

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 15, 2011**

A meeting of the Fayetteville City Council will be held on March 15, 2011 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

1. Nominating Committee Report: APPROVED

A. Consent:

- 1. Approval of the March 1, 2011 City Council meeting minutes. APPROVED**
- 2. Bid #11-16 Downing Sales and Service:** A resolution awarding Bid #11-16 and authorizing a contract with Downing Sales and Service in the amount of \$166,308.00 for the purchase of one (1) refuse roll off truck for use by the Solid Waste Division, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 40-11

3. **Bid #11-18 Sweetser Construction, Inc.:** A resolution awarding Bid #11-18 and authorizing a contract with Sweetser Construction, Inc. in the amount of \$1,057,331.00 for the construction of water main interconnections and the Stone Mountain Pump Station for the Canterbury Road Water Tank, approving a project contingency of \$53,000.00, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 41-11

4. **Insituform Technologies, Inc.:** A resolution approving a contract extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 42-11

5. **Bid #11-20 North Point Ford:** A resolution awarding Bid #11-20 and authorizing a contract with North Point Ford in the amount of \$90,020.00 for the purchase of two (2) Ford F-250 heavy duty pickup trucks for use by the fire department, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 43-11

6. **Lake Sequoyah Lease Agreement with William Keith Shofner, Jr.:** A resolution approving a lease contract with William Keith Shofner, Jr. on 82.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 44-11

7. **Lake Sequoyah Lease Agreement with Jeff Price:** A resolution approving a lease contract with Jeff Price on 54.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 45-11

8. **Amend Resolution No. 05-07:** A resolution amending Resolution No. 05-07 to reduce the payment guarantee required of Meadows Enterprises, Inc. for the Dead Horse Mountain Road Bridge from \$36,668.92 to \$7,703.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 46-11

B. Unfinished Business:

1. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr. *This item was tabled at the February 3, 2011 City Council meeting to the February 15, 2011 City Council meeting. This item was tabled at the February 15, 2011 City Council meeting to the March 15, 2011 City Council meeting.*

TABLED TO APRIL 5, 2011 CITY COUNCIL MEETING.

C. New Business:

- 1. 2011 Employee Service Award Program & Merit-based Pay Increases:** A resolution amending the 2011 City budget by appropriating \$629,900.00 for the implementation of an Employee Service Award Program for 2011 and for Merit-based Pay Increases not given during the last half of 2009.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 47-11

- 2. CH2M Hill Engineers, Inc.:** A resolution approving an out of scope agreement with CH2M Hill Engineers, Inc. in the amount of \$265,000.00 for development of a Use Attainability Analysis (UAA) on the White River, approving a \$50,000.00 contingency, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 48-11

- 3. Arkansas Western Gas Company:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Arkansas Western Gas Company in the minimum amount of \$715,560.00 for the provision of natural gas service and the construction of necessary piping and infrastructure extensions for biosolids drying operations at the Noland Wastewater Treatment Facility.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5391

- 4. Amend §114.03 First Thursday Fayetteville:** An ordinance amending subsection (B) of §114.03 First Thursday Fayetteville of Chapter 114: Food Sales of the Code of Fayetteville to add additional locations for the event.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5392

- 5. Amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes:** An ordinance to amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes (B) Route Approval and (F) of the Fayetteville Code to allow use of pedicabs on streets with a posted speed limit of thirty-five (35) miles per hour or higher if authorized by the Transportation Services Director and (D) to allow pedicabs to operate on Scull Creek Trail, Mud Creek Trail and Frisco Trail.

THIS ITEM WAS LEFT ON THE FIRST READING.

- 6. Amend §174.03 Exemptions:** An ordinance to amend §174.03 Exemptions of Chapter 174 Signs of the Fayetteville Code to allow advertising on pedicabs.

THIS ITEM WAS LEFT ON THE FIRST READING.

- 7. Amend §117.47 Advertising:** An ordinance to amend §117.47 Advertising of the Fayetteville Code to remove authorization to place advertising signs on taxicabs.

THIS ITEM WAS LEFT ON THE FIRST READING.

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.

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.

Subject:	Roll				
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	Absent			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan	✓			

8-0

Subject:	Nominating Committee Report				
Motion To:		Add to Agenda	Approve the report.		
Motion By:		Gray	Ferrell		
Seconded:		Ferrell	Adams		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Thiel	Absent	absent		
	Kinion	✓	✓		
	Petty	✓	✓		
	Tennant	✓	✓		
	Mayor Jordan				

7-0

7-0

Subject:	Consent				
Motion To:					
Motion By:		Approve			
Seconded:		Gray			
		Lewis			
minutes) approved <u>passed</u> 40-11 thru 46-11	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	absent			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	Huntingdon Heights Appeal				
Motion To:		<i>Table to</i>	<i>April 5, 2011</i>		
Motion By:					
Seconded:					
B. 1 Unfinished Business <i>Tabled</i> <i>to</i> <i>April</i> <i>5, 2011</i>	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	<i>absent</i>			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:		2011 Employee Service Award Program & Merit-based Pay Increases			
Motion To:					
Motion By:					
Seconded:					
C. 1 New Business <u>Passed</u> 47-11	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	Absent			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

7-0

Subject:		CH2M Hill Engineers, Inc			
Motion To:					
Motion By:					
Seconded:					
C. 2 New Business <u>Passed</u> 48-11	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	Absent			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

7-0

Subject:		Arkansas Western Gas Company			
Motion To:					
		2nd Read	3rd Read	Pass	
Motion By:					
		Gray	Gray		
Seconded:					
		Lewis	Lewis		
C. 3 New Business <u>Passed</u> 5391	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent	Absent	Absent	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Mayor Jordan				

7-0

7-0

7-0

Subject:		Amend §114.03 First Thursday Fayetteville			
Motion To:					
		2nd Read	3rd Read	Pass	
Motion By:					
		Lewis	Petty		
Seconded:					
		Petty	Adams		
C. 4 New Business <u>Passed</u> 5392	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent	Absent	Absent	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Mayor Jordan				

7-0

7-0

7-0

Subject:		Amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes			
Motion To:					
Motion By:					
Seconded:					
C. 5 New Business <i>Left on the first Reading</i>	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	Absent			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

70

Subject:		Amend §174.03 Exemptions			
Motion To:					
Motion By:					
Seconded:					
C. 6 New Business <i>Left on the first Reading</i>	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:	Amend §117.47 Advertising				
Motion To:					
Motion By:					
Seconded:					
C. 7 New Business <i>Left on</i> <i>the</i> <i>Just</i> <i>Reading</i>	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				



TO: **Lioneld Jordan**, Mayor

Kit Williams
City Attorney

THRU: **Sondra Smith**, City Clerk

Jason B. Kelley

Assistant City Attorney

FROM: **Kit Williams**, City Attorney

DATE: **March 16, 2011**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of March 15, 2011**

1. **Bid #11-16 Downing Sales & Service:** A resolution awarding Bid #11-16 and authorizing a contract with Downing Sales and Service in the amount of \$166,308.00 for the purchase of one refuse roll-off truck for use by the solid waste division, and approving a budget adjustment.
2. **Bid #11-18 Sweetser Const., Inc.:** A resolution awarding Bid #11-18 and authorizing a contract with Sweetser Const., Inc. in the amount of \$1,057,331.00 for the construction of water main interconnections and the Stone Mountain Pump Station for the Canterbury Road Water Tank, approving a project contingency of \$53,000.00, and approving a budget adjustment.
3. **Insituform Technologies, Inc.:** A resolution approving a contract extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.
4. **Bid #11-20 North Point Ford:** A resolution awarding Bid #11-20 and authorizing a contract with North Point Ford in the amount of \$90,020.00 for the purchase of two Ford F-250 heavy duty pickup trucks for use by the Fire Department, and approving a budget adjustment.
5. **Lake Sequoyah Lease Agreement (with Shofner, Jr.):** A resolution approving a lease contract with William Keith Shofner, Jr. on 82.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

6. **Lake Sequoyah Lease Agreement (with Price):** A resolution approving a lease contract with Jeff Price on 54.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.
7. **Amend Resolution No. 05-07:** A resolution amending Resolution No. 05-07 to reduce the payment guarantee required of Meadows Enterprises, Inc. for the Dead Horse Mountain Road Bridge from \$36,669.92 to \$7,703.00.
8. **2011 Employee Service Award Program & Merit-based Pay Increases:** A resolution amending the 2011 City Budget by appropriating \$629,900.00 for the implementation of an Employee Service Award Program for 2011 and for merit-based pay increased not given during the last half of 2009.
9. **CH2M Hill Engineers, Inc.:** A resolution approving an out-of-scope agreement with CH2M Hill Engineers, Inc. in the amount of \$265,000.00 for development of a Use Attainability Analysis on the White River, approving a \$50,000.00 contingency, and approving a budget adjustment.
10. **Arkansas Western Gas Company:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Arkansas Western Gas Company in the minimum amount of \$715,560.00 for the provision of Natural Gas Service and the construction of necessary piping and infrastructure extensions for biosolids drying operations at the Noland Wastewater Treatment Facility.
11. **Amend §114.03 First Thursday Fayetteville:** An ordinance amending subsection (B) of **§114.03 First Thursday Fayetteville of Chapter 114: Food Sales** of the Code of Fayetteville to add additional locations for the event.

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City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date: 2/23/2011 A. 3
P.O Number:	Expected Delivery Date: Bid #11-18 Sweetser Construction, Inc. ASAP
Page 1 of 2	

Vendor #: 56870	Vendor Name: Sweetser Construction, Inc.	Mail Yes: No: x
Address: 590 West Poplar	Fob Point: 1400 N 113 W Mountain Fayetteville, AR 72701	Taxable Yes: No: x
City: Fayetteville	State: AR	Divison Head Approval: Yes: No: x
Requester: David Jurgens	Requester's Employee #: 490	Extension: 330

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Water Main Interconnections and Stone Moutain Pump Station, Bid 11-18	1	ea	1,057,331.00	\$1,057,331.00	5400.5600.5315.00	04036.1		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

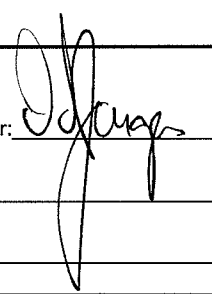
Special Instructions:

Bid 11-18, tax included in bid

Subtotal: \$1,057,331.00
Tax: \$97,803.12
Total: \$1,155,134.12

Approvals:

Mayor: _____

Department Director: 

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

A.6 Revised
Handed out
at agenda
Session 3/8/11

City of Fayetteville Staff Review Form

A. 6
Lake Sequoyah Lease Agreement
with William Keith Shofner, Jr.
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

2/15 Commil
City Council Meeting Date
Agenda Items Only

Byron Humphry
Submitted By

Parks Maintenance

Parks and Recreation

Division

Department

Action Required:

Approve an agreement with William Keith Shofner, Jr., to pasture cattle and/or horses and to bale and remove hay on 82.55 acres of land adjacent to Lake Sequoyah. Agreement is for two years and can be automatically renewed for an additional 8 years. This agreement will renew an expired 10 year agreement that was very beneficial to the City and Mr. Shofner. Purchasing director, Peggy Vice, approved not bidding due to location of land (landlocked from other individuals) and due to Mr. Shofner's good standing with the City.

\$2,000 C.E.
Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

1010-0001-4997.00 C.E.
Account Number

\$ -
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Connie Emerson
Department Director

2-24-11
Date

Previous Ordinance or Resolution #

Chris Kelly
City Attorney

2-28-11
Date

Original Contract Date:

Original Contract Number:

Paul A. Bahr
Finance and Internal Services Director

2-28-2011
Date

Received in City Clerk's Office 02-25-11 P04:07 RCVD
Kim G.

Don Man
Chief of Staff

3-1-11
Date

Received in
Mayor's Office

ENTERED
2/28/11
JK

Lionel Jordan
Mayor

3/1/11
Date

Comments: This land is immediately adjacent to a 169.8 acres at Lake Sequoyah owned by the City in which the Shofner family has a lifetime lease. Shofner also owns 40 acres adjacent to City property.

ACA 14-54-302 requires lease to be approved by Council resolution. JK

A.6.
Revised



www.accessfayetteville.org



A. 6

Lake Sequoyah Lease Agreement
with William Keith Shofner, Jr.
Page 2 of 10

113 West Mountain
Fayetteville, AR 72701
P (479) 444-3471 F (479) 521-7714

TO: Mayor Jordan
THRU: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director
FROM: Byron Humphry, Parks Maintenance Superintendent
DATE: March 3, 2011
RE: Lake Sequoyah Lease Agreement to William Keith Shofner, Jr. and Jeff Price

In 1958 the City began purchasing land around Lake Sequoyah as a water supply. Certain landowners were given a license agreement to continue to utilize the property for grazing and/or hay production. These license agreements were specified to previous property owners for their lifetime and/or the lifetime of their heirs. One such lease was given to the Shofner family in 1960 for the lifetime of Hal L., William Keith, Alice Ruth, William Keith Jr., and Robert Wallace Shofner. Currently William Keith Shofner holds claim to the lifetime license agreement.

In 1999, it was determined that 82.55 acres adjacent to the Shofner lifetime lease (see attached map), land that was formerly held in a lifetime license agreement by the Miller family, was deteriorating and illegal activity was occurring which included poaching, four wheeling, discharge of firearms, boat launching, and fishing without permit. At this time William Keith Shofner, Jr. offered to build new fencing around the Miller property and provide gated access through his current lifetime lease property. The City agreed to a 2 year lease, renewable for 8 one-year terms which would allow Shofner to pasture cattle and/or horses and to bale and remove hay. The lease also allowed Shofner access to remote areas of his lifetime lease area. In exchange, Shofner agreed to build and maintain fencing on the property, maintain the premises in a good condition, and prevent unauthorized access and hunting. Through this lease, the City gained a steward of the land that provided security and maintenance.

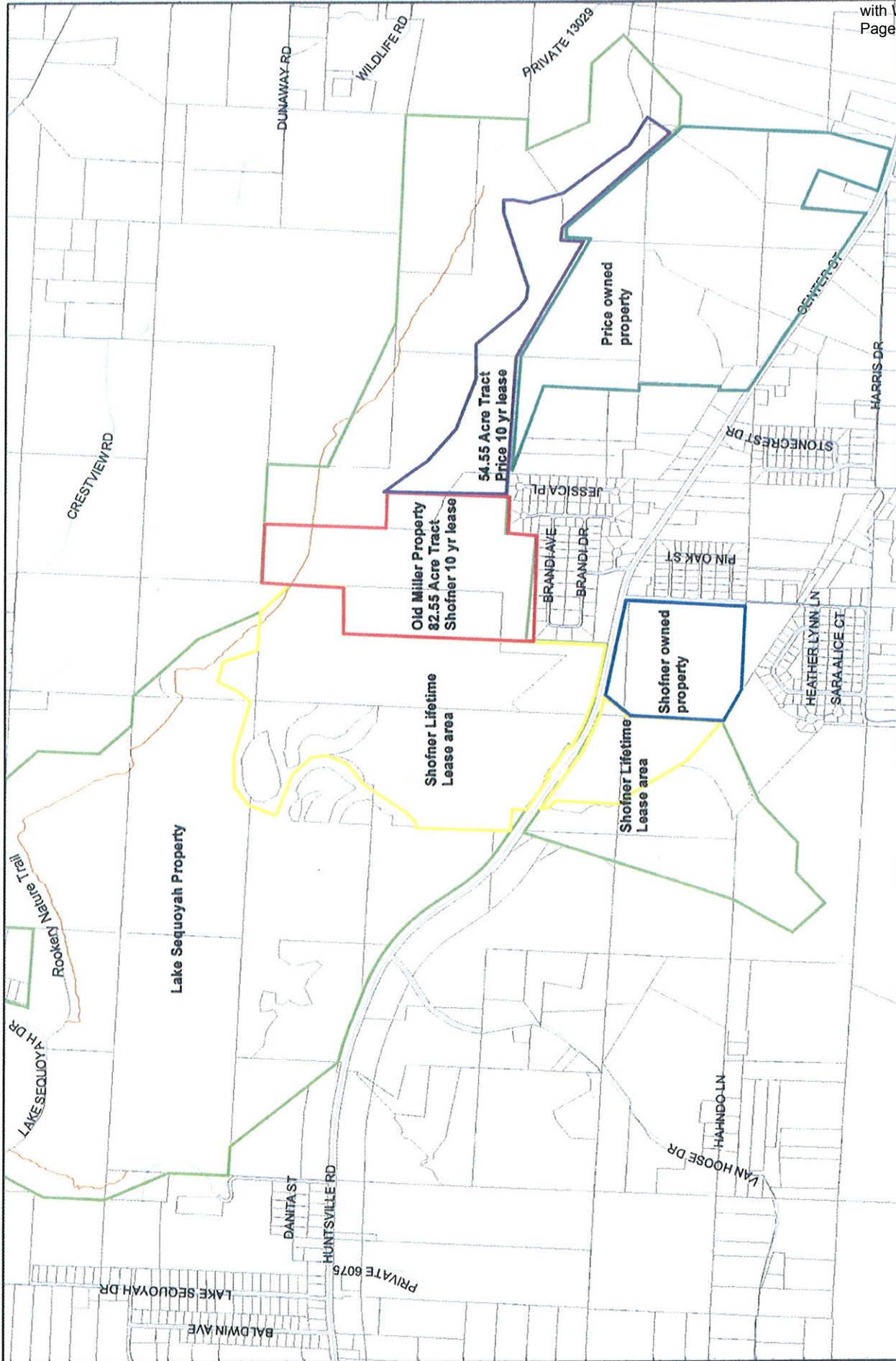
In 2000, it was determined that the land to the east of the old Miller property (54.55 acres) was also deteriorating and illegal activity was occurring similar to the former condition of the old Miller property. Shofner approached the City to lease the 54.55 acre tract to maintain the land and deter illegal activity. Jeff Price also expressed interest in leasing this property because he owns all of the land to the south of the 54.55 acres. Price owns approximately 285 acres. Since both gentlemen were interested in leasing the property, bids were taken and the lease was awarded to Jeff Price in which he offered a sum of \$2,600 per year. In addition to the annual payment, Mr. Price also agreed to build and maintain a fence on the property, maintain the property in a good condition, and prevent unauthorized access and hunting. The City agreed to a 2 year lease, renewable for 8 one-year terms.

Both of the Shofner and Price leases have expired. Due to both gentlemen being in good standing with the City over the course of their previous 10 year leases, and because each property is essentially landlocked to anyone else other than Shofner or Price, it is the desire of the Parks Department to renew the leases for the following reasons:

1. Shofner holds a lifetime lease adjacent to the 82.55 acres that he formerly leased.
2. Shofner needs the 82.55 acres to access his lifetime lease area with the City.

3. Price owns all of the land surrounding the 54.55 acres that he formerly leased from the City.
4. The 54.55 acres is only accessible to Shofner or Price.
5. Both of the former leases were of great benefit to the City providing maintenance and deterring illegal activity in this area at Lake Sequoyah. These illegal activities are all prohibited by City ordinance but are difficult to enforce without the lease agreement and the presence of the lessee tending to the land.
6. Both Shofner and Price were contacted and wish to continue their respective lease agreements under the previous terms with the exception that Shofner would pay the same rent per acre of pasture land as Price, which is approximately \$112 per acre. The 54.55 acres that Price leased is comprised of approximately 23 acres of pasture land whereas the 82.55 acres that Shofner leased is comprised of approximately 18 acres of pasture land. Therefore the new lease with Shofner will be for \$2,000 per year.

The Parks and Recreation Department therefore recommends that we renew our lease agreements with Mr. Shofner and Mr. Price for the same terms and duration as the previous leases that have expired with the exception that Mr. Shofner agrees to pay \$2,000 per year. The biggest value of these leases to the City is that these properties are maintained and illegal activity is deterred without an expense to the City.



Shofner and Price Property and Leases

- Lake Sequoyah Property - green outline
- Shofner lease 82.55 acre tract - red outline
- Shofner 169.8 acre lifetime lease - yellow outline
- Shofner property 40 acres - blue outline
- Price lease 54.55 acre tract - purple outline
- Price owned property 285 acres - teal outline

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE CONTRACT WITH WILLIAM KEITH SHOFNER, JR. ON 82.55 ACRES OF LAND ADJACENT TO LAKE SEQUOYAH FOR PURPOSES OF PASTURING CATTLE AND HORSES, AND CUTTING AND BALING HAY

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 lease contract with William Keith Shofner, Jr., a copy of which is attached as Exhibit "A", concerning 82.55 acres of land described therein adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Lake Sequoyah Lease Agreement

This **Agreement** executed this _____ day of _____, 2011, between the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called "the City" and William Keith Shofner, Jr., hereinafter called "Mr. Shofner". This agreement is for approximately 82.55 acres of unused land adjacent to Lake Sequoyah.

Whereas, Mr. Shofner is the owner of approximately 40 acres of land which adjoins land owned by the City adjacent to Lake Sequoyah; and

Whereas, Mr. Shofner currently retains a lifetime lease on approximately 169.8 acres of land from the City, as a result of the original construction of Lake Sequoyah; and

Whereas, the aforementioned 82.55 acres of land owned by the City is adjacent to the 169.8 acres of land under the lifetime lease of Mr. Shofner and is essential for access to the leased property; and

Whereas, illegal activity including poaching, four wheeling, discharge of firearms, boat launching, and fishing has been deterred under the prior 10 year agreement; and

Whereas, Mr. Shofner is in good standing with the City on existing leased land and the prior 10 year agreement was of great benefit to the City.

Now, Therefore, the City and Mr. Shofner hereby agree as follows:

1. The City hereby agrees to allow Mr. Shofner to utilize, the following described property(s) situated in Washington County, Arkansas, described in Exhibit A

attached hereto and made a part thereof.

2. The term of this agreement shall be for a period of two (2) years commencing on the execution date hereof. However, the agreement may be automatically renewed for eight (8) one (1) year terms upon agreement by both the City and Mr. Shofner. Provided, the City may terminate this agreement at any time for all or any portion of the demised premises by giving Mr. Shofner ninety (90) days written notice by regular mail at Mr. Shofner's regular mailing address if the City determined that said premises are needed for public park purposes.
3. In consideration for the City leasing the demised premises to Mr. Shofner, Mr. Shofner agrees to pay the City \$2,000 per year. Payment is to be made by January 1 of each year.
4. Mr. Shofner shall use the demised premises solely to provide pasture for Mr. Shofner's cattle and/or horses and to bale and remove hay. When baled, any hay shall immediately become the property of Mr. Shofner.
5. Mr. Shofner shall fertilize the demised premises so that, upon expiration of this agreement, the demised premises shall be in as good condition as on the execution date hereof. Fertilizer should be applied in accordance to applicable local and states laws.
6. Mr. Shofner shall not remove, nor permit to be removed, any tree on the demised premises.
7. Mr. Shofner shall not hunt, or permit any other person to hunt, on the demised premises.
8. During the term of this agreement, the City shall have the right to construct walking paths in close proximity to Lake Sequoyah which walking paths shall constitute a public easement for use by the public. If such walking paths conflict with grazing cattle and/or horses, Mr. Shofner shall exclude cattle and/or horses from the trail premises.

9. The City shall have the right to enter the demised premises at any time for the purpose of inspecting the property, surveying, or constructing walkways; and the City shall not be liable to Mr. Shofner for damages as a result of such entry, surveying, or construction.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

MR. WILLIAM KEITH SHOFNER, JR.

By: William Keith Shofner, Jr.
William Keith Shofner, Jr.

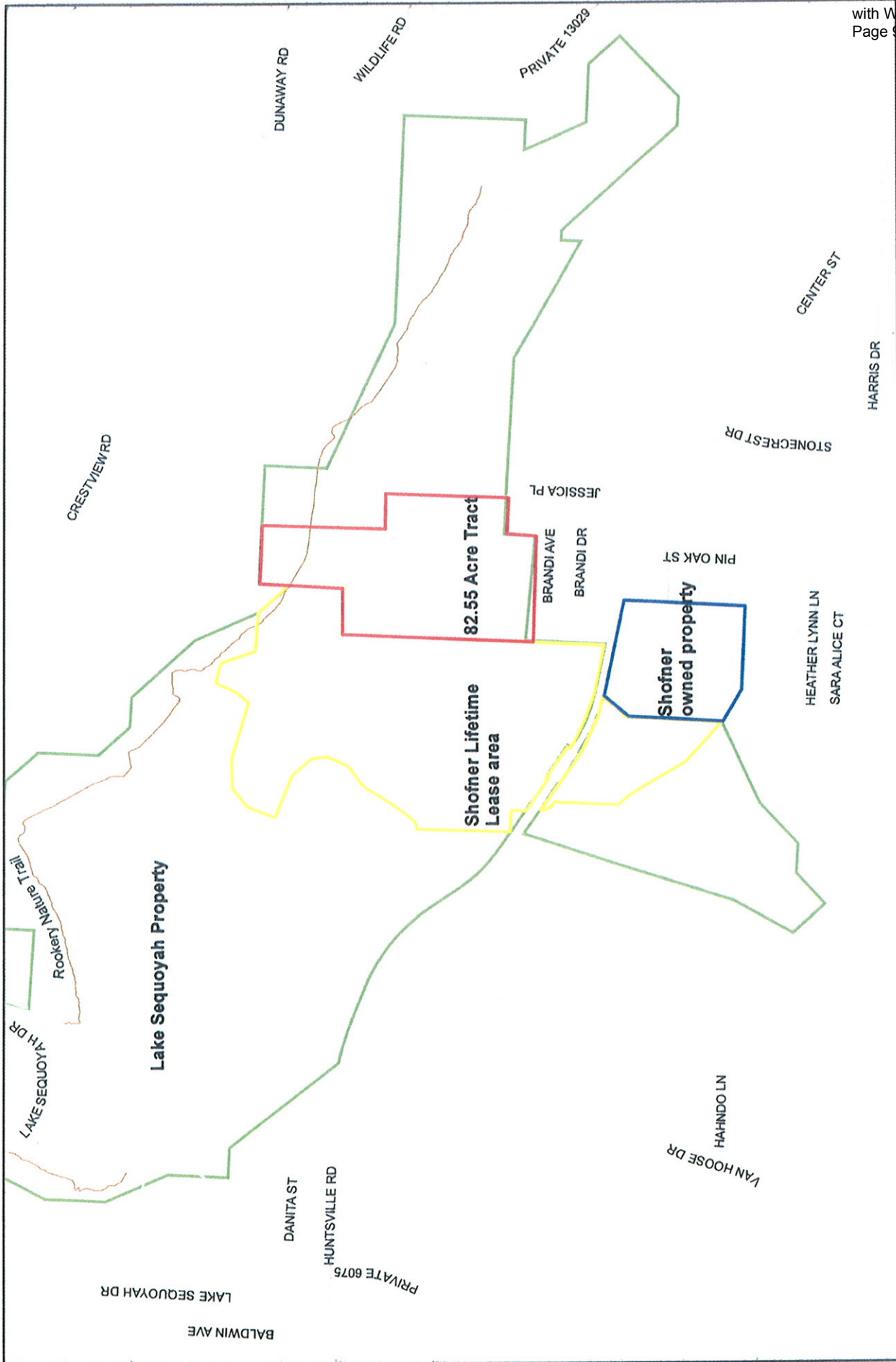


Exhibit A
 William Shofner Lease Agreement
 Lake Sequoyah Property - green outline
 82.55 Acre Tract - red outline
 169.8 Acre Lifetime Lease - yellow outline
 Shofner property - blue outline

City of Fayetteville Staff Review Form

A. 7
Lake Sequoyah Lease
Agreement with Jeff Price
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

n/a
City Council Meeting Date
Agenda Items Only

Council
3/15/11

Byron Humphry
Submitted By

Parks Maintenance
Division

Parks and Recreation
Department

Action Required:

Approve an agreement with Jeff Price to pasture cattle and/or horses and to bale and remove hay on 54.55 acres of land adjacent to Lake Sequoyah for \$2600 per year. Agreement is for two years and can be automatically renewed for an additional 8 years. This agreement will renew an expired 10 year agreement that was very beneficial to the City and Mr. Price. Purchasing Director, Peggy Vice, approved not bidding due to location of land (being landlocked from other individuals) and Mr. Price's good standing with the City.

(\$2,600)
Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

1010-0001-4997.00
Account Number

\$ -
Funds Used to Date

General
Program / Project Category Name

Project Number

\$ -
Remaining Balance

Parks Misc. Revenue
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Connie Emerson
Department Director

2-24-11
Date

Previous Ordinance or Resolution #

Paul Kelly
City Attorney

2-28-11
Date
2-28-2011

Original Contract Date:

Original Contract Number:

Paul A. Bueh
Finance and Internal Services Director

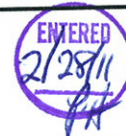
Date

02-25-11P04:07 RCVD
Received in City
Clerk's Office
Kim G.

Don Man
Chief of Staff

3-1-11
Date

Received in
Mayor's Office



Lionel Jordan
Mayor

3/1/11
Date

Comments: Mr. Price owns approximately 285 acres of land south of the referenced 54.55 acres.

ACA 14-54-302 requires lease to be approved by Council resolution. *JK*

A.7 Revised

Handed out
at Agenda Session
3/8/11



www.accessfayetteville.org



P (479) 444-3471 F (479) 521-7714

A. 7
Lake Sequoyah Lease
Agreement with Jeff Price
Page 2 of 10
113 West Mountain
Fayetteville, AR 72701

TO: Mayor Jordan
THRU: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director
FROM: Byron Humphry, Parks Maintenance Superintendent
DATE: March 3, 2011
RE: Lake Sequoyah Lease Agreement to William Keith Shofner, Jr. and Jeff Price

In 1958 the City began purchasing land around Lake Sequoyah as a water supply. Certain landowners were given a license agreement to continue to utilize the property for grazing and/or hay production. These license agreements were specified to previous property owners for their lifetime and/or the lifetime of their heirs. One such lease was given to the Shofner family in 1960 for the lifetime of Hal L., William Keith, Alice Ruth, William Keith Jr., and Robert Wallace Shofner. Currently William Keith Shofner holds claim to the lifetime license agreement.

In 1999, it was determined that 82.55 acres adjacent to the Shofner lifetime lease (see attached map), land that was formerly held in a lifetime license agreement by the Miller family, was deteriorating and illegal activity was occurring which included poaching, four wheeling, discharge of firearms, boat launching, and fishing without permit. At this time William Keith Shofner, Jr. offered to build new fencing around the Miller property and provide gated access through his current lifetime lease property. The City agreed to a 2 year lease, renewable for 8 one-year terms which would allow Shofner to pasture cattle and/or horses and to bale and remove hay. The lease also allowed Shofner access to remote areas of his lifetime lease area. In exchange, Shofner agreed to build and maintain fencing on the property, maintain the premises in a good condition, and prevent unauthorized access and hunting. Through this lease, the City gained a steward of the land that provided security and maintenance.

