, the owner shall receive a \$2.00 credit against the annual fee and pay only \$20.00.

Applications submitted after the February 28 deadline shall incur a fee of \$24.00 if submitted by March 31; \$26.00 if submitted by April 30, and \$30.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal fee shall be \$15.00 if timely paid. Otherwise, late payment fees shall be as assessed above.

"(2) *All other (non-home based) businesses.* Annual fees to submit the business's first Application For Business Registry and License shall be \$35.00 if submitted by February 28, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$32.00. Applications submitted after the February 28 deadline shall incur a fee of \$38.00 if submitted by March 31; \$41.00 if submitted by April 30, and \$52.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal shall be \$15.00 if timely paid. Otherwise, the late payment fees shall be assessed as above.

"(3) *Partial year registration fee for new business.* If a new business or entity registers and applies for a license after September 1, the fee for the business license through February 28 of the next year shall be \$17.00 except that if a business registers electronically it shall receive a \$2.00 credit against its partial year fee and only be assessed \$15.00.

"(D) *Issuance of Business License.*

"(1) The Director of Development Services or designee shall promptly issue a business license to any applicable business or entity which properly completes the Application For Business Registry and License, pays the proper fee, and is not ineligible for a business license because of prior suspension or revocation of the license, lack of a required state or city permit, or violation of state law or city ordinance.

"(2) The registration and business license is not transferable nor assignable. Upon the sale, merger or transfer of business ownership, the new owner must register and apply for a new business license within thirty days of the date of transfer or reopening of the business.

"(3) If the Director of Development Services initially refuses to issue a business license, the applicant shall be entitled to a due process hearing before the Chief of Staff concerning the grounds for refusal to issue the license. An applicant can appeal the Chief of Staff's decision to the City Council in the same manner prescribed for an appeal of the Chief of Staff's decision to suspend or revoke a business license.

"(E) *Display of business license.*

"Every business and other entity receiving a business license shall prominently display the business license near any other licenses required for the business and issued by a government entity. The business license shall be displayed where customers or visitors entering the establishment will be able to view the business license.

"§118.03 Suspension and Revocation of Business License

"(A) *Grounds That Could Support Suspension or Revocation of Business License.*

"(1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such manner as to unreasonable and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.

"(2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.

"(3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City's Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.

"(4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.

"(5) The business license was procured through fraud or misrepresentation.

"(B) *Notice.*

"If the Director of Development Services has reason to believe that grounds exist that could justify the suspension or revocation of a business license, the Director shall mail a letter to the Business Mailing Address shown on the application by first class mail notifying the business owner of the possible grounds to suspend or revoke the license and setting a due process hearing in not less than five nor more than ten business days. The Director shall also telephone the business owner using the Business Phone number provided on the Application (as well as the Emergency Phone Number if the owner cannot be reached on the Business Phone number) and provide the same information as is within the letter.

"(C) *Conduct of the Due Process Hearing.*

"(1) The Chief of Staff shall provide a reasonable space for the due process hearing and shall receive evidence from city employees or others about the grounds to suspend or revoke the business license.

"(2) The Business License Holder shall then be granted an opportunity to explain or provide evidence to rebut any allegations and to show why the business license should not be suspended or revoked.

"(3) After the Business License Holder has had a reasonable opportunity to explain his side, the Chief of Staff can do one of the following depending upon the Chief of Staff's judgment of the seriousness of any proven ground:

"(i) Revoke the Business License.

"(ii) Suspend the Business License for not more than Thirty (30) days.

"(iii) Place the Business on probation status for not more than ninety (90) days on condition that the grounds causing

the problems will be remedied by the business license owner and not be allowed to reoccur. If the business license owner complies with the probation, the probation status shall be lifted and no further action shall be taken. If the Chief of Staff determines that the business license owner has failed to correct the problems or new grounds of suspension or revocation have occurred, the Chief of Staff shall conduct a second due process hearing and consider all previous whether or not the business license should be suspended or revoked.

“(iv) Refuse to revoke or suspend the license which shall remain valid. Any complaint about events leading to the hearing shall not be considered again.

“§118.04 Appeal To City Council

“Any person or entity whose license has been suspended or revoked pursuant to §118.03 may appeal such suspension or revocation to the City Council by providing the City Clerk’s Office with a written request for City Council review within ten business days of the issuance of the suspension or revocation. The City Council may then determine, after a public hearing in which the business license owner may present evidence and explanations, whether the business owner’s license should be suspended for not more than thirty (30) days, revoked because of the grounds presented, or that no suspension or revocation is warranted.

“§118.05 Penalty

“(A) *Fines.*

“(1) No business or other entity who is required by this chapter to obtain a business license shall operate without having and displaying at the business a valid and current City of Fayetteville Business License. Operating without a license shall be a violation punishable by a fine of up to \$250.00 per day of operation.

“(B) *City Services Termination.*

“(1) If a business or entity continues to operate without a valid and current City of Fayetteville Business License for a period of one

Revised

week after notification by the Director of Development Services, the Mayor may order the withholding of all city services including water, sewer and solid waste for the business premises."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance shall go into effect on January 3, 2011 to begin the issuance process of business licenses with the requirement that all affected entities shall have applied for the business registry and received their licenses by March 1, 2011.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Handed out
at Agenda
6/29/10**Karen Minkel - business license conversation**

From: Terra Tots <terratots@gmail.com>
To: <kminkel@ci.fayetteville.ar.us>
Date: 6/17/2010 3:54 PM
Subject: business license conversation
CC: Jermy Gawthorp <jermy@greenhousegrille.com>, Amy Robinson
<amy@springlinegroup.com>, B Hembree <bhembree3@gmail.com>

Hi Karen.

I just wanted to follow up after our conversation at Terra Tots last week.

My concern with, yet another, required small business license is the utter confusion on the part of the business owner.

At this point, I feel like boycotting any other city, county, or state business "requirement" until a streamlined system is put in place for people opening/operating a business.

Perhaps a checklist highlighting all the registration requirements would be handy.

As a small business owner, I struggle with the current requirements since there is no easy way to know what we are supposed to register for. After three years in business, and almost a year of preparation prior to opening, I still discover random "requirements" that a small business owner is asked to complete. We worked with the Chamber when we opened in 2007, and worked very closely with the UofA Small Business Development Center, plus several months working with our SBA loan officer. Yet, there are still unknown licenses floating around that none of us knew about.

In much of the articles I've read about the idea of the business license, the idea of making it easy on the city is mentioned several times. The city should turn it's focus on how to make this complicated system easier for the business owner. The business owner should get something in return. After all, the business owners are what help to rake in income for the city. Help us, please don't bombard us with yet another piece of paperwork...and another fee.

I'm curious to know if the city has met with any business owners (small business owners) to get their input?

Respectfully,

--

Bernice Hembree
TERRA TOTS natural parenting
www.terra-tots.com

B.2. ADM 09-3273
Business Registry & License Program

Handed out at
Agenda Session
6/29/10

Page 1 of 1

B. 1
ADM 09-3273 (Business Registry
and License Program)
Page 38 of 38

Karen Minkel - Business Registry

From: "Stephen Davis" <sldavis@davisbusinessplanning.com>
To: "Bobby Ferrell" <ward3_pos2@ci.fayetteville.ar.us>
Date: 6/25/2010 1:25 PM
Subject: Business Registry

6/26/10

Alderman Ferrell

I want to express my support for the Business Registry Ordinance. My wife and I each own and operate a small business in Fayetteville and believe that the city of Fayetteville having a business registry will be of benefit to the community. The biggest benefit that we will derive from Fayetteville having a business registry requirement, in our opinion, is the periodic inspections that occur from the City's emergency personnel as they perform their routine checks.

I had intended to be present for the City Council meeting when the final vote was to be taken on this ordinance; however, my wife and I will be out of town on a trip.

Stephen L Davis
Davis Business Planning, LLC
479-935-4572
sldavis@davisbusinessplanning.com Davisbusinessplanning.com

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

B. 2
ADM 09-3466 (UDC Chapters
151 & 164 Vehicle Related Businesses)
Page 1 of 24

8/17/2010

City Council Meeting Date
Agenda Items Only

Jesse Fulcher
Submitted By

Planning
Division

Development Services
Department

Action Required:

ADM 09-3466 (UDC Chapters 151 and 164 Vehicle Related Businesses): An ordinance amending Chapter 151 and 164 of the Unified Development Code to clarify vehicle related businesses, including vehicle repair, towing and salvage.

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 07-29-10 P04:34 RCVD

Chief of Staff

Date

Received in Mayor's Office

Mayer

Date



Comments:

Revised January 15, 2009

Left on the second Reading at 8/17/10 Co mtg.

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jesse Fulcher, Current Planner

Date: July 23, 2010

Subject: ADM 09-3466 UDC Chapter 151 and 164 vehicle related businesses

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance amending Chapter 151 and 164 of the Unified Development Code (ADM 09-3466).

BACKGROUND

In addition to the zoning regulations in Chapter 161 of the Unified Development Code (UDC), which apply to all the various zoning districts and associated uses, there are supplementary regulations for certain types of uses and businesses. Specifically, Chapter 164 of the UDC provides restrictions for vehicle-related businesses, including gasoline service stations and car washes, as well as requirements for the storage of disabled and unlicensed vehicles.

However, there are several other types of vehicle related businesses that aren't currently regulated by Chapter 164, including towing and impound facilities, auto salvage and automotive repair shops. Unlike the uses currently regulated by Chapter 164, though, these businesses may have areas for the storage of wrecked, disabled or inoperable vehicles. Eventually, this type of storage can create a public nuisance and adversely impact surrounding properties and even neighborhoods.

It is staff's recommendation that Chapter 151 and 164 of the Unified Development Code be modified to include additional definitions and requirements for several types of vehicle related businesses that are most likely to create nuisances if not properly regulated.

DISCUSSION

On December 14, 2009 the Planning Commission unanimously forwarded this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, CHAPTERS 151: DEFINITIONS AND 164: SUPPLEMENTARY ZONING REGULATIONS, IN ORDER TO INCLUDE ADDITIONAL DEFINITIONS AND REQUIREMENTS FOR VEHICLE RELATED BUSINESSES.

WHEREAS, the City of Fayetteville Unified Development Code was adopted to further the health, safety and general welfare of the community, and to promote an orderly and appropriate mix of land uses; and

WHEREAS, land uses that include the storage of disabled, wrecked, or inoperable vehicles can create a public nuisance and adversely impact surrounding properties and neighborhoods ; and

WHEREAS, the City of Fayetteville Unified Development Code should provide regulations that protect neighborhoods, commercial and industrial districts, and makes a livable community.

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: Definitions by inserting in alphabetical order the following definitions:

“Auto Salvage. (Zoning) The dismantling or wrecking of motor vehicles or trailers, or the storage, keeping, selling, buying, or dumping of any wrecked, scrapped, ruined, dismantled, disabled, or inoperable motor vehicle or motor vehicle part.”

“Junkyard. (Zoning) Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, discarded appliances, or other material in a condition such that it cannot be used for its original purposes.”

“Motor vehicle. (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)”

“Motor vehicle accessory store. (Zoning) Stores that sell new automobile parts, tires, and/or accessories.”

“Motor vehicle repair and body shop. (Zoning) Any property, building or portion thereof used for the service and repair of motor vehicles including major mechanical repair and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations.”

“Towing impound yard. (Zoning) A facility operated for the temporary storage of towed motor vehicles that are to be claimed by their title holders or agents, or transported to a repair shop.”

"Towing service. (Zoning) An establishment that provides for the removal of a motor vehicle by towing, carrying, hauling or pushing from public or private property when such vehicle has been ordered to be impounded to a public or private impound yard. This shall not include a "motor vehicle repair and body shop" use that has a tow truck and services vehicles on-site."

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §151.01: Definitions by renaming "Filling station (Zoning)" to "Gasoline service station. (Zoning)" and placing it in alphabetical order.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.05 Automobile Garages and enacts a replacement §164.05, as follows:

§164.05 Motor Vehicle Repair

In any district where permitted, gasoline service stations and motor vehicle repair and body shops shall be subject to the following regulations:

- (A) All appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line of agricultural or residential district.
- (B) Although temporarily inoperable, motor vehicles shall have substantially all of its main component parts attached, and where subject to a license, shall be currently and validly licensed for operation upon public streets and highways.
- (C) No motor vehicle to be repaired shall be stored on the premises longer than 45 days.
- (D) No abandoned vehicles shall be stored on the premises.
- (E) Vehicles shall be parked in such a way so they do not encroach upon City right-of-way, or block pedestrian or vehicular use and visibility.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.06 Automobile Wash Service by repealing the section and renaming the section "Reserved."

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.14 Parking And Storage Of Certain Vehicles and enacts a replacement §164.14, as follows:

§164.14 Parking And Storage of Certain Vehicles

- (A) Motor vehicles or trailers of any kind, which are required to be licensed, must have current license plates properly attached (unless completely enclosed within a building) except within the lot of the following legally operating businesses: vehicle sales, trailer sales, junkyards, auto salvage yards, towing impound yards and auto body shops.
- (B) Disabled motor vehicles or trailers must be stored inside buildings unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.
- (C) Parking or storing wrecked or abandoned vehicles within residential districts is prohibited.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.18 (A) Automobile garages, §164.18 (B) Automobile wash service, and §164.18 (D) Industrial Parks, and rennumbers the remaining subsections sequentially.

Section 7. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.18 to insert the following subsection:

- (D) Towing impound yards. An impound yard shall be subject to the following:
 - (1) Motor vehicles shall not be stored on the premises longer than 45 days.

- (2) Impound yards shall be surrounding on all sides by a minimum 6 foot tall wood board privacy fence.

PASSED and **APPROVED** this the ____ day of ____, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



PC Meeting of December 14, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~December 8, 2009~~ Updated December 15, 2009

ADM 09-3466; (UDC AMENDMENTS, CHAPTER 151 AND 164): Submitted by City Planning Staff. The request is to amend several chapters of the Unified Development Code (UDC) to clarify vehicle related businesses, including vehicle repair, towing, and salvage.

Planner: Jesse Fulcher

BACKGROUND

November 23, 2009 Planning Commission. This item was discussed at the November 23, 2009 Planning Commission meeting where staff gave a presentation of the proposed amendments to the Unified Development Code (UDC). The Planning Commission and City Attorney provided feedback to staff concerning the proposed amendments. Staff has attempted to incorporate all of the changes recommended into the proposed code. The primary revisions requested are as follows:

- 1) Clarify the definition of a motor vehicle, remove reference to implements of animal husbandry.
- 2) Remove "household waste and garbage" from the definition of a junkyard
- 3) Clarify 164.14 Parking and storing of certain vehicles. Don't want to prohibit owner of antique vehicle or hobbyist.

DESCRIPTION AND PROPOSAL

In addition to the zoning regulations in Chapter 161 of the Unified Development Code (UDC), which apply to all the various zoning districts and associated uses, there are supplementary regulations for certain types of uses and businesses. Specifically, Chapter 164 of the UDC provides restrictions for vehicle-related businesses, including gasoline service stations, car washes and drive-in facilities, as well as requirements for the storage of disabled and unlicensed vehicles.

However, there are several other types of vehicle related businesses that aren't currently regulated by Chapter 164, including towing and impound facilities, auto salvage and automotive repair shops. Unlike the uses currently regulated by Chapter 164, though, these businesses may have areas for the storage of wrecked, disabled or inoperable vehicles. Eventually, this type of storage can create a public nuisance and adversely impact surrounding properties and even neighborhoods.

It is staff's recommendation that Chapter 151 and 164 of the Unified Development Code be modified to include additional definitions and requirements for several types of vehicle related businesses that are most likely to create nuisances if not properly regulated.

The proposal is to amend two (2) chapters of the UDC as summarized below and attached in full to this staff report:

Chapter	Section	Description
Chapter 151.01	Definitions	- Include definitions for auto salvage, junkyard, motor vehicle, motor vehicle accessory store, motor vehicle repair and body shop, towing impound yard and towing service. Additionally, the definition for "filling station" will be changed to "gasoline service station."
Chapter 164.05	Automobile Garages	- Change title to Motor vehicle repair and provide restrictions on the storage and parking of wrecked or abandoned vehicles.
Chapter 164.06	Automobile Wash Service	- Removed regulations and reserved section number.
Chapter 164.14	Parking and storage of certain vehicles	- Clarify regulation and insert new section prohibiting the parking or storage of wrecked vehicles in residential districts.
Chapter 164.18	Supplementary use regulations	- Remove section (A) and section (B), as these regulations are already stated in section 164.05 and 164.06. - Renumber remaining sections. - Add new requirements for towing impound yards. - Remove section (E), since there are landscaping, grading and drainage requirements for all lots regardless of the site location.

The ordinance amendments are shown in highlight and ~~strikeout~~ and are attached to the staff report.

RECOMMENDATION

Staff recommends forwarding **ADM 09-3466** to the City Council with a recommendation for approval.

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Motion: Zant

Second: Myres

Vote: 7-0-0

Meeting Date: December 14, 2009

Comments: _____

Revisions requested by Planning Commission and City Attorney

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

B. 2
ADM 09-3466 (UDC Chapters
151 & 164 Vehicle Related Businesses)
Page 9 of 24



LEGAL DEPARTMENT

TO: Jesse Fulcher, City Planner
Andrew Garner, Senior Planner

FROM: Kit Williams, City Attorney

DATE: November 24, 2009

RE: Junkyards, Motor vehicles and §164.14

I have redrafted proposed definitions of "Junkyard" and "Motor vehicle". By referring to the state licensing law (Chapter 14 of Title 27 of the Arkansas Code) the definition of "Motor vehicle" can be short, include what we are trying to regulate, and not include things we do not want to regulate in §164.14: riding lawn mowers, tractors, electric wheelchairs, electric bicycles, four wheelers, etc.

We should define "Junkyard" as it should be operated and not include improper materials (garbage and trash) in its definition which could be used against us if we tried to get improper materials removed from a junkyard.

Much of §164.14's problems go away with the new definition of "motor vehicle". However, I believe we should restrict unlicensed or disabled motor vehicles and trailers to the actual businesses that deal with them rather than various zoning districts in which these and **many other unrelated businesses** may operate: I-1, I-2, C-2, Downtown Core, Mainstreet Center. Unlicensed cars are okay at auto dealerships in C-2 or Downtown Core, but not at other businesses or residences in those zones. We don't want disabled or wrecked cars stored in a manufacturing plant's parking lot even if it is I-2. These should be business sensitive rather than zoning district exceptions.

Junkyard (Zoning) A parcel used to store and resell parts from wrecked or inoperable motor vehicles.

Motor Vehicle (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)

164.14 Parking and Storage of Motor Vehicles and Trailers

Motor vehicles and trailers required to be licensed must have current license plates properly attached if parked or stored (unless completely enclosed in a building) except within the business lot of the following legally operating businesses: auto sales, truck sales, motorcycle sales, trailer sales, junkyards, auto salvage yards, towing impound yards and auto body shop lots. Disabled motor vehicles or trailers must be stored inside buildings unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.

Chapter 151 and 164 Updated

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 151: DEFINITIONS**

151.01 Definitions	3
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Airport elevation. (Airport Zone) 1,251 feet above mean sea level.

Alley. (Development) A minor public way dedicated to public use for utility easements and vehicle access to the back or the side of properties abutting a street.

Alternative tower structure. (Wireless Telecommunications Facilities) Man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers and are built for the express purpose of serving as a tower or for locating antennas.

Analysis report. (Tree Preservation and Protection) A report, which among other things, sets forth any alternative designs the applicant considered in arriving at the proposed design.

Animal daycare. (Zoning) A facility that provides day or nighttime supervision for three or more animals. Animals are kept inside the facility, except animals are permitted to be walked on a leash outside. Facilities that contain outdoor dog runs, play areas, or kennels are not considered an animal daycare.

Antenna. (Wireless Telecommunications Facilities) Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips but not including satellite earth stations.

Applicant. (Tree Preservation and Protection) Any person, party, partnership, corporation or other business entity seeking the city's approval of a proposed tree preservation plan.

Approach surface. (Airport Zone) A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. In a plane the perimeter of the approach surface coincides with the perimeter of the approach.

Approach, transitional, horizontal and conical zones. (Airport Zone) Those zones as set forth in § 165.01.

Approval. (Physical Alteration of Land) A written authorization by the city engineer.

Appurtenances. (DDOD) Architectural features consisting of awnings, marquees, porches, stoops, balconies, turrets, cupolas, balconies, colonnades, and arcades.

Arcade. (DDOD) A colonnade composed of counterthrusting arches.

Area sign. (Signs) A sign to identify a common area containing a group of structures, or a single structure on a minimum site of five acres, such as a residential subdivision, residential office, commercial or industrial subdivision, apartment complex, manufactured home park, or shopping center located at the entrance or entrances of the area, and consisting of fence or wall or archway with letters or symbols affixed thereto or other supporting structure as approved by the zoning and development administrator.