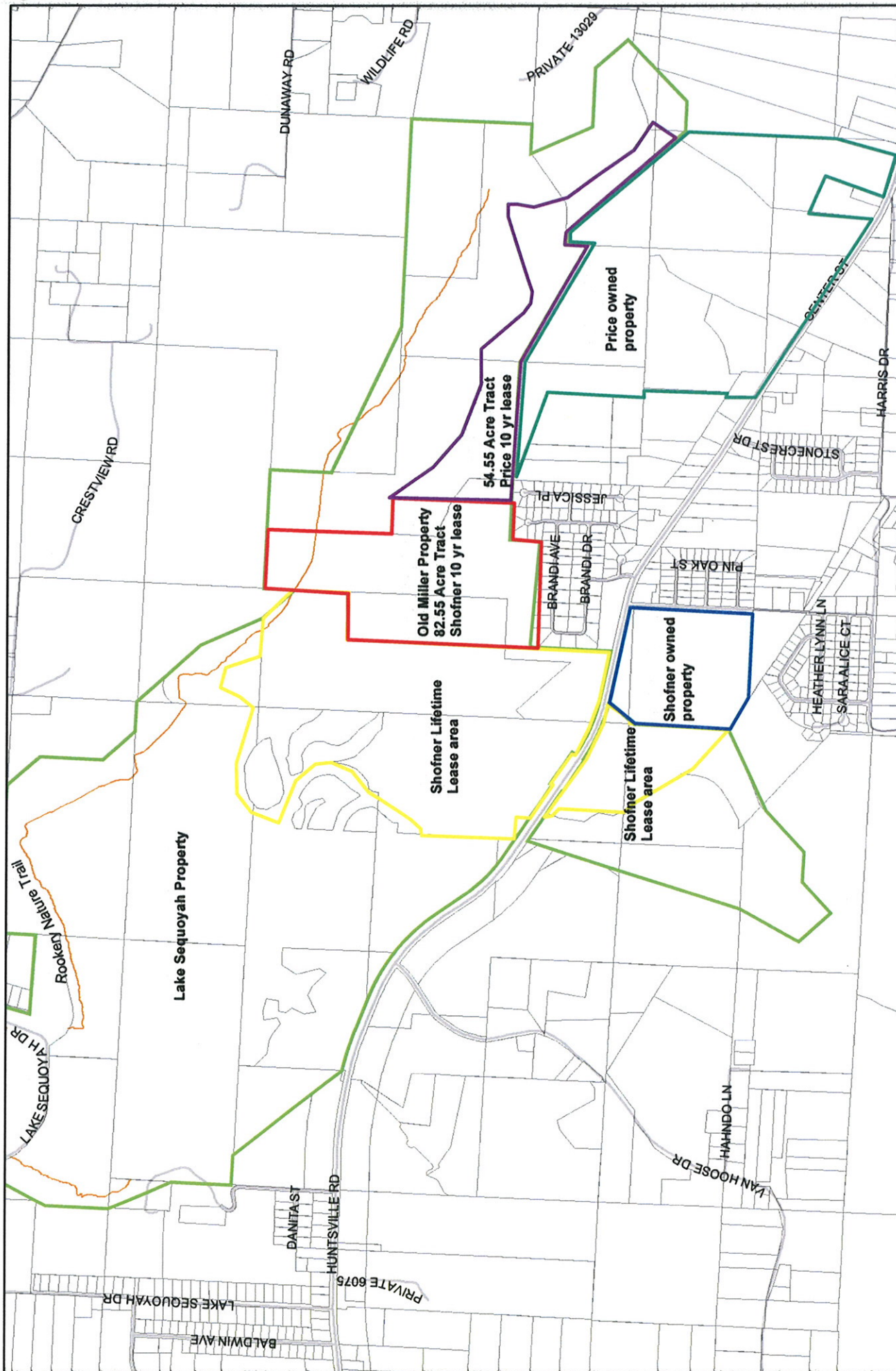
In 2000, it was determined that the land to the east of the old Miller property (54.55 acres) was also deteriorating and illegal activity was occurring similar to the former condition of the old Miller property. Shofner approached the City to lease the 54.55 acre tract to maintain the land and deter illegal activity. Jeff Price also expressed interest in leasing this property because he owns all of the land to the south of the 54.55 acres. Price owns approximately 285 acres. Since both gentlemen were interested in leasing the property, bids were taken and the lease was awarded to Jeff Price in which he offered a sum of \$2,600 per year. In addition to the annual payment, Mr. Price also agreed to build and maintain a fence on the property, maintain the property in a good condition, and prevent unauthorized access and hunting. The City agreed to a 2 year lease, renewable for 8 one-year terms.

Both of the Shofner and Price leases have expired. Due to both gentlemen being in good standing with the City over the course of their previous 10 year leases, and because each property is essentially landlocked to anyone else other than Shofner or Price, it is the desire of the Parks Department to renew the leases for the following reasons:

1. Shofner holds a lifetime lease adjacent to the 82.55 acres that he formerly leased.
2. Shofner needs the 82.55 acres to access his lifetime lease area with the City.

3. Price owns all of the land surrounding the 54.55 acres that he formerly leased from the City.
4. The 54.55 acres is only accessible to Shofner or Price.
5. Both of the former leases were of great benefit to the City providing maintenance and deterring illegal activity in this area at Lake Sequoyah. These illegal activities are all prohibited by City ordinance but are difficult to enforce without the lease agreement and the presence of the lessee tending to the land.
6. Both Shofner and Price were contacted and wish to continue their respective lease agreements under the previous terms with the exception that Shofner would pay the same rent per acre of pasture land as Price, which is approximately \$112 per acre. The 54.55 acres that Price leased is comprised of approximately 23 acres of pasture land whereas the 82.55 acres that Shofner leased is comprised of approximately 18 acres of pasture land. Therefore the new lease with Shofner will be for \$2,000 per year.

The Parks and Recreation Department therefore recommends that we renew our lease agreements with Mr. Shofner and Mr. Price for the same terms and duration as the previous leases that have expired with the exception that Mr. Shofner agrees to pay \$2,000 per year. The biggest value of these leases to the City is that these properties are maintained and illegal activity is deterred without an expense to the City.



Shofner and Price Property and Leases

- Lake Sequoyah Property - green outline
- Shofner lease 82.55 acre tract - red outline
- Shofner 169.8 acre lifetime lease - yellow outline
- Shofner property 40 acres - blue outline
- Price lease 54.55 acre tract - purple outline
- Price owned property 285 acres - teal outline

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE CONTRACT WITH JEFF PRICE
ON 54.55 ACRES OF LAND ADJACENT TO LAKE SEQUOYAH FOR
PURPOSES OF PASTURING CATTLE AND HORSES, AND CUTTING AND
BALING HAY

**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
lease contract with Jeff Price, a copy of which is attached as Exhibit "A", concerning 54.55 acres
of land described therein adjacent to Lake Sequoyah for purposes of pasturing cattle and horses,
and cutting and baling hay.

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville Lake Sequoyah Lease Agreement

This **Agreement** executed this _____ day of _____, 2011, between the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called "the City" and Jeff Price, hereinafter called "Mr. Price". This agreement is for approximately 54.55 acres of unused land adjacent to Lake Sequoyah.

Whereas, Mr. Price is the owner of approximately 285 acres of land which adjoins land owned by the City adjacent to Lake Sequoyah; and

Whereas, the aforementioned 54.55 acres of land owned by the City is landlocked and adjacent to the 285 acres of land owned by Mr. Price ; and

Whereas, illegal activity including poaching, four wheeling, discharge of firearms, boat launching, and fishing has been deterred under the prior 10 year agreement; and

Whereas, Mr. Price is in good standing with the City from the prior 10 year agreement and the agreement was of great benefit to the City.

Now, Therefore, the City and Mr. Price hereby agree as follows:

1. The City hereby agrees to allow Mr. Price to utilize, the following described property(s) situated in Washington County, Arkansas, described in Exhibit A attached hereto and made a part thereof.
2. The term of this agreement shall be for a period of two (2) years commencing on the execution date hereof. However, the agreement may be automatically renewed for eight (8) one (1) year terms upon agreement by both the City and

Mr. Price. Provided, the City may terminate this agreement at any time for all or any portion of the demised premises by giving Mr. Price ninety (90) days written notice by regular mail at Mr. Price's regular mailing address if the City determined that said premises are needed for public park purposes.

3. In consideration for the City leasing the demised premises to Mr. Price, Mr. Price agrees to pay the City \$2,600 per year. Payment is to be made by January 1 of each year.
4. Mr. Price shall use the demised premises solely to provide pasture for Mr. Price's cattle and/or horses and to bale and remove hay. When baled, any hay shall immediately become the property of Mr. Price.
5. Mr. Price shall fertilize the demised premises so that, upon expiration of this agreement, the demised premises shall be in as good condition as on the execution date hereof. Fertilizer should be applied in accordance to applicable local and states laws.
6. Mr. Price shall not remove, nor permit to be removed, any tree on the demised premises.
7. Mr. Price shall not hunt, or permit any other person to hunt, on the demised premises.
8. During the term of this agreement, the City shall have the right to construct walking paths in close proximity to Lake Sequoyah which walking paths shall constitute a public easement for use by the public. If such walking paths conflict with grazing cattle and/or horses, Mr. Price shall exclude cattle and/or horses from the trail premises.
9. The City shall have the right to enter the demised premises at any time for the purpose of inspecting the property, surveying, or constructing walkways; and the City shall not be liable to Mr. Price for damages as a result of such entry, surveying, or construction.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day
and year first above written.

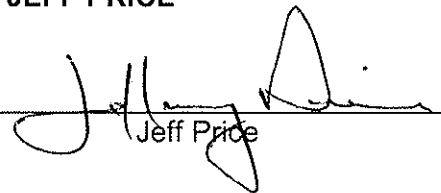
CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

MR. JEFF PRICE

By:  _____
Jeff Price

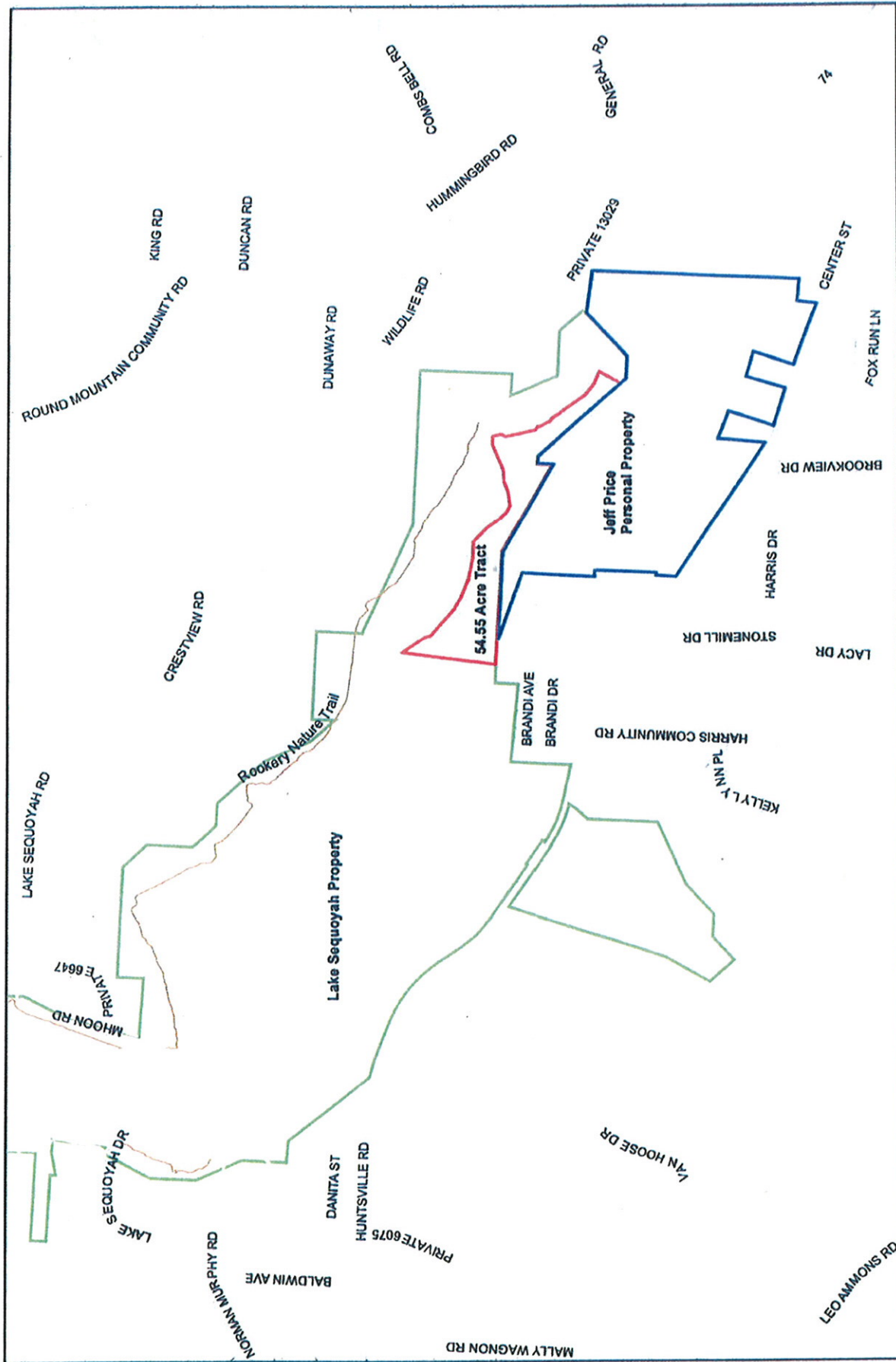


Exhibit A
 Jeff Price Lease Agreement
 Lake Sequoyah property - green outline
 54.55 acre tract - red outline
 Jeff Price property - blue outline



Added at Agenda Session

City of Fayetteville
Staff Review Form
City Council Agenda Items

or
Contracts

3/15/2011
~~3/8/2011~~

City Council Meeting Date

C. 1
2011 Employee Service Award
Program & Merit-based Pay Increases
Page 1 of 6

Paul A. Becker
Submitted By

Finance & Internal Services
Division

Finance & Internal Services
Department

Action Required:

A Budget Amendment for \$629,900 is requested Citywide for the implementation of an employee service award program for 2011. The amount includes funding for merit increases not given during the last half of 2009.

\$ 629,900

Cost of this request

\$ 42,255,231

Category / Project Budget

Personnel Services

Program Category / Project Name

XXXX.XXXX.51XX.XX

Account Number

\$ 6,690,556

Funds Used to Date

Citywide

Program / Project Category Name

\$ 35,564,675

Remaining Balance

Citywide

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Paul A. Becker 3-7-2011
Department Director Date

3-4-11
City Attorney Date

Paul A. Becker 3-7-2011
Finance Director Date

3-7-11
Mayor Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
03-04-11P04:48 RCVD

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

TO: Mayor Jordan and Members of the Fayetteville City Council

THRU: Don Marr, Chief of Staff

FROM: Paul A Becker, Finance Director

DATE: March 4, 2011

SUBJECT: **Appropriation Authority for Employee Compensation Adjustments**

PROPOSAL:

The operating results from the fourth quarter of 2010 have been posted. The results for fiscal 2010 show an operating surplus of approximately \$1.1 million in the General Fund. The budget had been formulated on the use \$1.1 million from reserves. Thus, rather than incurring a deficit a surplus was experienced.

This surplus was created through expense control. The Administration was able, through good management, to hold expenditures \$2.6 million dollars under budget. This not only offset revenue declines but resulted in a surplus for the year. Other operating funds such as the Street, Water and Sewer and Solid Waste funds also showed positive numbers for the year.

Based on these results, the Mayor is recommending Service Awards to all permanent employees who have worked for the City more than one year in recognition of their service to the Citizens of Fayetteville. The Mayor is also recommending the resumption of merit increases to those employees whose wages were frozen in July 2009. These employees did not receive any increases in 2009 and these increases will put them on a more equal basis with the employees who did receive raises in 2009.

RECOMMENDATION:

Staff recommendation is for the City Council to appropriate monies to complete merit increases which would have been given to employees during the last half of 2009 who are still employed by the City. Staff also recommends monies be appropriated to fund employee service awards for all permanent employees who have been with the City for over one year as of March 1, 2011.

BUDGET IMPACT:

The impact of this proposal would be to increase the budgets for various funds as follows:

1010	GENERAL	\$	390,000
2100	STREET		60,000
2130	PARKING		4,000
2250	PARKS DEVELOPMENT		22,000
5400	WATER/SEWER		85,000
5500	SOLID WASTE		50,000
5550	AIRPORT		3,900
9700	SHOP		15,000
		\$	<u>629,900</u>

RESOLUTION NO. _____

A RESOLUTION AMENDING THE 2011 CITY BUDGET BY APPROPRIATING \$629,900.00 FOR THE IMPLEMENTATION OF AN EMPLOYEE SERVICE AWARD PROGRAM FOR 2011 AND FOR MERIT-BASED PAY INCREASES NOT GIVEN DURING THE LAST HALF OF 2009

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the 2011 city budget by appropriating \$629,900.00 for the implementation of an employee service award program for 2011 and for merit-based pay increases not given during the last half of 2009. A copy of the budget adjustment is attached to this Resolution as Exhibit "A" and incorporated herein.

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

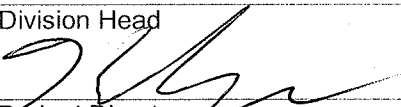
C. 1 V11.0222
2011 Employee Service Award
Program & Merit-based Pay Increases
Page 3 of 6

Budget Year	Division: *ALL DIVISION(S) Department: Citywide	Request Date	Adjustment Number
2011		3/8/2011	

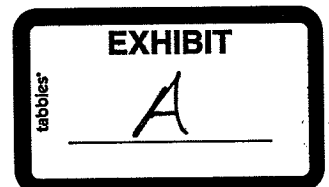
BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

\$629,900 in additional funding is requested Citywide in Salary Contingency for the implementation of an employee service award program for 2011. The amount includes funding for merit increases not given during the last half of 2009.

The \$629,900 will come from the Use of Fund Balance accounts Citywide.

Division Head  Date: 3-4-2011 Budget Director Date: 3-4-2011 Department Director Date: 3-4-2011 Finance Director Date: 3-7-11 Chief of Staff Date: 3/7/11 Mayor Date: 3/7/11	Prepared By: Kevin Springer Reference: kspringer Budget & Research Use Only Type: A B C <u>D</u> E P General Ledger Date Posted to General Ledger Initial Date Checked / Verified Initial Date
--	--

TOTAL BUDGET ADJUSTMENT		629,900	629,900	Project.Sub Number
Account Name	Account Number	Increase / (Decrease) Expense	Revenue	
Salary contingency	1010.6600.5100.01	390,000	-	.
Use of fund balance	1010.0001.4999.99	-	390,000	.
Salary contingency	2100.4100.5100.01	60,000	-	.
Use of fund balance	2100.0910.4999.99	-	60,000	.
Salary contingency	2130.9130.5100.01	4,000	-	.
Use of fund balance	2130.0913.4999.99	-	4,000	.
Salary contingency	2250.9250.5100.01	22,000	-	.
Use of fund balance	2250.0925.4999.99	-	22,000	.
Salary contingency	5400.4000.5100.01	85,000	-	.
Use of fund balance	5400.0940.4999.99	-	85,000	.
Salary contingency	5500.5000.5100.01	50,000	-	.
Use of fund balance	5500.0950.4999.99	-	50,000	.
Salary contingency	5550.3940.5100.01	3,900	-	.
Use of fund balance	5550.0955.4999.99	-	3,900	.
Salary contingency	9700.1910.5100.01	15,000	-	.
Use of fund balance	9700.0970.4999.99	-	15,000	.





March 4, 2011

Mr. David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

As agreed upon in our previous discussions, CH2M HILL Engineers, Inc. (CH2M HILL) will provide the following Out of Scope services as per the Operations, Maintenance and Management Agreement dated December 15, 2009, executed between the Parties.

What is being provided:

- Services, work, and materials necessary to complete a Use Attainability Analysis (UAA) on the White River segment that the City of Fayetteville's Paul R. Noland Wastewater Treatment Plant (WWTP) discharges into.
- The UAA shall be performed in a manner approved by the Arkansas Department of Environmental Quality (ADEQ), according to a work plan that shall be submitted to ADEQ for approval as one of the initial steps of the process.
- The UAAA shall specifically address the current Arkansas water quality standards for minerals, i.e. Chloride, Sulfate, and Total Dissolved Solids (TDS) for the designated uses.
- A final report shall be issued on the results of the UAA suitable for submittal to ADEQ and the Arkansas Pollution Control and Ecology Commission.

When it is being provided:

Services are expected to be initiated in the spring of 2011 and will be completed according to the timeline approved by ADEQ.

Price of services:

To be billed at CH2M HILL's actual cost plus 18% as per Section 3.2 and Appendix C.1.25 of our

Agreement upon completion of the services.
Documentation of actual costs shall be provided with
invoices.

Estimate of costs: Estimated at approximately \$265,000*

Payment terms: Due upon receipt of CH2M HILL's invoice and
payable within 30 days as per Section 5.2 of our
Agreement.

*Note that the City will be alerted immediately if the ADEQ approved work plan or
unforeseen weather or other circumstances cause the estimated costs of the project to
exceed this number. No work will be performed above this price until such work is
approved in writing by the City.

All other terms and conditions of the Agreement dated December 15, 2009, as amended
November 16, 2010, between CH2M HILL and The City of Fayetteville remain in full
force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return
one fully executed original for your files.

CH2M HILL appreciates the opportunity to provide these additional services to the
City of Fayetteville.

Sincerely,



Duyen Tran
Project Manager

Both parties indicate their approval of the above-described services by their signature
below.

Authorized CH2M HILL:

Authorized City of Fayetteville, Arkansas



Name: Natalie L. Eldredge
Senior Vice President
Date: 3/4/11

Name: Lionel Jordan
Title: Mayor
Date: _____

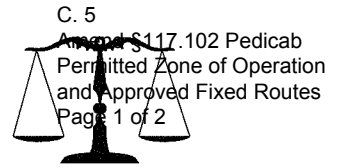
AMB 3-4-2011



www.accessfayetteville.org

*Kit handed out at
Agenda Session 3/8/11*

Departmental Correspondence



**LEGAL
DEPARTMENT**

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

CC: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Connie Edmonson, Parks and Recreation Director

FROM: Kit Williams, City Attorney

DATE: March 8, 2011

RE: A.D.A. Implications of allowing pedicabs on City trails

Last month I was asked by Parks and Engineering to review a new Federal Regulation, Subpart A which was issued "to effectuate (the) . . . Americans with Disabilities Act . . . which prohibits discrimination on the basis of disability by public entities (like Fayetteville)." Section 35.101 Purpose. City staff was concerned that this regulation would require the City to remove our restrictions against golf carts and vehicles with gas engines from City trails. I replied that I believed that the City had properly enacted its trail vehicle restrictions for "legitimate safety requirements necessary for the safe operation of its (trails). . . ." Section 35.130(h).

Our trails were not designed, nor built to accommodate vehicles the size of golf carts and contain many sections (sharp turns under bridges with limited sight distance, long tunnels even more narrow than the normal trail, consistently narrow trail lanes in which pedestrians could not be passed without driving into the oncoming traffic lane, etc.) which would pose obvious and real safety problems. Therefore, the restrictions on "golf carts and comparably sized vehicles" within Section 71.170 of the Fayetteville Code is legally supportable.

The City Council properly allowed electrically powered wheelchairs, scooters and bicycles on City trails partly to accommodate persons with mobility disabilities, while prohibiting "golf carts or comparably sized vehicles nor any gas powered vehicles. . . ." Section 71.170 of the Fayetteville Code. Thus, I think our Code currently complies with the new Federal Regulations enforcing the A.D.A.

However, pedicabs approach the size and bulk of golf carts. **If the City changes its ordinance to allow extensive use of the Fayetteville trails by pedicabs, we may no longer be able to legally exclude golf carts from the City trails.** Our safety argument based upon vehicle size would be very weakened if not destroyed.

Even though the A.D.A. was enacted only to protect disabled persons, the City would have a difficult time limiting golf cart use only to those with true mobility disabilities. Our employees are prohibited from asking a person using a "mobility device" (golf cart) "about the nature and extent of the individual's disability." Section 35.137(c)(1). Fairly reasonable and innocent questions could violate this provision and cause the City legal liability. If we asked the exact proper question, we would have to "accept as a credible assurance a verbal representation . . . that the (golf cart) is being used for a mobile disability." Id. Thus, policing the trails to restrict the use of golf carts to those actually disabled would be very difficult. A City employee could inadvertently violate this Federal Regulation by asking why the use of the golf cart was necessary since we are prohibited from asking questions "about the nature and extent of the individual's disability." Id.

CONCLUSION

Removing the current prohibition of pedicabs on most City trails at most times will bring potential legal liability onto the City from the A.D.A. and the new Federal Regulations enforcing it against cities. It would also be legally dangerous to try to allow golf carts on the trails only for mobility disabled persons because of the likelihood that a well intentioned City employee would ask a "forbidden question."

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
March 1, 2011**

A meeting of the Fayetteville City Council was held on March 1, 2011 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, Kinion, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Quarterly Financial Report

Paul Becker, Finance Director gave the Quarterly Financial Report.

Alderman Ferrell: If what you prognosticate on the liability side of the ledger, if our revenue side is better than it was last year how far into the year will it be before you think you have a good snapshot of where we are going to end up?

Paul Becker: I would like to wait until at least the end of the first quarter because you can have a turn at any point in time.

Alderman Gray: This is great news and I am very excited. Our greatest resource as an organization is our staff. They have really stepped up to the plate during this time and I appreciate that so much. I am ecstatic about the fact that we can finally say to our staff you hung in there with us. They took up the slack with 23 full time employee jobs not being filled. I am so pleased with this report and I will certainly support whatever the staff brings forward.

Alderman Adams: I think it is wonderful news and as a relatively new member of the Council I have been very impressed with our City staff and I think you should all be commended. I look forward to hearing your discussions and ideas on salary packages or whatever we do for our employees.

Alderman Thiel: I think the staff has done a fantastic job of doing with less people and reducing cost in their budgets. They definitely need to be rewarded. Whatever we can do at this time will be good. I look forward to seeing what staff comes up with.

Mayor Jordan: Also, being on the A & P Commission we got word today that the HMR tax is up 8.7%.

Agenda Additions: None

Consent:

Approval of the February 8, 2011 Special City Council meeting and the February 15, 2011 City Council meeting minutes.

Approved

Washington County Inter-Local Agreement: 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 through 2011.

Resolution 35-11 as recorded in the office of the City Clerk

Bid #10-56 Upchurch Electrical Supply Company: A resolution awarding Bid #10-56 and authorizing the purchase of twenty-five (25) LED light fixtures and poles from Upchurch Electrical Supply Company in the total amount of \$49,981.88 for installation on Frisco Trail between Maple Street and Spring Street.

Resolution 36-11 as recorded in the office of the City Clerk

Bid #11-21 Phelps Construction Co., Inc.: A resolution awarding Bid #11-21 and authorizing a contract with Phelps Construction Co., Inc. in the amount of \$26,220.00 for the purchase of rock for the Niokaska Stream Restoration.

Resolution 37-11 as recorded in the office of the City Clerk

Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant: A resolution authorizing application for an Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant in an amount of up to \$100,000.00 for nature trail improvements at Lake Fayetteville.

Resolution 38-11 as recorded in the office of the City Clerk

Bale Chevrolet of Little Rock: A resolution authorizing the purchase of six (6) 2011 police package Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of \$200,250.00, for use by the Police Department.

Resolution 39-11 as recorded in the office of the City Clerk

Alderman Petty moved to approve the Consent Agenda. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Amend Title XV: ADM 09-3480 (Streamside Protection): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual. *This ordinance was left on the First Reading at the February 3, 2011 City Council meeting. This ordinance was left on the Second Reading at the February 15, 2011 City Council meeting.*

Alderman Thiel moved to suspend the rules and go to the third reading. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Gray: I would like to move to reconsider one of the amendments that we passed last time. Alderman Lewis who had done the most research on the ordinance was not able to attend that meeting so I would like for us to reconsider the woody vegetation amendment.

Alderman Gray moved to reconsider the amendment to (E)(2)(c) non evasive trees. Alderman Lewis seconded the motion.

Alderman Lewis: I support bringing back the language of woody vegetation. The intent of the ordinance as a whole is to establish a connected root system within banks that hold the soil in place and without woody vegetation as one major tool to do that you lose the deeply rooted and intertwined roots of plants. Trees are definitely important but you also need the shrubs and small saplings that are in these areas to have the deeply connected root system of the soil. Without that it reduces the intent of this and yes trees should be in there but we also need a broader language that includes other types of woody vegetation.

Alderman Ferrell: I remember when we brought this up I had visited with a citizen who had some concerns and I asked the City Engineer and he came out and said they thought there could be some change in the language. My recollection is that staff came back and recommended the amendment.

Alderman Thiel: I think we asked that it be clarified and simplified. The way it was worded we wanted it to be a little simpler for people to interpret. We were also contacted about concerns

with snakes if they did not keep it somewhat clean. If we do this we need to define noninvasive which gets into a whole new thing and I am not opposed to that but what is noninvasive. I will not support going back to how it was unless we clarify what noninvasive is.

Alderman Petty: I think whenever it comes to the science it is pretty clear that we need more than trees in these riparian buffers. I think it is important to come up with a definition that works. We have already got a good start. We passed the sustainable lawns ordinance last year the staff created a list with more than 300 native plants and I don't think it would be hard to take that list and find what the woody plants are. When it comes to this definition I think we can do better than just redefining it to be only trees.

Alderman Thiel: So honeysuckle is not on that list?

Alderman Petty: That would be a question for staff.

Alderman Thiel: Do we have a list that has noninvasive plants that are allowed?

Karen Minkel, Director of Strategic Planning and Internal Consulting stated the Best Management Practices Manual includes some examples of invasive and noninvasive. It also directs people to a website that has a more comprehensive list. She clarified staff's recommendation from the previous City Council meeting.

Alderman Thiel: Did staff support the simplified version of woody?

Karen Minkel: We had recommended changing it from woody vegetation to noninvasive trees so what would be prohibited is the removal of noninvasive trees.

Alderman Lewis: I appreciate Matt's comments and I agree that there are already resources in place within the City Code and city resources that can help define this. I think removing that language takes away too much and makes it so that it simplifies it to a point of error. If we don't keep the language of woody vegetation we are losing a substantial part of this.

Alderman Ferrell read a portion of page C.4 of the Best Management Practices Manual.

Alderman Lewis: That is the intent of the Best Management Practices and it is defined very clearly in the code when to take that into consideration and that is why the staff worked so hard on that document. When there is a change requested in these types of areas then the staff and applicant can consider these types of things using the Best Management Practices.

Alderman Ferrell: We talked tonight about what a great job our staff is doing and we haven't added any staff, if we keep adding different projects and keep legislating mandates for our staff, we are not going to be able to take care of them. There are going to be some laws that we're just not going to be able to have enough staff to go out there with the existing staff that we have.

Mayor Jordan: When we talk about enforcement issues does the staff have any recommendations, how would you enforce this?

Karen Minkel: The concern with simply saying woody vegetation was this is a complaint driven system and it would be very challenging for staff to determine whether woody vegetation had actually been removed. Trees are much easier to enforce in terms of determining whether something has happened or not.

Alderman Petty: I think we need to look at the enforcement issue from a practical perspective. We aren't going to be sending staff out to snoop on neighbors who already own their property and aren't doing new development. This is an ordinance that affects new developments and every existing use is grandfathered in. Staff needs to have the authority to say this is what you need to keep in your riparian buffer. That needs to include more than just trees and I do not think there is an enforcement issue with that.

Alderman Adams: We are planning for the future and I agree with that comment.

Alderman Thiel: I agree whole heartedly that it needs to be a part of that but that is not what this limits this to. You cannot say this is limited to new development because that is not the way it reads. If we can make it read that way I would be fine with that.

Alderman Lewis: Existing uses are grandfathered in and that is what is written in the code. It's not just about future development. It's about activities that are brought forward within these sensitive areas. This ordinance would address activities that change the hydrology in those sensitive areas and woody vegetation would help limit that. Staff should be able to consider that.

Alderman Thiel: If you had a piece of property and you weren't developing anything and you chose to cut a shrub you could do that?

Karen Minkel: I think staff's interpretation was that if you were to cut down a tree that would be a new activity. We would look at woody vegetation the same way.

Alderman Thiel: In other words this does affect existing property that is not being developed.

Alderman Lewis: The intent is to protect those areas along the bank and maintain those root systems. If they are already cleared then you do not have to change it.

City Attorney Kit Williams reminded the Council that the motion to reconsider has not been approved yet.

Alderman Ferrell: We passed this and staff agreed with it so let's keep it.

Upon roll call the motion passed 6-2. Alderman Adams, Lewis, Gray, Thiel, Kinion and Petty voting yes. Alderman Tennant and Ferrell voting no.

The motion to reconsider passed.

David Orr, resident of 1564 West Cedar: I strongly support retaining the original language that was in the ordinance prior to the amendment.

Monty Henderson, resident of 2111 Brookhaven Drive: I am not opposed to the ordinance as amended but the question about woody plants I am very much opposed to.

Mayor Jordan: Karen, if they are maintaining it a certain way now they are grandfathered in to continue maintaining it after this is passed.

Karen Minkel: That is correct.

A discussion followed on what grandfathered in means.

Kyle Johnson, a citizen asked does the reversal of your decision last week mean that any new act such as building a deck or swimming pool by a property owner will trigger the new ordinance and all implications of it just as if it were new development.

Karen Minkel: That would be considered a new use.

Kyle Johnson: So it would not be grandfathered?

Karen Minkel: Correct, so if an existing property today decided to build a pool it would have to go through the permit process that would fall under this ordinance.

Kyle Johnson: So we have wiped that out with this vote.

Mayor Jordan: No.

City Attorney Kit Williams: This is only about bushes, not about decks or swimming pools.

Kyle Johnson: I am not sure that is the answer I wanted but I will take it.

Alderman Lewis: Just to clarify right now this amendment would put back in language that would ask or tell staff to consider the woody vegetation when looking at projects that come before them and have that part of the criteria when considering those changes. So woody vegetation is what is on the table for being put back into the ordinance.

Jim Laubler, a citizen stated my objection to this is what you are seeing. Nobody can understand what the paragraph is saying. We don't know what the truth is. They are saying one thing and then saying it differently the next time.

Joe Alexander, a citizen stated I do not think there is a need to pass legislation to force people to do what they naturally do already.

Eden Reef, owner of streamside property stated the part about the woody vegetation is essential. I think this is clear and it is okay. We can do this and have attractive lawns that support healthy streams.

Angie Albright, resident of Ward 1 and member of the Environmental Action Committee stated I support the ordinance as it was originally written. We need to retain the language of woody vegetation. It is not realistic to think that we could write every single ordinance in such a way

that every single citizen could understand it perfectly. We also have to have citizens and property owners who are responsible for investigating aspects they don't understand.

Alderman Ferrell: When you were talking about passing these things you said they are not perfect and they need tweaking sometimes, did I understand you correctly?

Angie Albright: No, I said citizens cannot possibly understand every single ordinance we have on the books. We all have different areas of expertise and different levels of reading skills. We have to be responsible for the things we care about investigate, ask questions and make sure we understand things like woody vegetation. If we are not sure what that is then we have to ask questions and not rely on all these documents to explain everything to every single person.

Alderman Ferrell: You need to ask the question before or after it becomes law?

Angie Albright: Both.

Alderman Ferrell: There are predatory litigators and also litigators that think they have a good cause so we have to really take this into consideration when we are thinking about passing legislation here.

Angie Albright: What I am driving at is technical and accurate language is what matters.

Mary Larson, a citizen asked do I fit under the grandfather clause for taking out the stumps that are in the yard.

Karen Minkel: In the Best Management Practices Manual it talks about leaving the stumps in tact if it's on the streamside. If it is in the buffer area we want to leave the stumps intact.

Mayor Jordan: So I guess the answer to your question is no.

Bill Ethridge, resident of 3340 North Old Missouri Rd. spoke on the drainage problems on his property and he wanted to confirm that he would be able to mow his yard since the drainage runs through his yard.

Alderman Lewis: The way this is written the existing uses can continue.

Bill Ethridge: I mow right to the creek bank.

Alderman Lewis: This project would put forward our Best Management Practices Manual that if you are interested you could use it. All existing activities could continue.

Alderman Tennant: So if this gentleman sells his property to somebody else would they be able to continue to do this?

Alderman Lewis: The way this is written yes.

Bill Ethridge: My land is wider on the back than it is on the front. This branch is really a drainage ditch.

Alderman Tennant: I am just making sure you can keep doing what you are doing and that the next owners can keep doing it.

Alderman Lewis: We are talking about the woody vegetation only right now.

Bill Ethridge: There is one huge tree and I do not intend to cut that tree. I just want to be able to clean it up.

Mayor Jordan: You would be able to do that.

Charles Taunton, resident of 2900 North Pyrite Drive stated there is a dead Red Bud within the 50 feet of the creek bank. He asked what can I legally do with that tree.

Karen Minkel stated if you are in the water side zone you can remove dead vegetation but we ask you to follow the Best Management Practices Manual.

Charles Taunton: And the top of the cement ditch is where the 25 foot buffer stops?

Karen Minkel: You are measuring from the top of the bank. It is meant to be done on a case by case basis so we actually like to view the property.

Matt Gocke, a Fayetteville resident asked if the person beside him elects to keep their land clean and the person who moves in after them elects to let it grow up what happens as a homeowner to the person beside me who lets that grow up? Can the next homeowner come in and bush hog and cut it back down? Does it get grandfathered in because they bought it when it was high or are they grandfathered out because the person they bought it from let it grow?

City Attorney Kit Williams: Grandfathering of nonconforming uses if you stop maintaining the property at that point that use will be lost to the next homeowner.

Matt Gocke: That is the reason I am against it.

Louise Mann, resident of 69 Gray Avenue encouraged the Council to pass the ordinance in the original language and leave the woody vegetation in.

Aubrey Shepherd, a resident stated woody vegetation is fine but many of us were hoping it would recommend only native species in those areas.

City Attorney Kit Williams clarified the amendment. The amendment that was passed at the last meeting is on the table again for consideration and the amendment would be to remove the reference to woody vegetation.

A discussion followed on how to vote.

Don Marr, Chief of Staff clarified the original amendment and explained what a no and yes vote would mean.

A discussion followed on procedurally who needed to make the motion and second for this amendment.

Karen Minkel: The motion would be to change the language in (2)(c) from clearing of noninvasion woody vegetation to clearing of noninvasive trees.

Alderman Thiel moved to amend (E)(2)(c) so that it says clearing of noninvasive trees. Alderman Kinion seconded the motion. Upon roll call the amendment failed 2-6. Alderman Tennant and Ferrell voting yes. Alderman Adams, Lewis, Gray, Thiel, Kinion and Petty voting no.

The amendment failed.

Alderman Ferrell: I may offer an amendment but I don't have to do it right now do I?

City Attorney Kit Williams: You don't have to,

Alderman Ferrell moved to amend the ordinance to add Subsection 4 to the applicability portion of the ordinance.

Alderman Ferrell: I would have preferred to have an opt in and if it passed you wouldn't have to do anything. Opt out means its active on the part of the citizen. If the citizen does not want their property inside the riparian zone then they could send a letter to the City Engineer saying they elect to opt out their property from being involved in this riparian zone.

There was no second to the motion therefore the motion died for lack of a second.

Steve Smith, resident of 2862 N. Pyrite Dr. representing the Crystal Springs Homeowners Association spoke on the creek near their property and he stated you are taking 85% to 100% of people's back yards. Whereas if someone had a large tract of land it would be taking less than that. He passed out pictures of some of the property and asked if the houses on the east side of Pyrite Drive where our back yards back up to the drainage ditch requires a riparian zone then why wouldn't our neighbors across the street?

Karen Minkel: That type of ditch would no longer be constructed where it is laying in concrete but the majority of the regulations around the first 25 feet, anything that those property owners are currently doing they can continue to do. The reason we thought the buffer needed to apply to the property was because in case it ever redeveloped or there was a new use that was going to create an impervious surface or destabilize that bank it still was important that you had a buffer there filtering out pollutants and stabilizing the bank so that sediment was not getting into the waterway.

Steve Smith: Also at the end of that concrete drainage ditch there is a one acre stormwater detention pond. I believe that pond is performing the same functionality that we are asking of the property owners. It just doesn't make sense, in a platted subdivision with quarter acre lots, to ask people to give up their entire back yard.

Alderman Lewis: Those kinds of activities can continue. What is it that you want to do as a property owner that would be affected?

Steve Smith gave examples of various projects that he and his neighbors would like to do in the future. He expressed his concerns with the problems that may occur due to the woody vegetation.

Alderman Tennant: So if he wants to build a sunroom on his house and this passes he would have to do what? Go through the variance process?

Karen Minkel: Yes.

Alderman Tennant: And then it would be decided if he could build it.

City Attorney Kit Williams: In fact if it were turned down it could very well be that the City Council could make the final decision on the variance.

Karen Minkel: One of the options in that variance procedure is that the Planning Commission could require mitigation effort. So if you are extending into that buffer area, then there is something additional you need to do to ensure that you are not increasing the pollutants that are running off into the stream.

Delia Hawk with the Illinois River Watershed Partnership clarified an issue that was brought up at the last meeting concerning the position of the partnership. She explained the partnership. She referenced a letter that was sent to the Mayor and Council.

Mayor Jordan: The letter says that you are a non profit organization and you cannot take a position either for or against legislation.

Delia Hawk: That is correct. So my statement is not endorsing or opposing any legislation.

Mayor Jordan: You are an educational group.

Delia Hawk: Yes sir.

Mayor Jordan: And being non profit you can't take position on legislation.

Delia Hawk: That is correct. Thank you.

Bob Kossieck, resident of 8452 Larue Road near the Rocky Branch area gave an example of similar ordinances that were passed in other cities and he pointed out that they have been ineffective so he wondered what would make this ordinance any different. He spoke against the ordinance.

Terry Lane, resident of Ward 3 asked the City Council to pass the ordinance. She spoke on the importance of environmental protection.

Debbie Beckerdite, resident of East Fayetteville described her efforts to get in touch with the 1,300 landowners. She stated they were able to reach 375 to 400 and less than ten percent of those landowners even knew about this. She spoke against the ordinance and asked the Council to consider the implementation of this and what it is going to cost the City.

Alderman Lewis: Since I have been a Council member we have hired and we are required to conduct public stormwater education through the Agricultural Extension Office. I am wondering if you've ever participated in any of that?

Debbie Beckerdite: I have not been able to because of my work schedule.

Bruce Richart, resident of Ward 2 on Willow Street stated I am here to show my support for the streamside protection ordinance and advocate its passing. He spoke in favor of the ordinance.

Locke Isaacson, Ward 4 resident expressed her support for the ordinance and stated I believe that Fayetteville has the potential to show leadership in sustainable practices and I am in favor of protecting our drinking water. She spoke in favor of the ordinance.

Connie Crisp, resident of Mt. Sequoyah stated I appreciate your work. She spoke in favor of the ordinance.

Joe Alexander spoke on the property rights of citizens. He spoke against the ordinance.

Alderman Lewis: Will you clarify the cultivation?

Karen Minkel: It was never the intent to prohibit gardening and in fact at the last Council meeting that was clarified by an amendment that the Council made so it was very clear that gardens are allowed in that buffer area.

Dot Neely, resident of Ward 1: I would encourage the City to continue its educational outreach and have a more informed public regarding the protections as we go forward with looking at the next 14 years doubling the population in the area.

Bill Moler, a resident stated the way I look at this ordinance is it is a preemptive strike against the kind of damage that can occur in the future if you don't take action now. He spoke in favor of the ordinance.

Steve Warden, resident of 3784 Spyglass Hill near Crescent Lake expressed his concerns with the vegetation requirements and the conditional uses and the affect it would have on his property. He spoke against the ordinance.

Alderman Lewis: What is Crescent Lake?

Steve Warden: Its Dash Goff Farm's Lake and its called Crescent Lake.

Alderman Lewis: Kit do you want to speak on the docks?

City Attorney Kit Williams: Even in the waterside zone docks are allowed.

Steve Warden: I understand they are allowed but I have got to come back and plant bushes, trees and wild vegetation.

City Attorney Kit Williams: I don't think that would be the case but I would defer to the City Engineer. It would need to be built to minimize the impact upon the streamside areas and minimize any excavation and filling.

Steve Warden: I have a waterfall and a fountain in the back yard now.

Alderman Thiel pointed out on the map where his property was located. I think it is just the streamside that is affected. I don't think everyone around the lake is affected unless they are on the stream.

Karen Minkel: The ordinance includes bodies of water like Lake Fayetteville. We are trying to reference this exact property. If they received a letter or they were on that list that means they are probably affected by the ordinance.

Alderman Thiel: But everyone on that lake might not be if the lake is not within this area?

Karen Minkel: I would have to look at it more clearly.

Alderman Lewis: Just to clarify, you were talking about putting a dock in. It's a tool to help that process so that it minimizes the impact of something like that.

Steve Warden: I am sure I could work around that but when you have 15 more lots that they absolutely cannot access the lake, from where my lot is I am going to be looking at this grass forever if they can't do anything.

City Attorney Kit Williams: I think that is why the variance procedure is in there so that if you have an undue hardship, that would be caused by the interpretation of this, then you can go to the Planning Commission and if you do not get enough relief there you can come to the City Council.

Steve Warden: I understand you can bring it back as many times as you ask for a variance on several things but it is a lot of energy that you have to expend. If it is passed there will be lawsuits because there are people that feel stronger about this than I do.

Matt Gocke stated the erosion in my back yard doesn't come from the creek that runs there, it comes from the storm wash that has been created in the subdivision that the City Council approved. If this law passes do I have any right to go into that particular area and save that property from washing up halfway to my pool. Do I have the ability to control that stormwater wash off as it erodes away the banks? He spoke against the ordinance.

Alderman Lewis: The City of Fayetteville recently received a grant to rewrite its Drainage Criteria Manual and address those types of things so that those designs do not happen in the future. This ordinance relates to that because part of the rewriting of the manual will activate these riparian zones to act as part of the stormwater system so that we do not have this hard velocity fast moving water.

Karen Minkel: That is an example of what we are trying to prevent in new development and part of that is addressed in the Best Management Practices Manual. If you look at new construction the storm water will have to be dealt with in a retention pond to reduce pollutants. We also took measures in there to ensure that you slow down the velocity of the water as it flows through the proposed riparian area so that you don't have that water shooting into the stream and causing erosion down stream.

Matt Gocke: So what happens to me as an existing home owner, do I get to go in and repair that?

Karen Minkel: The ordinance doesn't change that either way.

Chris Brown, City Engineer: If I can get the property owners address we will go out and take a look at that. It really is just a case by case situation.

Matt Gocke: I would love for all of you to come out and show you my video. It's 3443 Notchez Trace. It's not my pool that is causing the problem. It has been there for 10 years.

John Garst, resident of Mt. Sequoyah gave examples of why this should not pass. He spoke against the ordinance.

Kevin Babin, resident of 1207 East Elm St. questioned how this amendment will change the current code regarding fines.

City Attorney Kit Williams: There is a provision in both the Code of Fayetteville and the Unified Development Code that says if an ordinance is violated and there is not a specific penalty, there is a general penalty that can be up to a \$500 fine. If the violation is something that would be reoccurring every day it can be up to \$250 per day. That is something that can only be decided by a court.

Kevin Babin: I brought up that same issue about penalties to your staff and they were very open about that and then at the next meeting that section was removed from the ordinance being proposed. It made it look like you were taking away the chance to fine citizens. I would like the staff to review that.

Karen Minkel: It was redundant. We had what Kit just articulated repeated in this ordinance and it was the City Attorney's suggestion so that the code would not be redundant. It is in a separate chapter and it did not need to be stated twice.

Kevin Babin: It was never explained that it was redundant.

City Attorney Kit Williams: Most ordinances that are passed do not have a penalty provision with them if they are part of the Code because they automatically will have the penalty provision. The only time you have exceptions to that are when you have a smaller fine like for parking. He explained the penalty process.

Kevin Babin: I understand what he is saying that it is a universal thing but it is in my opinion misrepresented. My next question would be currently I have a house that the entire back

property is covered by both zones. In the first 25 feet my shed is in that zone and it is my current plan to move that shed. My understanding is I have to apply for a variance to do that is that correct sir?

Karen Minkel: That would be correct.

Kevin Babin: So if I have to apply for a variance to move a less than 100 square foot shed, why can the City put a 12 foot wide path in the same place and not have to ask for public comment or a variance. That doesn't seem fair.

Karen Minkel: If it is less than 150 square feet it can be beyond the 25 foot. It is just not allowed in the first 25 feet of the buffer. The second question asked about the trails, it's a velocity reason, when you have all that square footage in a smaller space. You can see the difference in velocity and that's the difference in impervious surface, not just for the City trails but for a property owner who might want to put in a driveway or garden path. They could do that but it is spread out rather than in a compact space.

Kevin Babin: Would a property owner have to ask for a variance to put that driveway in?

Karen Minkel: They would not, in the first 25 feet you are required to follow the Best Management Practices for putting in the 12 foot wide impervious surface. Outside of the 25 feet it is encouraged but not required.

City Attorney Kit Williams: Within the first 25 feet the City Engineer would have to determine for both the City and the private owner that there is no practical feasible alternative. The City will do all that it can to also keep its trails farther away from the creek. We are going to be required to follow this also. When it's not practical or feasible either the City or the landowner will be allowed then to have this impervious surface and then as Karen said you still have to follow the Best Practices Manual to try to minimize the impact on the stream bed.

Kevin Babin: The last time I spoke I asked a question about dishwashing detergent and reducing or actually restricting phosphates from it. I asked whether or not it was going to be evaluated or whether we would even need this ordinance to reduce the total phosphorous load on our stream banks. Has anyone researched that?

Karen Minkel: The City currently does not have plans to study that particular initiative which is multiple state requirements and even farther back it is a federal issue. The City does not have any plans to study that.

Alderman Lewis: I know that David sent out something about detergent.

David Jurgens, Utilities Director: The State of Arkansas passed a law in 1994 that restricted phosphorous in detergents. Also all the manufacturers that had made mixed detergents, some of which had phosphorous for some areas and some of which did not, have since the most recent code change ceased making detergents with phosphorous. There won't be phosphorous available in either dishwashing or laundry detergent anymore.

City Attorney Kit Williams: When was that removed? Was that just recently?

David Jurgens: The original law in the State of Arkansas was passed in 1994 but the most recent change that was made nationwide for the manufacturers was in July of 2010.

Kevin Babin: I don't understand why we are not studying that. It seems like the original reason we started this whole process was an agreement to lower the total phosphorous level we were putting into the White River from the Noland side of our treatment. If that is the real reason we are starting this ordinance then why are we looking at 1,300 property owners? Why are we not looking at the entire City? There is a perception of property value loss and usage. This ordinance seems to be getting off on the wrong foot and not letting ordinances and laws that are already out there do what they are suppose to do. He asked the Council to slow down and use the education that is out there.

A discussed followed on building a driveway and the width of the driveway on property that is affected by this ordinance.

Cindi Cope, resident of Ward 3 showed the Council a poster that stated "It takes 500 years to make one inch of soil." She stated so if we don't protect our stream sides and the soil washes away it's going to be more expensive to repair them than to keep them. I strongly endorse this ordinance.

Amy Lamb, Fayetteville resident stated the City Council has done a lot of research and worked hard to strike a balance between the environmental responsibilities for the citizens and the land owner rights. She spoke in favor of the ordinance.

Mikel Lolley, Fayetteville resident stated this ordinance is nothing to fear and is reasonable. He stated there are several people that have worked on this ordinance. It is not about a taking but it is about taking care of our property. He spoke in favor of the ordinance.

Alderman Ferrell: You just referred to volunteers who are in favor of this. Could you elaborate on that a little bit?

Mikel Lolley: I know the Fayetteville Forward Green Infrastructure group worked real closely with Strategic Planning and they have been involved every step of the way.

Michael Zimmer, Fayetteville resident expressed his concerns with the variance process. He spoke against the ordinance.

Randy Warner, resident of 161 S. Hill Avenue stated I am here in support of the ordinance. He spoke on the impact it would have on the community and the environment as a whole.

Peter Njuguna, Fayetteville resident stated that government exists to serve and protect its people, not to regulate and coerce. He spoke against the ordinance.

Alderman Adams: When you think about the land of the free do you believe that you should have the freedom to burn tires in your back yard? Do I get to breathe the air that your choice permits you to do or should we have ordinances and laws in this land of the free that protects my air? Where would you draw the line?

Peter Njuguna: That is what elected representatives are elected to do is to draw the line. Tonight I saw a picture of people saying can I trim my tree or dig up my dead tree and they would have to come to a City Planner with such a minor thing. Then I hear language like we might allow you to do that. That to me is offensive.

Alderman Adams: Regarding stumps, it clearly says that if the stump in the area is a danger then it can be removed.

Frank Sharp, Fayetteville resident pointed out that he owns property with streams and trails running through it and he supports the ordinance.

Alderman Ferrell: I don't always agree with you but there are very few citizens in this city that have done the good that you have and that take the time to come and speak. I appreciate it and I think Fayetteville is a better city for that.

Warren Phillips, a citizen stated with everyone talking about litigation it seems to me that you are fighting a battle for a tiny improvement. He stated most people are willing to cooperate. He encouraged the Council to give it some time and do it on a voluntary basis and then if that does not work take stronger action. He spoke against the ordinance.

Alderman Lewis: There are more citizens that I represent than just property owners. You have to take them into consideration and I think this ordinance does and we have worked hard to do that. There are other people who are affected by the things that happen on properties that do not own the property and we represent them as well. Fayetteville has 51% of its population that rents and I think they have a right to clean water resources and stable banks.

Warren Phillips: That would be true but you are asking 1,300 people to carry the load for everyone else in Fayetteville. Is that fair? You really need to give everyone a chance to voluntarily cooperate. I think that will be better for you, better for the citizens and better for the country at large.

Alderman Ferrell: How many people here are property owners in the affected area? How many people that live there are opposed to this ordinance? How many are in favor?

Alderman Gray: Did we send out letters to 1,300 or 300?

Karen Minkel: We sent out letters to 1,300 property owners. The property owners who had what looked like existing principal structures within the proposed area were invited to a special question and answer session. All property owners were sent a letter saying they might be affected by the ordinance. We got less than 10 back.

Alderman Gray: The ones invited to the meeting, was that the 300?

Karen Minkel: Correct.

Vivian Hill, resident of 1950 N. Austin Dr. stated I agree with the people that are opposed because I understand their desire to do with their property as they please. However I think ordinances are a good thing and the reason we are having this discussion is because there are so

many people who won't do it or try to understand the significance of the damage that is done. She gave examples of erosion problems and spoke in favor of the ordinance.

Lauren Hawkins, a Fayetteville property owner thanked the staff and the Environmental Action Committee for putting together a great resource and for showing us a way to keep our property in good shape. I strongly support the ordinance.

Barbara Kossieck, a resident near Beaver Lake stated we have a problem with the trees and woody growth. They die and the dying trees or stumps have roots that decay and leave a series of small water ways. The water draining erodes the bank. Deep rooted grass, well maintained is better than any riparian along the side of a river or stream. It stops the runoff and erosion better. She stated don't take people's land to create something like this.

Gracie Leach Pendleton, a Fayetteville resident referenced the pictures previously sent to the Council of Pyrite Drive and stated the ditch behind my house was not there when I moved in. I am not for this and that creek is not a creek, it is just a drainage ditch from two stock ponds and it's just run-off. Who cleans out the drainage ditch?

Karen Minkel: In most cases it is the property owner who cleans out the water ways unless there is an easement.

Gracie Leach Pendleton: It's the City's not mine.

Karen Minkel: If there is an existing easement then the City maintains the drainage capacity.

Gracie Leach Pendleton gave past examples of problems that have occurred. She stated they have to keep that cleaned out. I am very much against this.

Alderman Thiel: This other gentleman spoke about this same area. This is not a drainage ditch, that is a creek?

Karen Minkel: The threshold that was used is that 100 acres is draining into that water way.

Alderman Thiel: It's buffered with the concrete. You said it would probably not be done that way now. I am having a hard time understanding why this ordinance would pertain to that because you have a concrete swell so you are not dealing with erosion.

Karen Minkel: You are dealing with a filtration issue because that waterway is draining into Clabber Creek. The threshold that we used and applied across the City consistently is when you have 100 acres draining into the waterway that is the point in which the buffer is applied. Even though it is concrete you are still going to get the filtration benefits that you would in any other waterway.

Alderman Thiel: If they planted trees along there it would probably cause problems with the structure wouldn't it. The roots would break it up eventually.

Karen Minkel: In the ordinance itself it's not telling property owners to change anything they are doing but it would encourage letting the grass grow a bit higher so you are getting some of those filtration benefits.

Alderman Thiel: That is detaining water from the area I am looking at down, then it runs down the other way to Owl Creek.

Karen Minkel: Clabber Creek. In our detention ponds today most of them are not currently designed to filter out sediment pollutants of any kind. They are simply holding the water for 24 hours before releasing them into the waterways.

Alderman Thiel: But that runs from that detention pond back or is the detention pond the end of this?

Jeremy Pate: The water flow runs south, goes under Crystal Drive into a constructed concrete channel that was constructed within the last 4 to 5 years, and then it goes into a detention facility which then has a drainage outlet structure that drains into Clabber Creek.

Alderman Thiel: This picture is showing a concrete detention but as a detention pond that means it is just slowing it down and it's running on out of it?

Jeremy Pate: The detention facilities are currently designed not necessarily for quality control but quantity. It catches water during a major storm event, holds it and at the end of the detention pond it has a structure that only allows a certain volume of water to be released during a period of time so that downstream properties are not flooded by new development. That has been a requirement on the books for several years now.

Alderman Lewis: Those concrete ditches are what we are trying to avoid and if we can ameliorate them by improving the vegetation on either side of them because water is running in from lateral areas from the sides, most of it is coming from the channel. If you can plant vegetation that really helps. That is why it is important to include these types of areas within this ordinance so that we can begin to mitigate some of that.

Karen Minkel clarified the definition of pipe streams. We believe there are filtration benefits, just maybe in a different form than a natural waterway that is not in an enclosed conduit.

Alderman Thiel: So these situations we look at a little differently for variances and so forth you are saying?

Karen Minkel: There is a statement in here that allows the City Engineer to take that into consideration for development, grading or building permit.

Alderman Adams: Karen I emailed you about this situation too. It does seem odd to me too and this is the one thing that has bothered me so I am glad you brought this up.

Alderman Thiel: It's kind of unique.

Jim Laubler from Ward 4 spoke against the ordinance and questioned the constitutional rights of this ordinance.

Gladys Tiffany, resident on Spout Spring Branch at the last City Council meeting staff mentioned that 70 percent of the pollution, that had been found in the water shed, came from Fayetteville Arkansas. If 50 feet is going to make a difference in reducing that pollution then I want to see that pollution level go down. She spoke in favor of the ordinance.

Cynthia Haseloff, steward at May Farm pointed out the importance of education regarding this issue. She does not believe that education is a crock. The staff in this City is extraordinary. She complimented the staff on their fine work. This is really designed for developers. What is wrong with this ordinance is its existence. She spoke against the ordinance and asked the Council to slow down and try the least invasive solution first.

Alderman Lewis: You are worried about the property value of your land?

Cynthia Haseloff: I am not worried about my property because I do not intend to sell it.

Alderman Lewis: You mentioned something about the property value of your land.

Cynthia Haseloff: I did tonight.

Alderman Lewis: On this specific property it looks like the 50 feet that would take into account these types of activities are already within the floodway and also the floodplain which means that the property value would not be affected by this because it's already a part of your existing property and that is important to consider. This ordinance brings it to the City level to help the City staff have a frame work for addressing it. So if you were to want to do something to this area this would give guidance on how to do that. The staff could guide you in the realm of floodways and floodplains. I don't agree that there would be an affect on property value when the property is already designated by floodway and floodplain in this particular case because of the location near Clear Creek.

Cynthia Haseloff: I don't expect the value of that property to be an issue, I am stating that for other owners that have property of value. This property is in the floodplain and we were told by a staff member last week that yes it is in the floodway but the purpose of the flood ordinance is not the same as your streamside protection ordinance. If the affect is the same why are we making a double dip here?

Alderman Petty: To that point the affect is not the same. The question and discussion that just took place relevant to Council member Lewis's question, the response was economic. This isn't just about the money, it's about the pollution that enters the stream and the affect that it has on other systems that we rely upon such as filtering our water. The intent of the floodway protection is to protect homeowners from making investments that are going to be washed away.

Cynthia Haseloff: But it controls that area doesn't it?

Alderman Petty: The intent of the streamside protection ordinance is not that, it is to protect our water quality. That is very much a different thing.

Cynthia Haseloff: I believe the flood ordinance says that you can't do certain things in that area which is pretty much the same thing that your ordinance says can't be done. Whether it says its purpose is to be a streamside ordinance or to protect property owners, it has a buffer area that is protected and that is already soaking up water and runoff. I have pecan trees planted in my riparian area and if the woody vegetation threatens them I am going to favor the pecan trees.

Alderman Petty: There is nothing in the ordinance that would prevent you from doing that.

Cynthia Haseloff stated I don't want to have to ask you if I can remove my stumps.

John Pennington, Washington County Corporate Extension Service spoke in favor of the ordinance. He thanked the Council for their time and for listening to the people on both sides of the ordinance.

Bill Harris: Given that all of our government agencies are there to serve the public, how difficult would it be to offer the property owners a property tax exception for the portion of property affected by the ordinance?

Mayor Jordan: I don't know.

City Attorney Kit Williams: The answer would probably be extremely difficult because the County Assessor is the one that assesses property. She has to follow state laws which are very restrictive on what property is exempt and what is not.

Bill Harris: That's a fair answer. Are you the attorney?

City Attorney Kit Williams: Yes.

Bill Harris: I understand the English Common Law assigns 21 rights to the ownership of property. Certainly some of the laws will be lost in the area affected by the ordinance for the property owners. Is that correct or am I wrong?

City Attorney Kit Williams: We follow America Law, it is true a property owner has many different rights to his property but he is also subject to regional regulations by the government.

Bill Harris: How difficult would it be for this public agency to work with some other public agency to affect such an offer of property tax exemption for the property owners?

City Attorney Kit Williams: The school district which is the chief beneficiary of property taxes wants to defend the property taxes because they need the property taxes to educate our children. It would be a very difficult burden to get that particular exemption put into the law.

Bill Harris: Typically if people want to feel good together about things there has to be a fair exchange. Thank you for your time.

Greg Howe, resident of Rock Wood Trail spoke on green infrastructure and spoke in favor of the ordinance. He stated you have an opportunity as the local government to decide how to keep

your water clean. Don't wait until it gets dirty and the EPA has to come in and tell you how to do it.

Shelly Binatero, resident of Clear Creek spoke in favor of the ordinance. She urged the Council to pass the ordinance and stated she is very grateful that there is a broad understanding of what real quality of life means. It means protecting our resources.

Felicia Farris, resident of Markham Hill stated she is disturbed by what she feels is an intrusion on people's personal property rights. Certainly I would not want to feel like I have limited use. She asked the Council to educate people. She challenged the Council to be brave on this issue and not vote on it tonight.

Marilyn Shoffit stated she supports the ordinance because she thinks it's minimal. Things have changed a lot and we have cleaned our streams up over the years. People move here because of the quality of life we have.

Joe Maynard stated I really like the way the City works. I think I heard that the notice was mailed directly from the City to the property owners and it was not certified mail.

Karen Minkel: That's correct.

Joe Maynard: Can you tell me how the sewer plants permitted approval phosphorous levels EPA relationship has anything to do with the genesis of the ordinance? How are those two things related, if at all?

David Jurgens: The genesis for this ordinance relating to the wastewater treatment permits is that in 2004 and 2005 when the permit was up for review for renewal at ADEQ and EPA for the Noland Waste Water Treatment Plant, the Beaver Water District had to address some issues as they always do with those types of permits with ADEQ. That evolved to the point where there was the agreement between the Beaver Water District and the City of Fayetteville where by we agreed to meet certain standards relating to phosphorous and nutrients in the White River basin. They agreed to withdraw their objection in their request which would have caused us to have a much lower phosphorous limit in our wastewater discharge permit. This ordinance was a result of that agreement whereby we did a nutrient reduction plan study that identified many actions that can be taken to reduce nutrients within the watershed. This was one of those actions.

Alderman Lewis: The nutrient management plan is just a plan. It suggested that the City explore a riparian ordinance. It didn't come to life until citizens participated in the Fayetteville Forward Summit and brought it forward.

David Jurgens: That's correct.

Alderman Ferrell: One of the things Geosyntec was charged with was how this came about and the agreement with the Beaver Water District wasn't it?

Alderman Lewis: They were charged with developing a plan to propose methods of reducing phosphorous in the White River. One of the things they presented was exploring a riparian zone ordinance.

Alderman Ferrell: That really came about before the change of the Mayor's.

Alderman Lewis: Yes, the citizen involvement came later.

Alderman Ferrell: I've heard three different terms of what we meant to achieve. The purpose of the agreement with Beaver Water District is to achieve a net reduction of the load of total phosphorous in Beaver Lake. Then I heard nitrogen and nutrient reduction. Which prompted the agreement with Beaver Water District?

David Jurgens: The specific focus was the phosphorous limit within the MPDS Permit. We also have a nitrogen limit within the permit but that was not the specific point of the agreement.

Alderman Ferrell: I talked to Beaver Water District and they said they welcomed this ordinance and they liked it. The day after that we got an email from Colleen Gaston that said this was not a Beaver Water District ordinance. Karen, during the last meeting did you say nitrogen is one of the biggest things they were looking at as far as the reduction going into Beaver Lake Watershed?

Karen Minkel: I don't remember if I talked about nitrogen, I might have if I was talking about the nitrogen reduction plan. It says in the staff report that it was initiated because we were looking at phosphorous specifically but when we were looking at studies a lot of the studies look at all nutrients.

Alderman Ferrell: To me it looked like it changed with the pressure.