Artist Studio. (Zoning) Any building or place of business where Artists use the premises for the creation, sale and/or display of art or craft work.

As graded. (Physical Alteration of Land) The surface condition on completion of grading.

Aspect. (Landscape Regulations) The angle of exposure from sunlight as it relates to the slope of the earth, primarily south and west in this region.

Auto salvage. (Zoning) The dismantling or wrecking of motor vehicles or trailers, or the storage, keeping, selling, buying, or dumping of any wrecked, scrapped, ruined, dismantled, disabled, or inoperable motor vehicle or motor vehicle part.

Awning. (DDOD) A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

B

Balcony. (DDOD) An open habitable portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers but is instead supported by either a cantilever or brackets.

Baluster. (DDOD) A short vertical member used to support a railing or coping.

Balustrade. (DDOD) A railing together with its supporting balusters or posts, often used at the front of a parapet.

Banner. (Signs) Any sign printed or displayed upon cloth or other flexible material, with or without frames.

Barrel roof. (DDOD) Like a covered wagon, or inverted ship; barrel vault is an arch of uniform cross-section.

relationship. The definition of family does not include fraternities, sororities, clubs or institutional groups.

FCC. (Wireless Telecommunications Facilities) The Federal Communications Commission.

FEMA. (Physical Alteration of Land) Federal Emergency Management Agency.

Fill. (Physical Alteration of Land) A deposit of earth material placed by artificial means.

Filling station. (Zoning)

~~(A) Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, no other:~~

~~(1) Sale and servicing of spark plugs, batteries, and distributor parts;~~

~~(2) Tire servicing and repair, but no recapping or regrooving;~~

~~(3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;~~

~~(4) Radiator cleaning and flushing;~~

~~(5) Washing and polishing, and sales of automotive washing and polishing materials;~~

~~(6) Greasing and lubrications;~~

~~(7) Providing and repairing fuel pumps, oil pumps, and lines;~~

~~(8) Minor servicing and repair of carburetors;~~

~~(9) Emergency wiring repairs;~~

~~(10) Adjusting and repairing brakes;~~

~~(11) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;~~

~~(12) Sales of cold drinks, package foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operations;~~

~~(13) Provision of road maps and other information material to customer; provision of restroom facilities.~~

~~(B) Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage or a body shop.~~

First or ground floor. (DDOD). The finished floor facing a street right of way.

Flashing sign. (Signs) An illuminated sign on which artificial or reflected lights is not maintained stationary and constant in intensity and color at all times when in use.

Flood or flooding. (Flood Damage Prevention) A general and temporary condition or partial or complete inundation of normally dry land areas from the overflow of flood waters, or the unusual and rapid accumulation or run-off of surface water from any source.

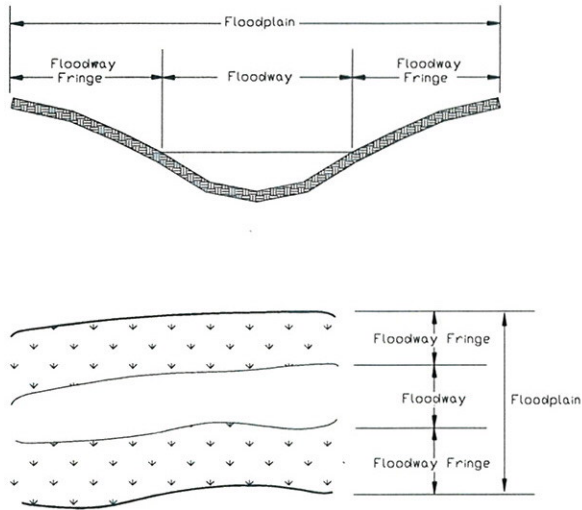
Flood boundary and floodway map. (Flood Damage Prevention) The official map on which the Federal Insurance Administration has delineated both the areas of flood hazards and the floodway.

Flood Insurance Rate Map (FIRM). (Flood Damage Prevention) The official map on which the Federal Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the Floodway.

Flood Insurance Study. (Flood Damage Prevention) The official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodplain. (Stormwater Management, Drainage and Erosion Control) For a given flood event, that area of land that is temporarily covered by water and that adjoins a watercourse. In FEMA regulated, or established floodplains, the floodplains shall mean the area subject to inundation from any source during the regulatory event.

Floodplain or flood-prone area. (Flood Damage Prevention) Areas that are subject to, or are exposed to, flooding and flood damage.



Floodplain management. (Flood Damage Prevention) The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations. (Flood Damage Prevention) Development code, building codes, health regulations, special purpose ordinances (i.e., grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood-proofing. (Flood Damage Prevention) Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. (Flood Damage Prevention) The channel of a river, or other watercourse, and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory floodway."

Floodway. (Stormwater Management, Drainage and Erosion Control) The channel of a stream, plus any adjacent floodplain areas that must be kept free to encroachment so that the 100-year flood discharge can be conveyed without increases of more than specified amount in base elevations, either zero or one foot depending on specific location. This is an area of significant depths and velocities and therefore due consideration should be given to the effects of fill and loss of cross-sectional flow area is increased water surface elevations.

Floor. (DDOD) A story within a building.

Forestation. (Tree Preservation and Protection) The act of planting trees.

Fraternity or sorority house. (Zoning) A building owned or leased by a general or local chapter of some regularly organized college fraternity or sorority, or by or on its behalf by a building corporation or association composed of members or alumni thereof, and occupied by the local chapter of such fraternity or sorority as a place of residence.

Freestanding sign. (Signs) A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.

Frontage Line. The property line or lines of a lot which coincide with a right-of-way or other public open space.

Functionally dependent use. (Flood Damage Prevention) A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

G

Gable. (DDOD) The vertical triangular end of a building from cornice or eaves to ridge.

Gabled roof. (DDOD) A double sloping roof that forms a gable at each end.

Gambrel roof. (DDOD) A roof where each side has two slopes; a steeper lower slope and a flatter upper one; a "barn roof".

Garage sales. (Zoning) An occasional sales activity, not to include activities described elsewhere as home occupations, but including activities generally referred to as garage sales, yard sales, rummage sales, white elephant sales, cleaning sales, or moving sales, where used goods are displayed or offered for sale to the general public in a residential area on the resident's premises.

Gas outlet. (Building Regulations) For the purpose of establishing gas permit fees for additions, alterations, repair, and new installations, a gas outlet shall be defined as any service line and/or pipe replacement or extension and a connection to any device and equipment that receives, stores, consumes, transfers, and/or discharges gas.

Gasoline service station. (Zoning) Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the

following services may be rendered and sales made, no other:

- (A) Sale and servicing of spark plugs, batteries, and distributor parts;
- (B) Tire servicing and repair, but no recapping or regrooving;
- (C) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- (D) Radiator cleaning and flushing;
- (E) Washing and polishing, and sales of automotive washing and polishing materials;
- (F) Greasing and lubrications;
- (G) Providing and repairing fuel pumps, oil pumps, and lines;
- (H) Minor servicing and repair of carburetors;
- (I) Emergency wiring repairs;
- (J) Adjusting and repairing brakes;
- (K) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (L) Sales of drinks, package foods, tobacco, and similar convenience goods for gasoline service station customers, as accessory and incidental to principal operations;
- (M) Provision of road maps and other information material to customer; provision of restroom facilities.
- (N) Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage or automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations. A gasoline service station is not a repair garage or a body shop.

Glare (Outdoor Lighting) means the brightness of a light source that causes eye discomfort.

Grade. (Physical Alteration of Land) The percentage of rise or fall per 100 feet. Existing grade is the grade prior to grading. Rough grade is the stage at which the grade approximately conforms to

the approved plan. Finish grade is the final grade of the site which conforms to the approved plan.

Grading. (Physical Alteration of Land) Any stripping, cutting, filling, or stockpiling of earth or land.

Green Roof. (Stormwater) Elevated roof surfaces that are entirely covered with a thin soil and vegetation layer.

Ground cover. (Physical Alteration of Land) Plants with low, spreading habit that form a dense mat in time, preventing erosion.

Guyed towers. (Wireless Telecommunications Facilities) A communications tower that is supported, in whole or in part, by guy wires and ground anchors.

H

Habitable Space. Building space whose use involves human presence. Habitable space excludes parking garages, self-service storage facilities, warehouses, and display windows separated from retail activity.

Hazard to air navigation. (Airport Zone) An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Hazardous tree. (Tree Preservation and Protection) A tree or tree parts with high probability of falling or causing injury or property loss; also, a tree harboring insects or a disease that could be detrimental to surrounding trees.

Health officer. ((Manufactured Homes and Parks) (Manufactured Homes and Parks opened or expanded, 4-20-72) The legally designated health authority of the city or his authorized representative.

Height. (Airport Zone) Sea level elevation, unless otherwise specified.

Height. (Hillside/Hilltop Overlay District) Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

Height. (Wireless Telecommunications Facilities) The vertical distance measured from the mean elevation of the finished grade to the highest point on the tower or other structure, even if said highest point is an antenna or antenna array.

Highest adjacent grade. (Flood Damage Prevention) The highest natural elevation of the

Independent manufactured home. ((Manufactured Homes and Parks) (Manufactured Homes and Parks opened or expanded, 4-20-72) A manufactured home which has a flush toilet and a bath or shower.

Intermittent stream. (Stormwater Management Drainage and Erosion Control) A stream that carries water part of the year is dry another part but receives flow from the groundwater table when it is high enough.

Invasive species. (Tree Preservation and Protection) Any species not indigenous to a region, which becomes established and displaces native species.

J

Joint identification sign. (Signs) A sign which serves as common or collective identification for a group of persons or businesses operating on the same subdivision or lot in a residential office, commercial or industrial district (e.g., shopping center, office complex, etc.) Such sign may name the person(s) or business included but carry no other advertising matter.

Junkyard. (Zoning) Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, discarded appliances, or other material in a condition such that it cannot be used for its original purposes.

K

Kennel. (Zoning) A structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility that keeps animals commercially and has open dog runs, outside play areas, or any areas where animals are kept or left outside.

L

Lamp or Bulb (Outdoor Lighting) means the light producing source installed in the socket portion of a luminaire.

Land disturbance. (Tree Preservation and Protection) Clearing, scraping, grubbing, or otherwise removing or destroying the vegetation of a site, or adding, removing, exposing, excavating, leveling grading, digging, tunneling, trenching, burrowing, dumping, piling, dredging or application of toxic substance, storage of materials, and operation of equipment, or otherwise significantly disturbing the soil, mud, sand, or rock of a site.

Landscape administrator. (Tree Preservation and Protection) The person who is responsible for the administration of Tree Preservation and Protection, Chapter 167 and Landscape Regulations, Chapter 177. Also known as Urban Forester.

Landscape establishment guarantee. (Tree Preservation and Protection) A bond, irrevocable letter of credit, or other surety held by the city until the satisfactory conclusion of the three year landscape establishment period.

Landscape fabric. (Physical Alteration of Land) A barrier against soil erosion, allowing water to pass through while keeping soil in place.

Landscaping. (Zoning) The area within the boundaries of a given lot which consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

Large-scale development. (Development) The development of a lot or parcel larger than one acre. The term development shall include, but shall not be limited to, the construction of a new improvement, the construction of an addition to an existing improvement, or a parceling which results in the need for access and utilities.

Larger than utility runway. (Airport Zone) A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12, 500 pounds maximum gross weight and jet powered aircraft.

Lattice tower. (Wireless Telecommunications Facilities) A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

Lease. (Signs) An agreement by which a property owner conveys, usually for a specified rent, to other persons, permission to erect and maintain an advertising sign upon his property.

Less desirable species. (Tree Preservation and Protection) Low-priority trees or other woody shrubs listed in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual*.

Levee. (Flood Damage Prevention) A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

on a community's Flood Insurance Rate Map are referenced.

Meter. (Building Regulations) For the purpose of establishing electrical permit fees for additions, alterations, repair, and new installments and to include farm buildings and owner/occupied dwellings a meter shall be defined as an apparatus to measure electrical power and an outlet shall be defined as a point on the wiring system at which current/voltage is switched, connected to a lighting fixture or receptacle, connected to utilization equipment, and connected to any equipment that receives, controls, stores, consumes, and/or transfers electricity.

Ministorage units. (Zoning) A structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Mitigation. (Tree and Preservation and Protection) The planting of trees on-site in an effort to lessen the environmental damage caused by the injury or removal of trees during development.

Mobile home. (Zoning) A manufactured home built prior to June 15, 1976.

Monopole tower. (Wireless Telecommunications Facilities) A communications tower constructed without the use of guy wires and ground anchors and consisting of only a single pole.

Monument sign. (Sign) A freestanding sign with a maximum height of six feet above the surrounding finish grade and whose entire base is in contact with and supported by the ground.

Motor vehicle. (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)

Motor vehicle accessory store. (Zoning) Stores that sell new automobile parts, tires, and/or accessories.

Motor vehicle repair and body shop. (Zoning) Any property, building or portion thereof used for the service and repair of motor vehicles including major mechanical repair and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations.

Mulch. (Physical Alteration of Land) A layer of leaves, straw, bark, or other organic material spread around plants to retain moisture, and to control weeds or erosion.

Mullions. (DDOD) Strips of wood or metal that separate and hold in place the panes of a window.

Muntin. (DDOD) A short vertical or horizontal bar used to separate panes of glass in a window or panels in a door. The muntin extends from a stile, rail, or bar to another bar. This term is often confused with mullion.

N

Native woodlands. (Tree Preservation and Protection) A biological community of trees and woody shrubs native to the Ozark Plateau, covering an area of 10,000 square feet or greater. A list of species to the Ozark Plateau may be found in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual*.

Natural drainage ways. (Physical Alteration of Land) Ephemeral, intermittent and perennial streams. Chapter 169 is not concerned with ephemeral streams.

New construction. (Flood Damage Prevention) For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this development code.

New Development. (Water and Wastewater Impact Fees) Construction of a new single family home and the construction or expansion of any other building or structure. The change in use of a building or structure that results in increased demand from water and wastewater facilities shall also be considered new development.

Nonconforming sign. (Signs) A sign existing on 12-19-72 which could not be built under the terms of the UDC.

Nonconforming use. (Airport Zone) Any pre-existing structure, object of natural growth, or use of land which does not conform to the provisions of Chapter 165 or an amendment thereto.

Nonconforming use. (Zoning) A use that lawfully occupied a building or structure or land on the effective date of the zoning ordinance, adopted June 29, 1970, and that does not conform to the use regulations of the district in which it is located.

Non-native woodlands. (Tree Preservation and Protection) A biological community of trees and woody shrubs, covering the area of 10,000 square feet or greater, descended from non-native species brought to the area during urban settlement. A list of typical non-native species may be found in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual*.

Nudity or state of nudity. (Zoning)

Topping. (Tree Preservation and Protection) Also referred to as stubbing, dehorning, pollarding and heading; it is the severe removal of the tree canopy back to large stubs.

Tower or communications tower. (Wireless Telecommunications Facilities) Any structure that is designed and constructed for the primary purpose of supporting one or more antennas, including lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This term is not intended to describe buildings or other structures that have been constructed primarily for a purpose other than supporting one or more antennas, despite the fact that such structure may currently, or in the future, actually support one or more antennas.

Towing impound yard. (Zoning) A facility operated for the temporary storage of towed motor vehicles that are to be claimed by their title holders or agents, or transported to a repair shop.

Towing service. (Zoning) An establishment that provides for the removal of a motor vehicle by towing, carrying, hauling or pushing from public or private property when such vehicle has been ordered to be impounded to a public or private impound yard. This shall not include a "motor vehicle repair and body shop" use that has a tow truck and services vehicles on-site.

Townhouse. (Zoning) Two or more single-family dwelling units constructed in a series of attached units with property lines separating each unit.

Transitional surfaces. (Airport Zone) A surface extending outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Travel trailer. (Zoning) A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

Tree. (Airport Zone) Any object of natural growth.

Tree. (Tree Preservation and Protection) Any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter greater than three inches at DBH and a height of over 10 feet.

Tree and Landscape Advisory Committee. (Tree Preservation and Protection) An advisory committee appointed by the City Council to assist the landscape administrator with city beautification and the management of its trees.

Tree preservation area. (Tree Preservation and Protection) Those areas designated for the protection of both preserved and planted trees depicted on a tree preservation plan, abbreviated tree preservation plan, preliminary plat, large scale development, or site plan.

Tree preservation plan. (Tree Preservation and Protection) A site plan that delineates tree preservation areas and details measures to be taken to ensure protection and survivability of trees to be saved, prior to and during construction.

Tree registry. (Tree Preservation and Protection) A list of trees registered with the city due to documented historic association, rare tree species or extraordinary value because of their age, size or type.

Tree surgery. (Tree Preservation and Protection) Includes cavity filling/repair, bracing, cabling, and wound treatment.

Turret. (DDOD) A small tower or tower-shaped projection on a building.

U

Unified Soil Classification System. (Physical Alteration of Land) A system adopted jointly by the Corps of Engineers and Bureau of Reclamation in 1952 to classify soils according to texture, plasticity, and performance as engineering construction material.

Unit. (Building Regulations) A product or equipment used in heating and air conditioning, refrigeration, ventilation, or process cooling and heating system.

Universal soil loss equation. (Physical Alteration of Land) An equation that was developed by USDA to determine erosion based rainfall, soil irritability, slope, length of slope, plant cover, and mulching.

Urban. (Development) Located within the corporate city limits.

Urban Forester. (Tree Preservation and Protection, Landscape Regulations) The person who is responsible for the administration of Tree Preservation and Protection, Chapter 167 and Landscape Regulations, Chapter 177. Also known as Landscape Administrator.

Urban street. (Development) A street located, or to be located, within the city limits.

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

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(Code 1965, App. A, Art. 7 (3); Ord. No. 1747, 6-29-70; Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98; Ord. 5198, 12-2-08)

164.05 Automobile-Garages Motor Vehicle Repair

In any district where permitted, automobile-garages filing gasoline service stations and motor vehicle repair and body shops shall be subject to the following regulations. ~~set forth for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R district.~~

- (A) All appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R district.
- (B) Although temporarily inoperable, motor vehicles shall have substantially all of its main component parts attached, and where subject to a license, is currently and validly licensed for operation upon public streets and highways.
- (C) No motor vehicle to be repaired shall be stored on the premises longer than 45 days.
- (D) No abandoned vehicles shall be stored on the premises.
- (E) Vehicles shall be parked in such a way so they do not encroach upon City right-of-way, or block pedestrian or vehicular visibility.

(Code 1991, §160.079; Code 1965, App. A, Art. 7(4); Ord. No. 1747, 6-29-70)

164.06 Reserved Automobile-Wash Service

~~Automobile wash service shall be subject to the provisions set forth in § 164.18(C) drive-in facilities. The following provisions shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.~~

(Code 1991, §160.080; Code 1965, App. A, Art. 7(5); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77)

164.07 Erection Of More Than One Principal Structure On A Lot Of Record

In any district, more than one structure housing a permitted principal use may be erected on a single lot, provided that setback and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Code 1965, App. A, Art. 8(4); Ord. No. 1747, 6-29-70; Code 1991, §160.112; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.08 Extraction

(A) *Rezoning.* Extractive uses are generally incompatible with other land uses and cannot be permitted as a use by right in any district. Such uses are to be considered by rezoning request. In an extraction district no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

- (1) Extractive uses as described in Use Unit 30;
- (2) City-wide uses by right as described in Use Unit 1;
- (3) Park, playground, or preserve operated on a noncommercial basis;
- (4) Accessory uses and buildings.

(B) *Exception.* Extractions which occur in association with development activities and not for the primary purpose of exporting earth products (any material of commercial value found in the earth) shall be subject to Chapter 169, Physical Alteration of Land without requirement for extraction district rezoning.

(C) *Operational requirements.* Operations at the site shall not create unusual traffic hazards or the need for special public improvements, nor the need for special protection, repair, or maintenance of adjacent property. Blasting operations shall be limited to Mondays through Fridays, between 8:00 a.m. and 5:00 p.m. Creation of undrained pockets and stagnant pools shall be avoided to the maximum extent. The operation of machinery (other than extraction equipment) such as sorters, crushers, or other processing devices shall not be permitted within 500 feet of any lot lines. While excavation is in progress, effective steps shall be taken to control erosion of disturbed areas. Such measures may include seeding, mulching, screening, stabilizing, or other cover as appropriate.

(D) *Fencing and screening.* Where deemed necessary by the Planning Commission, approved safety fences shall be provided. In addition, where deemed necessary to protect abutting property from diminution of land value or use, the Planning Commission may require approved fencing and/or screening of at least 75% opaqueness.