Joe Maynard: Does anyone know when the first public notice of the streamside ordinance was out there.

Karen Minkel: In March, 2010 there were two public education and outreach sessions that were held by the City.

Joe Maynard: Thank you. One the concerns that I have with this and other ordinances of this nature is what stops a future city engineer, city attorney or mayor from trying to selectively enforce this? Is there a possibility in any of your minds that this will not be effective in any measurable way?

Alderman Lewis: The Environmental Action Committee spent months researching into existing scientific literature and city codes to base the language on studies that have shown that this has an effect.

Joe Maynard: Aside from the fact that I agree the people worked hard and I suspect that they were leaning more towards the green environment way of thinking, is there a possibility in your minds that it will not be a measurable result anytime in the future. If there is a possibility that there would be no measurable results then let's make this for four years and then it goes away unless it's renewed or renews every year until data supports it. Did I hear at the last meeting Mr. Morgan say Beaver Lake is the best it has ever been?

Dr. Robert Morgan, Beaver Water District: I did not say Beaver Lake was in the best condition it ever was. We have data on Beaver Lake that is collected by the USGS monthly and we can do statistical analysis. The biggest driver of any water quality perimeter in Beaver is the rain fall and our rain fall varies. I can not say that Beaver Lake is getting better continually. I don't think anybody can say that and back it. We have a very good lake that is why we need to be serious about implementing preservation practices now. He spoke on different analysis they have conducted.

Alderman Ferrell: Would you say it was a natural phenomenon or currents in the upper end of the lake where the river spreads out to form the lake that it drops its load and you have more sediment there?

Dr. Robert Morgan: When sediment enters the lake it comes in with some velocity and some turbulence. It enters the lake and the lake spreads out and slows down so sediment starts dropping out. That's where the lake starts getting clearer. That is when the nutrients have more opportunity to behave or act right where the water starts clearing up because you have sunshine. Then you get higher algae at that point and on down the lake after the algae have used up the nitrogen and phosphorus you get really clear water.

Alderman Ferrell: If you ran everything through a strainer where it enters the lake you are still going to get your cleanest water in mid lake.

Dr. Robert Morgan: No sir, you are going to get your cleanest water at the damn.

Alderman Ferrell: Where it's the deepest.

Dr. Robert Morgan: Where it's the deepest and had the longest time to settle.

Alderman Petty: I am more concerned with the rate at which the level of phosphorus is changing than I am with the actual level at this time. Would you tell us that the rate is such that the level is dropping fast enough that we can avoid additional cost for water treatment or is it not dropping so fast and we need to take action?

Dr. Robert Morgan: The thing on Beaver is we want to avoid degradation. If we can hold where we are now we will not have additional treatment because of degrading water supply. We might have additional treatment because of new regulations.

Alderman Petty: If the population increases substantially and everything else being equal, we will not be able to hold the lake where it is now.

Dr. Robert Morgan: If the population increases substantially in the water shed without management practices in place you will see higher nutrient levels and reduced water quality.

Joe Maynard: Has there been a study since 2010 that you're considering?

Karen Minkel: I don't know that we have looked at any studies that came out in 2011 because the bulk of this ordinance was developed in 2010. We looked at all the available literature at that time up to when the ordinance was drafted.

Joe Maynard: Is there data from Beaver Lake's water quality from 2009 or 2010 incorporated?

Colleen Gaston, Beaver Water District, referred to a graph which addressed the turbidity levels. There is increasing frequency and intensity of the episodes that we see of really dirty water. That data goes up through January 2011. There is increased pollution in the lake that is causing some issues. We are going to be facing more stringent regulations in 2012.

Alderman Kinion: Based on the evidence as a scientist, you as a legal representative, we can't expect that if we initiate this type of activity that we would be protecting our water.

Colleen Gaston: Yes. We do say the water quality is good in the lake but we need to maintain it. As the area continues to grow without measures being put into place its not going to be maintained at its current good level.

Alderman Kinion: Thank you. The bottom line is as professionals you see that this is important.

Joe Maynard: The numbers are subject to questioning. I wish one of you would have the open mindedness to have seconded Mr. Ferrell's motion. How can you presume to micro manage a complex ego system with a lack of understanding of the numbers if you struggle with a yes or no on the amendments.

Alderman Lewis: Keep in mind the language of the ordinance is to reduce nutrients in the two major basins in Fayetteville, the Illinois and the White River Watershed.

Richard Tiffany, resides on Willow Street: In the City of Fayetteville people are allowed to have a few chickens. Are four hens allowed in the riparian zone?

Karen Minkel: I don't know that we have discussed that completely but my understanding is that they would be allowed.

Richard Tiffany: I don't currently have any hens but my son would like to have some.

Karen Minkel: We will clarify that as well within our Best Management Practices Manual.

Richard Tiffany: I want to verify that I have two years on a vacant lot to put up a garage before the ordinance takes affect.

Karen Minkel: That is correct. It is 24 months.

Richard Tiffany: Has the phosphate level in Beaver Lake been measured since the state wide band to know that when we put the ordinance into affect that that isn't why we have fewer phosphates instead of contributing it all to the ordinance.

Karen Minkel: It was the banning of phosphates in dish detergent. As to whether phosphate levels have been measured since that ban I'm not sure. It was enacted in July 2010.

David Jurgens: The State of Arkansas passed a law in 1994 banning phosphates from detergents. Any detergent phosphate that we would measure would go through the wastewater treatment plant and be treated and would become part of effluent. That would be a direct wastewater treatment impact on the lake rather than a non-point source.

Richard Tiffany voiced his concerns with the water coming down the street on Spring and Willow and going on his property and into the creeks. If 90 percent of the water is coming from the streets then putting the burden of trying to clean up this water from the property owners that live along the creek is not going to address the problem.

Alderman Lewis: Chris, can you describe the drainage criteria manual updates.

Chris Brown, stated there are BMP's in the manual that talk about storm drainage that comes to the creek. He discussed recent ordinance changes so there wouldn't be direct discharge into streams.

Helen Garst: While property may be regulated to a certain extent if regulation goes to far it will be recognized as a taking. She urged the Council to vote against the ordinance.

Charles Taunton: The fifty foot zone takes up one third of my lot. I believe if this ordinance is passed it will arbitrarily, unnecessarily, and severely restrict my use and enjoyment of the little bit of Fayetteville I own. I oppose this ordinance.

Alan Long, resident of 2075 West Archer: The stream actually surrounds my property on both sides. Before I step out of my back door I can be into not just the 55 foot area but the 25 foot area. This really restricts my property. I would like to see a provision in the ordinance, for property owners that are heavily impacted, that variances can be achieved. I was told I was not eligible for a variance because I wasn't receiving an undo economic hardship. I would like to ask for clarification on that.

Karen Minkel: Anyone can apply for a variance. I believe what we said is that it wasn't as black and white as a property that was made totally non-developable by the buffer area.

Alan Long: The barrier zone takes about 90% of the property. My plan was to put in a pool not that it is all about the pool, it's about property rights. For a property owner that hasn't developed their property they would have 24 months to acquire a building permit? In my situation I believe it would only be 18 months?

Karen Minkel: Right, the sunset items apply to undeveloped lots. In this case the lot is developed so it does not apply to this lot.

Alan Long: I would like the Council to consider extending the period. I think this does affect my property value. He spoke the against the ordinance.

Alderman Lewis: Places like that are sensitive areas. They have more of an impact on our water resources than other places. This code will allow guidance for staff to consider that these are more sensitive areas than other areas. All the same uses can continue. There are studies that

show that people are willing to pay more for a property with a riparian buffer. What I am finding in the literature counters this idea that this would decrease property values.

Leif Kindberg, resident of Ward 1: This ordinance is a strong step in the right direction to reducing stream runoff by slowing the water that enters the stream channel. It needs to be carried even further to some degree with greater protections for downstream property owners. He spoke in favor of the ordinance.

Alderman Ferrell: When you purchased your property did you know it was prone to flooding?

Leif Kindberg: I did not.

Alderman Ferrell: You purchased property adjacent to a stream and you never thought about the possibility of flooding?

Leif Kindberg: It was certified as not being in a flood zone, in the 100 year flood plan. That changed in 2008.

Alderman Ferrell: I spoke to a citizen that stated it's going to take along time for this ordinance to have a significant affect. She said we should put more resources into taking care of acute problems than long term, what do you do there?

Leif Kindberg: I don't think this ordinance is to address acute problems, it's to address issues. In my case I hope all the property owners along the stream would allow some of the vegetation to grow up and slow the water upstream. This is particularly relevant to state institutions and businesses up stream that are not prepared to take action in their own self interest. They are focused on business interest. I can respect that but something has to protect my residence down stream. This ordinance is the right step.

Alderman Thiel: How many years have you lived there?

Leif Kindberg: I bought the residence in July 2009.

Alderman Thiel: I was going to refer back to a development that was upstream from you that makes me support this ordinance.

Alderman Kinion: Being familiar with where you live, the velocity of the runoff is probably coming from development, would you agree?

Leif Kindberg: No, I don't agree. I'm certain many things compound it.

Melissa Terry, resident of Ward 2: I feel it is important to clarify in the context of property rights especially the people who live around Beaver Lake, it's not a lake it's a reservoir. There was a White River that property owners lived and farmed on. They give that up so we could have Beaver Lake. Originally it was about flood control and power of generation. Our eco system services that we are building in this ordinance go to protect the water quality of our reservoir.

David Orr, resident of 1564 West Cedar Street thanked the City Council, Staff, Environmental Action Committee, and all who have been involved and instrumental in bringing the ordinance to the point where we are at tonight. He spoke in favor of the ordinance. He stated a threat is failure to act and I implore you to take action.

Aubrey Shepherd, Fayetteville Resident thanked the Council for being so patient. He stated he was grateful to have Leif in his neighborhood. He is a great spokesman. He also stated he hoped all of you can agree to vote for the ordinance and know they were doing the right thing.

Hayes Hudson, resident of Crystal Springs and HOA President spoke in opposition of the ordinance. Just because we are against the ordinance does not mean we are against clean water. There needs to be more grandfathering for the homes that are set in place now.

Alderman Petty: We all agree that water quality is important to us and we need to have a plan for handling the nutrients entering our water supply. We disagree on what the plan should look like, how comprehensive it should be, and what components should be part of it. I think the idea that education alone will be enough to protect our water supply or to handle any other problem the City faces is unrealistic. Education is an important part but it can't handle these problems alone. I think the science is clear that this ordinance is going to help protect our water supply in the future. This ordinance will not be enough it is only a part of our nutrient reduction plan. This ordinance is important and forms an important part of a comprehensive strategy and I'm proud to vote yes for it.

Alderman Ferrell: Water quality is important to all of us. There has been around 3 million dollars that has been spent between 2005 and 2011 on things dealing directly and indirectly with the Illinois Watershed but for the most part White River Watershed. I was told that Beaver Water District wants us to do this. He read an email regarding trails along the riparian zone. He also voiced his concern about the variance process. I want clean water but I won't support this ordinance.

Alderman Lewis talked about the history and conservation around the trails in the riparian zone. She stated the City has to follow these codes too. She also asked staff what's the percent of the current and the future trails?

Don Marr: Slightly less than 10% of the existing trail system is in the first 25 feet, it's about 9.6%. The future trails corridor has about 22% of the anticipated trail usage along a stream corridor not necessarily within the 25 foot corridor yet. He also talked about variances that may have to be requested by the City just like a resident may have to.

Alderman Lewis: It's my understanding with this ordinance there is a Best Management Practices Manual that can be used that wasn't there before.

Don Marr: That is correct.

Alderman Lewis: That is a huge part of the tool.

Don Marr: That is correct. To the prior administrations credit one of the biggest costs of trail construction they looked at is land acquisition, so as they looked at acquiring land often it was

donations in areas that allowed trails to be built. In an effort to get the plan in place those areas were taken. There may be times that we are going to have a variance request but where we can move it back particularly in this future 22%. We are looking at that already.

Alderman Ferrell referred to picture of an impervious sidewalk in Wilson Park that was in the newspaper and stated we need to be consistent.

Alderman Gray: There have been many excellent points tonight. I hope that we remember variances can happen and don't assume they are not going to be granted. I support this ordinance.

Alderman Thiel: Water quality and stream bank erosion is a very important aspect of this ordinance. The new building set back is a good thing. I think it will help in some situations. I feel the variance process is going to work and I will support the ordinance.

Alderman Tennant: There is a lot of good and a lot of bad about this ordinance. I would not support this if it was for the grandfathering wording that I have read. I would not support it if it wasn't for the variance process that we have in place. I have confidence in city staff to look at things fairly and objectively. I hope other communities will enact some version of this ordinance but it is my belief that none of them will do that unless Fayetteville does it first. I will support it.

Alderman Kinion: Looking at the problems we are dealing with because we didn't handle issues in the past and hopefully preventing these issues in the future after a great deal of deliberate thought I will be supporting this.

Alderman Rhonda: The Ward four constituents that I have visited with that are in favor of this out number those not in favor. I believe this is a planning tool that protects our most precious resource and looks to the future. I'm going to vote to support this and I'm proud to be a part of this Council at this time.

Alderman Lewis: In the budgeting process I asked the staff to create line items that delineated the amount of spending that the City spends on drainage. That includes \$1.1 million in stream restoration. The reason we have to spend \$1.1 million on stream restoration is because we have created lots on impervious surfaces. Down stream people are being affected. I would rather have trees and vegetation as my option for managing the water on my property than to have the City cement and hardscape to fix the banks because of erosion. This is one tool to help us move towards being better stewards of the land. I support the ordinance.

Mayor Jordan thanked the staff for developing the ordinance. He thanked the citizens who participated in the debate and the City Council. I believe this Council is strong enough and fair enough that if there are any mistakes they will bring it back, look at it, and change it. I respect their decision. If I was an alderman on this council today I would support this. If the vote was tied today I would vote in favor of it.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Ferrell voting no.

Ordinance 5390 as Recorded in the office of the City Clerk

New Business: None

Announcements:

Meeting adjourned at 11:40 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Amend 174.03 Exemptions
Handed out at the City Council Meeting 3/15/11



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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda City of Fayetteville Arkansas City Council Meeting March 15, 2011

A meeting of the Fayetteville City Council will be held on March 15, 2011 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 March 1, 2011 City Council meeting minutes.
2. **Bid #11-16 Downing Sales and Service:** A resolution awarding Bid #11-16 and authorizing a contract with Downing Sales and Service in the amount of \$166,308.00 for the purchase of one (1) refuse roll off truck for use by the Solid Waste Division, and approving a budget adjustment.

3. **Bid #11-18 Sweetser Construction, Inc.:** A resolution awarding Bid #11-18 and authorizing a contract with Sweetser Construction, Inc. in the amount of \$1,057,331.00 for the construction of water main interconnections and the Stone Mountain Pump Station for the Canterbury Road Water Tank, approving a project contingency of \$53,000.00, and approving a budget adjustment.
4. **Insituform Technologies, Inc.:** A resolution approving a contract extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.
5. **Bid #11-20 North Point Ford:** A resolution awarding Bid #11-20 and authorizing a contract with North Point Ford in the amount of \$90,020.00 for the purchase of two (2) Ford F-250 heavy duty pickup trucks for use by the fire department, and approving a budget adjustment.
6. **Lake Sequoyah Lease Agreement to William Keith Shofner, Jr.:** A resolution approving a lease contract with William Keith Shofner, Jr. on 82.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.
7. **Lake Sequoyah Lease Agreement to Jeff Price:** A resolution approving a lease contract with Jeff Price on 54.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

B. Unfinished Business:

1. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr. *This item was tabled at the February 3, 2011 City Council meeting to the February 15, 2011 City Council meeting. This item was tabled at the February 15, 2011 City Council meeting to the March 15, 2011 City Council meeting.*

C. New Business:

1. **CH2M Hill Engineers, Inc.:** A resolution approving an out of scope agreement with CH2M Hill Engineers, Inc. in the amount of \$265,000.00 for development of a Use Attainability Analysis (UAA) on the White River, approving a \$50,000.00 contingency, and approving a budget adjustment.
2. **Arkansas Western Gas Company:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Arkansas Western Gas Company in the minimum amount of \$715,560.00 for the provision of natural gas service and the construction of necessary piping and infrastructure extensions for biosolids drying operations at the Noland Wastewater Treatment Facility.
3. **Amend Resolution No. 05-07:** A resolution amending Resolution No. 05-07 to reduce the payment guarantee required of Meadows Enterprises, Inc. for the Dead Horse Mountain Road Bridge from \$36,668.92 to \$7,703.00.

4. **Amend §114.03 First Thursday Fayetteville:** An ordinance amending subsection (B) of §114.03 First Thursday Fayetteville of Chapter 114: Food Sales of the Code of Fayetteville to add additional locations for the event.
5. **Amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes:** An ordinance to amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes (B) Route Approval and (F) of the Fayetteville Code to allow use of pedicabs on streets with a posted speed limit of thirty-five (35) miles per hour or higher if authorized by the Transportation Services Director and (D) to allow pedicabs to operate on Scull Creek Trail, Mud Creek Trail and Frisco Trail.
6. **Amend §174.03 Exemptions:** An ordinance to amend §174.03 Exemptions of Chapter 174 Signs of the Fayetteville Code to allow advertising on pedicabs.
7. **Amend §117.47 Advertising:** An ordinance to amend §117.47 Advertising of the Fayetteville Code to remove authorization to place advertising signs on taxicabs.

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
 Bid #11-16 Downing
 Sales and Service
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

3/15/2011

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #11-16 to Downing Sales and Service in the amount of \$166,308 for the purchase of one refuse roll off truck for use by Solid Waste division, and approval of a budget adjustment to move funds into the Fleet Expense account.

\$ 166,308.00

Cost of this request

\$ 1,537,000.00

Category / Project Budget

Solid Waste Vehicles & Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ -

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02082.2011

Project Number

\$ 1,537,000.00

Remaining Balance

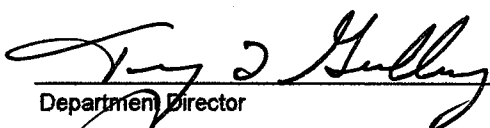
Shop Fund

Fund Name

Budgeted Item

☒

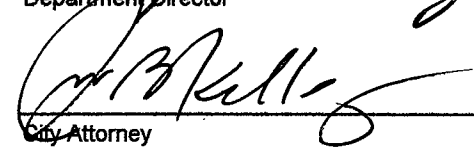
Budget Adjustment Attached

☒

 Department Director

Date

2-24-11

Previous Ordinance or Resolution #

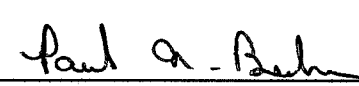

 City Attorney

Date

2-28-11

Original Contract Date:

Original Contract Number:

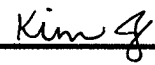

 Finance and Internal Services Director

Date

2-28-2011

 Received in City
 Clerk's Office

02-25-11P01:55 RCVD

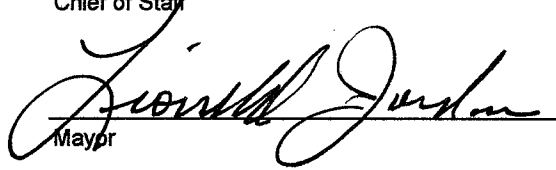


 Chief of Staff

Date

3-1-11

 Received in
 Mayor's Office



 Mayor

Date

3/1/11

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation

From: Dennis Pratt, Fleet Operations Supt.

Date: February 24, 2011

Subject: Purchase of one Refuse Roll Off Truck

PROPOSAL: That City Council approve the purchase of one Peterbilt 320 truck with Roll Off body in the amount of \$166,308 for use by Solid Waste Division, and approve a budget adjustment to move funds to the Fleet Expense account.

RECOMMENDATION: Bid 11-16 was opened Jan 28, 2011. Twenty bids were received, most of which do not meet specs. A bid tab sheet is attached. Bids 4 – 6 and 13 – 20 do not meet specs as they do not have disc brakes. Bid 7 from MHC Kenworth does not meet specs as it is not a cab over. Bids 2, 8, 9, and 12 – the G & H body does not meet specs. Bid 1 – no towing as specified; Bid 11 – body doesn't meet specs.

Bids 3 and 10 meet all specifications. I recommend acceptance of the lowest bid that meets specs from Downing Sales and Service, Option 3 in the amount of \$166,308.

This unit is a replacement for #459 – a 2000 Mack Refuse Roll Off truck with 186,475 miles which was slated for replacement in 2011 due to age and poor condition.

This purchase was unanimously approved by the Equipment Committee on February 22, 2011.

BUDGET IMPACT: This replacement was budgeted for on both capital and operating sides. The purchase price was underestimated on the capital side so funds are being moved from fund balance to cover the \$6,500 shortfall.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-16 AND AUTHORIZING A CONTRACT WITH DOWNING SALES AND SERVICE IN THE AMOUNT OF \$166,308.00 FOR THE PURCHASE OF ONE (1) REFUSE ROLL OFF TRUCK FOR USE BY THE SOLID WASTE DIVISION, 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 awards Bid #11-16 and authorizes a contract with Downing Sales and Service in the amount of \$166,308.00 for the purchase of one (1) refuse roll off truck for use by the Solid Waste Division.

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 "A".

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 2
Bid #11-16 Downing
Sales and Service
Page 4 of 6

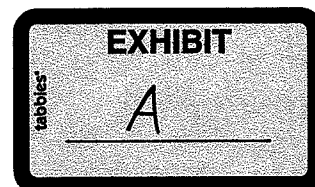
Budget Year 2011	Department: Transportation Services Division: Fleet Operations Program: Capital Expense	Request Date 3/15/2011	Adjustment Number
--------------------------------	--	--------------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

Unit #459 was budgeted to be replaced in 2011. The estimated purchase price was \$160,000. The actual bid came in at \$166,308. \$6,500 is requested in project 02082.2011 to cover the difference between estimated price and actual price.

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

It is too early in the year for Fleet to know if prices were overestimated in other projects which would leave excess funds. Sufficient funds are available to meet City objectives.



Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Vehicles And Equipment	9700.1920.5802.00	6,500		02082 . 2011
Use of Fund Balance	9700.0970.4999.99		6,500	.
				.
				.
				.
				.
TOTAL		6,500	6,500	

Division Head	Date
	2-28-2011
Budget Director	Date
Department Director	Date
	2-28-2011
Finance Director	Date
	3-1-11
Chief of Staff	Date
	3/1/11
Mayor	Date

Requested By Barbara Olsen
bolsen

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 _____



BID: 11-16
DATE: 01/28/11
TIME: 2:00 PM
CITY OF FAYETTEVILLE

A. 2
Bid #11-16 Downing
Sales and Service
Page 1 of 1
Page 5 of 6

Bid 11-16, Refuse Roll Off Truck

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Downing Sales & Service - OPT 1			
Item 1	2012 Peterbilt	320	\$127,193.00
Item 2	Roll Offs USA	H06022 60,000#	\$39,221.00
			<u>\$166,414.00</u>
2 Downing Sales & Service - OPT 2			
Item 1	2012 Peterbilt	320	\$127,193.00
Item 2	G&H Manufacturing	GH 1500 - 60,000#	\$39,471.00
			<u>\$166,664.00</u>
3 Downing Sales & Service - OPT 3			
Item 1	2012 Peterbilt	320	\$127,087.00
Item 2	Roll Offs USA	H06022 60,000#	\$39,221.00
			<u>\$166,308.00</u>
4 Mack Truck Sales of Tulsa - OPT 1			
Item 1	Mack Trucks, Inc.	2012 MRU613	\$124,969.08
Item 2	Roll-Off "USA"	H06022	\$38,100.00
			<u>\$163,069.08</u>
5 Mack Truck Sales of Tulsa - OPT 2			
Item 1	Mack Trucks, Inc.	2011 Model MRU613	\$129,787.58
Item 2	Roll-Off "USA"	H06022	\$38,100.00
			<u>\$167,887.58</u>
6 Mack Truck Sales of Tulsa - OPT 3			
Item 1	Mack Trucks, Inc.	2011 MRU613	\$124,212.58
Item 2	Roll-Offs "USA"	H06022	\$38,100.00
			<u>\$162,312.58</u>
7 MHC Kenworth/Volvo			
Item 1	Kenworth 2011	T800	\$112,934.00
Item 2	Galbreath	SS-OR-174 Outside Rail 60,000LB	\$38,701.75
			<u>\$151,635.75</u>
8 Peterbilt of Fort Smith - OPT 1			
Item 1	Peterbilt	320	\$127,087.00
Item 2	GH	GH 1560	\$46,577.00
			<u>\$173,664.00</u>
9 Peterbilt of Fort Smith - OPT 2			
Item 1	Peterbilt	320	\$127,087.00
Item 2	G&H Mfg	1500	\$38,987.00
			<u>\$166,074.00</u>
10 Peterbilt of Fort Smith - OPT 3			
Item 1	Peterbilt	320	\$127,087.00
Item 2	Palfinger/American	XS60-22-XS	\$44,800.00
			<u>\$171,887.00</u>

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)
All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:
Date: 3/15/2011
A. 2
Bid #11-16 Downing
P.O Number:
Expected Delivery Date: Sales and Service
Page 6 of 6

Vendor #: 3842	Vendor Name: DOWNING SALES AND SERVICE	Mail Yes:___ No: <u>x</u>
Address:	Fob Point:	Taxable Yes:___ No: <u>X</u>
City:	State:	Zip Code: Ship to code: 50
Requester: BARBARA OLSEN		Requester's Employee #: 1940
		Extension: 485
		Division Head Approval: <i>Dem E. [Signature]</i>
		Quotes Attached Yes:___ No:___

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2012 PETERBILT 320 TRUCK WITH ROLL OFFS	1	EA	166,308.00	\$166,308.00	9700.1920.5802.00	02082.2011		704007
2	USA BODY, H06022, PER BID SPECS 11-16. TO				\$0.00				
3	BE UNIT 4007, FIXED ASSET 704007				\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$166,308.00

Total: \$166,308.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City of Fayetteville Staff Review Form

A. 3
 Bid #11-18 Sweetser Construction, Inc.
 Page 1 of 28

City Council Agenda Items
 and
 Contracts, Leases or Agreements

3/15/2011

City Council Meeting Date
 Agenda Items Only

David Jurgens

Submitted By

Utilities Capital Projects

Division

Utilities

Department

Action Required:

Approval of a construction contract with Sweetser Construction, Inc. for \$1,057,331.00, Bid 11-18, with a 5% contingency of \$53,000 to construct Water Main Interconnections & Stone Mountain Pump Station for Canterbury Road Water Tank, and a budget amendment.

\$ 1,110,331
 Cost of this request

\$ 529,255
 Category / Project Budget

Mt Sequoyah Pressure Plane Imprvm
 Program Category / Project Name

5400.5600.5315.00
 Account Number

\$ 488,127
 Funds Used to Date

Water Impact Fee Improvements
 Program / Project Category Name

04036.1
 Project Number

\$ 41,128
 Remaining Balance

Water Impact Fees
 Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☒ XX

[Signature]
 Department Director

25 Feb 11
 Date

Previous Ordinance or Resolution # _____

[Signature]
 City Attorney

3-1-11
 Date

Original Contract Date: _____

Original Contract Number: _____

Paula Behn
 Finance and Internal Services Director

3-2-2011
 Date

Received in City Clerk's Office 02-25-11A11:49 RCVD
King

[Signature]
 Chief of Staff

3-2-11
 Date

Received in Mayor's Office
 ENTERED 3/1/11
[Signature]

[Signature]
 Mayor

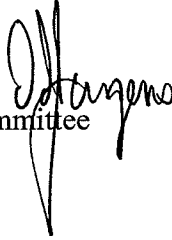
3/2/11
 Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee



Date: February 23, 2011

Subject: Construction contract with Sweetser Construction, Inc. for \$1,057,331.00 with a 5% contingency of \$53,000 to construct Water Main Interconnections & Stone Mountain Pump Station for Canterbury Road Water Tank, and a budget amendment of \$1,110,331

RECOMMENDATION

City Administration recommends approval of a construction contract Sweetser Construction, Inc. for \$1,057,331.00, Bid 11-18, with a 5% contingency of \$53,000 to construct Water Main Interconnections & Stone Mountain Pump Station for Canterbury Road Water Tank, and a budget amendment of \$1,110,331

BACKGROUND

A 500,000 gallon elevated water storage tank is under construction on Canterbury Road. The tank is being built to meet fire flow requirements, provide adequate flows during high demand periods, and meet industry standards and Health Department minimum storage requirements. Staff met with area residents regarding paint color, fencing style, site layout, and landscaping in October, 2009. Their requests were incorporated into the final design. The second phase of the project is for water main interconnections a new water pump station in the Stone Mountain subdivision off of Highway 265 to provide the required pumping capacity for the additional storage volume.

DISCUSSION

The Contract is to construct a 1,200 gpm water pump station, approximately 413 feet of 18-inch PVC water main, 3,273 feet of 12-inch ductile iron water main, 2,000 feet of 8-inch PVC water main, and related facilities to support the Canterbury 500,000 gallon elevated water storage tank.

The City opened six bids on February 16, 2011. Construction will begin this spring and will be completed this fall.

Sweetser Construction	\$1,057,331.00
C-2 Projects	\$1,168,371.35
Dean Crowder Construction	\$1,259,924.00
Redford Construction	\$1,274,163.00
Goodwin & Goodwin	\$1,435,143.00
Seven Valley's Concrete	Not Licensed
Engineer's Estimate	\$1,225,285.00

The bid was reviewed by McClelland Engineers; their letter recommending award is attached. Sweetser Construction, Inc. has completed multiple projects to the satisfaction of the City of Fayetteville.

BUDGET IMPACT

Funds are available in the water impact fees budget. The budget amendment for \$1,110,331 is attached to transfer funds from the impact fee fund to the water/sewer fund.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-18 AND AUTHORIZING A CONTRACT WITH SWEETSER CONSTRUCTION, INC. IN THE AMOUNT OF \$1,057,331.00 FOR THE CONSTRUCTION OF WATER MAIN INTERCONNECTIONS AND THE STONE MOUNTAIN PUMP STATION FOR THE CANTERBURY ROAD WATER TANK, APPROVING A PROJECT CONTINGENCY OF \$53,000.00, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #11-18 and authorizes a contract with Sweetser Construction, Inc. in the amount of \$1,057,331.00, plus a \$53,000.00 project contingency, for the construction of water main interconnections and the Stone Mountain pump station for the Canterbury Road Water Tank. 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".

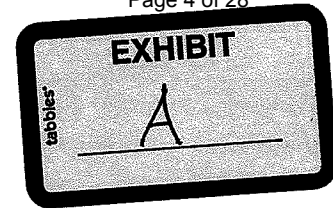
PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of March, 2011 by and between Sweetser Construction, Inc., Fayetteville, Arkansas, herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Water Main Interconnections and Stone Mountain Pump Station for Canterbury Road Water Tank, dated November 2010.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond
Payment Bond

Maintenance Bond
General Conditions
Supplemental Conditions
Specifications
Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover Sheet
2	Index, Legend and Water Main Location Map
3	Water Main Interconnections, Ridgely Dr / Manor Dr and Lovers Lane, Sta. 0+00 to Sta. 4+00, Plan and Profile
4	Water Main Interconnections, Lovers Lane, Sta. 4+00 to Sta. 9+58, Plan and Profile
5	Water Main Interconnections, Canterbury Road, Sta. 0+00 to Sta. 5+60, Plan and Profile
6	Water Main Interconnections, Canterbury Road, Sta. 5+60 to Sta. 11+60, Plan and Profile
7	Water Main Interconnections, Canterbury Road, Sta. 11+60 to Sta. 17+26.91, Plan and Profile
8	Stone Mountain Pump Station Location Map
9	Stone Mountain Pump Station Site Plan
10	Stone Mountain Pump Station, Pump Station Layout
11	Stone Mountain Pump Station, Pump Station Details
12	Stone Mountain Pump Station, Fence and Bollard Details
13	Water Main Details

14	Water Main Details
15	Water Main Details
16	Water Main Details, Combination Air Valve Details
17	Ridgely Drive / Manor Drive and Lovers Lane, Sta. 0+00 to Sta. 9+58, Erosion Control Plan
18	Canterbury Road, Sta. 0+00 to Sta. 11+60, Erosion Control Plan
19	Canterbury Road, Sta. 11+60 to Sta. 17+26.91, Erosion Control Plan
20	Erosion Control Details
21	Hyland Park Waterline Extension, Erosion Control Plan
E-1	Stone Mountain Pump Station, Electrical Site Plan and Building Layout

JORGENSEN & ASSOCIATES PLANS
 HYLAND PARK WATERLINE EXTENSION
 CLIFFSIDE DRIVE TO CANTERBURY ROAD

SHEET NO.	SHEET DESCRIPTION
1	Cover Sheet, Location Map, Vicinity Map, Index
1-5	Water Plan & Profile, Sta. 0+00 to Sta. 29+12
6	Water Details, Not Used

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of:

One Million, Fifty-Seven Thousand, Three Hundred, Thirty-One Dollars (\$1,057,331.00)

3. The Work will be completed and ready for final payment in accordance with the General Conditions within **150** calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.
4. Liquidated Damages: The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **Seven Hundred Dollars (\$700.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.

6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. § 25-19-101 et. Seq.). Only Legally authorized photocopying cost pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

Sweetser Construction, Inc.
CONTRACTOR

WITNESSES:

Secretary

By _____
President

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

City Clerk

By _____
Mayor

A. 3 V11.0222
Bid #11-18 Sweetser Construction, Inc.
Page 8 of 28

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
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To recognize impact fee funds to construct a 1,200 gpm water pump station, approximately 413 feet of 18-inch PVC water main, 3,273 feet of 12-inch ductile iron water main, 2,000 feet of 8-inch PVC water main, and for water meter connections, fire hydrants, valves, fittings, street repairs and related facilities to support the Canterbury 500,000 gallon elevated water storage tank.

TOTAL BUDGET ADJUSTMENT

EXHIBIT

B

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date:
P.O Number:	2/23/2011 3 Expected Delivery Date: Bid #11-18-Sweetser Construction, Inc. ASAP Page 9 of 28
Mail Yes: No: ☒	
Taxable Yes: No: ☒	Quotes Attached Yes: No: ☒
Division Head Approval:	
Extension: 330	

Vendor #:	Vendor Name:
56870	Sweetser Construction, Inc.
Address:	Fob Point: 1400 N 113 W Mountain Fayetteville, AR 72701
590 West Poplar	
City:	State:
Fayetteville	AR
Requester:	Zip Code: 72703
David Jurgens	Ship to code:
	Requester's Employee #: 490

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Water Main Interconnections and Stone Moutain Pump Station, Bid 11-18	1	ea	1,057,331.00	\$1,057,331.00	5400.5700.5315.00	04036.1		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

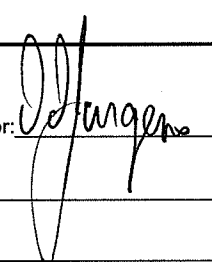
Special Instructions:

Bid 11-18, tax included in bid

Subtotal: \$1,057,331.00
Tax: ~~\$97,805.12~~
Total: \$1,155,134.12 1,057,331

Approvals:

Mayor: _____

Department Director: 

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

February 18, 2011

Mr. Shannon Jones, PE
Water & Wastewater Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Bid Opening
Water Main Interconnections and Stone Mt. Pump Station

Dear Mr. Jones:

Bids were opened on the referenced project at 2:00 PM, Wednesday, February 16, 2011 at Fayetteville City Hall. Six bids were received. Five of the six bidders are properly licensed. Seven Valleys Concrete LLC is licensed for concrete work only. I talked to Mr. Larry Loyd at the Arkansas Contractor's Licensing Board. He advised me that if Seven Valley's had bid under "Seven Valley's Construction Company", they have the appropriate license number for underground utility work and that their bid would have been acceptable. However, Seven Valley's Concrete LLC is not licensed for utility work and cannot submit a bid under the concrete license number for underground utility work. I will advise Seven Valley of this.

The bids have been checked and tabulated, and a Bid Tabulation is attached.

The low bid was from Sweetser Construction Company in the amount of \$1,057,331.00. This is somewhat lower than our Engineer's Estimate of \$1,225,285, as submitted on December 1, 2010. Sweetser has successfully completed multiple projects for our Firm and for your city over the last several years. Consequently, we recommend that the Contract be awarded to Sweetser Construction Company in the amount of \$1,057,331.00.

Please let us know if we can send Sweetser a Notice of Award, and get them started on the pump station submittals.

Very Truly Yours,



Robert W. White, PE
Project Engineer

Encl: Bid Tabulation

BID TABULATION
City of Fayetteville
Canterbury Road Water Mains
Fayetteville, Arkansas
MCE Project #FY042150
February 16, 2011

A. 3
 Bid #11-18 Sweetser Construction, Inc.
 Page 11 of 28

BID SCHEDULE
Description

Item #	Description	Qty.	Units	Sweetser Construction		C-2 Projects		Dean Crowder		Redford Construction		Goodwin & Goodwin	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
1	Act 291, 1993 Trench & Excavation Safety System	1	LS	\$2,500.00	\$2,500.00	\$84,300.00	\$84,300.00	\$33,915.00	\$33,915.00	\$2,500.00	\$2,500.00	\$185,000.00	\$185,000.00
2	18-Inch PVC, C-905, DR-18 Water Main	413	LF	\$48.00	\$19,824.00	\$62.60	\$25,853.80	\$83.06	\$34,303.78	\$75.00	\$30,975.00	\$56.00	\$23,128.00
3	12-Inch Restrained Joint DIP, Class 350 with Double Polywrap	78	LF	\$95.00	\$7,410.00	\$66.20	\$5,163.60	\$69.27	\$5,403.06	\$70.00	\$5,460.00	\$54.00	\$4,212.00
4	12-Inch Ductile Iron Pipe, Class 350 with Double Polywrap	3,276	LF	\$45.00	\$147,420.00	\$53.40	\$174,938.40	\$62.71	\$205,437.96	\$68.00	\$222,768.00	\$46.00	\$150,696.00
5	8-Inch Ductile Iron Pipe, Class 350 with Double Polywrap	30	LF	\$27.50	\$825.00	\$42.95	\$1,288.50	\$41.22	\$1,236.60	\$65.00	\$1,950.00	\$36.00	\$1,080.00
6	8-Inch PVC, C-900, DR-14 Water Main	1,997	LF	\$24.00	\$47,928.00	\$34.15	\$68,197.55	\$45.19	\$90,244.43	\$60.00	\$119,820.00	\$26.00	\$51,922.00
7	6-Inch Ductile Iron, Class 350 Fire Hydrant Stubs with Double Polywrap	40	LF	\$27.00	\$1,080.00	\$28.60	\$1,144.00	\$38.65	\$1,546.00	\$50.00	\$2,000.00	\$20.00	\$800.00
8	2-Inch Polyethylene Service Tubing	15	LF	\$22.00	\$330.00	\$11.20	\$168.00	\$16.34	\$245.10	\$20.00	\$300.00	\$15.00	\$225.00
9	1-Inch Polyethylene Service Tubing	270	LF	\$20.00	\$5,400.00	\$9.20	\$2,484.00	\$10.93	\$2,951.10	\$10.00	\$2,700.00	\$9.00	\$2,430.00
10	18-Inch Class 250B Butterfly Valve with Box	3	EA	\$7,895.00	\$23,685.00	\$5,261.50	\$15,784.50	\$4,689.46	\$14,068.38	\$4,600.00	\$13,800.00	\$5,800.00	\$17,400.00
11	12-Inch Class 250B Butterfly Valve with Box	1	EA	\$3,875.00	\$3,875.00	\$2,760.00	\$2,760.00	\$2,027.87	\$2,027.87	\$2,300.00	\$2,300.00	\$3,000.00	\$3,000.00
12	8-Inch Gate Valve with Box	8	EA	\$1,885.00	\$15,080.00	\$1,500.00	\$12,000.00	\$1,138.54	\$9,108.32	\$1,100.00	\$8,800.00	\$1,600.00	\$12,800.00
13	6-Inch Gate Valve with Box	6	EA	\$1,105.00	\$6,630.00	\$1,037.00	\$6,222.00	\$796.47	\$4,778.82	\$700.00	\$4,200.00	\$1,200.00	\$7,200.00
14	2-Inch Gate Valve with Box	1	EA	\$818.00	\$818.00	\$708.00	\$708.00	\$537.41	\$537.41	\$500.00	\$500.00	\$800.00	\$800.00
15	Three Way Fire Hydrant	5	EA	\$2,966.00	\$14,830.00	\$2,857.00	\$14,285.00	\$1,997.22	\$9,986.10	\$2,800.00	\$14,000.00	\$2,400.00	\$12,000.00
16	Salvage Existing Fire Hydrant	1	EA	\$500.00	\$500.00	\$5,540.00	\$5,540.00	\$105.00	\$105.00	\$500.00	\$500.00	\$500.00	\$500.00
17	12-Inch x 12-Inch Tapping Sleeve, 12-Inch Tapping Valve with Box	1	EA	\$9,750.00	\$9,750.00	\$805.00	\$805.00	\$4,268.59	\$4,268.59	\$6,500.00	\$6,500.00	\$5,300.00	\$5,300.00
18	8-Inch x 8-Inch Tapping Sleeve, 8-Inch Tapping Valve with Box	2	EA	\$3,750.00	\$7,500.00	\$644.00	\$1,288.00	\$2,533.23	\$5,066.46	\$3,200.00	\$6,400.00	\$3,500.00	\$7,000.00
19	6-Inch x 6-Inch Tapping Sleeve, 6-Inch Tapping Valve with Box	1	EA	\$2,932.00	\$2,932.00	\$483.00	\$483.00	\$2,004.06	\$2,004.06	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00
20	Connect to Existing 18" Water Main	1	EA	\$750.00	\$750.00	\$483.00	\$483.00	\$575.61	\$575.61	\$2,000.00	\$2,000.00	\$1,800.00	\$1,800.00
21	Connect to Existing 12" Water Main	1	EA	\$750.00	\$750.00	\$403.00	\$403.00	\$606.11	\$606.11	\$1,500.00	\$1,500.00	\$1,200.00	\$1,200.00
22	Connect to Existing 8" Water Main	1	EA	\$500.00	\$500.00	\$322.00	\$322.00	\$556.88	\$556.88	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
23	Connect to Existing 6" Water Main	2	EA	\$500.00	\$1,000.00	\$322.00	\$644.00	\$540.71	\$1,081.42	\$900.00	\$1,800.00	\$800.00	\$1,600.00
24	Connect to Existing 2 1/4" Water Main	1	EA	\$350.00	\$350.00	\$201.25	\$201.25	\$574.07	\$574.07	\$500.00	\$500.00	\$400.00	\$400.00
25	Abandon Existing Valve	3	EA	\$250.00	\$750.00	\$120.75	\$362.25	\$42.00	\$126.00	\$150.00	\$450.00	\$300.00	\$900.00
26	Epoxy Coated Ductile Iron Fittings	4,400	LB	\$12.00	\$52,800.00	\$1.20	\$5,280.00	\$8.14	\$35,816.00	\$4.50	\$19,800.00	\$9.00	\$39,600.00
27	1-Inch Combination Air Valve Assembly	1	EA	\$1,550.00	\$1,550.00	\$644.00	\$644.00	\$2,166.42	\$2,166.42	\$3,000.00	\$3,000.00	\$2,300.00	\$2,300.00
28	Single Meter Setting, Complete, Including Plumber Connection To Existing Bldg. Service	1	EA	\$380.00	\$380.00	\$160.00	\$160.00	\$595.93	\$595.93	\$1,000.00	\$1,000.00	\$550.00	\$550.00
29	Service Line Connection to Existing Meter Setter	12	EA	\$450.00	\$5,400.00	\$120.75	\$1,449.00	\$85.68	\$1,028.16	\$300.00	\$3,600.00	\$200.00	\$2,400.00
30	18" x 1" Saddle, 1-Inch Corporation Stop and Tap	1	EA	\$450.00	\$450.00	\$322.00	\$322.00	\$301.95	\$301.95	\$500.00	\$500.00	\$500.00	\$500.00
31	12" x 1" Saddle, 1-Inch Corporation Stop and Tap	1	EA	\$250.00	\$250.00	\$240.00	\$240.00	\$182.67	\$182.67	\$400.00	\$400.00	\$300.00	\$300.00
32	8" x 1" Saddle, 1-Inch Corporation Stop and Tap	12	EA	\$250.00	\$3,000.00	\$201.00	\$2,412.00	\$175.18	\$2,102.16	\$350.00	\$4,200.00	\$250.00	\$3,000.00
33	8" x 2" Saddle, 2-Inch Corporation Stop and Tap	1	EA	\$380.00	\$380.00	\$201.00	\$201.00	\$352.59	\$352.59	\$500.00	\$500.00	\$450.00	\$450.00
34	24-Inch Direct Bury Steel Casing	80	LF	\$160.00	\$12,800.00	\$12.00	\$960.00	\$80.46	\$6,436.80	\$150.00	\$12,000.00	\$115.00	\$9,200.00
35	16-Inch Direct Bury Steel Casing	50	LF	\$126.00	\$6,300.00	\$10.00	\$500.00	\$71.09	\$3,554.50	\$100.00	\$5,000.00	\$80.00	\$4,000.00
36	Short Bore Under Trees, for 8-Inch Main, No Casing	60	LF	\$100.00	\$6,000.00	\$20.10	\$1,206.00	\$94.50	\$5,670.00	\$100.00	\$6,000.00	\$185.00	\$11,100.00
37	Short Bore or Punch Under Trees, for 2-Inch to 1-Inch Pipe, No Casing	60	LF	\$30.00	\$1,800.00	\$20.10	\$1,206.00	\$47.25	\$2,835.00	\$50.00	\$3,000.00	\$40.00	\$2,400.00
38	Protective Fencing for Trees	4	EA	\$280.00	\$1,120.00	\$80.50	\$322.00	\$210.00	\$840.00	\$100.00	\$400.00	\$500.00	\$2,000.00
39	Cut and Cap Existing 2 1/4" - Inch Main	1	EA	\$250.00	\$250.00	\$161.00	\$161.00	\$517.13	\$517.13	\$100.00	\$100.00	\$300.00	\$300.00

BID TABULATION (Page 2 of 2)
City of Fayetteville
Canterbury Road Water Mains
Fayetteville, Arkansas
MCE Project #FY042150
February 16, 2011

A. 3
 Bid #11-18 Sweetser Construction, Inc.
 Page 12 of 28

BID SCHEDULE I
Description

Item #	Description	Qty.	Units	Sweetser Construction		C-2 Projects		Dean Crowder		Redford Construction		Goodwin & Goodwin	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
40	Concrete Thrust Collar Sized for 18-Inch Main Thrust Load	2	EA	\$2,500.00	\$5,000.00	\$241.00	\$482.00	\$2,974.94	\$5,949.88	\$2,005.00	\$4,010.00	\$450.00	\$900.00
41	Asphalt Surface Restoration	3,500	SY	\$21.50	\$75,250.00	\$63.25	\$221,375.00	\$58.12	\$203,420.00	\$55.00	\$192,500.00	\$58.00	\$203,000.00
42	Concrete Surface Restoration	150	SY	\$75.00	\$11,250.00	\$81.65	\$12,247.50	\$68.78	\$10,317.00	\$75.00	\$11,250.00	\$65.00	\$9,750.00
43	Concrete Sidewalk Restoration	10	SY	\$38.00	\$380.00	\$74.75	\$747.50	\$61.43	\$614.30	\$70.00	\$700.00	\$65.00	\$650.00
44	Curb and Gutter Restoration	2,350	LF	\$12.00	\$28,200.00	\$2.00	\$4,700.00	\$12.60	\$29,610.00	\$12.50	\$29,375.00	\$25.00	\$58,750.00
45	Granular Fill	2,100	TON	\$16.00	\$33,600.00	\$0.80	\$1,680.00	\$20.43	\$42,903.00	\$15.00	\$31,500.00	\$25.00	\$52,500.00
46	Trench Stabilization Material	40	TON	\$16.00	\$640.00	\$5.00	\$200.00	\$21.00	\$840.00	\$15.00	\$600.00	\$15.00	\$600.00
47	Erosion Control	1	LS	\$16,590.00	\$16,590.00	\$4,025.00	\$4,025.00	\$8,610.00	\$8,610.00	\$5,000.00	\$5,000.00	\$6,000.00	\$6,000.00
48	Audio/Video Tape Recordings	1	LS	\$500.00	\$500.00	\$966.00	\$966.00	\$1,050.00	\$1,050.00	\$1,005.00	\$1,005.00	\$800.00	\$800.00
49	Site Photographs	1	LS	\$500.00	\$500.00	\$966.00	\$966.00	\$1,050.00	\$1,050.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
50	Stone Mt. Pump Sta., Prefabricated Pump Sta. Assembly & Enclosure with Installation	1	LS	\$251,500.00	\$251,500.00	\$278,050.00	\$278,050.00	\$259,192.50	\$259,192.50	\$280,000.00	\$280,000.00	\$305,000.00	\$305,000.00
51	Standby Generator for Stone Mt. Pump Station	1	LS	\$105,000.00	\$105,000.00	\$99,800.00	\$99,800.00	\$94,502.31	\$94,502.31	\$106,000.00	\$106,000.00	\$116,000.00	\$116,000.00
52	Yard Piping for Stone Mt. Pump Station & Air Release Valves in Stone Mt. Subdivision	1	LS	\$27,795.00	\$27,795.00	\$19,015.00	\$19,015.00	\$27,315.46	\$27,315.46	\$15,000.00	\$15,000.00	\$22,500.00	\$22,500.00
53	Site Work and Grading for Stone Mt. Pump Station	1	LS	\$4,050.00	\$4,050.00	\$1,288.00	\$1,288.00	\$6,079.50	\$6,079.50	\$5,000.00	\$5,000.00	\$6,000.00	\$6,000.00
54	Fencing for Stone Mt. Pump Station	1	LS	\$5,775.00	\$5,775.00	\$8,050.00	\$8,050.00	\$5,880.00	\$5,880.00	\$9,000.00	\$9,000.00	\$11,000.00	\$11,000.00
55	Concrete Floor Slab, Sidewalk & Generator Pad w/ Gravel Base for Stone Mt. Pump Sta.	1	LS	\$22,500.00	\$22,500.00	\$20,700.00	\$20,700.00	\$19,220.25	\$19,220.25	\$21,000.00	\$21,000.00	\$18,000.00	\$18,000.00
56	Asphalt Paving, Existing Asphalt Repairs, Gravel Base for Asphalt at the Stone Mt. Pump Station	1	LS	\$3,998.00	\$3,998.00	\$5,175.00	\$5,175.00	\$12,206.36	\$12,206.36	\$4,500.00	\$4,500.00	\$3,700.00	\$3,700.00
57	Electrical Installation for Stone Mt. Pump Station and Standby Generator	1	LS	\$27,300.00	\$27,300.00	\$46,000.00	\$46,000.00	\$29,610.00	\$29,610.00	\$40,000.00	\$40,000.00	\$22,000.00	\$22,000.00
58	Miscellaneous Items Necessary for a Complete Installation at the Stone Mt. Pump Sta.	1	LS	\$22,606.00	\$22,606.00	\$2,012.50	\$2,012.50	\$8,400.00	\$8,400.00	\$2,500.00	\$2,500.00	\$24,000.00	\$24,000.00

Total Bid Price	\$1,057,331.00	\$1,168,371.35	\$1,259,924.00	\$1,274,163.00	\$1,435,143.00
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Signature: Robert White
 Robert White, PE #4695

Date: 2/18/2011

DOCUMENT 00300

BID FORM
UNIT PRICE

NOTE TO BIDDER: Please use BLACK ink for completing this Bid form.

To: The City of Fayetteville, Arkansas

Address: 113 West Mountain
Fayetteville, AR 72701

Project Title: Water Main Interconnections and Stone Mountain Pump Station For
Canterbury Road Water Tank

Engineer's
Project No.: FY042150, Contract Section II

Date: 2/16/2011

Arkansas Contractor's
License No.: ARKANSAS CONTRACTOR LICENSE
0027470411

Bidder: Sweetser Construction
Address: 590 West Poplar
Fayetteville, Ar. 72703

Contact Person for additional information on this Bid:

Name: Vic SINDONIA

Telephone: 443-3026

Fax: 442-0119

ADDENDA

The Bidder hereby acknowledges that he has received Addenda Numbers:

1, 2, 3, 4 to these Specifications.
(Bidder insert No. of each Addendum received.)

SALES AND USE TAXES

The Bidder agrees that all federal, state, and local sales and use taxes are included in the stated bid prices for the work.

UNIT PRICE BASE BID

The Bidder agrees to accept as full payment for the work proposed herein the amount computed under the provisions of the Contract Documents and based on the following unit price amounts, it being expressly understood that the unit prices are independent of the exact quantities involved. The bidder agrees that the unit prices represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in the Contract Documents. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

BID SCHEDULE WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION FOR CANTERBURY ROAD WATER TANK					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
1.	1	LS	Act 291, 1993 Trench and Excavation Safety System	(\$ <u>2500⁰⁰</u>)	(\$ <u>2500⁰⁰</u>)
			<u>Twenty-Five Hundred</u> Dollars/LS Words		
2.	413	LF	18-Inch PVC, C-905, DR-18 Water Main	(\$ <u>48⁰⁰</u>)	(\$ <u>19,824⁰⁰</u>)
			<u>Forty-Eight</u> Dollars/LF Words		
3.	78	LF	12-Inch Restrained Joint DIP, Class 350 with Double Polywrap	(\$ <u>96⁰⁰</u>)	(\$ <u>7488⁰⁰</u>)
			<u>Twenty-Five</u> Dollars/LF Words		
4.	3,276	LF	12-Inch Ductile Iron Pipe, Class 350 with Double Polywrap	(\$ <u>45⁰⁰</u>)	(\$ <u>147,420⁰⁰</u>)
			<u>Forty Five</u> Dollars/LF Words		

BID SCHEDULE WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION FOR CANTERBURY ROAD WATER TANK					
ITEM NUMBER	EST. QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
5.	30	LF	8-Inch Ductile Iron Pipe, Class 350 with Double Polywrap <i>Twenty-seven and 68,100</i> Words Dollars/LF	(\$ <u>27.50</u>)	(\$ <u>825.00</u>)
6.	1,997	LF	8-Inch PVC, C-900, DR-14 Water Main <i>Twenty-four</i> Words Dollars/LF	(\$ <u>24.00</u>)	(\$ <u>47,928.00</u>)
7.	40	LF	6-Inch Ductile Iron, Class 350 Fire Hydrant Stubs with Double Polywrap <i>Twenty-seven</i> Words Dollars/LF	(\$ <u>27.00</u>)	(\$ <u>1080.00</u>)
8.	15	LF	2-Inch Polyethylene Service Tubing <i>Twenty-two</i> Words Dollars/LF	(\$ <u>22.00</u>)	(\$ <u>330.00</u>)
9.	270	LF	1-Inch Polyethylene Service Tubing <i>Twenty</i> Words Dollars/LF	(\$ <u>20.00</u>)	(\$ <u>5400.00</u>)
10.	3	EA	18-Inch Class 250B Butterfly Valve w/ Box <i>Twenty-Eight Thousand ninety-five</i> Words Dollars/EA	(\$ <u>7895.00</u>)	(\$ <u>23,685.00</u>)
11.	1	EA	12-Inch Class 250B Butterfly Valve w/ Box <i>Thirty-Eight Hundred Seventy-five</i> Words Dollars/EA	(\$ <u>3875.00</u>)	(\$ <u>3875.00</u>)
12.	8	EA	8-Inch Gate Valve w/ Box <i>Eighteen Hundred Eighty-five</i> Words Dollars/EA	(\$ <u>1885.00</u>)	(\$ <u>15,080.00</u>)
13.	6	EA	6-Inch Gate Valve w/ Box <i>Eleven Hundred Five</i> Words Dollars/EA	(\$ <u>1105.00</u>)	(\$ <u>6630.00</u>)

BID SCHEDULE WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION FOR CANTERBURY ROAD WATER TANK					
ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
14.	1	EA	2-Inch Gate Valve w/ Box	(\$ <u>818⁰⁰</u>)	(\$ <u>818⁰⁰</u>)
			<i>Eight Hundred Eighteen</i> Dollars/EA Words		
15.	5	EA	Three Way Fire Hydrant	(\$ <u>2966⁰⁰</u>)	(\$ <u>14,830⁰⁰</u>)
			<i>Twenty-Nine Hundred Sixty-Six</i> Dollars/EA Words		
16.	1	EA	Salvage Existing Fire Hydrant	(\$ <u>500⁰⁰</u>)	(\$ <u>500⁰⁰</u>)
			<i>Five Hundred</i> Dollars/EA Words		
17.	1	EA	12-Inch x 12-Inch Tapping Sleeve, 12-Inch Tapping Valve w/ Box	(\$ <u>9750⁰⁰</u>)	(\$ <u>9750⁰⁰</u>)
			<i>ninety-Seven Hundred fifty</i> Dollars/EA Words		
18.	2	EA	8-Inch x 8-Inch Tapping Sleeve, 8-Inch Tapping Valve w/ Box	(\$ <u>3750⁰⁰</u>)	(\$ <u>7500⁰⁰</u>)
			<i>Thirty-Seven Hundred fifty</i> Dollars/EA Words		
19.	1	EA	6-Inch x 6-Inch Tapping Sleeve, 6-Inch Tapping Valve w/ Box	(\$ <u>2932⁰⁰</u>)	(\$ <u>2932⁰⁰</u>)
			<i>Twenty-Nine Hundred Thirty-two</i> Dollars/EA Words		
20.	1	EA	Connect to Existing 18" Water Main	(\$ <u>750⁰⁰</u>)	(\$ <u>750⁰⁰</u>)
			<i>Seven Hundred Fifty</i> Dollars/EA Words		
21.	1	EA	Connect to Existing 12" Water Main	(\$ <u>750⁰⁰</u>)	(\$ <u>750⁰⁰</u>)
			<i>Seven Hundred Fifty</i> Dollars/EA Words		
22.	1	EA	Connect to Existing 8" Water Main	(\$ <u>500⁰⁰</u>)	(\$ <u>500⁰⁰</u>)
			<i>Five Hundred</i> Dollars/EA Words		

**BID SCHEDULE
 WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION
 FOR
 CANTERBURY ROAD WATER TANK**

ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
23.	2	EA	Connect to Existing 6" Water Main	(\$ <u>500⁰⁰</u>)	(\$ <u>500⁰⁰</u>)
			<u>Five Hundred</u> Dollars/EA Words		
24.	1	EA	Connect to Existing 2 1/4" Water Main	(\$ <u>350⁰⁰</u>)	(\$ <u>350⁰⁰</u>)
			<u>Three Hundred Fifty</u> Dollars/EA Words		
25.	3	EA	Abandon Existing Valve	(\$ <u>250⁰⁰</u>)	(\$ <u>750⁰⁰</u>)
			<u>Two Hundred Fifty</u> Dollars/EA Words		
26.	4,400	LB	Epoxy Coated Ductile Iron Fittings	(\$ <u>12⁰⁰</u>)	(\$ <u>52,800⁰⁰</u>)
			<u>Twelve</u> Dollars/LB Words		
27.	1	EA	1-Inch Combination Air Valve Assembly	(\$ <u>1550⁰⁰</u>)	(\$ <u>1550⁰⁰</u>)
			<u>Fifteen Hundred Fifty</u> Dollars/EA Words		
28.	1	EA	Single Meter Setting, Complete, Including Plumber Connection to Existing Building Service	(\$ <u>380⁰⁰</u>)	(\$ <u>380⁰⁰</u>)
			<u>Three Hundred Eighty</u> Dollars/EA Words		
29.	12	EA	Service Line Connection to Existing Meter Setter	(\$ <u>450⁰⁰</u>)	(\$ <u>5400⁰⁰</u>)
			<u>Four Hundred Fifty</u> Dollars/EA Words		
30.	1	EA	18" x 1" Saddle, 1-Inch Corporation Stop and Tap	(\$ <u>450⁰⁰</u>)	(\$ <u>450⁰⁰</u>)
			<u>Four Hundred Fifty</u> Dollars/EA Words		

BID SCHEDULE WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION FOR CANTERBURY ROAD WATER TANK					
ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
31.	1	EA	12" x 1" Saddle, 1-Inch Corporation Stop and Tap <i>Two Hundred Fifty</i> Dollars/EA Words	(\$ <u>250⁰⁰</u>)	(\$ <u>250⁰⁰</u>)
32.	12	EA	8" x 1" Saddle, 1-Inch Corporation Stop and Tap <i>Two Hundred Fifty</i> Dollars/EA Words	(\$ <u>250⁰⁰</u>)	(\$ <u>3000⁰⁰</u>)
33.	1	EA	8" x 2" Saddle, 2-Inch Corporation Stop and Tap <i>Three Hundred Eighty</i> Dollars/EA Words	(\$ <u>380⁰⁰</u>)	(\$ <u>380⁰⁰</u>)
34.	80	LF	24-Inch Direct Bury Steel Casing <i>One Hundred Sixty</i> Dollars/LF Words	(\$ <u>160⁰⁰</u>)	(\$ <u>12,800⁰⁰</u>)
35.	50	LF	16-Inch Direct Bury Steel Casing <i>One Hundred Twenty Six</i> Dollars/LF Words	(\$ <u>126⁰⁰</u>)	(\$ <u>6300⁰⁰</u>)
36.	60	LF	Short Bore Under Trees, for 8-Inch Main, No Casing <i>One Hundred</i> Dollars/LF Words	(\$ <u>100⁰⁰</u>)	(\$ <u>6000⁰⁰</u>)
37.	60	LF	Short Bore or Punch Under Trees, for 2- Inch to 1-Inch Pipe, No Casing <i>Thirty</i> Dollars/LF Words	(\$ <u>30⁰⁰</u>)	(\$ <u>1800⁰⁰</u>)
38.	4	EA	Protective Fencing For Trees <i>Two Hundred Eighty</i> Dollars/EA Words	(\$ <u>280⁰⁰</u>)	(\$ <u>1120⁰⁰</u>)

BID SCHEDULE
WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION
FOR
CANTERBURY ROAD WATER TANK

ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
39.	1	EA	Cut and Cap Existing 2 1/4"-Inch Main <i>Two Hundred Fifty</i> Dollars/EA Words	(\$ <u>250⁰⁰</u>)	(\$ <u>250⁰⁰</u>)
40.	2	EA	Concrete Thrust Collar Sized for 18-Inch Main Thrust Load <i>Twenty-Five Hundred</i> Dollars/EA Words	(\$ <u>2500⁰⁰</u>)	(\$ <u>5000⁰⁰</u>)
41.	3,500	SY	Asphalt Surface Restoration <i>Twenty-One and 50/100</i> Dollars/SY Words	(\$ <u>21⁵⁰</u>)	(\$ <u>72,250⁰⁰</u>)
42.	150	SY	Concrete Surface Restoration <i>Seventy-Five</i> Dollars/SY Words	(\$ <u>75⁰⁰</u>)	(\$ <u>11,250⁰⁰</u>)
43.	10	SY	Concrete Sidewalk Restoration <i>Thirty-Eight</i> Dollars/SY Words	(\$ <u>38⁰⁰</u>)	(\$ <u>380⁰⁰</u>)
44.	2,350	LF	Curb and Gutter Restoration <i>Twelve</i> Dollars/LF Words	(\$ <u>12⁰⁰</u>)	(\$ <u>28,200⁰⁰</u>)
45.	2,100	TON	Granular Fill <i>Sixteen</i> Dollars/TON Words	(\$ <u>16⁰⁰</u>)	(\$ <u>33,600⁰⁰</u>)
46.	40	TON	Trench Stabilization Material <i>Sixteen</i> Dollars/TON Words	(\$ <u>16⁰⁰</u>)	(\$ <u>640⁰⁰</u>)
47.	1	LS	Erosion Control <i>Sixteen Thousand Five Hundred and 00/100</i> Dollars/LS Words	(\$ <u>16,590⁰⁰</u>)	(\$ <u>16,590⁰⁰</u>)

BID SCHEDULE
WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION
FOR
CANTERBURY ROAD WATER TANK

ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
48.	1	LS	Audio/ Video Tape Recordings	(\$ <u>500⁰⁰</u>)	(\$ <u>500⁰⁰</u>)
			<u>Five Hundred</u> Dollars/LS Words		
49.	1	LS	Site Photographs	(\$ <u>500⁰⁰</u>)	(\$ <u>500⁰⁰</u>)
			<u>Five Hundred</u> Dollars/LS Words		
50.	1	LS	Stone Mt. Pump Station, Prefabricated Pump Station Assembly and Enclosure with Installation	(\$ <u>251,500⁰⁰</u>)	(\$ <u>251,500⁰⁰</u>)
			<u>Two Hundred Fifty One Thousand Five Hundred</u> Dollars/LS Words		
51.	1	LS	Standby Generator for Stone Mt. Pump Station	(\$ <u>105,000⁰⁰</u>)	(\$ <u>105,000⁰⁰</u>)
			<u>One Hundred Five Thousand</u> Dollars/LS Words		
52.	1	LS	Yard Piping for Stone Mt. Pump Station and Air Release Valves in Stone Mt. Subdivision	(\$ <u>27,795⁰⁰</u>)	(\$ <u>27,795⁰⁰</u>)
			<u>Twenty Seven Thousand Seven Hundred Ninety Five</u> Dollars/LS Words		
53.	1	LS	Site Work and Grading for Stone Mt. Pump Station	(\$ <u>4050⁰⁰</u>)	(\$ <u>4050⁰⁰</u>)
			<u>Four thousand Fifty</u> Dollars/LS Words		
54.	1	LS	Fencing for Stone Mt. Pump Station	(\$ <u>5775⁰⁰</u>)	(\$ <u>5775⁰⁰</u>)
			<u>Fifty Seven Hundred Seventy Five</u> Dollars/LS Words		
55.	1	LS	Concrete Floor Slab, Sidewalk and Generator Pad with Gravel Base for Stone Mt. Pump Station	(\$ <u>22,500⁰⁰</u>)	(\$ <u>22,500⁰⁰</u>)
			<u>Twenty Two Thousand Five Hundred</u> Dollars/LS Words		

BID SCHEDULE
WATER MAIN INTERCONNECTIONS AND STONE MOUNTAIN PUMP STATION
FOR
CANTERBURY ROAD WATER TANK

ITEM NUMBER	EST QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
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56.	1	LS	Asphalt Paving, Existing Asphalt Repairs, Gravel Base for Asphalt at the Stone Mt. Pump Station	(\$ <u>3998⁰⁰</u>)	(\$ <u>3998⁰⁰</u>)
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Thirty-Nine Hundred Ninety-Eight
 Dollars/LS
 Words

57.	1	LS	Electrical Installation for Stone Mt. Pump Station and Standby Generator	(\$ <u>27,300⁰⁰</u>)	(\$ <u>27,300⁰⁰</u>)
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Twenty-Seven Thousand Three Hundred
 Dollars/LS
 Words

58.	1	LS	Miscellaneous Items Necessary for a Complete Installation at the Stone Mt. Pump Station	(\$ <u>22,606⁰⁰</u>) ⁰⁶⁵	(\$ <u>22,606⁰⁰</u>) ⁰⁶⁵
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Twenty-two Thousand Six Hundred Six
 Dollars/LS ⁰⁶⁵
 Words

TOTAL BID \$ 1,053,831⁰⁰

DEDUCTIVE ALTERNATES

Not used.