(E) *Rezoning application.* The application shall include the following:

- (1) *Arkansas Open Cut Land Reclamation Act.* A letter from the State Department of Pollution Control and Ecology stating

facilities	
Tool or equipment storage	200 ft.
Indoor Facilities:	
Air conditioning tower or dispenser unit	50 ft.
Auditorium, ballroom, dining room, or meeting room having a floor area of more than 1,200 square feet, game court, game room, gymnasium, locker or shower room, place where alcoholic beverages are served, spectator facilities, swimming pool, theater, or similar indoor facility:	
If fully air-conditioned	100 ft.
If not fully air-conditioned	200 ft.
Building of a general hospital or convalescent home	50 ft.
Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients	200 ft.
All Other Facilities:	
If fully air-conditioned	50 ft.
If not fully air-conditioned	100 ft.

(Code 1965, App. A., Art. 7 (14); Ord. No. 1747, 6-29-70;
Code 1991, §160.088; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.14 Parking And Storage Of Certain Vehicles

(A) **Automotive Motor** vehicles or trailers of any kind ~~or type without current license plates shall not be parked or stored in any zones, except those allowing auto sales or salvage unless completely enclosed in buildings or carports connected to the principal structure, which are required to be licensed, must have current license plates properly attached (unless completely enclosed within a building) except within the lot of the following legally operating businesses: vehicle sales, trailer sales, junkyards, auto salvage yards, towing impound yards and auto body shops.~~

(B) Disabled **motor** vehicles **or trailers** must be stored inside buildings ~~except in zones allowing auto salvage unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.~~

(C) **Parking or storing wrecked or abandoned vehicles within residential districts is prohibited.**

(Code 1965, App. A., Art. 8(7); Ord. No. 1747, 6-29-70;
Code 1991, §160.115; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—General Provisions, Ch. 150; Administration, Ch. 152; Enforcement, Ch. 153; Appeals, Ch. 155; Notification and Public Hearings, Ch. 157; Streets and Sidewalks, Ch. 171.

164.15 Prefabricated Construction

(A) *Residential unit.* Prefabricated residential units shall be considered as a single-family or multi-family residential unit, whichever is appropriate, and shall meet the requirements of the governing district.

(B) *Additional requirements.* In addition it shall be necessary for all units to meet the following requirements:

- (1) The building codes of the city;
- (2) Be secured to a permanent masonry or concrete foundation;
- (3) Have permanent water and sewer connections;
- (4) Have a minimum roof pitch of four to twelve (4:12);
- (5) Nongable roof ends shall have a minimum overhang of twelve (12) inches; and
- (6) Have a minimum building width of twenty feet (20').

(Code 1965, App. A., Art. 7 (13); Ord. No. 1747, 6-29-70;
Code 1991, §160.087; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.16 Structures To Have Access

Every building hereafter erected or moved shall be located on a lot which has frontage on a public street; provided, the Planning Commission shall have the authority to waive this requirement where the property owner provides safe and convenient access for fire protection and sanitation vehicles. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Code 1965, App. A., Art. 8(6); Ord. No. 1747, 6-29-70; Ord. No. 2555, 8-21-79; Code 1991, §160.114; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.17 Visibility At Intersections In Residential/Nonresidential Districts

(A) *Residential.* On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 and ½ feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines 25 feet from the point of the intersection.

(B) *Nonresidential.* On a corner lot in any nonresidential district, nothing shall be erected, placed, planted, or allowed to grow, and no motor vehicle or mobile home shall be parked in a

manner as to materially impede vision between a height of 2 and ½ feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines 10 feet from the point of the intersection; provided, this restriction shall not be applicable to a corner lot located in a DC, MSC or DG zoning district.

(Code 1965, App. A., Art. 8(1, 1.1); Ord. No. 1747, 6-29-70; Ord. No. 2193, 2-3-76; Code 1991, §160.110; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5028, 6-19-07)

164.18 Supplementary Use Regulations

~~(A) Automobile garages.~~ In any district where permitted, automobile garages shall be subject to the regulations set forth in §164.16(C) for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R District.

(Code 1965, App. A., Art. 7 (4); Ord. No. 1747, 6-29-70; Code 1991, §160.070; Ord. No. 4100, §2 (Ex. A), 6-16-98)

~~(B) Automobile wash service.~~ Automobile wash service shall be subject to the provision set forth in §164.18(C), for drive-in facilities. The following provision shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.

(Code 1965, App. A., Art. 7 (5); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.080; Ord. No. 4100, §2 (Ex. A), 6-16-98)

~~(C) Gasoline service stations.~~ A gasoline service station shall be subject to the following requirements:

- (1) *Bulk and area.* Gasoline service stations shall be regulated by the bulk and area requirements of the district in which it is located and the following:

Minimum setback of pump island, compressed air connection and similar equipment from all right-of-way lines	25 ft.
Minimum setback of canopy covering pump island, compressed air connection and similar equipment from all right-of-way lines. (**Canopies shall not be considered a part of the building for determining building setbacks even if said canopies are attached to the principal structure.)	20 ft.

- (2) *Signs.* Any permitted sign shall be stationary and shall conform in all respects to the applicable regulations pertaining to signs.
- (3) *Auto washing.* Washing of autos shall be entirely within an enclosed structure.

(Code 1965, App. A., Art. 7 (9); Ord. No. 1747, 6-29-70; Ord. No. 1870; 6-19-72; Ord. No. 2126, 7-15-75; Code 1991, §160.084; Ord. No. 4100, §2 (Ex. A), 6-16-98); Ord. 5271, 9-1-09)

~~(D) Industrial parks.~~ Sites for industrial parks shall be developed according to the following requirements:

- (1) *Landscaping.* The first 10 feet of depth of required front setbacks and of required rear setbacks facing a street and the first 20 feet of width of a required exterior setback shall be permanently maintained in suitable landscaping, a plat of the design of which shall be filed with the Zoning and Development Administrator prior to the issuance of building permit.

- (2) *Grading and drainage.* All open portions of any lot shall have adequate grading and drainage, and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, or planted ground cover, or by paving with asphaltic concrete, rock, Portland cement concrete, or other resilient materials.

(Code 1965, App. A., Art. 7(15); Ord. No. 1747, 6-29-70; Ord. No. 380, 9-1-20-77; Code 1991, §160.089; Ord. No. 4100, §2 (Ex. A), 6-16-98)

~~(E) Retail liquor stores.~~ Retail liquor stores may be located in those zoning districts where such use is permitted, subject to the following conditions:

- (1) *Church/school/hospital.* No retail liquor store shall be located within 600 feet (200 yards) of any church, hospital, or school house. For the purpose of this section, "schoolhouse" shall include classroom and dormitory buildings of the University of Arkansas.
- (2) *Residential zone.* No retail liquor store shall be located on any property two or more sides of which abut or are across the street from and perpendicular to property zoned residential. For the purpose of this section the term "street" shall not include any federal highway.

(Code 1965, App. A., Art. 7 (22); Ord. No. 1747, 6-29-70; Ord. No. 2122, 7-15-75; Ord. No. 2380, 9-21-77; Code 1991, §160.092; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(F C) *Riding stables.* In any district where permitted, riding stables shall be subject to the following conditions.

- (1) *Minimum area.* Riding stables shall not be located on any property which does not contain a minimum of 40 acres of undeveloped land.
- (2) *Setback from residential property lines.* No riding stable shall be located within 250 feet of the property line of any abutting property zoned residential and no riding path shall be located within 100 feet of the property line of any abutting property zoned residential.
- (3) *Extent of operations.* The operation of a riding stable shall be limited to the boarding of horses, the providing of riding lessons, and the renting of riding horses, saddles, bridles, and other accessories for use on the premises. No horse racing or horse shows shall be permitted on the premises; provided, horse shows displaying only those horses used in the daily operation of a riding stable may be permitted. The operation of a riding stable shall be limited to the hours of 6:00 a.m. to 10:00 p.m.
- (4) *Number of horses permitted.* The number of horses permitted on premises used for a riding stable shall be limited to one horse for every three-fourths (3/4) acre of undeveloped land.

(Code 1965, App. A., Art. 7 (23); Ord. No. 1747, 6-29-70; Ord. No. 2123, 7-25-75; Code 1991, §160.092; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(D) *Towing impound yards.* An impound yard shall be subject to the following:

- (1) Motor vehicles shall not be stored on the premises longer than 45 days.
- (2) Impound yards shall be surrounding on all sides by a minimum 6 foot tall wood board privacy fence.

164.19 Accessory Dwelling Units (ADU)

- (A) *Purpose.* The purpose of the accessory dwelling unit ordinance is to authorize accessory dwelling units in certain zoning districts on lots already developed or that will be developed concurrently with single-family dwellings.
- (B) *Intent.* Planning Staff shall evaluate the following criteria for the review and approval of an accessory dwelling unit application:

- (1) Exterior design of the accessory dwelling unit should be compatible with the principal dwelling unit through architectural use of building forms, height, construction materials, and colors.
- (2) The property shall have infrastructure (water, sewer, gas, electric, etc.) that meets City standards to serve the accessory dwelling unit.
- (3) The location and design of the accessory dwelling unit shall meet the required setbacks of the zoning district.
- (4) A two-story accessory dwelling unit should generally limit the major access stairs, decks, entry doors, and major windows to the walls facing the principal dwelling, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard should be minimized. The design of the accessory unit should relate to the design of the principal residence and not visually dominate it or the surrounding properties.
- (5) The orientation and location of buildings, structures, open spaces and other features of the site should protect and maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms. Building profiles, location and orientation should relate to natural land forms.
- (6) The site plan should incorporate low impact storm water mitigation techniques, such as cisterns, rain barrels, permeable pavers, rain gardens, indigenous plants and landscape berms.

(C) *Permitted Zoning Districts:* Accessory dwelling units shall be exempt from the density requirements of the underlying zoning district and shall be permitted by-right on lots containing 5,000 square feet or more in the following Zoning districts:

- (1) R-A Residential Agricultural
- (2) RSF – 0.5 Residential Single Family – One Half Unit per Acre
- (3) RSF – 1 Residential Single Family – One Unit per Acre
- (4) RSF – 2 Residential Single Family – Two Units per Acre
- (5) RSF – 4 Residential Single Family – Four Units per Acre

City of Fayetteville Staff Review Form

C. 1
RZN 10-3625
(Cedar Crest Academy)
Page 1 of 20

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

Andrew Garner
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 10-3625: (Cedar Crest Academy, 478): Submitted by Dave Jorgensen for property located on the south side of Persimmon Street, northwest of Owl Creek Elementary School. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 2.25 acres. The request is to rezone the subject property to P-1, Institutional.

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

Budgeted Item ☐ Budget Adjustment Attached ☐

William C. Bate 08-12-2010
Department Director Date

Previous Ordinance or Resolution # _____

Kim G. Jorgensen 8-12-10
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

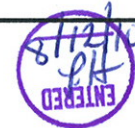
Paul A. Babin 8-12-2010
Finance and Internal Services Director Date

Received in City
Clerk's Office 08-12-10 A09:26 RCVD

Kim G.

Don W. Wain 8-16-10
Chief of Staff Date

Received in
Mayor's Office



Frederick Jordan 8/16/10
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Jeremy Pate, Development Services Director

From: Andrew Garner, Senior Planner

Date: August 11, 2010

Subject: RZN 10-3625 Cedar Crest Academy

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance to rezone the subject property from RSF-4, Residential Single Family Four Units Per Acre to P-1, Institutional (RZN 10-3625).

BACKGROUND

The subject 2.25-acre property is located southwest of the intersection of Ruppel Road and Persimmon Street, between Owl Creek Elementary School and the Gardens on Persimmon Nursing Home. The site is undeveloped and is adjacent to Owl Creek and its associated floodplain along the eastern and southern portions of the site.

The applicant requests to rezone the property from RSF-4, Residential Single Family Four Units Per Acre to P-1, Institutional in order to allow for the development of a private school on the site. A private school is allowed by conditional use permit in the RSF-4 zoning district; however, as indicated in the applicant's letter, the City sign ordinance would not permit a sign in the RSF-4 zoning district. In addition, where the Future Land Use Plan supports the land use, rezoning property to fit the intended use as a permitted use rather than a conditional use is in accordance with the City's adopted policies.

DISCUSSION

On August 9, 2010 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 6-0-1 (Lack recused).

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 10-3625, FOR APPROXIMATELY 2.25 ACRES, LOCATED ON THE SOUTH SIDE OF PERSIMMON STREET, NORTHWEST OF OWL CREEK ELEMENTARY SCHOOL FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO P-1, INSTITUTIONAL

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

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

From RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

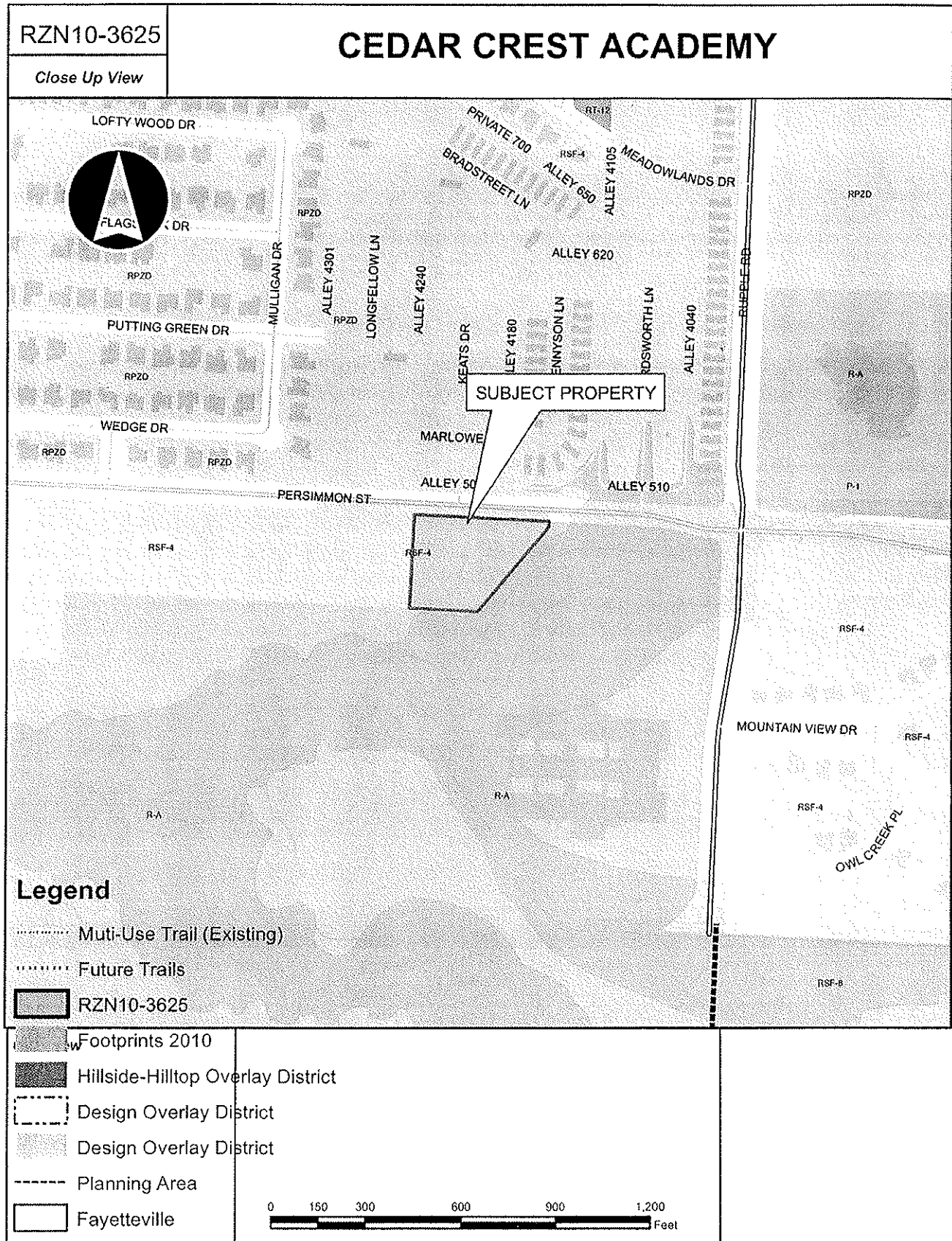


EXHIBIT "B"
RZN 10-3625

A PART OF LOT 3 OF CROSS KEYS SUBDIVISION PHASE 2 IN FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS AND ALSO BEING A PART OF THE NE1/4 OF THE NW1/4 OF SECTION 13, T16N, R31W AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID LOT 3 THENCE S02°50'19W 18.70 FEET, THENCE S40°13'06"W 385.17 FEET, THENCE N87°09'41"W 213.97 FEET, THENCE N02°50'19"E 299.51 FEET, THENCE S87°04'20"E 428.00 TO THE P.O.B.; CONTAINING 2.25 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.



PC Meeting of August 9, 2010

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~August 2, 2010~~ Updated August 10, 2010

RZN 10-3625: Rezone (CEDAR CREST ACADEMY/PERSIMMON, 478): Submitted by DAVE JORGENSEN for property located on the SOUTH SIDE OF PERSIMMON STREET, WEST OF OWL CREEK ELEMENTARY SCHOOL. The property is zoned RSF-4, SINGLE FAMILY - 4 UNIT/ACRE and contains approximately 2.25 acres. The request is to rezone the subject property to P-1, Institutional. Planner: Andrew Garner

BACKGROUND:

Property Description: The subject 2.25-acre property is located southwest of the intersection of Ruppel Road and Persimmon, between Owl Creek Elementary School and the Gardens on Persimmon Nursing Home. The site is undeveloped and is adjacent to Owl Creek and its associated floodplain along the eastern and southern portions of the site.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Ruppel Row single family subdivision	R-PZD
South	Undeveloped/Owl Creek floodplain	R-A
East	Owl Creek Elementary School/Owl Creek floodplain	R-A
West	Gardens on Persimmon Nursing Home	RSF-4

Request: The applicant requests to rezone the property from RSF-4, Residential Single Family Four Units Per Acre to P-1, Institutional in order to allow for the development of a private school on the site. A private school is allowed by conditional use permit in the RSF-4 zoning district; however, as indicated in the applicant's letter, the City sign ordinance would not permit a sign in the RSF-4 zoning district. The applicant's primary reason for the rezoning is to allow for a school with a sign by right.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding the rezoning request (RZN 10-3625 Cedar Crest Academy) to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 9, 2010</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: <u>Kennedy</u>	Second: <u>Hoskins</u>	Vote: <u>6-0-1</u> (Lack recused)	
CITY COUNCIL ACTION:		Required <u>YES</u>	
		☐ Approved	☐ Denied
Date:			

INFRASTRUCTURE:

- Streets:** The site has access to Persimmon Street, a Collector Street. Persimmon Street is a fully improved two lane city street in this location. Street improvements will be evaluated with development submittal.
- Water:** Public water is available to the property. There is a 12" public main located along the south side of Persimmon Street in front of this property. Public water main improvements may need to be extended through the property to provide domestic and fire flow for any proposed development.
- Sewer:** Sanitary sewer is available to the site. There is an 8" public main located along the south side of Persimmon Street directly in front of this property. The existing sanitary sewer may need to be analyzed to ensure that it has adequate capacity to serve a future development on this lot. Public mains may need to be extended through the property to serve any proposed development.
- Drainage:** Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain associated with Owl Creek.
- Fire:** This development will be protected by Engine 7 located at 835 N. Ruppel Road. It is approximately one (1) mile from the station with an anticipated response time of two (2) minutes to the beginning of the development. The Fayetteville Fire Department does not feel this development will affect calls for service or response times.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not create an appreciable increase in traffic problems or load on police services.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as Civic Institutional Area, which are dedicated for buildings generally operated by not-for-profit organizations dedicated to culture, government, education or transit and municipal parking. These areas encourage the establishment of civic institutional areas in locations that would serve large concentrations of Fayetteville citizens.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed P-1, Institutional, zoning is consistent with the City's *Institutional Area* land use designation that dedicates these areas for institutional uses that would be permitted under the proposed P-1 zoning. Based on the City's adopted land use planning objectives and principles, staff finds that the subject property, in close proximity to an elementary school, a nursing home, a community center, and a single family neighborhood, would be appropriately regulated under the P-1 zoning district and would contribute to the development of this area as an institutional cluster providing public institutional services to the needs of citizens on the west side of the City of Fayetteville.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The subject property could be developed under the current RSF-4 zoning, however, a number of residential neighborhoods have been developed along the Wedington Avenue/State Highway 16 corridor west of I-540 over the past 10 years. This resulted in a large number of residents in this area without adequate public services in close proximity to their homes. This deficiency in non-residential services was identified as part of City Plan 2025. The Future Land Use Plan therefore identified several areas for non-residential services on the west side of the City. The subject property was identified as a node for institutional services around the Ruppel Road/Persimmon Road intersection. Ruppel Road is a Principal Arterial Parkway and Persimmon Road is a Collector Street. The subject property is located between two existing institutional uses but is zoned RSF-4, Residential Single Family Four Units Per Acre. The proposed zoning to P-1, Institutional is justified in order to be consistent with the Future Land Use Plan and in order to permit development of the property for institutional uses by right.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Rezoning from RSF-4 to P-1 would result in the potential for an increase in

traffic compared with that allowed under the existing zoning. However, the street system in the surrounding area has been improved and is planned to accommodate large volumes of traffic with Ruppel Road being a Principal Arterial Parkway and Persimmon Street being a Collector Street. Ruppel Road is planned to be extended south from Persimmon Street south to Martin Luther King Boulevard over the next few years as part of the Bond Program Street Projects. This street extension will provide an additional north-south connection that is needed in this area. The surrounding street system is capable of supporting additional traffic that would be generated by the proposed zoning.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property. The change in zoning to P-1 would not permit uses that would adversely impact public services.