BASIS OF AWARD

The Bidder understands that the Contract will be awarded to the responsive, responsible bidder with the lowest Base Bid.

MAJOR EQUIPMENT SCHEDULE

Not used.

PAYMENT SCHEDULE

Not used.

SUBCONTRACTORS

The Bidder further certifies that proposals from the following subcontractors were used in the preparation of this Bid; and if awarded a contract, Bidder agrees to not enter into contracts with others for these divisions of the Work without written approval from the Owner and Engineer.

BORING SUBCONTRACTOR

Arkansas Contractor License # 009182

H & H Directional Boring, Inc
Name

1609 Mally Waggon Road, Fay., AR 72701
Street Address, City, State, Zip Code

SUBCONTRACTOR

Arkansas Contractor License # _____

Name

Street Address, City, State, Zip Code

PERFORMANCE OF WORK BY CONTRACTOR

The Bidder shall perform at least **70 percent** of the work with his own forces (refer to Paragraph 23, INSTRUCTIONS TO BIDDERS. Bids from so called "Brokerage Contractors" will not be considered.)

List below the items that the Bidder will perform with his own forces, if awarded this Contract, and fill in the blank showing the estimated total cost of these items.

Estimated total cost of the above items the Bidder states that will be performed with his own forces, if awarded Contract:

Eight Hundred Seventy Eight Thousand Six Hundred
(Words) Dollars (\$) 878,600.00

EXPERIENCE OF BIDDER

The Bidder, with his own forces, shall show satisfactory completion of work of type and size comparable to the Work required by these Bid Documents. Minimum requirement shall be three projects within the past five years. A list of comparable projects, included pertinent information and identification of the owners, shall be submitted with the Bid.

Only those Bids which are submitted by Bidders who show satisfactory completion of work of type and size comparable to the Work required by these Bid Documents will be considered. (List similar projects, with types, names of clients, construction costs, and references with telephone numbers. Use additional sheets if necessary.)

SURETY

If the Bidder is awarded a construction Contract on this Bid, the Surety who provides the Performance and Payment Bond will be:

_____ whose address is:

Street, City, State, Zip, Code

INSURANCE

The Bidder acknowledges that he is familiar with the insurance requirements on this Project and, if awarded a construction contract, agrees to furnish the required insurance certificates within fifteen (15) days of the date the award is made.

BIDDER

The name of the Bidder submitting this Bid is:

_____ **Sweetser Construction** doing business at:
_____ **590 West Poplar**
_____ **Fayetteville, Ar. 72703**

Street, City, State, Zip, Code

which is the address to which all communications concerned with this Bid and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Bid, or of the partnership, or of all persons interested in this Bid as principals are as follows:

If Sole Proprietor or Partnership

IN WITNESS hereto the undersigned has set his (its) hand this 16th day of Feb., 2011.

Signature of Bidder

Title

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this 16th day of February, 2011.

(SEAL)

SWEETSER CONSTRUCTION, INC

Name of Corporation

By [Signature]

Title

PRESIDENT

Attest [Signature]

Secretary

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

KNOWN ALL BY THESE PRESENTS, That we, Sweetser Construction Inc., as Principal, and Travelers Casualty and Surety Company of America, as Surety, are held and firmly bound unto City of Fayetteville, AR, as Obligee, in the sum of Five Percent of Bid Dollars (\$5%) for the payment of which we bind ourselves, and our successors and assigns, jointly and severally, as provided herein.

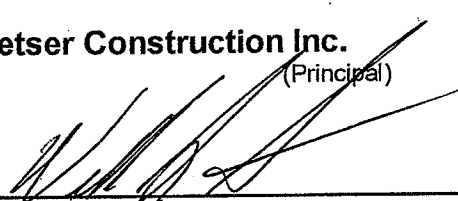
WHEREAS, Principal has submitted or is about to submit a bid to the Obligee on a contract for furnishing all labor and materials for Bid 11-18, Water Main Interconnections and Stone Mountain Pump Station for Canterbury Road Water Tank, Fayetteville, AR ("Project").

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

Signed this 16th day of February, 2011.

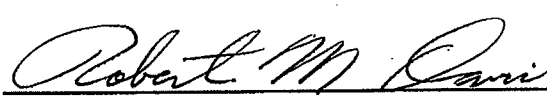
Sweetser Construction Inc.

(Principal)

By: 

William Sweetser

Travelers Casualty and Surety Company of America

By: 

Robert M. Davis, Attorney-in-Fact

TRAVELERS**POWER OF ATTORNEY**A. 3
Bid #11-18 Sweetser Construction, Inc.
Page 26 of 28Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance CompanySt. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 215938

Certificate No. 003599149

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

Robert M. Davis, and Cheryl Ann Pankey

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

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 9th day of April, 2010.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance CompanySt. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty CompanyState of Connecticut
City of Hartford ss.By: George W. Thompson
George W. Thompson, Senior Vice President

On this the 9th day of April, 2010, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2011.

Marie C. Tetreault
Marie C. Tetreault, Notary Public

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

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

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

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

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

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 16th day of February, 20 11.

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

Kori M. Johanson
Kori M. Johanson, Assistant Secretary



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

City of Fayetteville Staff Review Form

A. 4
 Insituform Technologies, Inc.
 Page 1 of 10

City Council Agenda Items
 and
 Contracts, Leases or Agreements

15-Mar-11

City Council Meeting Date
 Agenda Items Only

David Jurgens
 Submitted By

Utilities Capital Projects
 Division

Utilities
 Department

Action Required:

Resolution approving a contract extension with Insituform Technologies, Inc., and approving an authorization totaling \$330,000.00, for sanitary sewer lining services for cured-in-place sanitary sewer linings.

\$ 330,000
 Cost of this request

\$ 1,200,000
 Category / Project Budget

Sanitary Sewer Rehabilitation
 Program Category / Project Name

5400.5700.5815.00
 Account Number

\$ 265,688
 Funds Used to Date

Water and Wastewater
 Program / Project Category Name

02017.0011
 Project Number

\$ 934,312
 Remaining Balance

Water/Sewer
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature]
 Department Director

23 Feb 11
 Date

Previous Ordinance or Resolution # 104-08

[Signature]
 City Attorney

2-24-11
 Date

Original Contract Date: 5/20/2008

Original Contract Number: 2040

Paul A. Bell
 Finance and Internal Services Director

2-24-2011
 Date

Received in City Clerk's Office 02-23-11 A08:40 RCVD
K. King

Don Man
 Chief of Staff

2-24-11
 Date

Received in Mayor's Office
 ENTERED 2/24/11

Frank J. Jarama
 Mayor

2/25/11
 Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

Date: February 23, 2011

Subject: Resolution approving a contract extension with Insituform Technologies, Inc. for cured-in-place sanitary sewer linings.

RECOMMENDATION

Fayetteville City Administration recommends renewal of the construction contract with Insituform Technologies, Inc., and approving an authorization totalling \$330,000.00, for sanitary sewer lining services. This contract will provide services for 2011 and is included in the Sanitary Sewer Rehabilitation project within the proposed Fiscal Year 2011 Budget.

BACKGROUND

On April 16, 2008 the City of Fayetteville accepted sealed competitive bids for sanitary sewer main line and service lateral lining services with Insituform Technologies submitting the successful bid proposal (see attached materials). The bid schedule includes specific unit prices for various items of work; with the sanitary sewer rehabilitation program then using the pricing to complete the annual rehabilitation program. The exact needs of each rehabilitation activity cannot be explicitly defined until the final design is completed, hence the unit price bid schedule is used to correlate costs to final project scopes.

DISCUSSION

The direct contracting with Insituform Technologies allows the City of Fayetteville to execute its sanitary sewer rehabilitation program effectively and efficiently. It is effective as the administrative delays and costs are minimized due to the annual contract and pre-established pricing. Pipes being lined under this contract are either identified by City forces through normal maintenance operations or by consultants executing Sanitary Sewer Evaluation Studies. Either way, engineering and administrative costs are held to a bare minimum as formal plans and specifications are not required. This work is an integral part of the City's ongoing program to maintain its sewer system in the most long-term yet cost effective fashion, with cured-in-place linings being by far the lowest cost strategy for applications where it is appropriate.

BUDGET IMPACT

Funds are available in the 2011 Sanitary Sewer Rehabilitation Project budget.

RESOLUTION NO. _____

**A RESOLUTION APPROVING A CONTRACT EXTENSION WITH
INSITUFORM TECHNOLOGIES, INC. IN THE AMOUNT OF \$330,000.00
FOR CURED-IN-PLACE SANITARY SEWER LININGS**

**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 extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

4.0 BIDDER'S PROPOSAL

4.1 ITEMIZED DESCRIPTION OF BID PRICING

TO: City of Fayetteville
Fayetteville, Arkansas

GENTLEMEN:

The undersigned bidder, having examined the specifications and contract documents, and being fully advised as to the extent and character of the work, propose to furnish all equipment and to perform all labor and work necessary for the completion of the work described by and in accordance with the specifications and contracts for the following prices to wit.

<u>Item</u> <u>No.</u>	<u>Item Description</u>	<u>Approx.</u> <u>Qty.</u>	<u>Unit</u>	<u>Unit Price</u> <u>In Figures</u>	<u>Total</u>
1	6" x 4.5mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place				
	<u>THIRTY SIX DOLLARS AND FIFTY CENTS</u>	3500	LF	<u>\$ 36.50</u>	<u>\$ 127,750.00</u>
2	8" x 6.0mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place				
	<u>THIRTY TWO DOLLARS & ZERO CENTS</u>	1500	LF	<u>\$ 32.00</u>	<u>\$ 48,000.00</u>
3	10" x 6.0mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place				
	<u>THIRTY FOUR DOLLARS & ZERO CENTS</u>	500	LF	<u>\$ 34.00</u>	<u>\$ 17,000.00</u>
4	12" x 6.0mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place				
	<u>FORTY TWO DOLLARS & ZERO CENTS</u>	500	LF	<u>\$ 42.00</u>	<u>\$ 21,000.00</u>

<u>Item No.</u>	<u>Item Description</u>	<u>Approx. Qty.</u>	<u>Unit</u>	<u>Unit Price In Figures</u>	<u>Total</u>
5	15" x 7.5mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place				
	<u>FIFTY SEVEN</u> dollars [¢] <u>ZERO CENTS</u>	100	LF	\$ <u>57.00</u>	\$ <u>5,700.00</u>
6	18" x 9mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place				
	<u>SEVENTY THREE</u> dollars [¢] <u>ZERO CENTS</u>	100	LF	\$ <u>73.00</u>	\$ <u>7,300.00</u>
7	Internal reinstatement of Service Laterals				
	<u>ONE CENT</u> dollars	60	EA	\$ <u>.01</u>	\$ <u>.60</u>
8	Trenchless rehabilitation by CIPP of existing 4" Service Lateral				
	<u>TWO THOUSAND</u> dollars [¢] <u>ZERO CENTS</u>	30	EA	\$ <u>2000.00</u>	\$ <u>60,000.00</u>
9	Standard Mobilization (within 15 working days)				
	<u>TWO THOUSAND</u> dollars [¢] <u>ZERO CENTS</u>	2	EA	\$ <u>2000.00</u>	\$ <u>4,000.00</u>
10	Emergency Mobilization (within 3 working days)				
	<u>THREE THOUSAND</u> dollars [¢] <u>ZERO CENTS</u>	1	EA	\$ <u>3000.00</u>	\$ <u>3,000.00</u>
11	CIPP Point Repair, 6" - 12" Diameter, 10 LF				
	<u>ONE THOUSAND</u> dollars [¢] <u>ZERO CENTS</u>	5	EA	\$ <u>1000.00</u>	\$ <u>5,000.00</u>

TOTAL BID AMOUNT \$ 298,750.60

TWO HUNDRED NINETY EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS AND SIXTY CENTS
(In Writing)

The undersigned understands that this bid is for a term maintenance contract for the rehabilitation of sanitary sewer mainlines throughout Fayetteville, Arkansas and that the City here may choose to purchase more, less, or none of the rehabilitation, depending upon its needs. The City is under no obligation to purchase a minimum amount of any item awarded. This contract is generally for miscellaneous and unidentified rehabilitation of sanitary sewer mains and service connections using the cured-in-place pipe method.

The bidder understands that the City reserves the right to reject any or all bids, and to waive informalities in the bidding.

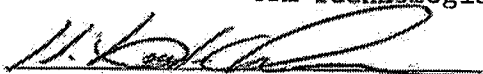
The undersigned further agrees that the proposal guaranty may be retained by the City of Fayetteville, Arkansas, provided the undersigned is one of the lowest and most advantageous bidders, and that said proposal guaranty shall remain with the City until the contract has been signed, and the bond required for the faithful performance of the contract has been made by one of the lowest responsible bidders; otherwise, proposal guaranty may be obtained from the City after forty-eight hours from the time of opening of the bids.

The undersigned hereby declares that he has had sufficient time to make all test and investigations to arrive at an intelligent estimate of the cost of doing the work, and has carefully examined the specifications and documents relating to the work covered by his bid or bids, that he agrees to do the work, and that no representation made by the City are in any sense a warranty, but are mere estimates for guidance of the CONTRACTOR.

Upon receipt of notice of the acceptance of the bid, we will execute the formal contract attached in quintuplicate, within ten days, and will deliver a Surety Bond for the faithful performance of the contract, and such other bonds as may have been required in the specifications. The bid security attached in the sum of 5% of the greatest amount of the total bid is (\$5%) is to become the property of the City if a cashier's check, and if a bond, the principal amount shall be paid to the City of Fayetteville, in the event the contract and bond are not executed within the time set forth, and to be considered as liquidated damages because the delay and additional work caused thereby are incapable of accurate ascertainment.

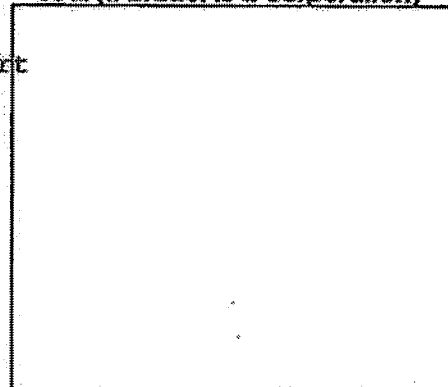
RESPECTFULLY SUBMITTED: Insituform Technologies, Inc.

Bidder


SIGNATURE AND TITLE

H. Douglas Thomas
V.P.-Global Procurement/Ops.Support

Seal (If bidder is a corporation)



Business Address

17988 Edison Avenue

Chesterfield, MO 63005

Telephone Number

636-530-8000

FAX Number

636-530-0751

Arkansas Contractors License Number

0072030409

NOTE: DO NOT DETACH BID FROM OTHER PAPERS BOUND IN THIS DOCUMENT. Fill Bid Form in with ink and submit complete with all other papers bound in this document

5.0 CONTRACT AND BOND DOCUMENTS

5.1 AGREEMENT

2008 ANNUAL SANITARY SEWER MAINLINE AND SERVICE LATERAL REHABILITATION, CURED IN PLACE PIPE METHOD

THIS AGREEMENT, made this 20th day of May, 2008, by and between the City of Fayetteville, Arkansas, and

Insituform Technologies, Inc.

doing business as a Corporation, hereinafter called "Contractor",

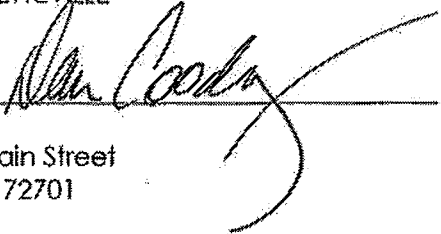
WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

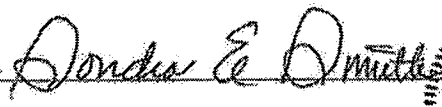
1. The Contractor will commence and complete the projects selected for rehabilitation under this Term Maintenance Contract at the City of Fayetteville, Arkansas and all incidental and ancillary work in accordance with the conditions and at the prices stated in the Bid Proposal which are a part of these Contract Documents attached hereto and made a part hereof.
2. The Contractor will furnish all materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the projects selected for rehabilitation.
3. The Contractor will commence the work required under this term maintenance contract for the rehabilitation of sanitary sewer mainlines throughout Fayetteville, Arkansas in a timely manner as projects are selected. The Contractor shall furnish City of Fayetteville a timeline for each project as preparation for the work begins.
4. The timeline for this contract shall end December 31, 2008. Upon approval of the City of Fayetteville, the contract may be extended on a yearly basis for up to four years, through December 31, 2012.
5. The Contractor shall be entitled to receive up to Three Hundred Thousand Dollars (\$330,000). City of Fayetteville is under no obligation to purchase a minimum amount of any item awarded and City of Fayetteville may choose to purchase more, less, or none of the rehabilitation, depending upon its needs. This contract is generally for miscellaneous and unidentified rehabilitation of sanitary sewer mains and service connections using the cured-in-place pipe method. The City of Fayetteville will pay the Contractor in the manner and at such times as set forth in the General Conditions such amounts, as required by the Contract Documents.
6. The Contractor agrees to perform the work described in the Contract Documents and comply with the terms therein for the amounts shown in the Bid Proposal.
7. The term "Contract Documents" means and includes the Advertisement for Bids, Information for Bidders, Technical Specifications, Bid Proposal, Agreement, General Conditions, Performance Bond, Payment Bond, Notice of Award, Notice to Proceed, Change Orders and Addenda prepared or issued by the City of Fayetteville.
8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

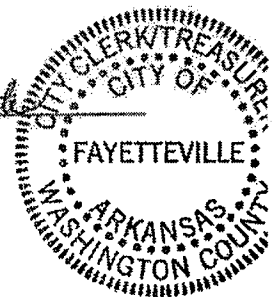
9. It is mutually agreed that should it appear to the City of Fayetteville or to the Authorized Agent in charge, at any time during the existence of this Contract, that the sureties on the Contractor's bond have become insolvent, bankrupt, or otherwise financially unable to protect the City of Fayetteville under the terms of the Contract, the City of Fayetteville may demand the Contractor furnish additional security in some approved surety company satisfactory to the City of Fayetteville. The acts of the City of Fayetteville or the Agent with reference to demanding new or additional security shall never be construed to relieve the original sureties of their obligations under the contract, or to relieve the Contractor. The City of Fayetteville may stop performance under the Contract until additional security has been furnished by the Contractor, and the City of Fayetteville shall in no case be liable to the Contractor on account thereof. In the event of the refusal or failure of the Contractor to comply with the demands of the City of Fayetteville with reference to furnishing additional security, the City of Fayetteville may exercise its right as provided herein to stop all payments under the Contract and to arrange for completion of the Contract requirements obligating the Contractor for any and all additional expenses incurred.
10. 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.
11. 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.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in four (4) counterparts, each of which shall be deemed an original on the date first above written.

THE CITY OF FAYETTEVILLE

By: 
Title: Mayor
113 West Mountain Street
Fayetteville, AR 72701

Attest: 
Title:



CONTRACTOR:

By: 
H. Douglas Thomas
Title: V.P.-Global Procurement/Ops. Support

*Attest: 
Joann Smith
Title: Contracting & Attesting Officer

Company Insituform Technologies, Inc.

(Corporate Seal)

Address 17988 Edison Avenue
Chesterfield, MO 63005

*If a corporation, the Secretary of the Corporation should Attest.

2008 CIPP Bid Tabulation
April 16, 2008 at 2:00 p.m.

A. 4
 Insituform Technologies, Inc.
 Page 9 of 10

Item No.	Item Description	Approx. Qty.	Unit	Insituform Technologies		Suncoast Infrastructure	
				Unit Price In Figures	Total	Unit Price In Figures	Total
1	6" x 4.5mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place	3500	LF	\$ 36.50	\$ 127,750.00	\$ 30.60	\$ 107,100.00
2	8" x 6.0mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place	1500	LF	\$ 32.00	\$ 48,000.00	\$ 30.30	\$ 45,450.00
3	10" x 6.0mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place	500	LF	\$ 34.00	\$ 17,000.00	\$ 31.00	\$ 15,500.00
4	12" x 6.0mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place	500	LF	\$ 42.00	\$ 21,000.00	\$ 32.80	\$ 16,400.00
5	15" x 7.5mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place	100	LF	\$ 57.00	\$ 5,700.00	\$ 50.00	\$ 5,000.00
6	18" x 9mm trenchless rehabilitation by CIPP of existing sewer pipe mainline, complete in place	100	LF	\$ 73.00	\$ 7,300.00	\$ 60.50	\$ 6,050.00
7	Internal reinstatement of Service Laterals	60	EA	\$ 0.01	\$ 0.60	\$ 150.00	\$ 9,000.00
8	Trenchless rehabilitation by CIPP of existing 4" Service Lateral	30	EA	\$ 2,000.00	\$ 60,000.00	\$ 2,900.00	\$ 87,000.00
9	Standard Mobilization (within 15 working days)	2	EA	\$ 2,000.00	\$ 4,000.00	\$ 2,500.00	\$ 5,000.00
10	Emergency Mobilization (within 3 working days)	1	EA	\$ 3,000.00	\$ 3,000.00	\$ 9,060.00	\$ 9,060.00
11	CIPP Point Repair, 6" - 12" Diameter, 10 LF	\$	EA	\$ 1,000.00	\$ 5,000.00	\$ 3,320.00	\$ 16,600.00
	Total Bid				\$ 298,750.60		\$ 322,160.00

City of Fayetteville Staff Review Form

A. 5
 Bid #11-20 North Point Ford
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

3/15/2011

City Council Meeting Date
 Agenda Items Only

Dennis Pratt / Barbara Olsen
 Submitted By

Fleet Operations
 Division

Transportation
 Department

Action Required:

A resolution awarding Bid11-20 to North Point Ford in the amount of \$90,020 for the purchase of two heavy duty Ford F250 pickup trucks for use by Fire Dept, and approval of a budget adjustment to move funds from one Fleet project to another.

\$ 90,020.00
 Cost of this request

\$ 317,000.00
 Category / Project Budget

Light/Medium Utility Vehicles
 Program Category / Project Name

9700.1920.5802.00
 Account Number

\$ -
 Funds Used to Date

Vehicles and Equipment
 Program / Project Category Name

02078.2011
 Project Number

\$ 317,000.00
 Remaining Balance

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Ty 2 Gully
 Department Director 2-24-11
 Date

Previous Ordinance or Resolution #

Bob Kelly
 City Attorney 2-28-11
 Date

Original Contract Date:

Original Contract Number:

Paul A. Behn
 Finance and Internal Services Director 2-28-2011
 Date

Received in City 2-25-11 P02:30 RCVD
 Clerk's Office

Don Man
 Chief of Staff 3-1-11
 Date

Received in
 Mayor's Office

ENTERED
 2/28/11
 King

Frederick Jackson
 Mayor 3/1/11
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *T24*

From: Dennis Pratt, Fleet Operations Supt.

Date: February 24, 2011

Subject: Purchase of two Heavy Duty pickup trucks for Fire Dept.

PROPOSAL: That City Council approve the purchase of two heavy duty pickup trucks in the amount of \$90,020 for use by the Fire Dept, and approve a budget adjustment to move funds from one Fleet project to another.

RECOMMENDATION: Bid 11-20 was opened February 4, 2011. Two bids were received; both bids meet specs. A bid tab sheet is attached.

I recommend acceptance of the low bid from North Point Ford in the amount of \$90,020 for both trucks. This price includes the specified Aurora Fire Dept Command Center in the pickup bed. As these items are included with the truck at time of purchase, they are tax exempt.

Two units are being replaced for the Fire Dept. – units #1050 and 2058. 1050 is a 1999 Explorer that was pushed from an 8 year life to 11 years, but is now worn out and not worth repairing. #2058 is a 2002 ½ ton with 125,000 miles that is too lightweight for the job it is required to do. Neither unit meets the needs of the Fire Department.

The Fire Dept. is standardizing vehicles coming in to make them Command units which will be passed down in future years as newer units come in. The standardized units will be able to perform any function for the Fire Dept. no matter where they are used.

This purchase was unanimously approved by the Equipment Committee on February 22, 2011.

BUDGET IMPACT: These replacements were budgeted for on both capital and operating sides. One unit was budgeted in the Passenger Vehicle project (as the old unit was an Explorer) and the replacement is a pickup truck which is a different project. A budget adjustment is attached to move funds from 02081 project (police/passenger vehicles) to 02078 project (small trucks).

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-20 AND AUTHORIZING A CONTRACT WITH NORTH POINT FORD IN THE AMOUNT OF \$90,020.00 FOR THE PURCHASE OF TWO (2) FORD F-250 HEAVY DUTY PICKUP TRUCKS FOR USE BY THE FIRE DEPARTMENT, 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 awards Bid #11-20 and authorizes a contract with North Point Ford in the amount of \$90,020.00 for the purchase of two (2) Ford F-250 heavy duty pickup trucks for use by the Fire Department.

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 "A".

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 5
Bid #11-20 North Point Ford
Page 4 of 6

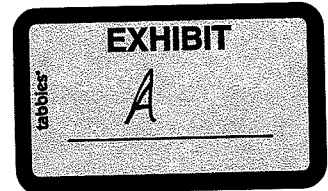
Budget Year 2011	Department: Transportation Services Division: Fleet Operations Program: Capital Expense	Request Date 3/15/2011	Adjustment Number
--------------------------------	--	--------------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

Request to increase project 02078.2011 by \$42,000 to cover cost of replacement of unit #1050 - an Explorer. As the old unit was a passenger unit, the replacement was budgeted in that project. As the replacement is a pickup, it should be budgeted in the small truck project.

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

\$42,000 was budgeted in 02081.2011 for the replacement of #1050 - an Explorer. The replacement is a pickup so the funds should have been budgeted in project 02078.2011



Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Vehicles And Equipment	9700.1920.5802.00	42,000		02078 . 2011
Vehicles And Equipment	9700.1920.5802.00		42,000	02081 . 2011
				.
				.
				.
				.
				.
TOTAL		42,000	42,000	

[Signature] 3-10-11
Division Head Date

[Signature] 2-2-11
Budget Director Date

[Signature] 2-14-11
Department Director Date

[Signature] 2-11-2011
Finance Director Date

[Signature] 2-11-11
Chief of Staff Date

[Signature] 2/14/11
Mayor Date

Requested By *[Signature]* *bolsen*

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 _____



BID: 11-20
02/04/11
2:00 PM
CITY OF FAYETTEVILLE

Bid 11-20, Heavy Duty 4x4 Pickup Trucks

BIDDER	MANUFACTURER	MODEL	PRICE EACH	QTY	TOTAL PRICE
1 Landers McLarty Ford	Ford	F-250 Super Duty	\$47,500.00	2	\$95,000.00
2 North Point Ford	Ford	F-250	\$45,010.00	2	\$90,020.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED:

P. Vice
P. VICE, PURCH MGR

A. Forem
WITNESS

2/7/11
DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date: A. 5 3/15/2011 Bid #11-20 North Point Ford
P.O Number:	Expected Delivery Date:
Mail Yes: No: ☒	
Taxable Yes: No: ☒	Quotes Attached Yes: No:
Divison Head Approval: 	
Requester's Employee #: 1940	Extension: 485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2011 FORD F250 SUPER DUTY PICKUP TRUCK	2	EA	45,010.00	\$90,020.00	9700.1920.5802.00	02078.2011		
2	PER BID SPECS 11-20. TO BE UNITS				\$0.00				702132
3	2132, FIXED ASSET 702132 AND 2133, FIXED				\$0.00				702133
4	ASSET 702133				\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Subtotal:	\$90,020.00
Total:	<u>\$90,020.00</u>

Vendor #: 6481 Vendor Name: NORTH POINT FORD

Address: Fob Point:

City: State: Zip Code: Ship to code: 50

Requester: BARBARA OLSEN Requester's Employee #: 1940 Extension: 485

Special Instructions:

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

City of Fayetteville Staff Review Form

A. 6
Lake Sequoyah Lease Agreement
with William Keith Shofner, Jr.
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

12/16 *Commil*
3/15/11
City Council Meeting Date
Agenda Items Only

Byron Humphry
Submitted By

Parks Maintenance
Division

Parks and Recreation
Department

Action Required:

Approve an agreement with William Keith Shofner, Jr., to pasture cattle and/or horses and to bale and remove hay on 82.55 acres of land adjacent to Lake Sequoyah. Agreement is for two years and can be automatically renewed for an additional 8 years. This agreement will renew an expired 10 year agreement that was very beneficial to the City and Mr. Shofner. Purchasing director, Peggy Vice, approved not bidding due to location of land (landlocked from other individuals) and due to Mr. Shofner's good standing with the City.

NA	\$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	\$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	\$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Connie Emerson *2-24-11*
Department Director Date

Previous Ordinance or Resolution # _____

Bob Kelly *2-28-11*
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Bahr *2-28-2011*
Finance and Internal Services Director Date

Received in City *02-25-11 P04:07 RCVD*
Clerk's Office *Kim G.*

Don Man *3-1-11*
Chief of Staff Date

Received in
Mayor's Office

Lionel Jordan *3/1/11*
Mayor Date

ENTERED
2/28/11
JK

Comments: This land is immediately adjacent to a 169.8 acres at Lake Sequoyah owned by the City in which the Shofner family has a lifetime lease. Shofner also owns 40 acres adjacent to City property.

ACA 14-54-302 requires items to be approved by Council resolution. *(JK)*



www.accessfayetteville.org

TO: Mayor Jordan
THRU: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *C.E.*
FROM: Byron Humphry, Parks Maintenance Superintendent *BH*
DATE: March 3, 2011
RE: Lake Sequoyah Lease Agreement to William Keith Shofner, Jr. and Jeff Price

In 1958 the City began purchasing land around Lake Sequoyah as a water supply. Certain landowners were given a license agreement to continue to utilize the property for grazing and/or hay production. These license agreements were specified to previous property owners for their lifetime and/or the lifetime of their heirs. One such lease was given to the Shofner family in 1960 for the lifetime of Hal L., William Keith, Alice Ruth, William Keith Jr., and Robert Wallace Shofner. Currently William Keith Shofner holds claim to the lifetime license agreement.

In 1999, it was determined that 82.55 acres adjacent to the Shofner lifetime lease (see attached map), land that was formerly held in a lifetime license agreement by the Miller family, was deteriorating and illegal activity was occurring which included poaching, four wheeling, discharge of firearms, boat launching, and fishing without permit. At this time William Keith Shofner, Jr. offered to build new fencing around the Miller property and provide gated access through his current lifetime lease property. The City agreed to a 2 year lease, renewable for 8 one-year terms which would allow Shofner to pasture cattle and/or horses and to bale and remove hay. The lease also allowed Shofner access to remote areas of his lifetime lease area. In exchange, Shofner agreed to build and maintain fencing on the property, maintain the premises in a good condition, and prevent unauthorized access and hunting. Through this lease, the City gained a steward of the land that provided security and maintenance.

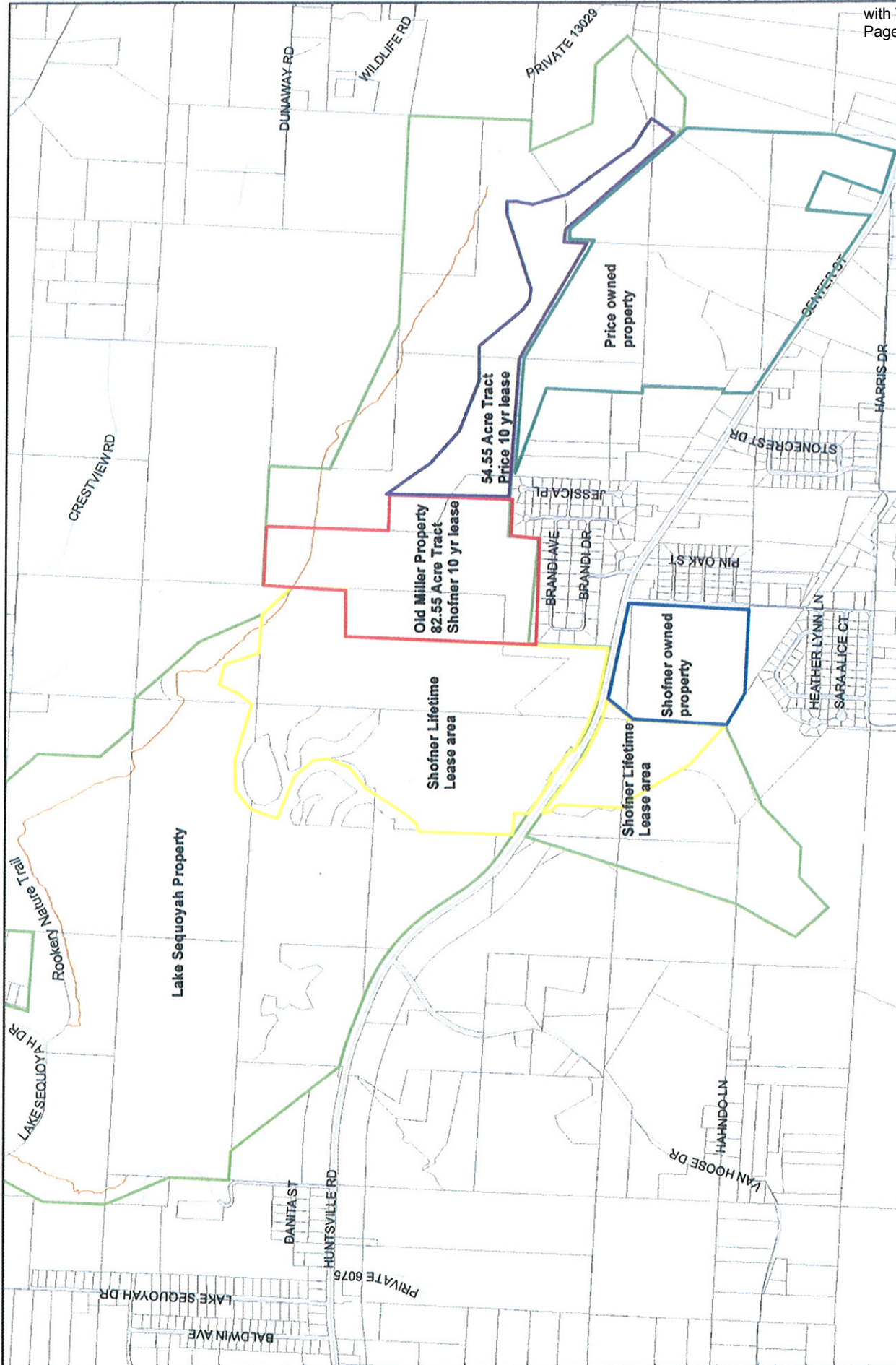
In 2000, it was determined that the land to the east of the old Miller property (54.55 acres) was also deteriorating and illegal activity was occurring similar to the former condition of the old Miller property. Shofner approached the City to lease the 54.55 acre tract to maintain the land and deter illegal activity. Jeff Price also expressed interest in leasing this property because he owns all of the land to the south of the 54.55 acres. Price owns approximately 285 acres. Since both gentlemen were interested in leasing the property, bids were taken and the lease was awarded to Jeff Price in which he offered a sum of \$2,600 per year. In addition to the annual payment, Mr. Price also agreed to build and maintain a fence on the property, maintain the property in a good condition, and prevent unauthorized access and hunting. The City agreed to a 2 year lease, renewable for 8 one-year terms.

Both of the Shofner and Price leases have expired. Due to both gentlemen being in good standing with the City over the course of their previous 10 year leases, and because each property is essentially landlocked to anyone else other than Shofner or Price, it is the desire of the Parks Department to renew the leases under the same terms that were agreed upon 10 years ago for the following reasons:

1. Shofner holds a lifetime lease adjacent to the 82.55 acres that he formerly leased.
2. Shofner needs the 82.55 acres to access his lifetime lease area with the City.

3. Price owns all of the land surrounding the 54.55 acres that he formerly leased from the City.
4. The 54.55 acres is only accessible to Shofner or Price.
5. Both of the former leases were of great benefit to the City providing maintenance and deterring illegal activity in this area at Lake Sequoyah. These illegal activities are all prohibited by City ordinance but are difficult to enforce without the lease agreement and the presence of the lessee tending to the land.
6. Both Shofner and Price were contacted and wish to continue their respective lease agreements under the previous terms.

The Parks and Recreation Department therefore recommends that we renew our lease agreements with Mr. Shofner and Mr. Price for the same terms and duration as the previous leases that have expired. The biggest value of these leases to the City is that these properties are maintained and illegal activity is deterred without an expense to the City.



Shofner and Price Property and Leases

- Lake Sequoyah Property - green outline
- Shofner lease 82.55 acre tract - red outline
- Shofner 169.8 acre lifetime lease - yellow outline
- Shofner property 40 acres - blue outline
- Price lease 54.55 acre tract - purple outline
- Price owned property 285 acres - teal outline

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE CONTRACT WITH WILLIAM KEITH SHOFNER, JR. ON 82.55 ACRES OF LAND ADJACENT TO LAKE SEQUOYAH FOR PURPOSES OF PASTURING CATTLE AND HORSES, AND CUTTING AND BALING HAY

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 lease contract with William Keith Shofner, Jr., a copy of which is attached as Exhibit "A", concerning 82.55 acres of land described therein adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

PASSED and APPROVED this 15th day of March, 2011.

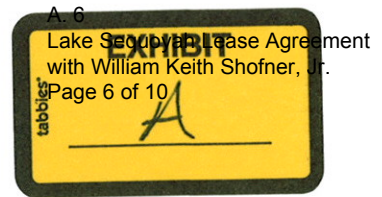
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville
Lake Sequoyah Lease Agreement



This **Agreement** executed this _____ day of _____, 2011, between the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called "the City" and William Keith Shofner, Jr., hereinafter called "Mr. Shofner". This agreement is for approximately 82.55 acres of unused land adjacent to Lake Sequoyah.

Whereas, Mr. Shofner is the owner of approximately 40 acres of land which adjoins land owned by the City adjacent to Lake Sequoyah; and

Whereas, Mr. Shofner currently retains a lifetime lease on approximately 169.8 acres of land from the City, as a result of the original construction of Lake Sequoyah; and

Whereas, the aforementioned 82.55 acres of land owned by the City is adjacent to the 169.8 acres of land under the lifetime lease of Mr. Shofner and is essential for access to the leased property; and

Whereas, illegal activity including poaching, four wheeling, discharge of firearms, boat launching, and fishing has been deterred under the prior 10 year agreement; and

Whereas, Mr. Shofner is in good standing with the City on existing leased land and the prior 10 year agreement was of great benefit to the City.

Now, Therefore, the City and Mr. Shofner hereby agree as follows:

1. The City hereby agrees to allow Mr. Shofner to utilize, the following described property(s) situated in Washington County, Arkansas, described in Exhibit A

attached hereto and made a part thereof.

2. The term of this agreement shall be for a period of two (2) years commencing on the execution date hereof. However, the agreement may be automatically renewed for eight (8) one (1) year terms upon agreement by both the City and Mr. Shofner. Provided, the City may terminate this agreement at any time for all or any portion of the demised premises by giving Mr. Shofner ninety (90) days written notice by regular mail at Mr. Shofner's regular mailing address if the City determined that said premises are needed for public park purposes.
3. In consideration for the City leasing the demised premises to Mr. Shofner, Mr. Shofner shall maintain the demised premises in a sightly condition at all times. Mr. Shofner shall erect and maintain fences and maintain signage provided by the City on the demised premises.
4. Mr. Shofner shall use the demised premises solely to provide pasture for Mr. Shofner's cattle and/or horses and to bale and remove hay. When baled, any hay shall immediately become the property of Mr. Shofner.
5. Mr. Shofner shall fertilize the demised premises so that, upon expiration of this agreement, the demised premises shall be in as good condition as on the execution date hereof. Fertilizer should be applied in accordance to applicable local and states laws.
6. Mr. Shofner shall not remove, nor permit to be removed, any tree on the demised premises.
7. Mr. Shofner shall not hunt, or permit any other person to hunt, on the demised premises.
8. During the term of this agreement, the City shall have the right to construct walking paths in close proximity to Lake Sequoyah which walking paths shall constitute a public easement for use by the public. If such walking paths conflict with grazing cattle and/or horses, Mr. Shofner shall exclude cattle and/or horses

from the trail premises.

9. The City shall have the right to enter the demised premises at any time for the purpose of inspecting the property, surveying, or constructing walkways; and the City shall not be liable to Mr. Shofner for damages as a result of such entry, surveying, or construction.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

MR. WILLIAM KEITH SHOFNER, JR.

By: William Keith Shofner, Jr.
William Keith Shofner, Jr.

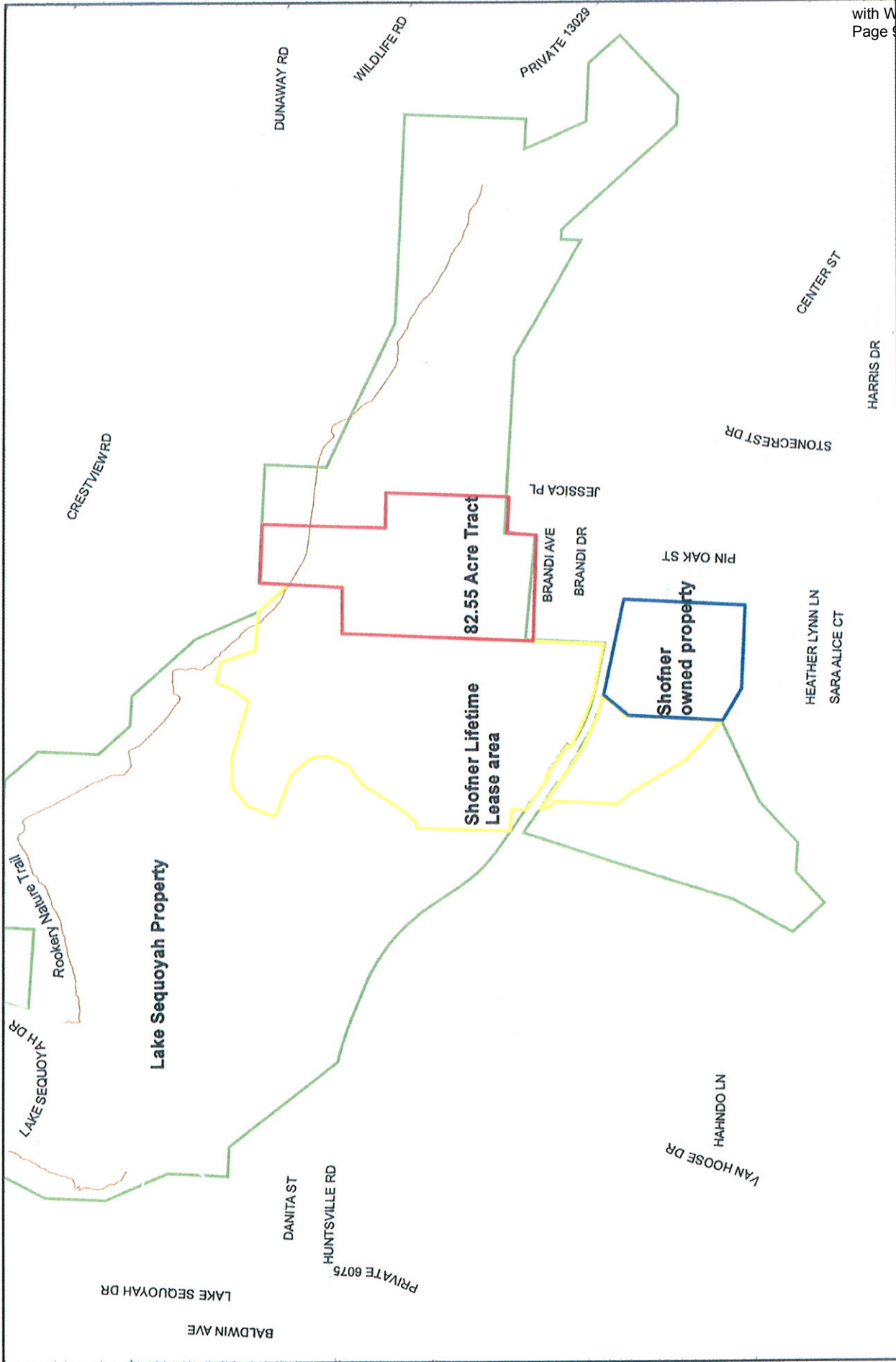


Exhibit A
 William Shofner Lease Agreement
 Lake Sequoyah Property - green outline
 82.55 Acre Tract - red outline
 169.8 Acre Lifetime Lease - yellow outline
 Shofner property - blue outline



City of Fayetteville Staff Review Form

A. 7
Lake Sequoyah Lease
Agreement with Jeff Price
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

n/a
City Council Meeting Date
Agenda Items Only

Council
3/15/11

Byron Humphry
Submitted By

Parks Maintenance
Division

Parks and Recreation
Department

Action Required:

Approve an agreement with Jeff Price to pasture cattle and/or horses and to bale and remove hay on 54.55 acres of land adjacent to Lake Sequoyah for \$2600 per year. Agreement is for two years and can be automatically renewed for an additional 8 years. This agreement will renew an expired 10 year agreement that was very beneficial to the City and Mr. Price. Purchasing Director, Peggy Vice, approved not bidding due to location of land (being landlocked from other individuals) and Mr. Price's good standing with the City.

(\$2,600)
Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

1010-0001-4997.00
Account Number

\$ -
Funds Used to Date

General
Program / Project Category Name

Project Number

\$ -
Remaining Balance

Parks Misc. Revenue
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Connie Emmonson
Department Director

2-24-11
Date

Previous Ordinance or Resolution #

Paul A. Beck
City Attorney

2-28-11
Date
2-28-2011

Original Contract Date:

Original Contract Number:

Paul A. Beck
Finance and Internal Services Director

Date

02-25-11P04:07 RCVD
Received in City
Clerk's Office
Kim G.

Don Man
Chief of Staff

3-1-11
Date

Received in
Mayor's Office



Lionell Jordan
Mayor

3/1/11
Date

Comments: Mr. Price owns approximately 285 acres of land south of the referenced 54.55 acres.

ACA 14-54-302 requires leases to be approved by Council resolution. *JK*



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
PARKS AND RECREATION DEPARTMENT
113 West Mountain
Fayetteville, AR 72701
P (479) 444-3471 F (479) 521-7714

A. 7
Lake Sequoyah Lease
Agreement with Jeff Price
Page 2 of 10

TO: Mayor Jordan
THRU: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *C.E.*
FROM: Byron Humphry, Parks Maintenance Superintendent *BH*
DATE: March 3, 2011
RE: Lake Sequoyah Lease Agreement to William Keith Shofner, Jr. and Jeff Price

In 1958 the City began purchasing land around Lake Sequoyah as a water supply. Certain landowners were given a license agreement to continue to utilize the property for grazing and/or hay production. These license agreements were specified to previous property owners for their lifetime and/or the lifetime of their heirs. One such lease was given to the Shofner family in 1960 for the lifetime of Hal L., William Keith, Alice Ruth, William Keith Jr., and Robert Wallace Shofner. Currently William Keith Shofner holds claim to the lifetime license agreement.

In 1999, it was determined that 82.55 acres adjacent to the Shofner lifetime lease (see attached map), land that was formerly held in a lifetime license agreement by the Miller family, was deteriorating and illegal activity was occurring which included poaching, four wheeling, discharge of firearms, boat launching, and fishing without permit. At this time William Keith Shofner, Jr. offered to build new fencing around the Miller property and provide gated access through his current lifetime lease property. The City agreed to a 2 year lease, renewable for 8 one-year terms which would allow Shofner to pasture cattle and/or horses and to bale and remove hay. The lease also allowed Shofner access to remote areas of his lifetime lease area. In exchange, Shofner agreed to build and maintain fencing on the property, maintain the premises in a good condition, and prevent unauthorized access and hunting. Through this lease, the City gained a steward of the land that provided security and maintenance.

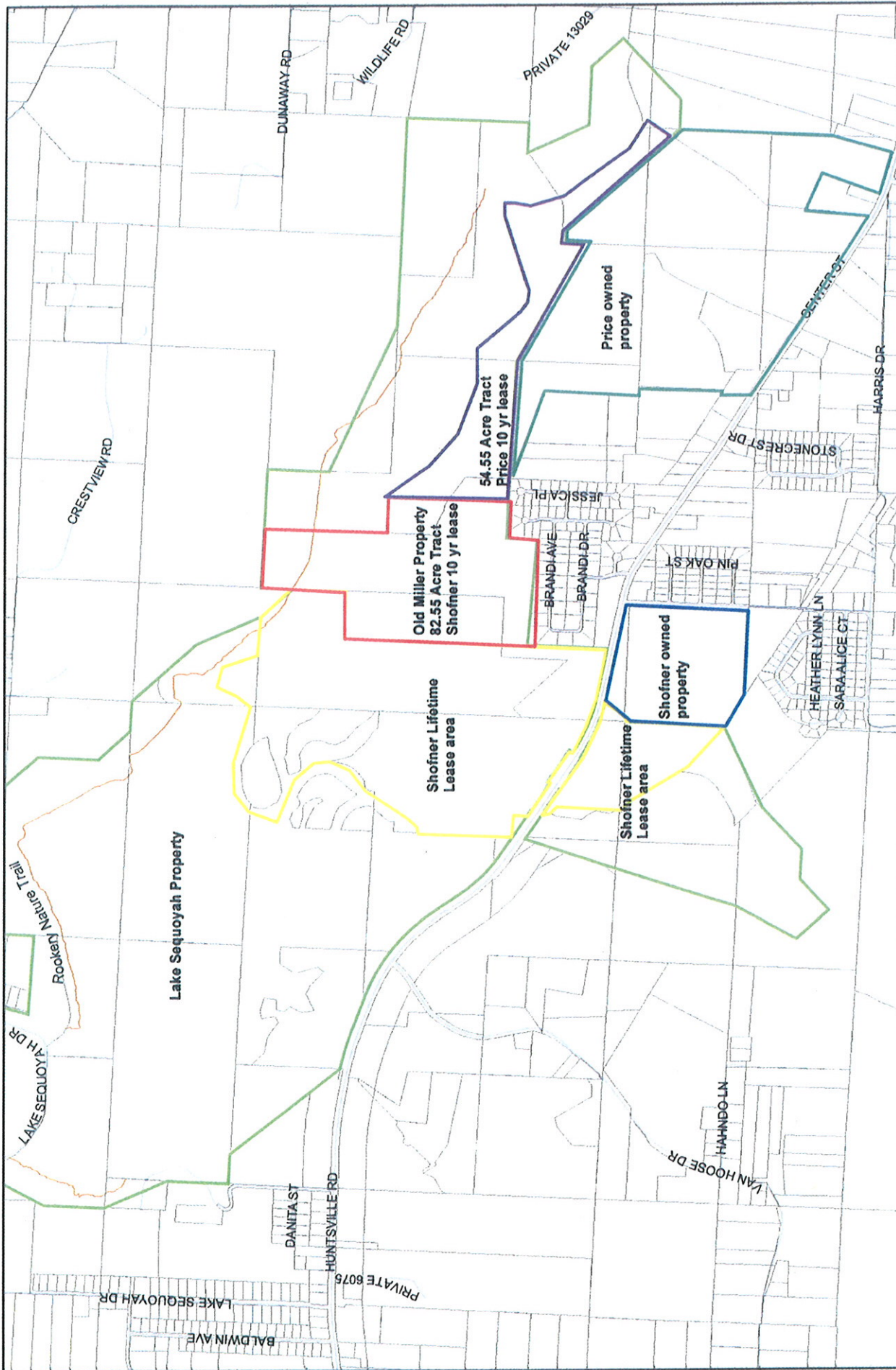
In 2000, it was determined that the land to the east of the old Miller property (54.55 acres) was also deteriorating and illegal activity was occurring similar to the former condition of the old Miller property. Shofner approached the City to lease the 54.55 acre tract to maintain the land and deter illegal activity. Jeff Price also expressed interest in leasing this property because he owns all of the land to the south of the 54.55 acres. Price owns approximately 285 acres. Since both gentlemen were interested in leasing the property, bids were taken and the lease was awarded to Jeff Price in which he offered a sum of \$2,600 per year. In addition to the annual payment, Mr. Price also agreed to build and maintain a fence on the property, maintain the property in a good condition, and prevent unauthorized access and hunting. The City agreed to a 2 year lease, renewable for 8 one-year terms.

Both of the Shofner and Price leases have expired. Due to both gentlemen being in good standing with the City over the course of their previous 10 year leases, and because each property is essentially landlocked to anyone else other than Shofner or Price, it is the desire of the Parks Department to renew the leases under the same terms that were agreed upon 10 years ago for the following reasons:

1. Shofner holds a lifetime lease adjacent to the 82.55 acres that he formerly leased.
2. Shofner needs the 82.55 acres to access his lifetime lease area with the City.

3. Price owns all of the land surrounding the 54.55 acres that he formerly leased from the City.
4. The 54.55 acres is only accessible to Shofner or Price.
5. Both of the former leases were of great benefit to the City providing maintenance and deterring illegal activity in this area at Lake Sequoyah. These illegal activities are all prohibited by City ordinance but are difficult to enforce without the lease agreement and the presence of the lessee tending to the land.
6. Both Shofner and Price were contacted and wish to continue their respective lease agreements under the previous terms.

The Parks and Recreation Department therefore recommends that we renew our lease agreements with Mr. Shofner and Mr. Price for the same terms and duration as the previous leases that have expired. The biggest value of these leases to the City is that these properties are maintained and illegal activity is deterred without an expense to the City.



Shofner and Price Property and Leases

- Lake Sequoyah Property - green outline
- Shofner lease 82.55 acre tract - red outline
- Shofner 169.8 acre lifetime lease - yellow outline
- Shofner property 40 acres - blue outline
- Price lease 54.55 acre tract - purple outline
- Price owned property 285 acres - teal outline



RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE CONTRACT WITH JEFF PRICE
ON 54.55 ACRES OF LAND ADJACENT TO LAKE SEQUOYAH FOR
PURPOSES OF PASTURING CATTLE AND HORSES, AND CUTTING AND
BALING HAY

**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
lease contract with Jeff Price, a copy of which is attached as Exhibit "A", concerning 54.55 acres
of land described therein adjacent to Lake Sequoyah for purposes of pasturing cattle and horses,
and cutting and baling hay.

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville
Lake Sequoyah Lease Agreement

This **Agreement** executed this _____ day of _____, 2011, between the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called "the City" and Jeff Price, hereinafter called "Mr. Price". This agreement is for approximately 54.55 acres of unused land adjacent to Lake Sequoyah.

Whereas, Mr. Price is the owner of approximately 285 acres of land which adjoins land owned by the City adjacent to Lake Sequoyah; and

Whereas, the aforementioned 54.55 acres of land owned by the City is landlocked and adjacent to the 285 acres of land owned by Mr. Price ; and

Whereas, illegal activity including poaching, four wheeling, discharge of firearms, boat launching, and fishing has been deterred under the prior 10 year agreement; and

Whereas, Mr. Price is in good standing with the City from the prior 10 year agreement and the agreement was of great benefit to the City.

Now, Therefore, the City and Mr. Price hereby agree as follows:

1. The City hereby agrees to allow Mr. Price to utilize, the following described property(s) situated in Washington County, Arkansas, described in Exhibit A attached hereto and made a part thereof.
2. The term of this agreement shall be for a period of two (2) years commencing on the execution date hereof. However, the agreement may be automatically renewed for eight (8) one (1) year terms upon agreement by both the City and

Mr. Price. Provided, the City may terminate this agreement at any time for all or any portion of the demised premises by giving Mr. Price ninety (90) days written notice by regular mail at Mr. Price's regular mailing address if the City determined that said premises are needed for public park purposes.

3. In consideration for the City leasing the demised premises to Mr. Price, Mr. Price agrees to pay the City \$2,600 per year. Payment is to be made by January 1 of each year.
4. Mr. Price shall use the demised premises solely to provide pasture for Mr. Price's cattle and/or horses and to bale and remove hay. When baled, any hay shall immediately become the property of Mr. Price.
5. Mr. Price shall fertilize the demised premises so that, upon expiration of this agreement, the demised premises shall be in as good condition as on the execution date hereof. Fertilizer should be applied in accordance to applicable local and states laws.
6. Mr. Price shall not remove, nor permit to be removed, any tree on the demised premises.
7. Mr. Price shall not hunt, or permit any other person to hunt, on the demised premises.
8. During the term of this agreement, the City shall have the right to construct walking paths in close proximity to Lake Sequoyah which walking paths shall constitute a public easement for use by the public. If such walking paths conflict with grazing cattle and/or horses, Mr. Price shall exclude cattle and/or horses from the trail premises.
9. The City shall have the right to enter the demised premises at any time for the purpose of inspecting the property, surveying, or constructing walkways; and the City shall not be liable to Mr. Price for damages as a result of such entry, surveying, or construction.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day
and year first above written.

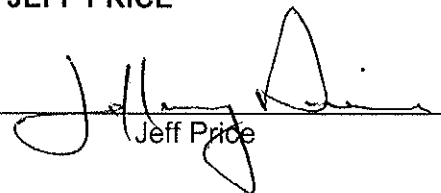
CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

MR. JEFF PRICE

By:  _____
Jeff Price

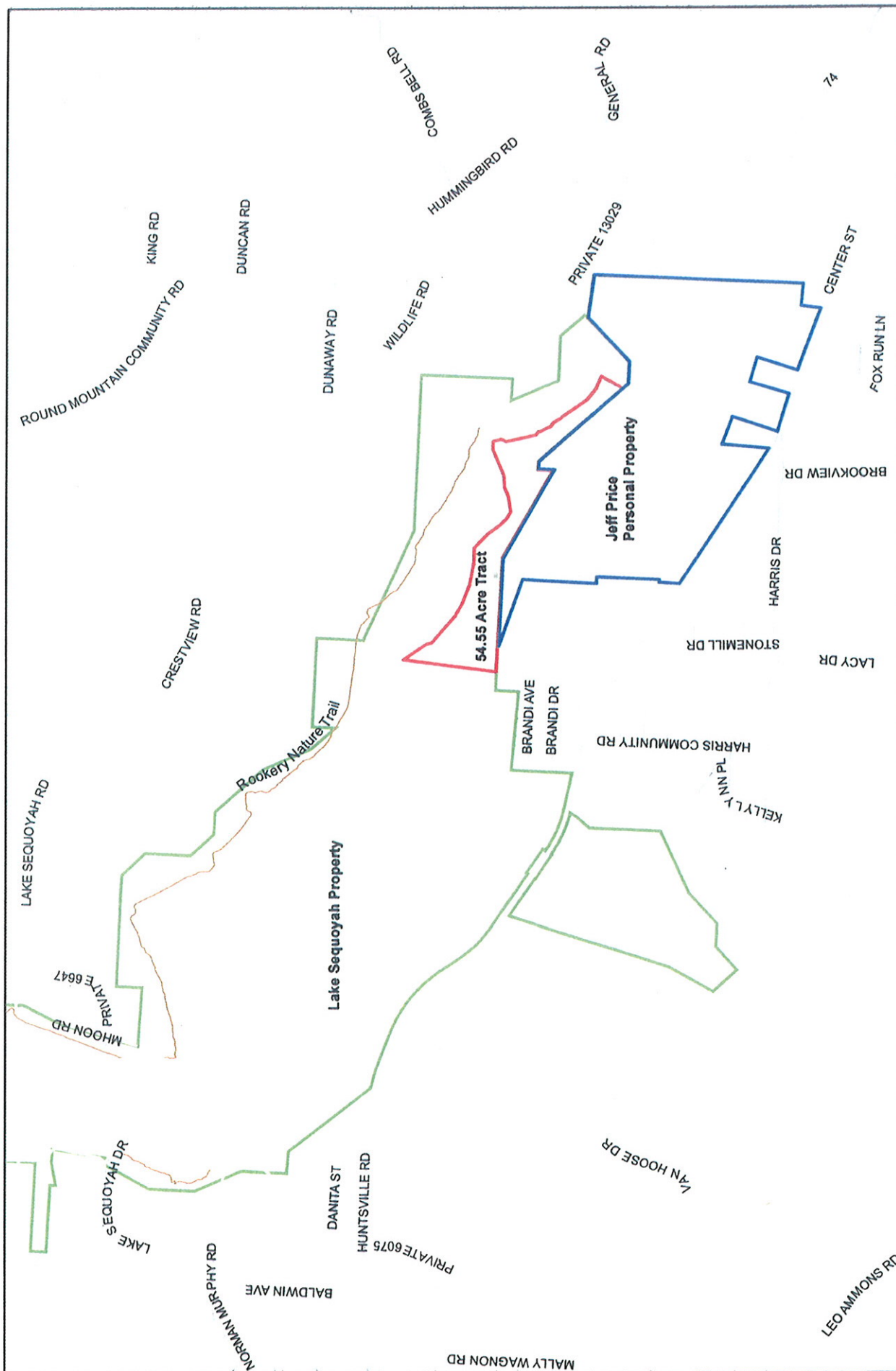
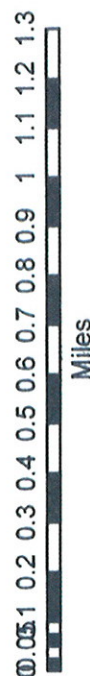


Exhibit A

Jeff Price Lease Agreement
 Lake Sequoyah property - green outline
 54.55 acre tract - red outline
 Jeff Price property - blue outline



Fayetteville City Council
113 W. Mountain Street
Fayetteville, AR 72701

January 6, 2011

RECEIVED

JAN 06 2011

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Re: Huntingdon Heights

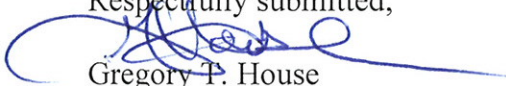
Dear Members of the Fayetteville City Council,

I am writing on behalf of Huntingdon Heights, LLC, which is the owner of a development project called Huntingdon Heights located off Warwick Drive on Barnsbury Terrace and Knightsbridge Avenue in Fayetteville. The purpose of this letter is to formally appeal a decision of the Zoning and Development Administrator pursuant to Title XV of the Unified Development Code, Chapter 155.06, section A(1).