Increased load on public services were taken into consideration and recommendations from the Engineering, Police, and Fire Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: Not applicable. Staff recommends in favor of the requested zoning.

Fayetteville Unified Development Code

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.
-------------------------	--------

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.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10)

Fayetteville Unified Development Code

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.*

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.

July 28, 2010

Jeremy Pate
Development Services Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

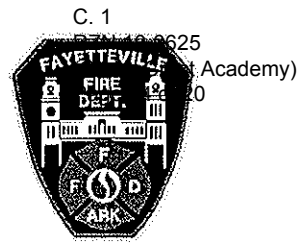
This letter is in reference to **RZN 10-3625 (Cedar Crest Academy/Persimmon, 478)**:
submitted by Dave Jorgensen for property located on the South Side of Persimmon Road,
West of Owl Creek Elementary School.

It is my understanding this property is being considered for a small private school. I do not
believe this usage will cause any traffic problems or substantially impact the load of police
services.

Sincerely,

Captain William Brown
Fayetteville Police Department

Fayetteville Fire Marshals Office



To: Andrew Garner, Dara Sanders
From: Terry Lawson, Fire Marshal
Date:
Re: RZN 10-3625
RZN 10-3626

RZN 10-3625: Rezone (CEDAR CREST ACADEMY/PERSIMMON, 478): Submitted by DAVE JORGENSEN for property located on the SOUTH SIDE OF PERSIMMON ROAD, WEST OF OWL CREEK ELEMENTARY SCHOOL. The property is zoned RSF-1, SINGLE FAMILY - 1 UNIT/ACRE and contains approximately 2.25 acres. The request is to rezone the subject property to P-1, Institutional. Planner: Andrew Garner

This development will be protected by Engine 7 located at 835 N. Ruppel Rd.
It is approximately 1 miles from the station with an anticipated response time of 2 minutes to the beginning of the development.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

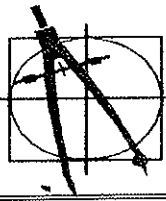
RZN 10-3626: Rezone (NORTHWEST CORNER HWY. 45/BOX AVE, 372): Submitted by H2 ENGINEERING, INC. for property located at THE NORTHWEST CORNER OF HWY 45E & BOX AVENUE. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 1.20 acres. The request is to rezone the property to CS, Community Services. Planner: Dara Sanders

This development will be protected by Engine 5 located at 2979 N. Crossover.
It is approximately 1.2 miles from the station with an anticipated response time of 2 minutes to the beginning of the development.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

Terry Lawson, Fire Marshal
Fayetteville Fire Department



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

C. 1
RZN 10-3625
(Cedar Crest Academy)
Page 15 of 20

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

6/23/10

At: Jesse Fulcher
Re : Rezoning for Private School

Dear Jesse;

Attached please find the information pertaining to a rezoning request for a private school. The present zoning is RSF-4 and the developer would like to rezone this property from RSF-4 to P-1. This will allow a private school with a sign by right. The approximate size of the proposed building is 14000 sf. Owl Creek Elementary School is located to the east and the Gardens on Persimmon are located 300' to the west. (This is the nursing home). The architectural style of this building will be brick exterior and will be compatible with the surrounding area and we believe this facility will not be detrimental to the surrounding area.

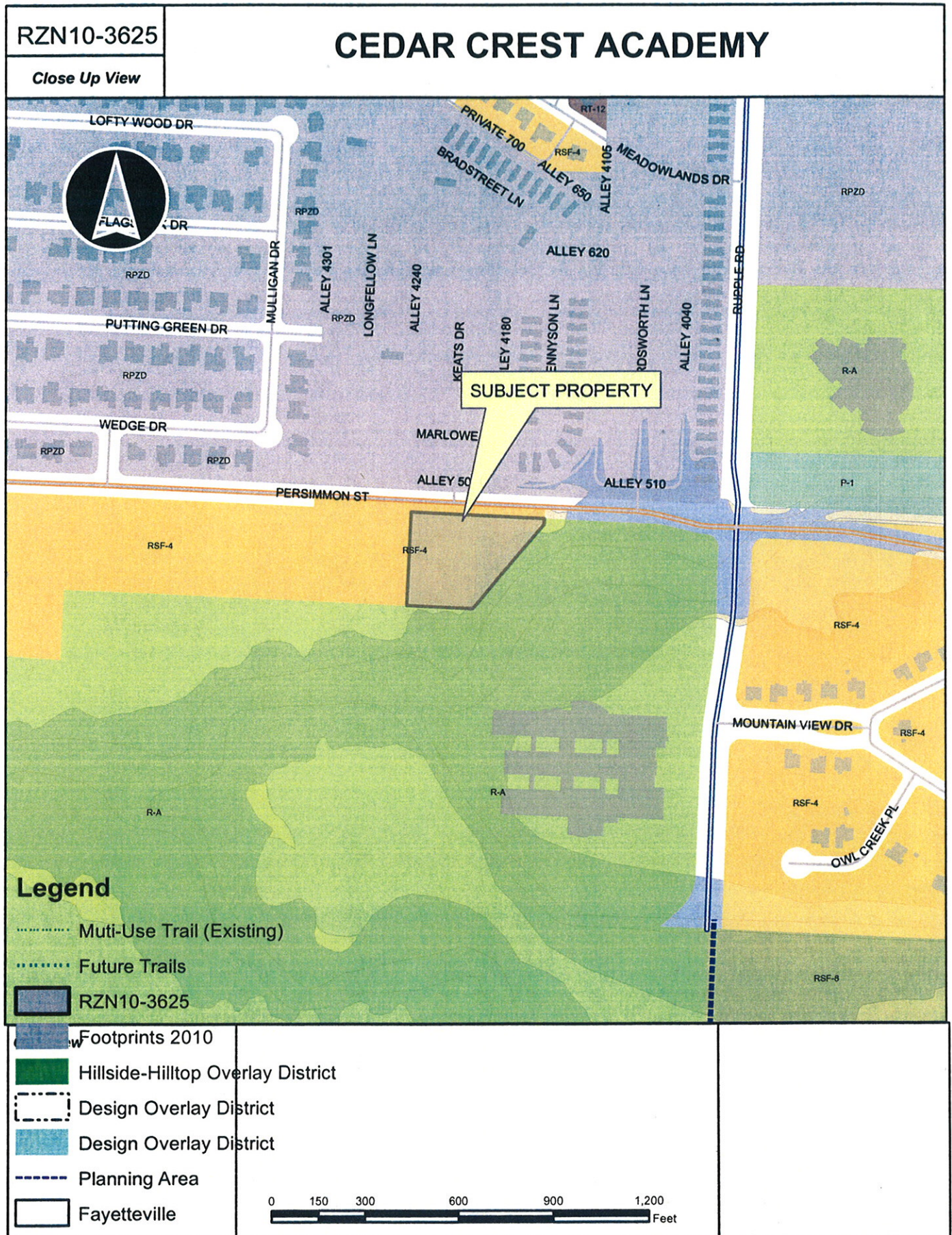
There is an existing 12" waterline and an 8" sewer along the south side of Persimmon Street. Access to this building will be from Persimmon Street. The entire parcel of property is owned by McBryde Family Limited Partnership which consists of 4.41 acres and we are requesting this rezoning on the eastern portion only which consists of 2.25 acres. If this property is rezoned to P-1 we will proceed with the lot split and large scale development. The property to the north is Ruppel Row Subdivision (A PZD) on the north side of Persimmon Street and the property immediately to the west is RSF-4. This rezoning request is for P-1 and only for this private school.

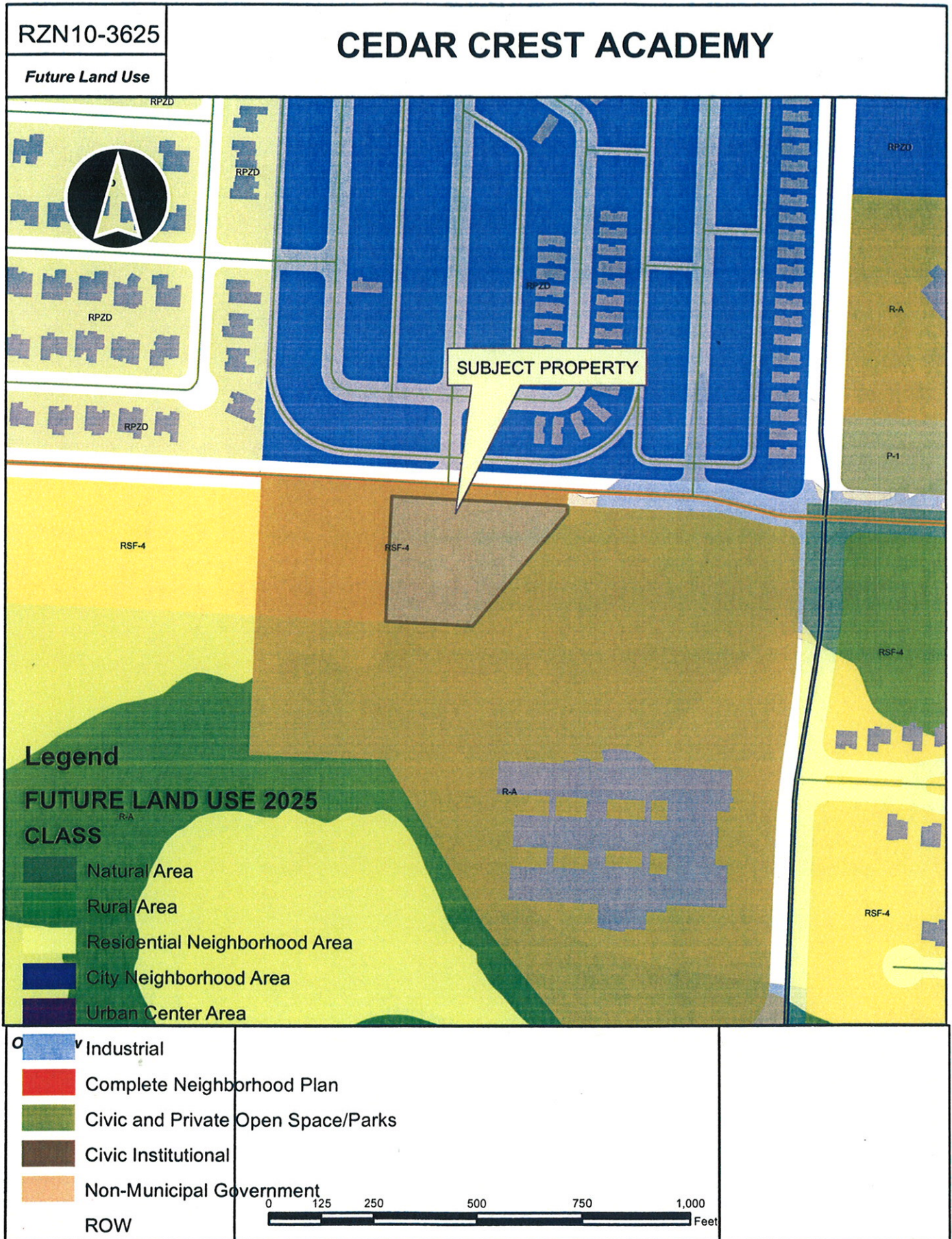
Please review and call concerning any questions you may have.

Thank you.

Sincerely;


David L. Jorgensen, P.E.





RZN10-3625

CEDAR CREST ACADEMY

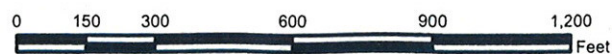
Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- RZN10-3625

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area
- Fayetteville



City of Fayetteville Staff Review Form

C. 2
RZN 10-3626
(Mathias Shopping Centers)
Page 1 of 24

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

Dara Sanders

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 10-3626: (Mathias Shopping Centers, 372): Submitted by H2 Engineering, Incorporated for property located at the northwest corner of Hwy 45 E and Box Avenue. The property is zoned R-O, Residential Office and contains approximately 1.20 acres. The request is to rezone the subject property to CS, Community Services.

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

☐

Wm C. Bre.
Department Director

08-16-2010

Date

Previous Ordinance or Resolution #

K. Ryan
City Attorney

8-17-2010

Date

Original Contract Date:

Original Contract Number:

Paul a. Buhr
Finance and Internal Services Director

8-17-2010

Date

Received in City
Clerk's Office

08-16-10P04:35 RCVD

Don Men
Chief of Staff

8-17-10

Date

Received in
Mayor's Office

ENTERED
8-17-10 BRP

Donald Jordan
Mayor

8/17/10

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

From: Dara Sanders, Current Planner

Date: August 16, 2010

Subject: RZN 10-3626 Mathias Shopping Center

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance to rezone the subject property from R-O, Residential Office to CS, Community Services (RZN 10-3626).

BACKGROUND

The subject property contains approximately 1.20 acres and is located north of Highway 45 (Mission Boulevard/) and east of Highway 265 (Crossover Road) at the northwest corner of the intersection of Box Avenue and Mission Boulevard. This area has developed as the primary commercial node serving the surrounding single-family neighborhoods in east Fayetteville. The property has been the subject of several rezoning requests in the past decade, the most recent of which was C-1, Neighborhood Commercial. Staff has not supported rezoning the property to C-1 in the past due to concerns with permitted uses and access safety issues. The applicant has submitted a new request to the Planning Division and proposes to rezone the property from R-O, Residential Office to CS, Community Services.

DISCUSSION

On August 9, 2010 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 7-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 10-3626, FOR APPROXIMATELY 1.2 ACRES, LOCATED AT THE NORTHWEST CORNER OF HWY 45 EAST AND BOX AVENUE FROM R-O, RESIDENTIAL OFFICE, TO CS, COMMUNITY SERVICES

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

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

From R-O, Residential Office, to CS, Community Services, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

C. 2
RZN 10-3626
(Mathias Shopping Centers)
Page 4 of 24

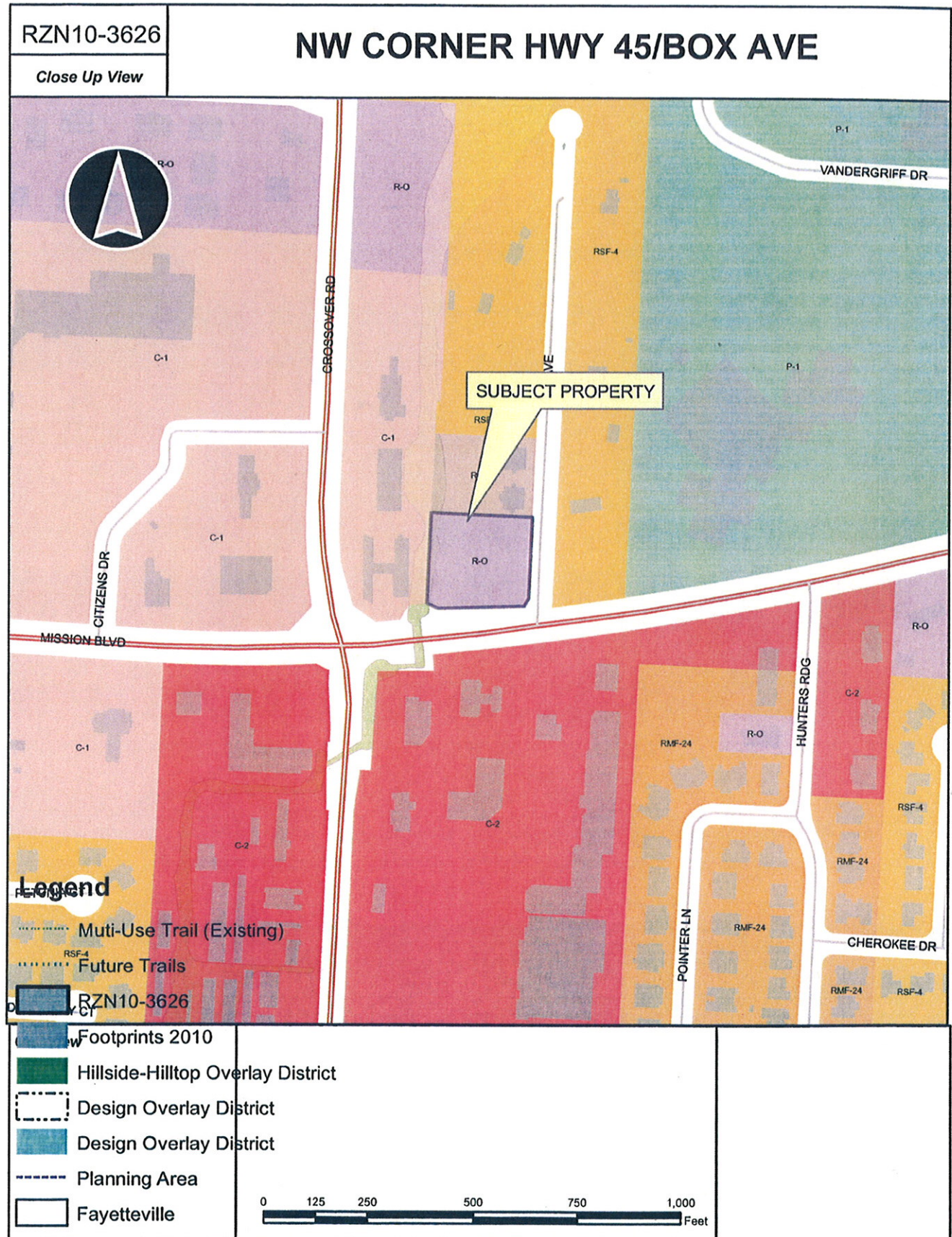


EXHIBIT "B"
RZN 10-3626

SURVEY DESCRIPTION - ADJUSTED TRACT A

PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPLE MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1 OF BRADEN ADDITION RECORDED AS FILE #4-239 IN THE CIRCUIT CLERKS OFFICE OF WASHINGTON COUNTY, ARKANSAS BEING A FOUND 5/8" REBAR; THENCE S02°33'58"W, ALONG THE WEST RIGHT-OF-WAY LINE OF BOX AVENUE, A DISTANCE OF 116.00 FEET TO A SET 5/8" REBAR W/CAP (PS 1496) BEING THE TRUE POINT OF BEGINNING; THENCE S02°33'58"W, CONTINUING ALONG THE WEST RIGHT-OF-WAY LINE OF BOX AVENUE, A DISTANCE OF 193.66 FEET TO A SET 5/8" REBAR W/CAP (PS 1496) ON THE NORTH RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY 45; THENCE S29°12'54"W, ALONG THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 21.81 FEET TO A SET 5/8" REBAR W/CAP (PS 1496); THENCE S88°29'41"W, CONTINUING ALONG THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 204.97 FEET TO A SET 5/8" REBAR W/CAP (PS 1496); THENCE N62°52'57"W, CONTINUING ALONG THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 27.65 FEET TO A SET 5/8" REBAR W/CAP (PS 1496); THENCE N02°33'58"E, LEAVING THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 215.95 FEET; THENCE S87°29'50"E, A DISTANCE OF 239.39 FEET TO THE POINT OF BEGINNING AND CONTAINING 52,607 SQUARE FEET OR 1.21 ACRES, MORE OR LESS. SUBJECT TO ANY AND ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND/OR RIGHTS-OF-WAY OF RECORD OR PRESCRIPTION.



PC Meeting of August 9, 2010

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~July 30, 2010~~ Updated August 10, 2010

RZN 10-3626: Rezone (NORTHWEST CORNER HWY. 45/BOX AVE, 372): Submitted by H2 ENGINEERING, INC. for property located at THE NORTHWEST CORNER OF HWY 45E & BOX AVENUE. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 1.20 acres. The request is to rezone the property to CS, Community Services.

Planner: Dara Sanders

BACKGROUND:

Property Description: The subject property contains approximately 1.20 acres and is located north of Highway 45 (Mission Boulevard/) and east of Highway 265 (Crossover Road) at the northwest corner of the intersection of Box Avenue and Mission Boulevard. This property is located at the entrance of the Braden Addition, a single-family subdivision that was platted in the 1960s. Currently, Box Avenue (Local Street) is not constructed to City standards. The platted cul-de-sac was not constructed, and the street ends at two residential driveways. The Planning Commission has reviewed multiple requests for the subject property and other properties in the Braden Addition dating back to 2003.

In July 2003, the previous property owner submitted a request (RZN 03-29.00) to rezone the subject property from RSF-4, Residential Single-Family, 4 units/acre to C-1, Neighborhood Commercial. Staff recommended denial of the request, finding that the request was not consistent with the Residential land use designation in the General Plan 2020, that the request was not justified due to an existing vacant property located within the immediate vicinity, and that the request would create an increase in traffic danger and congestion in the area. The applicant withdrew the request prior to the scheduled Planning Commission hearing.

In June 2005, Mathias Shopping Centers, Inc., the current owner of the subject property, submitted a new rezoning application (RZN 05-1546) to the Planning Division, requesting to rezone the subject property from RSF-4, Residential Single-family, 4 units/acre to R-O, Residential Office. Staff recommended in favor of the rezoning request, finding that the R-O zoning district was consistent with the Residential land use designation and provided a transitional zoning district from the heavier commercial uses and residential uses behind. The Planning Commission and City Council approved

the request with staff's recommendation, and the property was rezoned to R-O, Residential Office.

In 2006, the City Council adopted City Plan 2025, which changed the land use designation of the subject property from Residential to City Neighborhood Area, which encourages complete, compact and connected neighborhoods with low-intensity nonresidential uses located at corner locations, a range of residential uses, and a high level of connectivity between neighborhoods. On September 13, 2007, the Subdivision Committee approved the applicant's Large Scale Development (LSD 07-2713) request to construct a one-story office building containing 19,209 square feet with 33 parking spaces on the subject property. Building permits were not obtained within one year of the approval date, and the project expired.

Finally, in 2009, the applicant submitted another zoning application (RZN 09-3280) to rezone the subject property from R-O, Residential Office, to C-1, Neighborhood Commercial. Staff recommended denial, finding that the C-1 zoning district was not consistent with the City's land use planning objectives, principles, and policies by permitting commercial uses absent of size limitation in a suburban form that could create an undesirable impact on adjacent properties, based on the uses permitted in C-1, without regard to the form of development.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Two-family residences	RMF-6, Residential Multi-family, 6 du/acre
South	Retail, Restaurants, Bank	C-2, Thoroughfare Commercial
West	Gas station	C-1, Neighborhood Commercial
East	Single-family residence Elementary School	RSF-4, Residential Single-family 4 units/acre P-1, Institutional

Proposal: The applicant has submitted a new request to the Planning Division and proposes to rezone the property from R-O, Residential Office to CS, Community Services. If the proposed zoning is approved, the applicant has indicated to staff that they will process a conditional use permit and large site improvement plan for a Firestone tire store on the site.

Public Comment: Staff has not received public comment on this particular request.

Discussion: Since staff's recommendation for denial of RZN 09-3280, the Unified Development Code (UDC) has been revised significantly to create new use units and form-based zoning districts, to modify the existing use units and zoning districts, and to better regulate site development. Some of these changes are listed below:

- Limited the building size to 25,000 square feet in Use Unit 15, Neighborhood shopping goods, to promote compatibility with adjacent residential properties and neighborhoods
- Restructured Use Unit 16, Shopping goods to include unlimited regional commercial uses

- Created Use Unit 17, Transportation trades and services, for a transportation-oriented use unit
- Adopted new, mixed-use, form-based zoning districts subject to higher design standards
- Established stacking distance requirements for drive-through facilities
- Revised the parking ratios to accommodate alternative modes of transportation and established mitigation requirements to reduce the heat island effect in parking lots

Staff finds that the current proposal to utilize the new, mixed-use, form-based Community Services zoning district is consistent with the City's land use policies and objectives and that the recent UDC amendments will alleviate the previous concern with intensity and compatibility. The form required by a conventional suburban zoning district, such as C-1, creates a single-use, sprawling development pattern and a buffer between the street and a structure. A form-based zoning district on this site would provide a building closer to the street potentially leaving more room for a buffer between a nonresidential building and adjacent uses.

The subject property is located within the vicinity of an area that has developed as the primary commercial node serving the surrounding single-family neighborhoods in east Fayetteville. This commercial node has been developed in a suburban form that is oriented toward the automobile and makes relatively inefficient use of the land. Staff finds that rezoning the subject property to the Community Services zoning district will provide the needed buffer between a nonresidential use and the adjacent residential developments and will encourage a traditional, pedestrian-oriented, urban streetscape.

RECOMMENDATION:

Staff recommends forwarding RZN 10-3626 to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>August 9, 2010</u>	☐ Tabled	☒ Forwarded	☐ Denied		
Motion: Kennedy	Second: Chesser	Vote: 7-0-0			
CITY COUNCIL ACTION:				Required	<u>YES</u>
				☐ Approved	☐ Denied
Date:					

INFRASTRUCTURE:

Streets: The site has access to Box Avenue and Mission Boulevard. Mission is a fully

improved multi-lane state highway in this location. Box Avenue is an unimproved paved two lane city street at this property. Street improvements will be evaluated with development submittal. Based on the City's access management ordinances, it is not anticipated that additional access from the property will be permitted onto Mission Boulevard.

Water: Public water is available to the property. There is an 8" public main located along the north side of Mission Blvd adjacent to this property. Public water main improvements may need to be constructed to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available to the site. There is an 8" public main along the rear of this property. Public mains may need to be extended through the property to serve any proposed development.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Police: It is the opinion of the Fayetteville Police Department that this RZN would not create an appreciable or undesirable increase in the load on police services due to recent revisions to the Unified Development Code.

Fire: The Fayetteville Fire Department does not feel this development will affect calls for service or response times.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area, which encourages complete, compact and connected neighborhoods with low-intensity nonresidential uses, a range of residential uses, and a high level of connectivity between neighborhoods.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds that the Community Services (CS) zoning district is consistent with the City's planning policies and City Plan 2025 to convert commercial corridors to mixed-use centers (see Goal 1); to discourage suburban sprawl (Goal 2); to make traditional town form the standard (Goal 3); and to densify in highly walkable areas along logical future transit routes (see Goal 3). Page 10-4 of City Plan 2025 indicates the way in which the suburban development form can be converted to walkable and livable mixed-use centers. However, this conversion

can not be achieved under the regulations of a conventional zoning district. Although it is currently undeveloped, staff finds that the development of the subject property in the urban form of the CS zoning district is consistent with the City's policies and could result in the redevelopment and/or infill of adjacent commercial properties.

Staff also finds that the proposed zoning district is consistent with the Future Land Use designation of City Neighborhood Area, which promotes the use of low-intensity non-residential uses at corner locations. As a result of recent changes to the Unified Development Code, staff finds that many of the permitted uses included in the CS zoning district are low-intensity uses and that the prescribed urban form will result in compatibility with adjacent residential uses. The proposed district will provide the needed buffer between the nonresidential use and the adjacent residential developments, as a minimum of a 15' setback is required between a CS zoning and a residential district. Further the CS zoning district will contribute to building a traditional, pedestrian-oriented, urban streetscape.

Staff finds that land use planning principles and policies should not only consider the way in which the property will develop in the near future but also the way in which the property could redevelop in the long-term. Staff finds that the permitted and conditional uses included in the CS zoning district and the associated design requirements would allow for multiple uses on the property in the future consistent with the adopted land use plan for the City.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that a rezoning request for the subject property is not needed at this time, as the subject property could be developed under the R-O zoning district as any of the nonresidential permitted and conditional uses listed in the attached zoning regulations, which would allow for businesses such as a professional office, a retail store, and a restaurant without a drive-thru. Therefore, considering the permitted and conditional uses allowed with the underlying R-O zoning district, staff finds that the current zoning does not prohibit reasonable use of the subject property and can potentially provide goods and services to the surrounding neighborhoods.

However, staff also finds that development of the subject property in conformance with the bulk and area requirements of the underlying R-O zoning district would continue the conventional, suburban development pattern along a significant eastern gateway to the City of Fayetteville. Because the proposed CS

zoning district would require the property to develop in a traditional and urban form with the building at the street in conformance with the goals and objectives of City Plan 2025, staff finds that the proposal is justified.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: It is expected that a rezoning from R-O to CS could create an increase in traffic compared with that allowed under the existing zoning. Because of the size of the property and its location at the northwest corner of the intersection of Box Avenue and Mission Boulevard/Highway 45, access and vehicular traffic has been an expressed concern in the past from the Fayetteville Planning, Engineering, and Police Departments. However, staff finds that the recent UDC revisions regarding square footage limitations and parking lot circulation, as well as the access and curb cut distance requirements outlined in the recently adopted Street Design and Access Management Standards policy in Chapter 166.08, will significantly reduce potential turning conflicts and traffic danger at this location as a result of controlled ingress and egress. Compliance with Chapter 166.08 will be reviewed at the time of large scale development request regardless of the underlying zoning district, and staff would likely not recommend in favor of additional access onto Mission Boulevard/Highway 45.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments are included in this report. The proposed zoning would not result in adverse impacts to public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **Not applicable. Staff is recommending approval.**

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.

(Ord. 5312, 4-20-10)

C. 2
RZN 10-3626
(Mathias Shopping Centers)
Page 14 of 24

RZN 10-3625: Rezone (CLADAR CREST ACADEMY/PERSIMMON, 478): Submitted by DAVE JORGENSEN for property located on the SOUTH SIDE OF PERSIMMON ROAD, WEST OF OWL CREEK ELEMENTARY SCHOOL. The property is zoned RSF-1, SINGLE FAMILY - 1 UNIT/ACRE and contains approximately 2.25 acres. The request is to rezone the subject property to P-1, Institutional. Planner: Andrew Garner

Public water is available to the property. There is a 12" public main located along the south side of Persimmon Street in front of this property.. Public water main improvements may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is an 8" public main located along the south side of Persimmon Street directly in front of this property. The existing sanitary sewer may need to be analyzed to ensure that it has adequate capacity to serve a future development on this lot. Public mains may need to be extended through the property to serve any proposed development.

The site has access to Persimmon Street. Persimmon Street is a fully improved two lane city street in this location. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain.

RZN 10-3626: Rezone (NORTHWEST CORNER HWY. 45/BOX AVE, 372): Submitted by H2 ENGINEERING, INC. for property located at THE NORTHWEST CORNER OF HWY 45E & BOX AVENUE. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 1.20 acres. The request is to rezone the property to CS, Community Services. Planner: Dara Sanders

Public water is available to the property. There is an 8" public main located along the north side of Mission Blvd adjacent to this property. Public water main improvements may need to be constructed to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is an 8" public main located along the west side of this property. Public mains may need to be extended through the property to serve any proposed development.

The site has access to Mission Blvd and Box Ave.. Mission Blvd is a fully improved 5 lane state highway in this location. Box Ave is a narrow two lane paved city street. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is affected by the 100-year floodplain.

Fayetteville Fire Marshals Office



To: Andrew Garner, Dara Sanders
From: Terry Lawson, Fire Marshal
Date:
Re: RZN 10-3625
RZN 10-3626

RZN 10-3625: Rezone (CEDAR CREST ACADEMY/PERSIMMON, 478): Submitted by DAVE JORGENSEN for property located on the SOUTH SIDE OF PERSIMMON ROAD, WEST OF OWL CREEK ELEMENTARY SCHOOL. The property is zoned RSF-1, SINGLE FAMILY - 1 UNIT/ACRE and contains approximately 2.25 acres. The request is to rezone the subject property to P-1, Institutional. Planner: Andrew Garner

This development will be protected by Engine 7 located at 835 N. Ruppel Rd.
It is approximately 1 miles from the station with an anticipated response time of 2 minutes to the beginning of the development.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 10-3626: Rezone (NORTHWEST CORNER HWY. 45/BOX AVE, 372): Submitted by H2 ENGINEERING, INC. for property located at THE NORTHWEST CORNER OF HWY 45E & BOX AVENUE. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 1.20 acres. The request is to rezone the property to CS, Community Services. Planner: Dara Sanders

This development will be protected by Engine 5 located at 2979 N. Crossover.
It is approximately 1.2 miles from the station with an anticipated response time of 2 minutes to the beginning of the development.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

Terry Lawson, Fire Marshal
Fayetteville Fire Department

July 28, 2010

Jeremy Pate
Development Services Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on proposed RZN 10-3626 (Northwest Corner Hwy 45/ Box, 372) Submitted by H2 Engineering.

I have previously submitted comments on June 17, 2005 and on May 21, 2009 expressing concern about traffic danger and congestion at this location. These concerns were due mostly to the possible volume of traffic for the proposed type of business and the possibility of the ingress and egress on Mission.

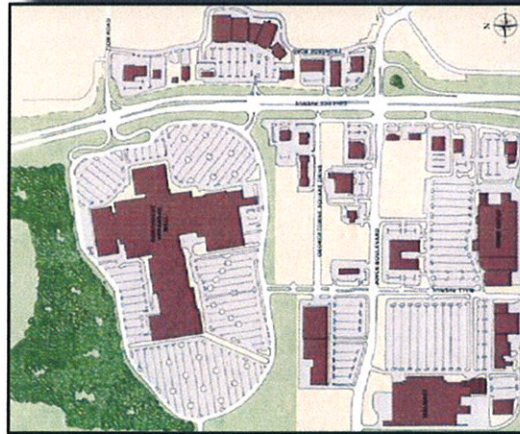
If the property is going to be used for the purpose which you described during our telephone conversation, I would have far less concern for the volume of traffic. Also, If I understand that current regulations would require ingress and egress be placed on Box Avenue, I would have far less concern about vehicles exiting and entering Mission. Traffic from this business would be routed to an intersection some traffic control.

Sincerely,

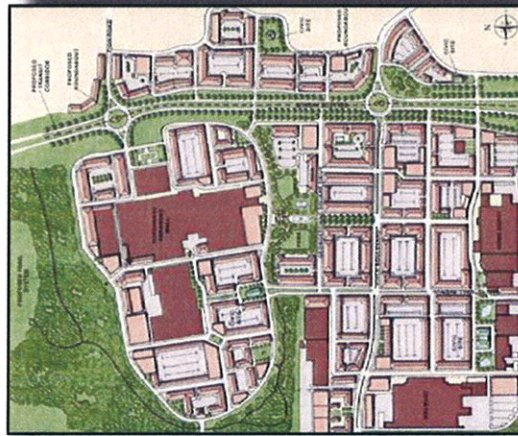
Captain William Brown
Fayetteville Police Department

c. *Convert shopping centers & commercial corridors to mixed-use centers, adding residences, offices, & lodging*

The infill of existing centers and corridors allows the economic re-capture of land value for the developer while producing development that shortens trips for residents and uses existing infrastructure. This strategy for converting shopping centers and shopping center owners. A variety of uses creates the ability to live, work, shop and have daily needs and services met within walking distance. It is important to encourage and provide more opportunities for people to live and work in the City. Encouraging a balance of people living and working in the same area has several benefits, including: less daily trips that rely on the regional road network; increased support for local businesses; and a greater variety of housing options for Fayetteville residents.



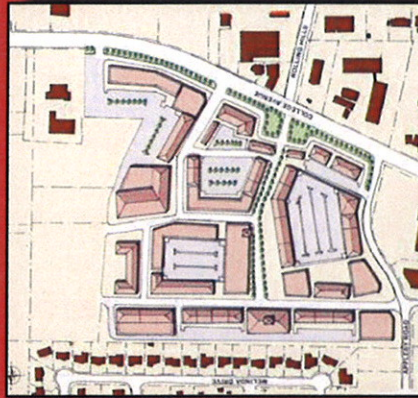
North End 2006



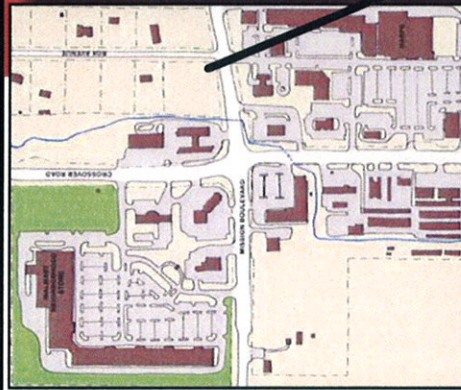
North End 2025



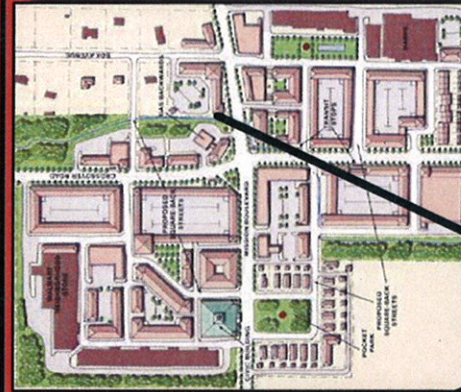
Fiesta Square 2006



Fiesta Square 2025



Mission & Crossover 2006



Mission & Crossover 2025



Subject Property



June 30, 2010

City of Fayetteville
Planning Division
113 West Mountain St.
Fayetteville, AR 72701

**RE: REZONING APPLICATION
NORTHWEST CORNER OF HWY 45 & BOX AVE**

To Whom It May Concern:

Please accept this letter and application as our official request for rezoning a property owned by Mathias Shopping Centers, Inc. at the northwest corner of Arkansas State Highway 45 and Box Avenue.

The subject property is currently zoned R-O and is proposed for rezoning to Community Services. The property is located approximately 200 ft east of the Highway 45/Highway 265 (Mission/Crossover) intersection along the north frontage of Hwy 45. The property to the north of our site is zoned RSF-4 (with a conditional use allowing a duplex). There is one residential parcel to the east followed by P-1, Institutional. The property to the west is zoned C-1 with a convenience store operation. The property to the south is zoned C-2 with a variety of uses.

Measured along the highway (from the intersection of Hwy 45 & Hwy 265), the following represents the current zoning districts along the highway frontage:

Northwest Quadrant:

Hwy 45: 1340 ft – C-1
Hwy 265: 980 ft – C-1

Southwest Quadrant:

Hwy 45: 400 ft – C-2; 550 ft – C-1
Hwy 265: 1020 ft – C-2

Southeast Quadrant:

Hwy 45: 1320 ft – C-2
Hwy 265: 1020 ft – C-2

Northeast Quadrant:

Hwy 45: 200 ft – C-1; 240 ft – R-O (Subject Property); 200 ft RSF-4; and 1200 ft – P-1
Hwy 265: 900 ft – C-1

All public infrastructure is adequate and accessible to serve a commercial use on this property. Water is available via an 8" PVC line on the south boundary, and sewer is available via an 8" line on the west boundary.

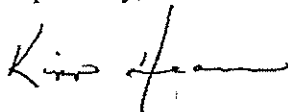
In the past, representatives from the Police Dept have expressed concerns with traffic conditions in this location. Traffic conditions have drastically improved in this region as a result of the traffic light installation at the intersection of Hwy 45 and Starr Rd to our east. This light has been in service for approximately one year. Planning staff has also expressed concerns with the past rezoning requests on this property because of compatibility issues and consistency with City Plan 2025, and the Future Land Use Plan designation because of the sprawling development form of the C-1 zoning district.

The local character of this intersection reflects community service uses as well as more intense commercial uses. This commercial / services hub is well established for 1000 feet in every direction from this intersection. The future land use plan reflects this corner as City Neighborhood Area, which is the same future land use as 3 of the 4 intersection corners that contain commercial and retail businesses. The Highway 45/Highway 265 (Mission/Crossover) intersection is the primary nonresidential node that provides a range of services. The subject property is located within 200 feet of this primary nonresidential node. With over 200 ft of frontage on Hwy 45, and absent of floodplain or other specific features that would limit development, this substantial piece of property is the last to remain vacant in the immediate area. We believe this parcel is perfectly situated for the "low-intensity nonresidential uses" identified in the City Neighborhood Area description, and the neighborhood-friendly use units available within the Community Services zoning district.

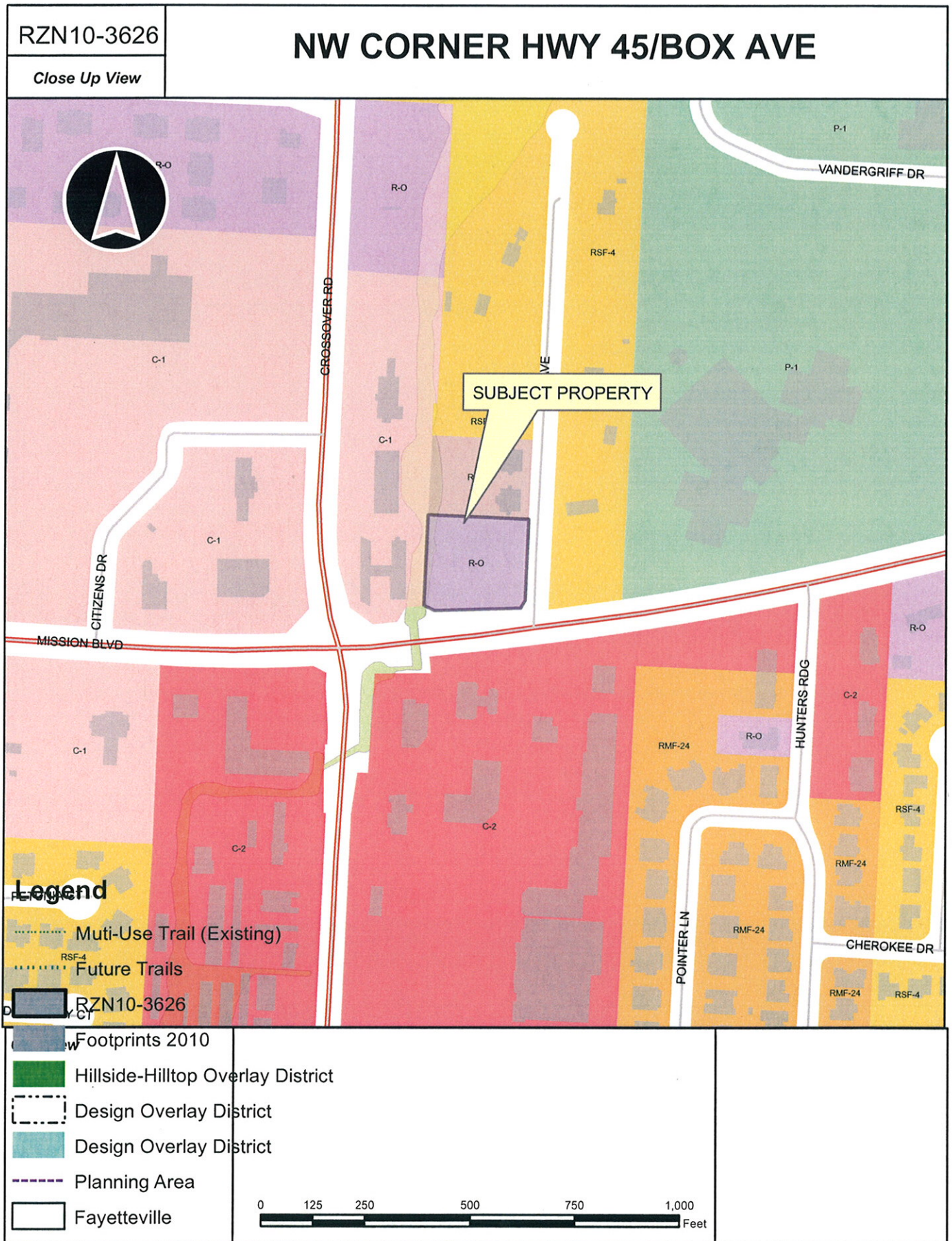
The request for the Community Services zoning district at this location is consistent with the goals in City Plan 2025. The development of the subject property under the regulations of the Community Services zoning district will work toward achieving City Plan 2025 Goal 3, to make traditional town form the standard, with the mixture of permitted uses and the prescribed urban-form that provides more opportunities for people to live and work in the same area and promotes adaptable reuse of buildings over time. The form-based zoning will also eliminate much of the concern with regard to compatibility with adjacent residential uses and will provide adequate transition between the conventional, automobile-oriented development form to the south and west and the various residential uses to the north and east. If approved, the application of the form-based zoning could work toward infill and achieving the future vision of this nonresidential node shown on page 10-4 of City Plan 2025.

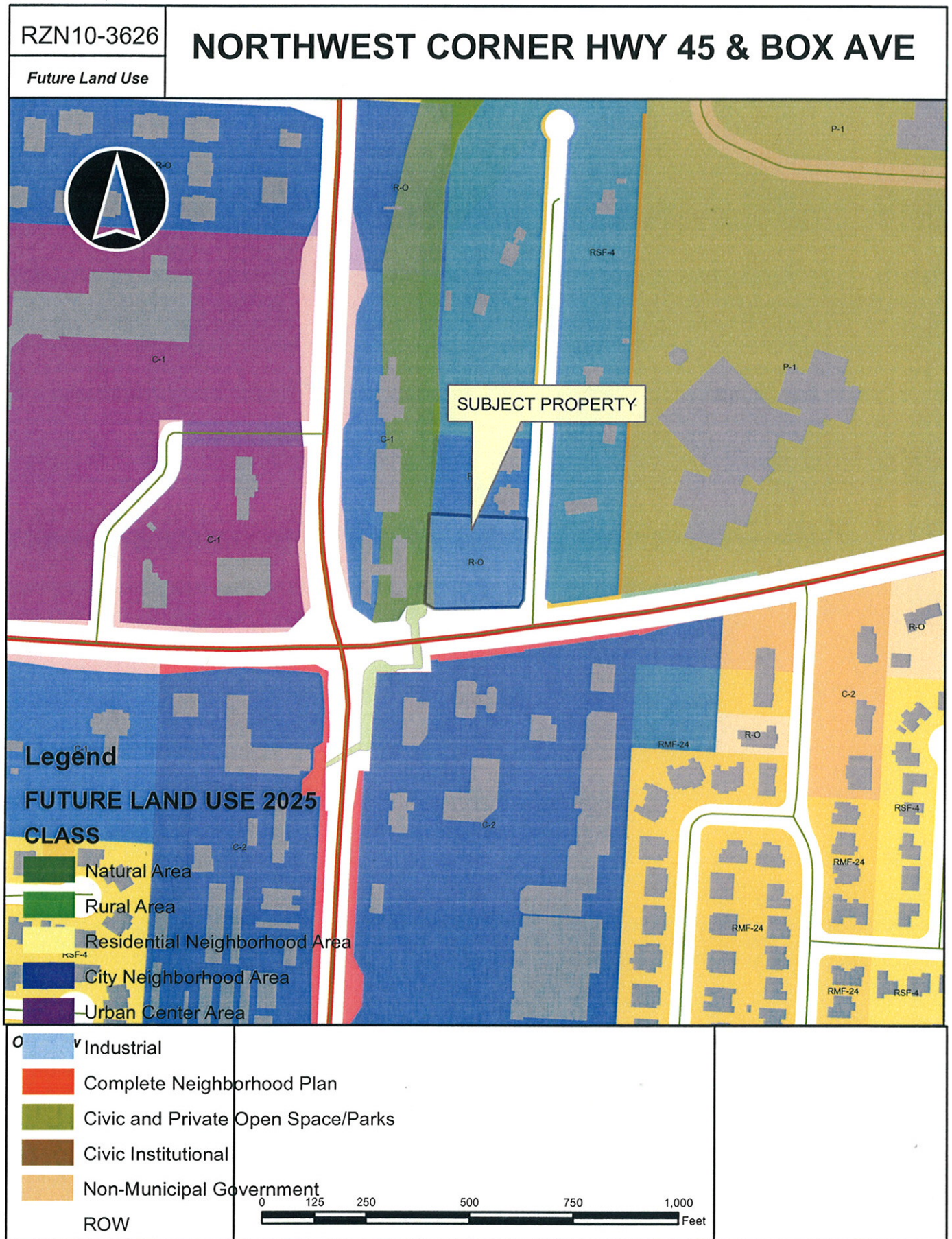
Thank you for your consideration in this regard.

Respectfully,

A handwritten signature in black ink, appearing to read "Kipp Hearne", with a stylized flourish at the end.

Kipp Hearne, P.E.





RZN10-3626

NW CORNER HWY 45/BOX AVE

Current Land Use



Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area

Fayetteville

0 125 250 500 750 1,000 Feet

AGENDA REQUEST

C. 3
Repeal and Replace §34.26
Page 1 of 8

FOR: COUNCIL MEETING OF SEPTEMBER 7, 2010

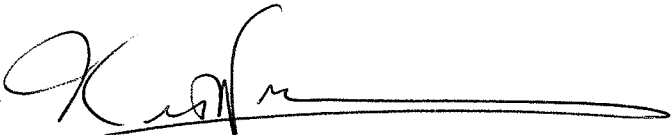
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Repeal §34.26 Authority Of City Employees To Contract With The City
And To Enact A Replacement §34.26 Limited Authority Of City Employees To Provide
Services To The City

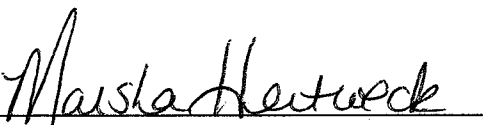
APPROVED FOR AGENDA:



City Attorney Date



Chief of Staff 8/24/10
Date



Finance Director 8/23/10
Date



Mayor 8/23/10
Date

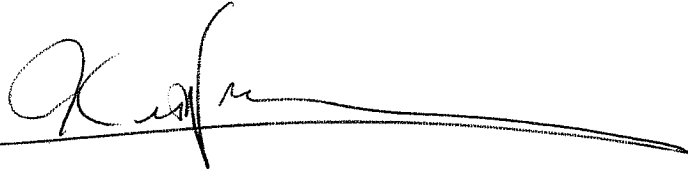
08-20-10P04:47 RCVD

Kg



TO: **Lioneld Jordan**, Mayor
City Council

FROM: **Kit Williams**, City Attorney



DATE: **August 20, 2010**

RE: **§34.26 of Fayetteville Code; A.C.A. §14-42-107(b)**

Twenty-six years ago, the Fayetteville Board of Directors passed Ordinance No. 3013 which has been codified as §34.26 of the Fayetteville Code:

**“34.26 Authority of City Employee To Contract With
The City**

“An employee of the city shall be permitted to conduct business with the city, provided the contract or job is for services, is submitted as a competitive bid, is approved by the City Council following disclosure of the direct or indirect financial interest of the individual employee, and the total sum payable under the contract does not exceed \$500.00.”

From a legal point of view, the wording of this old ordinance is very lacking in clarity of purpose and effect. It was specifically enacted in response to A.C.A. §14-42-107(b) to permit a city employee to conduct business for “the profits of any contract for the furnishing supplies, equipment or services to the municipality” A.C.A. §14-27-107 (b)(1). (I have attached Ordinance No. 3013 for your review.) Unfortunately, instead of just authorizing a modest amount of services to be sold to the City by an employee, it used the term “conduct business with city” which would also prohibit an employee from **purchasing** goods or services (like entering into a T-hangar lease) from the city if the contract exceeded \$500.00. State law had no such restriction. (See below)

“Interest in offices or contracts prohibited

“No alderman, council member, official, or municipal employee shall be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting aldermen, council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.” A.C.A. §14-27-107(b)(1).

This statute clearly sets forth a **one way prohibition**. Officials and employees cannot sell services or products to the City unless the City Council specifically permits and regulates such sales. Unfortunately, the City Board chose such imprecise wording (“conduct business with the city”) that the Code seems to prohibit all business transactions with the City **even if the employee is paying the City to buy services** (like water, sewer, solid waste fees, etc.). This was surely not the intent of the City Board. We now have a city employee who wishes to rent a T-hangar at the Fayetteville Municipal Airport at the standard public rate. That certainly is “conduct(ing) business with the city”, but it is not a “contract for furnishing supplies, equipment or services to the municipality” *Id.* (emphasis added) Therefore, an employee renting land or a building from the City would not violate state law, but may appear to violate Fayetteville Code §34.26 **Authority Of City Employee To Contract With The City**.

This would seem to be a very confusing and contradictory result as aldermen and city officials are not authorized (and thus not restricted) by the City Code from renting or purchasing services from the City, while employees would be restricted. This could not have been the intent of the City Board of Directors and surely is not the intent of our current City Council and Mayor. Therefore, I propose some substantial modification to §34.26 to reflect what I believe was always the true intent of the ordinance – to allow some furnishing of services by employees to the City with safeguards like full disclosure and express City Council approval. The broad term “conduct business” should be replaced with “by furnishing services” (from the state law) so that it is clear employees (like ordinary citizens) can purchase water, sewer and solid waste services, and rent T-hangars from the City.

I have drafted and attached a new §34.26 **Limited Authority of City Employees to Provide Services to the City** for your consideration. I wanted to ensure no favoritism would be given to city employees over regular citizens for the

opportunity to provide services {see (B)} and that the City Council would have to be fully informed of any direct or indirect financial interest of the employee and approve the purchase of such services by City Council Resolution {see (A)}.

The Department of Labor forbids an employer (like the City) from hiring its employees as independent contractors to perform services similar to their normal job duties. (Employers used to do this to avoid paying overtime.) I tried to protect the City from this situation in (C). We also wanted to be sure that an employee's normal work duties would not be adversely affected by independent contractor work for the City {see (D)}.

I believe that most of our city employees who work as independent contractors providing services to our City work as umpires or referees. As long as these employees are not employed by our Parks and Recreation Department, I believe we would not face an issue with the Department of Labor nor any perceived unfair favoritism by our citizens. Thus, I propose exempting these employees from the need for specific City Council Resolution in (E).

I have been informed that some Parks and Recreation employees wish to work as independent contractor umpires or referees for the Parks and Recreation Department. I am uncomfortable with this arrangement not only because of Department of Labor concerns, but also because the apparent conflict of interest or perceived favoritism of the Parks and Recreation Department hiring its own employees over other citizens. Even though there might actually be no unfair favoritism at all, it would be hard to dispel the smell of an "inside deal." I would prefer that the employees simply work as umpires or referees as regular employees on the clock. We would then hire only those independent contractors needed for games our employees could not work.

There has been some internal disagreement about whether or not to exclude Parks and Recreation Department employees from being employed as independent contractors working for Parks and Recreation. The City Council will need to resolve this issue and amend my proposed ordinance if you believe my restriction is not needed or not appropriate.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL §34.26 AUTHORITY OF CITY EMPLOYEES TO CONTRACT WITH THE CITY AND TO ENACT A REPLACEMENT §34.26 LIMITED AUTHORITY OF CITY EMPLOYEES TO PROVIDE SERVICES TO THE CITY

WHEREAS, state law prohibits any city official or employee from profiting from “any contract for furnishing supplies, equipment or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting ... municipal employees to conduct business with the city” A.C.A. §14-27-107(b)(1); and

WHEREAS, on June 5, 1984, the City Board of Directors passed Ordinance No. 3013, now codified as §34.26 **Authority of City Employee to Contract with the City**; and

WHEREAS, the current code section uses such broad and imprecise terms that it appears to prohibit not just the furnishing of services, but any contracts (such as an employee leasing a T-hangar) if such rental amount paid to the City exceeds \$500.00; and

WHEREAS, this code section needs to be revised so that city employees may work as umpires and referees for the City Parks and Recreation Department and other employees may provide services when specifically authorized by City Council Resolution.

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 §34.26 of the Fayetteville Code entitled **Authority of City Employees To Contract With The City** and enacts a replacement §34.36 entitled **Limited Authority Of City Employee To Provide Services To The City** as shown below:

“§34.26 Limited Authority of City Employee To Provide Services To The City

“An employee of the city shall be permitted to furnish services as an independent contractor to the City only if:

“(A) The employee fully discloses his or her direct or indirect financial interest in any contract or service agreement to the City Council and such services are approved by City Council Resolution;

“(B) No favoritism is allowed to the city employee over other possible service providers;

“(C) Such services are not of the same type as performed by the city employee in his or her regular city job, nor are services for the department wherein the employee works;

“(D) The employee’s immediate supervisor specifically approves such extension of employee service and ensures it will not adversely affect the employee’s regular city employment duties;

“(E) City employees who are not within the Parks and Recreation Department are specifically allowed to work as independent contractors as referees and umpires for the Fayetteville Parks and Recreation Department without the need for a City Council Resolution.”

PASSED and APPROVED this 7th day of September, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

ORDINANCE NO. 3013

AN ORDINANCE AMENDING CHAPTER 2 OF THE FAYETTEVILLE CODE OF ORDINANCES TO PERMIT A CITY EMPLOYEE TO CONDUCT BUSINESS WITH THE CITY AND PRESCRIBING THE EXTENT OF SUCH AUTHORITY.

WHEREAS, Ark. Stat. Ann. §19-716(e) provides that no employee shall be interested directly or indirectly in any contract made with the City unless the Board of Directors shall have enacted an ordinance specifically permitting an employee to conduct business with the City and prescribing the extent of such authority.

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

Section 1. That Chapter 2 of the Fayetteville Code of Ordinances is hereby amended by adding Section 2-70 to read as follows:

Sec. 2-70. Authority of City Employee to Contract with the City. An employee of the City shall be permitted to conduct business with the City provided the contract or job is for services, is submitted as a competitive bid, is approved by the Board of Directors following disclosure of the direct or indirect financial interest of the individual employee, and the total sum payable under the contract does not exceed \$500.00.

PASSED AND APPROVED THIS 5th day of June, 1984.

APPROVED:

By: Paul R. Island
Mayor



ATTEST:

By: Suzanne C. Knecht
City Clerk

ALMA KOLLMAYER
CIRCUIT CLERK

JUN 13 PM 2 34

FILED
FOR RECORD

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

Leif Olson ⁷⁰
Submitted By

Planning
Division

Development Services
Department

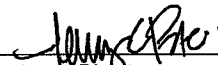
Action Required:

ADM 10-3630: (Recycling and Collection Centers): Submitted by Staff, to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts

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

8-19-2010
Date

Previous Ordinance or Resolution #


City Attorney

8-19-10
Date

Original Contract Date:

Original Contract Number:

Paul A. Barker
Finance and Internal Services Director

8-19-2010
Date

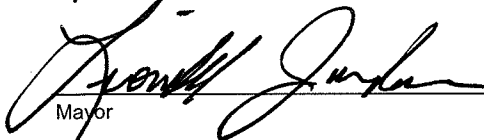
Received in City Clerk's Office 08-19-10 A11:35 RCVD


Chief of Staff

8-19-10
Date

Received in Mayor's Office




Mayor

8/19/10
Date

Comments:



www.accessfayetteville.org

C. 4
Amend Chapters 151 & 162:
ADM 10-3630 Recycling and
Collection Centers

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*

From: Leif Olson, Associate Planner *LO*

Date: August 18, 2010

Subject: ADM 10-3630 Recycling and Collection Centers

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance amending the Unified Development Code Chapter 151: Definitions and Chapter 162: Use Conditions to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts.

BACKGROUND

Staff is bringing forward this ordinance in order to create definitions for recycling facilities based upon their scale and by the nature and intensity of their use. Currently, all recycling centers, regardless of their size, use or intensity, would fall under Use Unit 28: Centers for Collecting Recyclable Materials. Staff is proposing to amend Use Unit 2: City Wide Uses by Conditional Use Permit to allow Community Recycling Drop-off Facilities that allow citizens to drop off recycling materials for transport to a center which then sorts, packages and ships the materials to the end market users. The proposed definitions clearly describe the difference in scale and use between these two facilities.

DISCUSSION

On July 26, 2010 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE CHAPTER 151: DEFINITIONS AND CHAPTER 162: USE CONDITIONS TO CREATE DEFINITIONS FOR COMMUNITY RECYCLING DROP-OFF FACILITIES AND CENTERS FOR COLLECTING RECYCLABLE MATERIALS AND TO ALLOW SUCH USES IN APPROPRIATE ZONING DISTRICTS.

WHEREAS, the City of Fayetteville currently operates a center for collecting recyclable materials, and

WHEREAS, both the City of Fayetteville and private businesses operate recycling drop-off facilities within the City, and

WHEREAS, the City of Fayetteville recognizes that recycling drop-off facilities and recycling centers should be defined according to their scale and by the nature and intensity of their use, and

WHEREAS, the City of Fayetteville recognizes that all recycling facilities should be permitted only by Conditional Use Permit in appropriate Zoning Districts:

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 the Unified Development Code Chapter 151: Definitions by adding the following definitions in §151.01 as shown below:

“Community recycling drop-off facility. (Zoning) A facility designed to be a collection point where only pre-sorted recyclable materials are dropped off and temporarily stored prior to delivery to a center for collecting recyclable materials for processing. A community recycling drop-off facility is intended for household or consumer use. This facility can be temporary and/or mobile or a permanent installation that is the principal use.”

“Center for collecting recyclable materials. (Zoning) A facility that is not a salvage yard and in which recoverable resources, such as paper products, glass, aluminum, metal cans, and other products are processed for recycling. Processing may include the preparation of materials for efficient shipment by such means as baling, compacting, flattening, grinding, crushing and mechanical sorting.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends the Unified Development Code Chapter 162: Use Conditions by adding "Community Recycling Drop-off Facility" to §162.01(B)(2) Public and Private Facilities.

PASSED and **APPROVED** this ____ day of ____, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk



PC Meeting of July 26, 2010

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Leif Olson, Associate Planner *LO*
THRU: Jeremy Pate, Development Services Director
DATE: July 14, 2010

ADM 10-3630: Administrative Item (UDC Amendment; Ch. 151 Definitions and Ch. 162 Use Conditions: Recycling Facilities): Submitted by CITY PLANNING STAFF to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts.

Planner: Leif Olson

BACKGROUND

Staff is bringing forward this ordinance in order to create definitions for recycling facilities based upon their scale and by the nature and intensity of their use. Currently, all recycling centers, regardless of their size, use or intensity, would fall under Use Unit 28: Centers for Collecting Recyclable Materials. Staff is proposing to amend Use Unit 2: City Wide Uses by Conditional Use Permit to allow Community Recycling Drop-off Facilities that allow citizens to drop off recycling materials for transport to a center which then sorts, packages and ships the materials to the end market users. The proposed definitions clearly describe the difference in scale and use between these two facilities.

PROPOSAL

This proposal is to amend the Unified Development Code Chapter 151: Definitions and Ch. 162: Use Conditions to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts. The proposed ordinance with the changes to Ch. 151 and Ch. 162 is attached in full to this staff report.

RECOMMENDATION

Staff recommends that the Planning Commission forward **ADM 10-3630** to the City Council with a recommendation for approval.

Planning Commission Action: ☒ **Forwarded** ☐ **Denied** ☐ **Tabled**

Motion: Cabe

Second: Lack

Vote: 8-0-0

Meeting Date: July 26, 2010

Comments:

ADM 10-3630: Administrative Item (UDC Amendment; Ch. 151 Definitions and Ch. 162 Use Conditions: Recycling Facilities): Submitted by CITY PLANNING STAFF to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts.

Andrew Garner, Senior Planner, gave the staff report discussing the proposed clarifications to the Unified Development Code to differentiate between a community recycling drop-off facility and a center for collecting and processing recyclables.

No public comment was received.

Tom Hubbard, City Utilities Department, explained the intent for a proposed recycling drop-off on the west side wastewater treatment facility.

Commissioner Cabe discussed that he thinks this is a good idea and commended staff.

Motion:

Commissioner Cabe made a motion to forward the request to City Council as recommended by staff with a recommendation for approval.

Commissioner Lack asked about what the term salvage yard was referring to in Section #1.

Garner discussed that salvage yard was in the process of being defined in UDC chapter 151, definitions, as part of some pending UDC modifications at City Council.

Commissioner Chesser seconded the motion. **Upon roll call the motion was passed with a vote of 8-0-0.**

After announcements:

Commissioner Hoskins asked about signs in the RSF-4, Residential Single Family 4 units per acre, zoning district.

Williams discussed concerns with rulings in Supreme Court cases on this topic.

There being no further business, the meeting was adjourned at 6:42 P.M.

City of Fayetteville Staff Review Form

C. 5
Amend Chapter 161:
Zoning Regulations
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

9/7/2010

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

City Planning
Division

Development Services
Department

Action Required:

City Council approval of an ordinance amendment to correct an administrative error associated with the previous ordinance amendments to adopt Use Unit 43, Animal boarding and training (ADM 09-3235) and new form-based zoning districts (ADM 09-3502).

Cost of this request	n/a	Historic Preservation
1010.6300.5304.00	n/a	Travel, Training, Public Education
Account Number	Funds Used to Date	Program / Project Category Name
06024.0901	n/a	General
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

[Signature]
Department Director

08-20-10
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

8-20-10
Date

Original Contract Date:

[Signature]
Finance and Internal Services Director

8/23/10
Date

Original Contract Number:

[Signature]
Chief of Staff

8/24/10
Date

Received in City Clerk's Office 08-20-10 P03:45 RCVD
[Signature]

[Signature]
Mayor

8/23/10
Date

Received in
Mayor's Office



Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*

From: Dara Sanders, Current Planner

Date: August 19, 2010

Subject: Use Unit 43, Animal boarding and training

RECOMMENDATION

Staff recommends approval of an ordinance to correct an administrative error associated with the previous ordinance amendments to adopt Use Unit 43, Animal boarding and training (ADM 09-3235) and new form-based zoning districts (ADM 09-3502).

BACKGROUND

In May of 2009, the City Council approved an ordinance (ADM 09-3235) to adopt Use Unit 43, Animal boarding and training, as a permitted use in the R-A, Residential Agricultural, and I-2, Heavy Industrial zoning districts and as a conditional use in the C-2, Thoroughfare Commercial, and I-1, Light Industrial zoning districts. These ordinance revisions were codified and published in July of 2009.

During the time of this amendment, planning staff was also developing a proposal to adopt new form-based zoning districts and inadvertently did not include Use Unit 43 in the zoning districts that were adopted by exhibit with the form-based code amendments. The oversight was found by planning staff upon review of the quarterly publication of all code amendments by the City Clerk's office.

Staff proposes to include Use Unit 43 in the R-A, Residential Agricultural, and I-2, Heavy Industrial zoning districts as a permitted use and in the C-2, Thoroughfare Commercial, and I-1, Light Industrial zoning districts as a conditional use, as previously approved with ADM 09-3235. Staff also proposes to include Use Unit 43 in the UT, Urban Thoroughfare, zoning district as a conditional use, finding that this zoning district is the form-based equivalent of C-2.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, CHAPTER 161: ZONING REGULATIONS TO PERMIT USE UNIT 43, ANIMAL BOARDING AND TRAINING, IN CERTAIN SITUATIONS IN COMMERCIAL, INDUSTRIAL, MIXED USE, AND RESIDENTIAL-AGRICULTURAL ZONING DISTRICTS.

WHEREAS, the City Council previously approved Ordinance 5238 to allow animal daycare, animal boarding, kennels, and to permit these uses in various intensities depending on the zoning and land uses; and

WHEREAS, the City of Fayetteville removed these previously approved uses from Chapter 161: Zoning Regulations in error with the adoption of Ordinance 5312;

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 §161.28(B)(1) General Industrial to add Unit 43: Animal boarding and training to the list of permitted uses.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §161.20(B)(2) Thoroughfare Commercial, §161.21(B)(2) Urban Thoroughfare, and §161.27(B)(2) Heavy Commercial/Light Industrial to add Unit 43: Animal boarding and training to the list of conditional uses.

PASSED and APPROVED this the 7th day of September, 2010.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

ORDINANCE NO. 5238

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, TO AMEND CHAPTERS 151: DEFINITIONS, 161: ZONING REGULATIONS, AND 162: USE UNITS IN ORDER TO CLASSIFY AND DEFINE ANIMAL DAYCARE, ANIMAL BOARDING, AND KENNELS, AND TO PERMIT THESE USES IN CERTAIN SITUATIONS IN COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL-AGRICULTURAL ZONING DISTRICTS.

WHEREAS, the City of Fayetteville zoning regulations do not have a clear classification or definition for animal day care and boarding; and

WHEREAS, the City of Fayetteville zoning regulations do not currently permit overnight commercial animal boarding in any zoning district except for property zoned R-A, Residential-Agricultural; and

WHEREAS, the City of Fayetteville recognizes that the Unified Development Code needs to be revised to clearly define animal daycare, animal boarding, kennels, and to permit these uses in various intensities depending on the zoning and land uses.

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 Definitions of the Unified Development Code as follows:

Animal daycare. (Zoning) A facility that provides day or nighttime supervision for three or more animals. Animals are kept inside the facility, except animals are permitted to be walked on a leash outside. Facilities that contain outdoor dog runs, play areas, or kennels are not considered an animal daycare.

Kennel. (Zoning) A structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility that keeps animals commercially and has open dog runs, outside play areas, or any areas where animals are kept or left outside.



Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01 Establishment/Listing of the Unified Development Code to create Use Unit 43: Animal Boarding and Training within the list of established uses within the City, described as follows:

(QQ) *Unit 43. Animal Boarding and Training.*

(1) *Description.* Unit 43 consists of services such as animal boarding, training, kennels, outdoor animal daycare and related activities which have outdoor space for animal exercise and other activities and may therefore result in noise and aesthetic impacts and may pose compatibility issues when adjacent to commercial or residential uses without adequate buffers in place.

(2) *Included uses.*

Animal boarding
Animal training
Kennels
Outdoor animal daycare
Outdoor dog runs
Other outdoor animal activity

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends §162.01 (G)(2) Unit 7: Animal Husbandry to strike "Kennel" from the list of included uses.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends the Unified Development Code §162.01 (L)(2) Unit 12: Offices, studios and related services to add "Animal daycare (10 animals or less)" within the Services category of included uses and §162.01 (Q)(2) Unit 17: Trades and Services to add "Animal daycare" within the Personal help category of included uses.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby amends §161.03 (B)(1) Residential Agricultural and §161.25 (B)(1) General Industrial to add Unit 43: Animal Boarding and Training to the list of permitted uses.

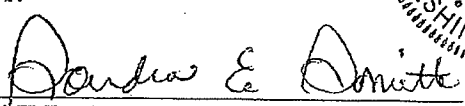
Section 6. That the City Council of the City of Fayetteville, Arkansas hereby amends §161.18 (B)(2) Thoroughfare Commercial and §161.24 (B)(2) Heavy Commercial/Light Industrial to add Unit 43: Animal Boarding and Training to the list of conditional uses.

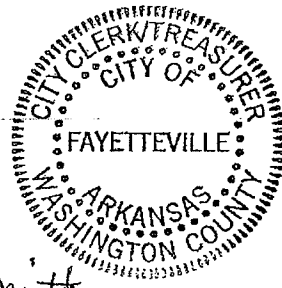
PASSED and APPROVED this the 5th day of May, 2009.

APPROVED:

By: 
LIONELD JORDAN, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



Agenda Session 8/31/10

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
September 7, 2010**

A meeting of the Fayetteville City Council will be held on September 7, 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

City Council Agenda Session Presentations:

1. Ice Storm Damage Grant Sample Tree Inventory Project Report – George Barker, Natural Resources Consulting, Inc.
2. High School Project Presentation

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

- ✓ 1. Approval of the August 17, 2010 City Council meeting minutes.

2. **National Wildlife Federation Community Wildlife Habitat:** A resolution authorizing an application for the City to be certified as a National Wildlife Federation Community Wildlife Habitat.

3. **Watershed Conservation Resource Center Grant (White River):** A resolution authorizing application and acceptance, in partnership with the Watershed Conservation Resource Center, of an Arkansas Natural Resources Commission matching grant in the amount of \$200,000.00 for restoration of a portion of the White River near the Noland Wastewater Treatment Facility, and approving a budget adjustment in the amount of \$77,000.00 representing the City's match.

4. **2010 Washington County Inter-Local Agreement (Animal Sheltering):** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County, Arkansas for calendar year 2010.

5. **RFP #10-11 Plante & Moran, PLLC:** A resolution awarding RFP #10-11 and approving a contract with Plante & Moran, PLLC in an amount not to exceed \$60,000.00 for the performance of a city-wide information technology assessment.

6. **2010 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2010 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Grant in the amount of \$108,419.00 to the Fayetteville Police Department as a lead agency, and approving a budget adjustment.

Need additional
info. from
Chris Brown

7. **Access Management Plan Agreement Amendment (State Highway 265):** A resolution approving an amendment to the Access Management Plan Agreement, as prepared by the Arkansas Highway and Transportation Department, for State Highway 265.

Move to
NB # 6

8. **Amend Resolution No. 76-06 Lierly Lane Subdivision:** A resolution to amend Resolution No. 76-06 to amend the site plan to replace five duplex lots with single family lots and change the lot once designated for the decentralized community septic system to single family lots and a developed park of at least about 2.5 acres.

9. **Amend Resolution No. 131-10:** A resolution amending Resolution No. 131-10 to change all references from "Today in America" to "U.S. Media Television, Inc."

B. Unfinished Business:

1. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville. *This ordinance was left on the Second Reading at the June 15, 2010 City Council meeting. This ordinance was left on the Third Reading at the July 6, 2010 City Council meeting and Tabled to the September 7, 2010 City Council meeting.*

Left on the Third Reading

2. ✓ **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses. *This ordinance was left on the Second Reading at the August 17, 2010 City Council meeting.*

Left on the Second Reading

C. New Business:

1. ✓ **RZN 10-3625 (Cedar Crest Academy):** An ordinance rezoning that property described in rezoning petition RZN 10-3625, for approximately 2.25 acres, located on the south side of Persimmon Street, northwest of Owl Creek Elementary School from RSF-4, Residential Single-Family, 4 units per acre, to P-1, Institutional.
2. ✓ **RZN 10-3626 (Mathias Shopping Centers):** An ordinance rezoning that property described in rezoning petition RZN 10-3626, for approximately 1.2 acres, located at the northwest corner of Hwy 45 East and Box Avenue from R-O, Residential Office, to CS, Community Services.
3. ✓ **Repeal and Replace §34.26:** An ordinance to repeal §34.26 Authority of City Employees to Contract with the City and to enact a replacement §34.26 Limited Authority of City Employees to Provide Services to the City.
4. ✓ **Amend Chapters 151 & 162: ADM 10-3630 Recycling and Collection Centers:** An ordinance amending the Unified Development Code Chapter 151: Definitions and Chapter 162: Use Conditions to create definitions for community recycling drop-off facilities and centers for collecting recyclable materials and to allow such uses in appropriate zoning districts.
5. ✓ **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapter 161: Zoning Regulations to permit use unit 43, Animal Boarding and Training, in certain situations in commercial, industrial, mixed use, and residential-agricultural zoning districts.

Announcements:

Adjournment:

Add: NB #7 Amend Ordinance No. 5344 (Watershed Conservation Resource Center)

NOTICE TO MEMBERS OF THE AUDIENCE

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Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
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- High*
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 2. School Project Presentation

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6. **2010 Justice Assistance Grant Local Solicitation Award:** A resolution authorizing acceptance of a 2010 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Grant in the amount of \$108,419.00 to the Fayetteville Police Department as a lead agency, and approving a budget adjustment.
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8. **Amend Resolution No. 76-06 Lierly Lane Subdivision:** A resolution to amend Resolution No. 76-06 to amend the site plan to replace five duplex lots with single family lots and change the lot once designated for the decentralized community septic system to single family lots and a developed park of at least 2.5 acres *about*.
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1. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville. *This ordinance was left on the Second Reading at the June 15, 2010 City Council meeting. This ordinance was left on the Third Reading at the July 6, 2010 City Council meeting and Tabled to the September 7, 2010 City Council meeting.*

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Announcements:

Adjournment:

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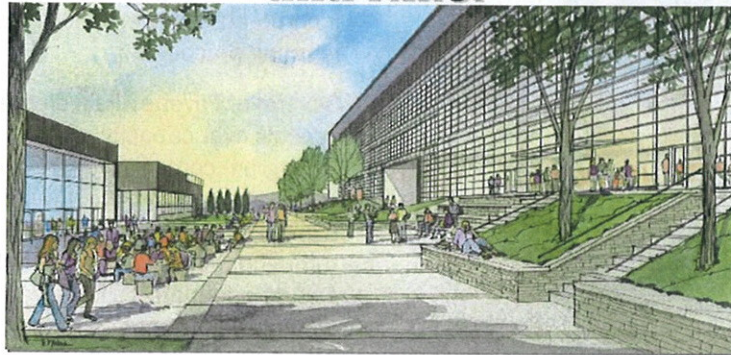
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Agenda Session Presentation

8/31/10

Fayetteville Public Schools and F.H.S.



FAYETTEVILLE PUBLIC SCHOOLS
The Fine Art of Education



FHS Challenges

- Fayetteville has outgrown the existing high school facility, which was built in 1952.
- Building safety is an issue with 56 entry doors to the buildings.
- The common areas are too small for the current enrollment, including the cafeteria, which seats less than one-sixth of the student body at once.



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FHS Challenges



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- Academic spaces are outdated and do not afford the flexibility for incorporating newer teaching and learning practices.
- Several of Fayetteville's elementary schools over capacity, and our Pre-K program continues to grow. More space at the high school will allow a grade realignment to take place throughout the district, and will ensure adequate building capacity district-wide for many years.



Phase 1= \$45 Million

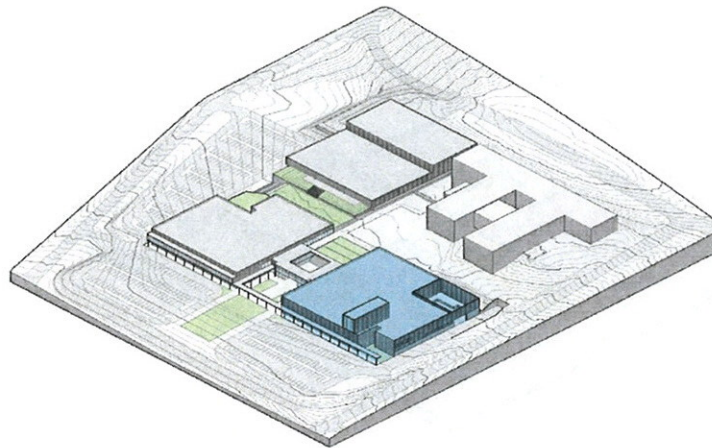
- ✓ Fully Funded
- ✓ Low interest Qualified School Construction Bonds, and
- ✓ \$2.5 million in operational budget cuts

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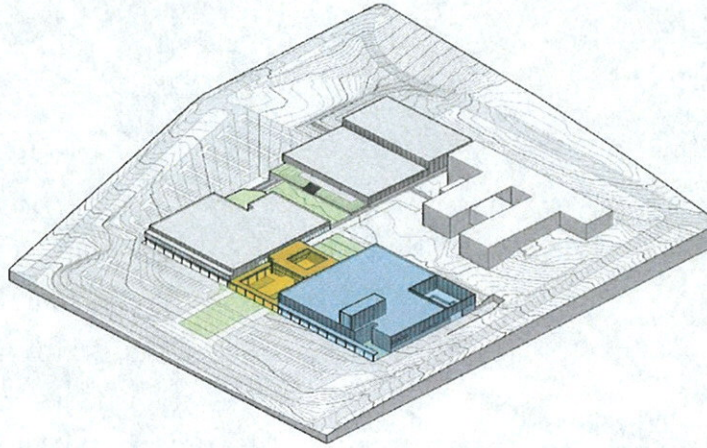
Phase 1: Demolition of South Buildings



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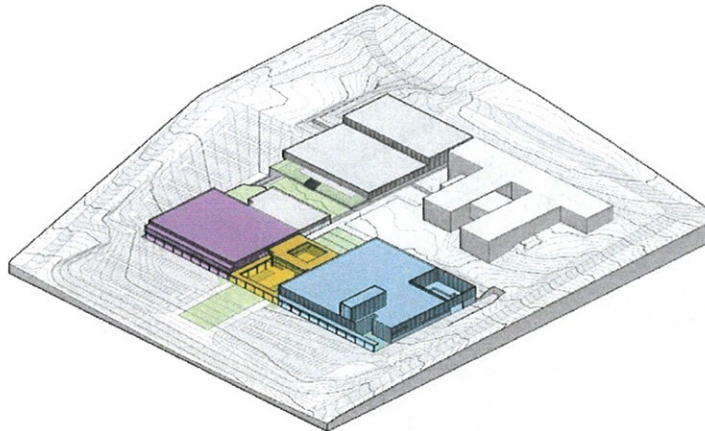
Phase 1: Performing Arts; Music;
 Student Commons; and Building Services





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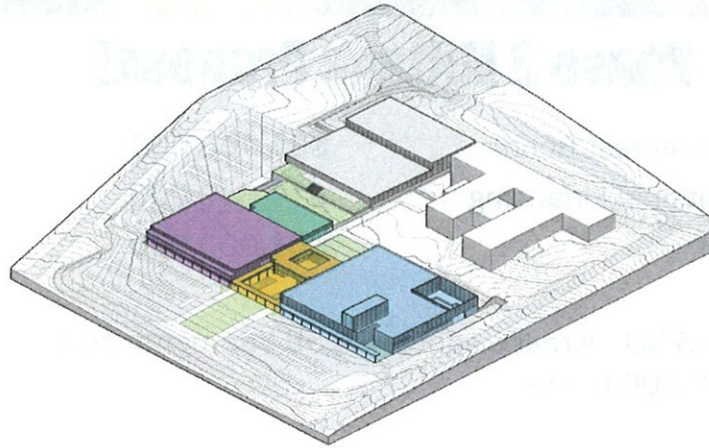
Phase 1: New Courtyard; Main Entry; and Lobbies



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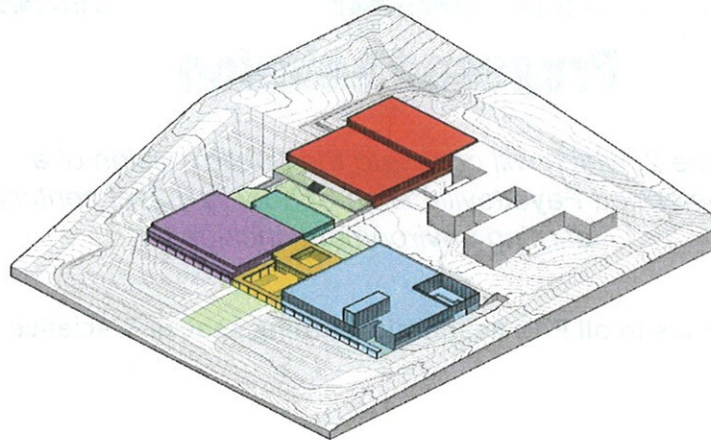
Phase 1: New Gymnasium





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Phase 1: Administration



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Phase 1: One-Story 300 Student Capacity
 Learning Center;
 Two-Story Agriculture and Project Lead the Way





Phase 2 Millage Proposal

Zero-Interest Bonds	\$31,460,000
Traditional Financing	<u>\$19,540,000</u>
Total	\$51,000,000

The 2.75 Mil increase equals \$4.58 per month on a \$100,000 home.

\$29 Million will be saved using the Zero Interest Bonds.

Millage will sunset when bond package is paid off.

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Proposed Solution

Phase 2, which will complete the public's vision of a transformed Fayetteville High School to a 21st century learning environment, includes:

- Upgrades to all FHS academic learning spaces & science labs
- Addition of engineering programs & technology spaces

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Proposed Solution

Phase 2, which will complete the public's vision of a transformed Fayetteville High School to a 21st century learning environment, includes:

- Increased opportunities for Advanced Placement (AP), service learning & career education
- A new auxiliary gym & fine arts rehearsal spaces
- Upgrades to fire and life safety systems, HVAC & lighting, controlled & limited entrance/exit points for student & staff safety

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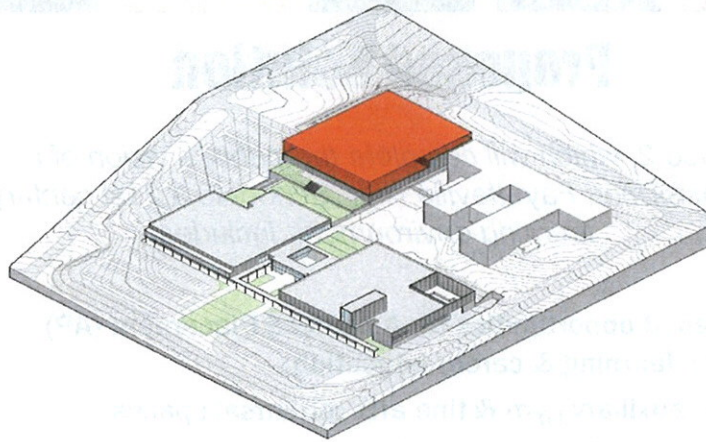
Proposed Solution

Phase 2, which will complete the public's vision of a transformed Fayetteville High School to a 21st century learning environment, includes:

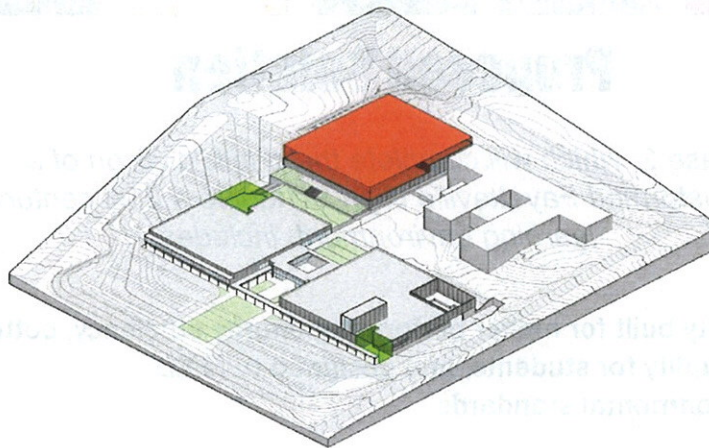
- Facility built for higher performing energy efficiency, better air quality for students, and designed to LEED environmental standards.
- Potential expansion of district's Pre-K program by freeing space in elementary schools

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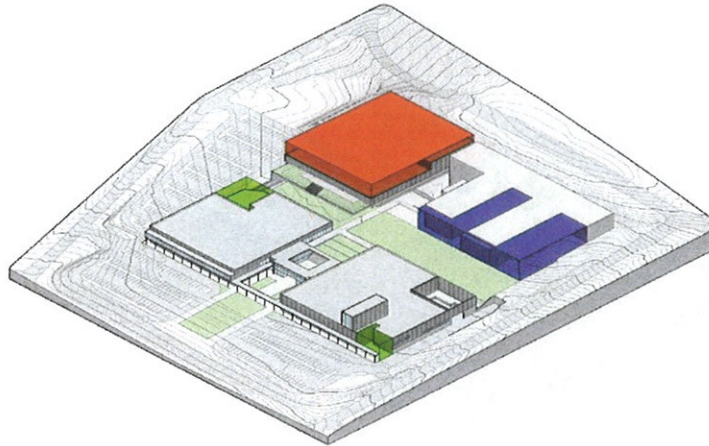


FAYETTEVILLE PUBLIC SCHOOLS
The Fine Art of Education Phase 2: Two Additional 300 Student Learning Centers
 at Northwest Corner Building



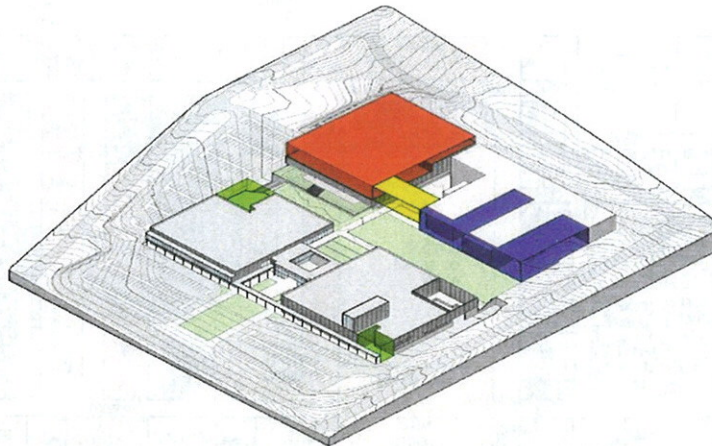
FAYETTEVILLE PUBLIC SCHOOLS
The Fine Art of Education Phase 2: New Rehearsal Music Room and Auxiliary Gym





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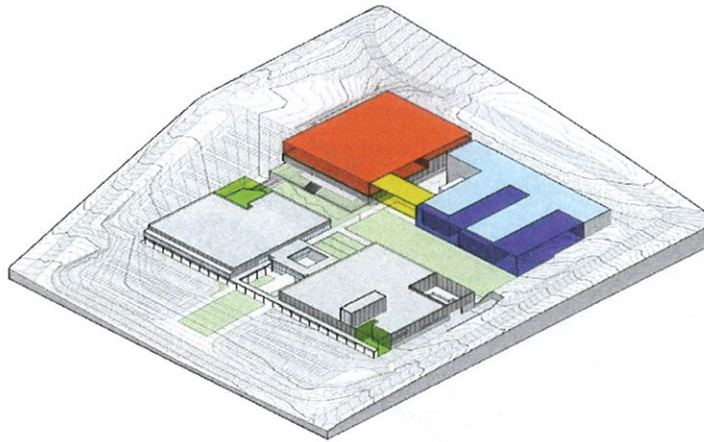
Phase 2: New Flexible Space Infill,
 Expanding Existing Learning Centers



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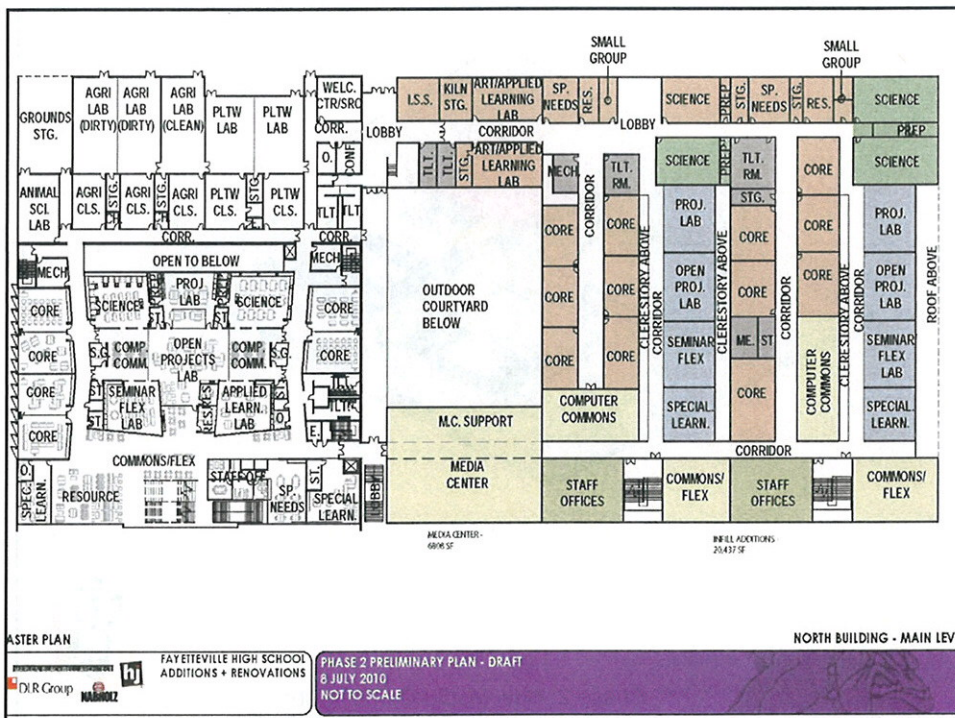
Phase 2: New Media Center / Library





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Phase 2: Renovation of Existing Buildings





Phase 2 Millage Proposal

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\$29 Million will be saved using the Zero Interest Bonds.

Millage will sunset when bond package is paid off.

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Question

*How did the
School Board
determine the
proposed
solution?*

The plan was developed with input from several public patron group meetings held in the Fall of 2009.

All decision points by the School Board have been discussed in public view.

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Question

*Why did the
Fayetteville
School Board
decide
on a millage
increase
now?*

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In June the District was awarded \$31.4 million in zero-interest Federal bonds for completion of Phase 2 of the high school transformation.

The bonds are only available if Fayetteville voters pass a millage increase on September 21, 2010.

These zero-interest Qualified School Construction Bonds (QSCB) will fund increased educational opportunities for Fayetteville students through new programs and upgraded learning spaces.



Question

*How much
money could
Qualified
School
Construction
Bonds save
taxpayers?*

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By utilizing zero-interest bonds, taxpayers have the opportunity to save \$29 million in interest and incentives over the 15-year life cycle of the bonds.



Question

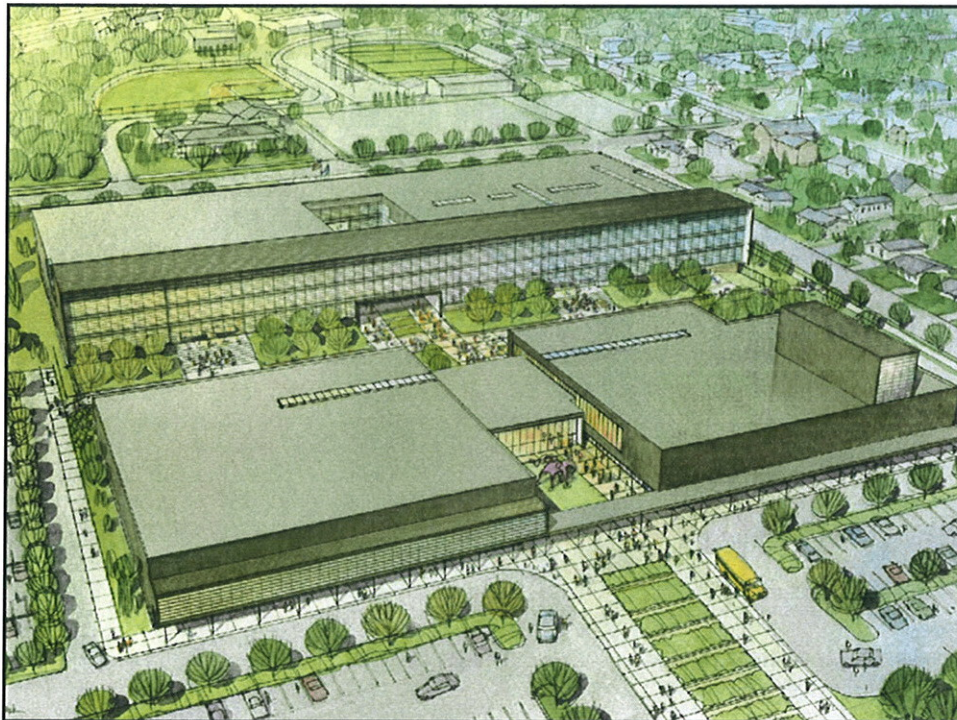
*How does the
high school
project impact
other schools,
students, and
teachers
across the
district?*

The project will free up maintenance dollars currently used on old high school buildings to be used on other district buildings and equipment for the elementary, middle, and junior high schools.

Migration of the 9th grade to the high school will free up classroom space to allow for a more robust pre-K program district-wide.

Each teacher in this district is the path to success for every child and we need the entire school family's help to see them through our system.

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Important Dates

September 14-20, 2010

Early voting begins:
8 am to 4:30 pm, Monday-Friday
Washington County Clerk's Office
3rd Floor, Washington County
Courthouse
280 N College Ave
Fayetteville, AR 72701



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Important Dates

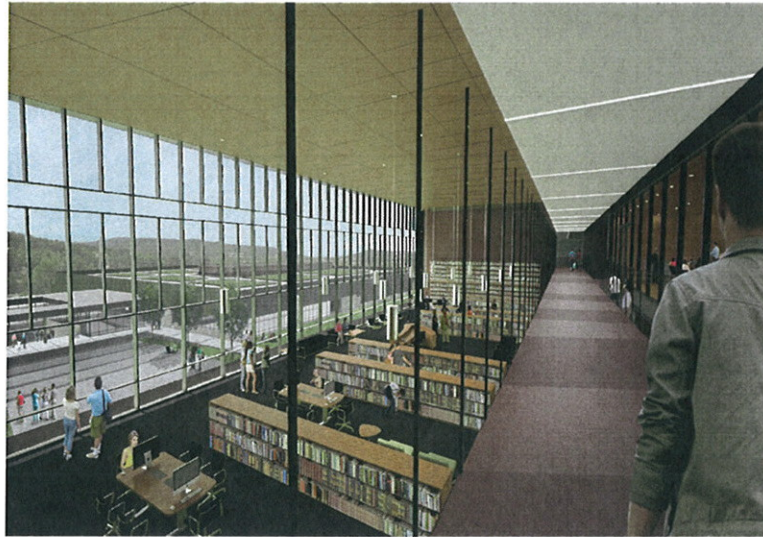
September 21: Election Day

Polls open at
7:30 am and
close at 7:30
pm.



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www.fayar.net





Natural Resource Consulting, Inc.

Connecting the environment to a community's well being

Urban Forest Management

To help cities and communities more effectively manage their tree populations **NRC, Inc.** offers the following products and services:

- **Urban Forest Management Plans**
- **Tree Inventories**
- **Environmental benefit analysis utilizing i-Tree software modules**
- **Tree Risk Management Plans**
- **Emergency Storm Response Plans**
- **Training Seminars**
- **Program Evaluation**
- **Tree Preservation During Construction & Development**
Training for on - site employees—Building with Trees

Natural Resource Consulting, Inc. (NRC) has been providing urban forestry services and products to municipalities throughout the United States since 1989. With this experience we can offer our clients what we believe is the most advanced, efficient and appropriate solutions to their municipal tree management needs. **NRC** staff have over 20 years experience in urban forestry management as well as municipal operations. You can trust that all work conducted by **NRC** is done so with this trained and experienced staff.



City of Fayetteville, Arkansas Assessment of Ice Storm Damage





i-Tree Streets and i-Tree Eco Analysis
(Tree inventory: Streets and Parks)

Benefits of Trees *Clean the Air*



Ozone

- Vehicle emissions and increased temperatures from urban heat islands cause increased ground level ozone



Air Quality

- Trees help to cool urban heat islands to reduce the formation of smog and ozone, and absorb many air pollutants



Benefits of Trees *Reduce Stormwater Runoff & Costs*



Clean and slow runoff down

- Impervious surfaces like parking lots, roads and rooftops cause rain to run off, greatly increasing storm water management costs to capture sediment and pollutants.
- Trees intercept rain and slow runoff.
- Greenspaces capture water, filter it and slowly release water, thereby reducing stormwater management costs.




Benefits of Trees *Provides Screens – Wind & Sight*



Wind Screens

- The best windscreens block wind close to the ground by using trees and shrubs that have low crowns.
- Planted at the north and northwest of the home are the most common type of windscreens.



Sight

- Trees can be planted to screen a view from the inside out or the outside in!



Benefits of Trees *Provide Noise Barriers*



- Trees make effective sound barriers
- Trees muffle urban noise almost as effectively as stone walls. Trees, planted at strategic points in a neighborhood or around your house, can abate major noises from freeways and airports.

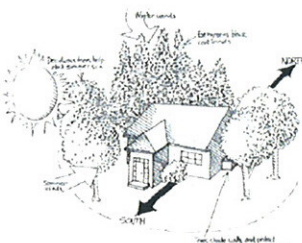


Benefits of Trees *Energy Conservation*



Lower Energy Bills

- Large deciduous trees planted on the east, west, and northwest sides of your home create soothing shade from the hot summer sun and reduce summer air conditioning costs by up to 35%



Benefits of Trees

Aesthetics

- Trees add value to property
 - Real estate
 - NAHB reports 89% polled wanted builders to leave as many trees as possible on their site
- City trees often are used to direct pedestrian traffic. They provide background to and soften, complement, or enhance architecture.
- Provide for a sense of place



Benefits of Trees

In general – Make People Feel Good/Happy

Social Benefits

- We like trees around us because they make life more pleasant.
- Most of us respond to the presence of trees beyond simply observing their beauty. We feel serene, peaceful, restful, and tranquil in a grove of trees. We are "at home" there.
- Hospital patients have been shown to recover from surgery more quickly when their hospital room offered a view of trees



Benefits of Trees

- *Clean the Air*
- *Reduce Stormwater Runoff & Costs*
- *Provides Screens – Wind & Sight*
- *Provide Noise Barriers*
- *Energy Conservation*
- *Aesthetics*
- *In general – Make People Feel Good/Happy*



i-Tree suite of software tools

Quantifying the structure of community trees and the environmental services that trees provide



Total Value of Benefits Street Trees

\$1 MILLION DOLLARS ANNUALLY



Replacement Value

\$22 MILLION DOLLARS TOTAL

Annual Benefits of Street Trees Include



- **Energy Savings = \$102,000** ★
 - **Stormwater savings = \$260,000** ★
- By intercepting 26 Million gallons of rain fall every year!

Annual Benefits of Street Trees Include



- **Stored 37 Million Tons Carbon** ★
- **= Half a Million Dollars!!**
- **Sequester Carbon = \$250,000** ★

Tree Stocking Levels & Planting Spaces



Street Trees

- **Only 44% stocked** ★
- **Available planting spaces = 22,800** ★



Gulley, Walker & Wilson Parks



- Inventoried **1,500** trees
 - Store over **1 Million pounds** of Carbon annually = **\$68,000**
 - Sequester **43,000 pounds** of Carbon annually = **\$2,500**
 - Remove **\$4,000** of air particulate annually
 - **Replacement Value = \$2 Million Dollars** ★
- Plus!**

Investment



- **\$35,000**
 - Street Trees
 - 15 Hazards
 - 104 Priorities
 - Park Trees
 - 72 identified for further evaluation
- ★ **One time investment – Benefits are recurring !** ★

Outcomes



- 229 or 17% of trees inventoried were shrubs!



Picture not taken in Fayetteville

Benefits of Trees



- **Clean the Air**
- **Reduce Stormwater Runoff & Costs**
- **Provides Screens – Wind & Sight**
- **Provide Noise Barriers**
- **Energy Conservation**
- **Aesthetics**
- **In general – Make People Feel Good/Happy**

The Future



City of Fayetteville, Arkansas
Assessment of Ice Storm Damage



i-Tree Streets and i-Tree Eco Analysis
(Tree inventory: Streets and Parks)