The basis of this appeal derives from the following facts. On May 3, 2010 in a letter to Brian Teague, the Huntingdon Heights project engineer, Andrew Garner clarified where we stood with respect to the items that needed to be addressed and the deadlines for each as part in order to complete this project. In reliance on that letter we moved forward and have completed all the physical work required therein. We have approached the Zoning and Development department (hereafter Development) informing them of the project's completion and have asked for TCO's for the last 6 units pending issuance of final Certificates of Occupancy. Our request was denied today.

Development has required that an apron be replaced in the city right of way for the driveway at 3172 Warwick basically because it "doesn't look good", and without this being remedied, final approval for completion of the project will not be granted nor will TCO's be issued. This is despite the fact that there are no Health and Safety issues remaining. In addressing the issue of the approach patch for 3172 Warwick, all that was required in Mr. Garners letter of May 3, 2010 was that "the thickness of the concrete ...be verified", it was determined that exposing the edge by digging was sufficient, which we did and this was observed by engineering's inspector. To be asked to remove this patch for a third time, when this was not in the scope of work detailed in the May understanding, and considering the fact that the "patch" has been in place for over a year and a half with no signs of failure, and that we have posted a maintenance bond for public improvements to cover costs in the event of failure seems patently unreasonable.

Respectfully submitted,



Gregory T. House
For Huntingdon Heights, LLC
217 N. East Ave.
Fayetteville, AR 72701
479-521-9155

*Tabled to March 15, 2011 CC mtg.
Tabled to the Feb 15th 2011 CC mtg.*

MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director

From: Chris Brown, City Engineer *CB*

Date: January 14, 2011

Subject: Huntingdon Heights Development
Appeal of City Engineer's Determination Regarding the Driveway Approach at 3172 Warwick Dr.

This memo provides additional information regarding the appeal by Gregory T. House on behalf of Huntingdon Heights, LLC with regard to a driveway repair required as part of the Huntingdon Heights Development. The Engineering Division is requiring removal and replacement of the patch due to unacceptability of the concrete surface, removal and replacement limits that do not meet standard practices, and a failure of the contractor to contact the City for an inspection prior to concrete placement.

First, in response to Mr. House's statement regarding requirements in the attached May 3, 2010 letter by Andrew Garner, the full text of the item discussing the driveway repair is as follows:

"1. An inspection was not requested for the approach patch for the private drive prior to concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. **Remove and replace to proper width and thickness as required.**"

This statement was repeated at least 5 times in letters to Mr. House and/or his representatives, along with other similar verbal and written communications. Each time this requirement was communicated to Mr. House, as part of an inspection prior to an occupancy permit, he requested that the requirement be put off and be made part of another building on the project that was not yet ready for occupancy. This was granted each time, but the development is now to the point that the last building is ready for occupancy, and this issue must be addressed at this time.

Secondly, in his appeal letter, Mr. House states that it was determined that digging next to the patch to verify the thickness was sufficient. Mr. House's representative did in fact ask if that was sufficient, and an area next to the patch was excavated and made available for inspection. However, staff has never indicated that this was an acceptable verification method. This method is not an acceptable substitute for an inspection prior to installation of concrete.

On December 6, 2010 a letter with accompanying sketch clarifying the requirements for the driveway repair was sent to Mr. House, so that there was no confusion as to the repair specifications. A copy of this letter is attached, and remains the recommendation of staff. Therefore, staff recommends denial of this appeal.

May 3, 2010

Mr. Brian Teague
Community by Design
311 West Spring Street
Fayetteville, AR 72701

Via Email: brian@communitybydesignllc.com

Re: *Huntingdon Heights Inspection Status: AP#'s 37698, 37103, and 33957*

Dear Mr. Teague:

As we have discussed with you on several occasions, the permits at 3164 and 3153 Barnsbury Terrace (AP#'s 37698 and 34103, also known as Buildings A1 and A2 on the site plan) are in violation of City ordinance for exceeding the 90-day temporary certificate of occupancy. Staff has been working with you and the owner/developer for many months to try and finalize these two buildings. A letter to you dated April 13, 2010 was a final attempt to set deadlines to complete the project in a timely fashion prior to us sending this project to the City Prosecutor. An initial deadline for several items was set for May 1, 2010. An inspection by the City on April 30, 2010 and your letter dated April 30, 2010, along with a check provided to the City on April 30, 2010 indicated adequate progress towards the May 1st checklist we have given you.

In order to continue progress towards finalizing the subject permits, the following items need to be completed within the timeframe outlined below. Failure to meet the deadlines noted below will require the Development Services Division to send this project to the City Prosecutor:

Engineering Division (Glenn Newman 444-3424):

By **June 1, 2010** the following item must be completed:

1. Provide a 2 year maintenance bond or letter of credit in the amount of 25% of the actual construction cost of all public improvements (water and sanitary sewer) for the project. A check covering the required amount was submitted on April 30, 2010, with the request by the bank to not cash the check for a period of 30 days, to allow adequate time to process a letter of credit.

If the above items are completed on schedule by June 1, 2010, the Engineering Division will recommend extending the Temporary Certificate of Occupancy for buildings A1 and A2 for an additional 14 days (until **June 15, 2010**) to complete the following tasks:

1. All exposed soil, specifically to the north of A3 be temporary seeded as required in the grading ordinance where construction activities have ceased for more than 15 days, in accordance with UDC 169.06(F)(4).
2. Staff has concerns with the functionality of the rip rap provided between buildings A2 and A3. This should be reevaluated with staff by the deadline.

3. The workmanship of the concrete flume exiting on Warwick in front of building A1 is not acceptable and does not match the approved detail. Reconstruct to match detail and request inspection.
4. Grading beyond the project limits not shown on grading plan was not authorized. The disturbed area must be graded to a maximum of a 3:1 slope, utilities adjusted, and re-vegetated per 169.06(F)(4) *Revegetation* of the Unified Development Code. Written permission of adjacent property owner is not required, since this is the same owner.
5. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
6. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.

If the above items are completed on schedule by June 15, 2010 Engineering will recommend extending the TCO for buildings A1 and A2 for an additional 45 days (until **July 30, 2010**) to complete the following tasks:

1. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
2. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
3. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
4. Final removal all silt from the storm drainage system and vault.
5. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.
6. The temporary electrical service (no longer being used) behind building A2 shall be removed as a safety concern.

All above items must be completed and accepted by the city prior to July 30, 2010 which will allow the applicant to obtain a Final Certificate of Occupancy for buildings A1 and A2. There will be no additional extensions to the Temporary Certificate of Occupancy for buildings A1 and A2. Written documentation is required by the Owner/Engineer for each milestone date confirming the required items are complete and have been inspected and accepted by the city Engineering Division.

Prior to obtaining a Temporary Certificate of Occupancy of Building A3 (The Last Building), the following items must be performed or provided to the satisfaction of the Engineering Division:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;

3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

Please note, site inspections, at the time Building A3 is complete, may identify additional requirements not included in this transmittal.

The engineer of record shall provide construction inspection for this project including the final inspection in the presence of city staff and generate the official punchlist.

The public works inspector (PWI) shall be notified no less than 48 hours prior to the installation of public utilities, infrastructure, roadway, etc. Testing shall be coordinated and scheduled with the PWI as well.

Please call to schedule the site inspection when the site work is being performed.

If you have any questions, please call Glenn Newman at 575-8206.

Solid Waste Division (Brian Pugh 718-7685):

- Prior to temporary CO for building A3 the dumpster enclosure with dumpster needs to be installed.

Tree and Landscape (Greg Howe 444-3470):

Prior to final CO for any of the buildings:

- Permanent erosion control and soil stabilization throughout the site needs to be installed and inspected.
- The tree preservation area needs to be inspected and approved. Contact Greg Howe for a final inspection and review of the post-construction tree preservation plan.
- Landscape requirements must be completed including installation of two large species shade trees along the project's Warwick Street frontage. The existing trees and crepe myrtle recently planted do not meet code.

Fire Department (Mark Stevens 444-3448):

Prior to final CO the following items need to be completed:

- Buildings A1 and A2. Fire lane no parking area painted with red strips in front of Building A3.
- Buildings A1 and A2. All drive areas with 20-26 feet distance from curb face to curb face require NO PARKING FIRE LANE identification (Arkansas Fire Code D103.6.1) this is required because it is not a public street and is a fire access road (Arkansas Fire Code 502).
- Building A3.

- Fire extinguishers provided and inspection tagged by a certified/licensed company located within 75 feet maximum travel distance from any location inside the residence (Arkansas Fire Code 906 and NFPA 10). Extinguishers may be installed in weather protected (plastic or metal) cabinets on the exterior of the building in locations that comply with the 75 feet travel distance requirement.
- Proper building address numbers to be provided.

Building Safety (Vel Moses 575-8224):

- Building A1 items to be completed: 101-Seal blocking under upper deck and seal all exterior holes i.e. HVAC, gas lines, cables, T&P; extend drain line below cable boxes within 6 inches of the ground; secure dryer vents; fix or remove temp power; vapor barrier incomplete in the crawl; remove trash and construction debris under the dwelling; grippable handrail (102) entry; light for the attic (103) move to access.
- Building A2. Has been completed
- Building A3. A final inspection has not been requested or conducted. Call to schedule a final inspection.

Planning (Andrew Garner 575-8262):

- Prior to final CO for Buildings A1, A2, or A3 the site work must be completed with parking spaces and drive aisles striped.
- Prior to final CO for Buildings A1 or A2, the non-conforming light fixtures throughout the development need to be removed or retro-fitted to meet City lighting ordinance, site erosion and clean-up issues need to be addressed, and two street trees installed.
- Prior to temporary CO for Building A3 the dumpster enclosure with dumpster shall be installed.

If you have any questions, please call me at 575-8262.

Sincerely,



Andrew Garner
Senior Planner

Cc: Greg House (ghouse@housesinc.com); Glenn Newman (gnewman@ci.fayetteville.ar.us); Brian Pugh (bpugh@ci.fayetteville.ar.us); Mark Stevens (mstevens@ci.fayetteville.ar.us); Terry Lawson (tlawson@ci.fayetteville.ar.us); Vel Moses (vmoses@ci.fayetteville.ar.us); Greg Howe (ghowe@ci.fayetteville.ar.us); Jeremy Pate (jpate@ci.fayetteville.ar.us)



www.accessfayetteville.org

Greg House
House Inc.
217 N East Ave
Fayetteville, AR 72701

December 6, 2010
Eng # 7968

Re: Huntingdon Heights Lot 28
Temporary Certificate of Occupancy for Building A3
Engineering Requirements

Dear Mr. House:

In response to your request to obtain a Temporary Certificate of Occupancy (TCO) for Building A3 made to Building Safety December 2, 2010, we have prepared a list of outstanding items that will need to be completed to the satisfaction of the Engineering Division as identified below, before Engineering approval will be given:

1. The existing concrete patch in the driveway at 3172 Warwick Drive is not acceptable and must be corrected as specified below and as detailed in the attached sketch. As you are aware, the existing patch was constructed without supervision or inspection by the Engineering Division, and does not meet standards of acceptability with regard to the limits of the patch or the concrete finish.
 - a. Remove the existing concrete patch and continue the saw cut south, the width of the driveway, saw cut along the edge of pavement, remove the existing concrete, place new 6" thick concrete the width of the driveway for a total of approximately 100 sf, finish to match existing surface.
 - b. Coordinate with the property owner to minimize disruption, multiple repair phases may be required.
 - c. Contact Chuck Rutherford to schedule inspection before placement of new concrete.
2. Final removal all silt from the storm drainage system and vault is required.
3. Remove the chlorination piping used to test the water main and backfill the area.

After these items are completed, please contact the Engineering Division for a final inspection.

In addition to the construction related items listed above, the following items must be performed or provided to the satisfaction of the Engineering Division prior to Engineering approval of a TCO:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;
3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

If you have any questions, please call me at 575-8206.

Sincerely,

Chris Brown, P.E.,
City Engineer



TITLE XV UNIFIED DEVELOPMENT CODE CHAPTER 155: APPEALS

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TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 155 APPEALS

155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, Construction Board of Adjustment and Appeals, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

(Code 1965, App. A., Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Code 1991, §160.175; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04))

State law reference(s)--Appeals to circuit court, A.C.A. §14-56-425.

155.02 Form/Time/Place

Unless an appeal is filed with the court, the following requirements shall be met:

(A) *Form.* All appeals shall be submitted in writing referencing the applicable UDC section(s) and setting out the reasons the applicant contends the decision was in error.

(B) *Time.*

(1) *Appeals.* Appeals shall be submitted within 10 working days from the date of the final action taken.

(2) *Hearings.* The entity hearing the appeal shall fix a reasonable time for hearing an appeal.

(C) *Place.* Appeals shall be filed with the following:

(1) *City Clerk.* Appeals made to the City Council shall be filed with the City Clerk.

(2) *Zoning and Development Administrator.* Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.

(3) *Building Safety Division Director.* Appeals made to the Board of Adjustment, [for inspecting purposes] shall be filed with the Building Safety Division Director.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04)

155.03 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.

(Code 1965, App. A., Art. 13(3); Ord. No. 1747, 6-29-70; Code 1991, §160.173; Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.04 Alderman Appeal On Behalf Of Resident

An alderman may bring an appeal on behalf of any resident of the city a decision by the Planning Commission to approve or deny the requests as set forth below.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5296, 12-15-09)

155.05 Appeals From Planning Commission Decisions

(A) *Appeals to City Council.*

(1) Owners of record of the property being considered may appeal a decision by the Planning Commission to deny the following requests, in accordance with the procedures set forth in §155.02.

- (a) Annexation
- (b) Rezoning
- (c) Planned Zoning District
- (d) Subdivision (Preliminary Plat, Final Plat, Concurrent Plat, Lot split)
- (e) Large Scale Development
- (f) Vacation of utility easement, access easement, public right-of-way
- (g) Commercial Design Standards
- (h) Tree Preservation Plan
- (i) Variances and waivers of the UDC

(2) *Conditions of Approval.* An owner of record may appeal the conditions of approval determined by the Planning Commission for any of the requests listed in (A)(1).

(3) *Conditional Use Request.* Three aldermen, two of whom must reside in the effected ward, may in unison appeal a decision by the Planning Commission approving or denying a conditional use request.

(B) All other decisions by the Planning Commission must be appealed to Circuit Court.

(Code 1965, §13A-40, App. C., Art. II, Art. V., §B; Ord. No. 1509, 8-8-66; Ord. No. 1750, 7-6-70; Code 1991, §§156.017, 159.12, 159.54(F)(1), (2), 159.66; Ord. No. 3781, §1, 4-19-94; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4334, 9-4-01; Ord. No. 4340, 10-2-01)

155.06 Appeals From Staff Interpretations/Actions

(A) *Appeals to City Council.* The following staff interpretations/actions may be appealed to the

Fayetteville Code of Ordinances

City Council by an owner of record of the property in question or an alderman on behalf of a resident of the city:

(1) *Zoning and Development Administrator.*

(a) *Design Overlay District requirements.* The decision of the Zoning and Development Administrator not to exempt property from the Design Overlay District requirements as allowed in §161.28(G).

(b) *Development Matters.* An interpretation or decision of the Zoning and Development Administrator regarding development matters, including subdivisions, large scale developments, parking and loading, and outdoor lighting may appeal.

(2) *City Engineer.*

(a) *Stormwater, Drainage, and Erosion Control requirements.* The decision of the City Engineer to issue a violation notice related to these requirements.

(b) *Development Matters.* An interpretation or decision of the City Engineer regarding development matters, including grading, drainage, water and sanitary sewer systems, and storm drainage systems may appeal.

(c) *Floodplain regulations.* The decision of the Floodplain Administrator, provided that the City Council shall hear and decide an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of Chapter 168.

(3) *Urban Forester – Landscape and Tree Preservation and Protection requirements.* Decisions of the Urban Forester related to landscape and tree preservation and protection requirements.

(4) *Impact Fee Administrator.* Any person aggrieved by any decision of the Impact Fee Administrator made in the enforcement or administration of Chapter 159 Fees.

(B) *Appeals to the Board of Adjustment.* The following interpretations and decisions may be appealed by an owner of record of the property in question or an alderman on behalf of a resident of the city to the Board of Adjustment:

(1) *Zoning and Development Administrator - Zoning.* An interpretation or decision of the Zoning and Development Administrator regarding zoning matters may appeal.

(2) *Building Safety Division Director - Airport Zone.* Any person aggrieved, or any taxpayer affected by any decision of the Building Safety Division Director, made in the administration of Airport Zone, Chapter 165, may appeal.

(C) *Appeals to the Planning Commission.*

(1) Required dedications and improvements.

(a) An owner or developer who is aggrieved by the requirements of the Unified Development Code for land, right-of-way or easement dedications, construction of on-site or off-site improvements, or payments in lieu of any dedication or improvement, which are in excess of the "rough proportionality" of the impact of the development upon the city's infrastructure or services may appeal such requirement to the Planning Commission as a part of the submission of the preliminary plat, large scale development, subdivision, building permit, lot split, development permit, or otherwise within 10 days of notification of such development requirements. The appeal must be presented to the Planning Division in writing and state the grounds, or reasons for the appeal.

(b) The Planning Commission shall determine after public hearing whether the required dedications and improvements meet the "rough proportionality" of the impact of the development on city infrastructure and services. If the requirements are in excess of the "rough proportionality," the Planning Commission is empowered to modify or reduce such requirements to achieve "rough proportionality."

(2) Administrative Approvals.

(a) A resident of the city or an owner/developer who is aggrieved by a decision of the Zoning and Development Administrator regarding development matters that are approved administratively, as required by Chapter 166.02 (C) may appeal the decision to the Planning Commission. The appeal shall be submitted in writing to the Planning Division within 10 days of the final decision. The appeal shall be

TITLE XV UNIFIED DEVELOPMENT CODE

limited to the applicable approval or denial criteria as follows:

- (i) The development plan is not submitted in accordance with the requirements of Chapter 166 of the Fayetteville Unified Development Code.
- (ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.
- (iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by Chapter 166 of the Fayetteville Unified Development Code.

- (iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

- (v) City water and sewer is not readily available to the property within the large scale development or preliminary plat and the developer has made no provision for extending such service to the development.

- (vi) The developer refused to comply with UDC Ch. 166 pertaining to required on-site and off-site improvements.

- (b) The appellant must include in the letter of appeal the specific code section with which the development application does not comply.

- (c) The Planning Commission shall determine after public hearing whether the interpretation or discretionary decision should be upheld or modified in part or in whole.

- (D) *Appeals to the Construction Board of Adjustment and Appeals.* When the administrative authority under Chapter 173 shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the

applicant may appeal the decision to the Construction Board of Adjustment and Appeals.

(Code 1965, §17B-11.2(d), (e), App. A., Art. 10(6), 19(2), App. B, §III, App. C., Art. 10(6), 19(2), App. B, §III, App. C., Art. V, §A; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 2109, 6-375; Ord. No. 2252, 7-6-76; Ord. No. 2538, 7-3-79; Ord. No. 2585, 12-4-79; Ord. No. 2697, 1-20-81; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-14-88; Code 1991, §§150.03, 158.67(B), 158.68(A), (B), 159.65, 160.048, 160.172, 160.176(A), (B), 161.11, 162.03(B), (C), 163.10(D); Ord. No. 3551, 6-4-91; Ord. No. 3587, §1, 1-7-92; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3806, §1, 6-28-94; Ord. No. 3895, §1, 6-20-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3925, §7, 10-3-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4368, §2, 2-5-02; Ord. No. 4377, §§1, 2, 3-5-02; Ord. 4652, 12-07-04; Ord. 5206, 12-16-08; Ord. 5296, 12-15-09)

155.07 Appeals To The Housing Board – Mobile Homes And Mobile Home Parks

- (A) *Permit denied.* Any person whose application for a permit under Chapter 175 has been denied may request and shall be granted a hearing on the matter before the Housing Board.

- (B) *Permit suspended.* Any person whose permit has been suspended, or who has received notice from the enforcement officer that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and be granted a hearing on the matter before the Housing Board.

- (C) *Petition deadline.* When no petition for hearing shall have been filed within 10 days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such 10 days.

(Code 1965, §17B11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2583, 12-4-79; Ord. No. 3152, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Code 1991, §158.67; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(Code 1965, §§13A-40, 13A-43; Ord. No. 1509, 8-8-66; Code 1991, §§156.017, 156.029; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04).

155.08 Appeals From The Construction Board of Adjustments And Appeals

If the Construction Board of Adjustments and Appeals refuses to extend a building permit pursuant to §173.02 (B)(8) or to issue a new building permit for property for which a building permit has expired pursuant to §173.02 (B)(8), the owner may appeal to the City Council.

(Ord. 5019, 5-15-07)

Fayetteville Code of Ordinances

155.09-155.99 Reserved

January 18, 2011

Dear Members of the Fayetteville City Council,

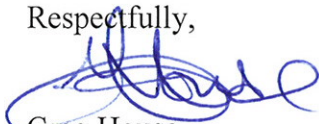
I apologize for the informal nature of this communication but I wanted to get this to the city clerk by your agenda deadline.

Attached please find copies of only a sample of the chain of communication between City officials and our company regarding the Huntingdon Heights project. In the fall of 2009, due to changes in the nature of code enforcement, we asked that the City be clearer as to its expectations for work approvals. As can be seen by the sheer volume of information that was provided, City officials complied with our request. And, therefore, the various departments had ample opportunity to point out deficiencies in the project. Without further belaboring the issues as to why so much documentation became necessary, please note the passages marked with an asterisk in the letters of November 19, 2009; April 13, 2010; and May 3, 2010. Each of these comments only refer to "verifying the thickness of the patch" for the drive at 3172 Warwick, none discuss a complete tear out and replacement as stated in the letter of December 6, 2010.

When I had the work that was required by engineering that related to Warwick Drive completed, I asked Bob Coker, the site inspector, if we had finally met all of the City requests before I paid and released the contractor. He stated that we had. To now rebid, remobilize, and do work that was never required, and cannot be supported by ordinance except to say that this is the way it's been done in the past is unreasonable.

I appreciate your consideration in this matter and hope you will find that it is reasonable to leave the perfectly functioning patch of the driveway at 3172 Warwick as it is.

Respectfully,



Greg House
For Huntingdon Heights, LLC

THE CITY OF FAYETTEVILLE, ARKANSAS
ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443



www.accessfayetteville.org

Brian Teague, P.E.
Community By Design
311 West Spring Street
Fayetteville, AR 72701

November 17, 2009
Eng # 7968

Re: Huntingdon Heights Lot 28 – Site Visit

Dear Mr. Teague:

To expedite the Certificate of Occupancy of the remaining structures for the referenced project as it pertains to the civil sitework, Engineering Division representatives (Chris Brown, Chuck Rutherford, Bob Coker, and Glenn Newman) performed a site visit on Friday November 13, 2009, and created the following list of outstanding items. This list should not be considered a final punch list, rather a list of items that require completion and/or correction as of this date.

Items required before Temporary Certificate of Occupancy for Building A2:

1. Water line depth at meter appears shallow at building A2. Fill around meter or adjust meter lid to grade. If grades are lowered, service lines may need to be lowered as well. Verify the final depth with the Meter Operation Division (Don Osburn 575-8384)
2. Erosion between building A2 and A3 needs to be corrected. Grading plan indicates sheet flow in this location with a constant 3:1 slope to the property line. This area must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code. Staked sod on Hydroseeding with landscape fabric will be required. (typical for these slopes)
3. Grading needs to be completed at the transformer at the back or west side of building A2. Refer to the original grading plan which shows a swale and then a 3:1 backslope to tie to existing grade. The revised grading plan did not change grading in this location. Additional trees will need to be removed to meet the plans. Tree preservation fencing should be re-established before work proceeds in this area.
4. The drainage on the south side of building A2 needs to be corrected to flow around the building and not on the adjacent lot. Refer to the original grading plan. Additional trees will need to be removed to meet the plans and drainage report. The flow is also shown to continue down the back of the retaining wall.
5. Safety railing should be installed on the retaining wall as shown on the original plans.
6. Silt fence should be properly installed in front of building A2 until vegetation has been established. This areas must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code.
7. Remove the inlet protection for detention vault and use this volume as a sediment trap during construction, the bypass currently flowing into Warwick from the blocked inlets is not acceptable.
8. The painting of the fire hydrant is not acceptable. The chains should not be painted and stuck to the hydrant. The paint should be mixed thoroughly and applied with a paint brush. Moving parts should be protected so that when the nuts are turned for flow, the paint should not peel off at the pivot points.
9. Clean up of all debris and excess construction material related to building A2, including material placed on adjacent property.



www.accessfayetteville.org

November 19, 2009

Mr. Greg House
Houses, Inc.

Via Email: ghouse@housesinc.com

Re: Huntingdon Heights Inspection Status: AP#'s 33957, 37103, and 37698

Dear Mr. House:

The following is a list of items that needs to be completed prior to certificate of occupancy (CO) for the subject development:

Engineering Division (Glenn Newman 444-3424):

Please refer to the letter dated *November 17, 2009* from Glenn Newman to Brian Teague. For convenience, these requirements are also listed below:

To expedite the Certificate of Occupancy of the remaining structures for the referenced project as it pertains to the civil site work, Engineering Division representatives (Chris Brown, Chuck Rutherford, Bob Coker, and Glenn Newman) performed a site visit on Friday November 13, 2009, and created the following list of outstanding items. This list should not be considered a final punch list, rather a list of items that require completion and/or correction as of this date.

Items required before Temporary Certificate of Occupancy for Building A2:

1. Water line depth at meter appears shallow at building A2. Fill around meter or adjust meter lid to grade. If grades are lowered, service lines may need to be lowered as well. Verify the final depth with the Meter Operation Division (Don Osburn 575-8384)
2. Erosion between building A2 and A3 needs to be corrected. Grading plan indicates sheet flow in this location with a constant 3:1 slope to the property line. This area must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code. Staked sod on Hydroseeding with landscape fabric will be required. (typical for these slopes)
3. Grading needs to be completed at the transformer at the back or west side of building A2. Refer to the original grading plan which shows a swale and then a 3:1 backslope to tie to existing grade. The revised grading plan did not change grading in this location. Additional trees will need to be removed to meet the plans. Tree preservation fencing should be re-established before work proceeds in this area.
4. The drainage on the south side of building A2 needs to be corrected to flow around the building and not on the adjacent lot. Refer to the original grading plan. Additional trees will need to be removed to meet the plans and drainage report. The flow is also shown to continue down the back of the retaining wall.
5. Safety railing should be installed on the retaining wall as shown on the original plans.

6. Silt fence should be properly installed in front of building A2 until vegetation has been established. This areas must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code.
7. Remove the inlet protection for detention vault and use this volume as a sediment trap during construction, the bypass currently flowing into Warwick from the blocked inlets is not acceptable.
8. The painting of the fire hydrant is not acceptable. The chains should not be painted and stuck to the hydrant. The paint should be mixed thoroughly and applied with a paint brush. Moving parts should be protected so that when the nuts are turned for flow, the paint should not peel off at the pivot points.
9. Clean up of all debris and excess construction material related to building A2, including material placed on adjacent property.

Items required before the Final C of O for the buildings A1 and A2 and/or Temporary C of O for building A3:

1. Silt fence should be properly installed in front of building A3 until vegetation has been established. This areas must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code
2. Remove all silt from the storm drainage system and vault.
3. A follow up certification from the GTS is required since it appears the retaining wall is bulging which may be an indicator that the structural integrity of the wall has been compromised. Confirm with the design engineer that the lack of 2 degree batter and the constructed height does not affect the structural integrity as GTS has indicated in their certification.
4. The workmanship of the concrete flume exiting on Warwick is not acceptable and does not match the detail.
5. Grading beyond the project limits not shown on grading plan is not authorized and shall be re-established to original contours and revegetated. The Urban Forester should be notified to verify no trees have been removed in this are, specifically the area north of the private drive.
6. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
7. An inspection was not requested for the sidewalk repair prior to the concrete placement. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.
8. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
9. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
10. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
11. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.



THE CITY OF FAYETTEVILLE, ARKANSAS
CITY PLANNING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

April 13, 2010

Mr. Brian Teague
Community by Design
311 West Spring Street
Fayetteville, AR 72701

Via Email: brian@communitybydesignllc.com

Re: *Huntingdon Heights Inspection Status: AP#'s 37698, 37103, and 33957*

Dear Mr. Teague:

The permits at 3164 and 3153 Barnsbury Terrace (AP#'s 37698 and 34103, also known as Buildings A1 and A2 on the site plan) are in violation of City ordinance for exceeding the 90-day temporary certificate of occupancy. Staff has been working with you and the owner/developer for many months to try and finalize these two buildings and there has been no visible work completed on the property since approximately November 2009. The initial 30-day temporary certificates of occupancy were issued on December 15, 2009 and have been extended two times. The temporary certificates of occupancy expired on March 15, 2010. This letter is a final attempt to set deadlines to complete the project in a timely fashion prior to us sending this project to the City Prosecutor. Final certificates of occupancy are required to be obtained as soon as possible.

To follow up the meetings you and Mr. House have had with City staff regarding the final inspections, and as you committed to completing these items in your letter dated March 17, 2010, the following items need to be completed within the timeframe outlined below. Failure to meet the deadlines noted below will require the Development Services Division to send this project to the City Prosecutor:

Engineering Division (Glenn Newman 444-3424):

By **May 1, 2010** (since this is a Saturday, the City will conduct a final walk-through on April 30, 2010) the following items must be completed:

1. Provide a 2 year maintenance bond in the amount of 25% of the actual construction cost of all public improvements (water and sanitary sewer) for the project. Submit documentation of unit price breakdown of construction cost for approval.
2. A follow up certification from the GTS is required since it appears the retaining wall is bulging which may be an indicator that the structural integrity of the wall has been compromised. Confirm with the design engineer that the lack of 2 degree batter and the constructed height does not affect the structural integrity as GTS has indicated in their certification.
3. Safety railing must be installed on the retaining wall as shown on the original plans.
4. Safety railing must be installed adjacent to the entry way of building A2 due to the drop off and steep slope.
5. Grading must be completed at the electric transformer at the back/ west side of building A2.

THE CITY OF FAYETTEVILLE, ARKANSAS

6. Erosion between building A2 and A3 must be corrected and stabilized. Based on previous conversations, the city will accept rip-rap stabilization in this area.
7. Silt fence should be properly installed as required to contain sediment on site until vegetation has been established. This area must be stabilized as required by section 169.06(F)(4) *Revegetation* of the Unified Development Code since last earthwork disturbance has been in excess of 14 days.
8. Remove the inlet protection for detention vault and use this volume as a sediment trap during construction, the bypass currently flowing into Warwick from the blocked inlets is not acceptable.
9. Remove all silt from the storm drainage system and vault. .

If the above items are completed on schedule by May 1, 2010, the Engineering Division will recommend extending the Temporary Certificate of Occupancy for buildings A1 and A2 for an additional 45 days (until June 15, 2010) to complete the following tasks:

1. The workmanship of the concrete flume exiting on Warwick in front of building A1 is not acceptable and does not match the approved detail. Reconstruct to match detail and request inspection.
2. Grading beyond the project limits not shown on grading plan was not authorized. The disturbed area must be graded to a maximum of a 3:1 slope, utilities adjusted, and re-vegetated per 169.06(F)(4) *Revegetation* of the Unified Development Code. Written permission of adjacent property owner is not required, since this is the same owner.
3. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
4. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.

If the above items are completed on schedule by June 15, 2010 Engineering will recommend extending the TCO for buildings A1 and A2 for an additional 45 days (until July 30, 2010) to complete the following tasks:

1. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
2. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
3. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
4. Final removal all silt from the storm drainage system and vault.
5. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.

All above items must be completed and accepted by the city prior to July 30, 2010 which will allow the applicant to obtain a Final Certificate of Occupancy for buildings A1 and A2. There will be no additional extensions to the Temporary Certificate of Occupancy for buildings A1 and A2. Written documentation is

required by the Owner/Engineer for each milestone date confirming the required items are complete and have been inspected and accepted by the city Engineering Division.

Prior to obtaining a Temporary Certificate of Occupancy of Building A3 (The Last Building), the following items must be performed or provided to the satisfaction of the Engineering Division:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;
3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

Please note, site inspections, at the time Building A3 is complete, may identify additional requirements not included in this transmittal.

The engineer of record shall provide construction inspection for this project including the final inspection in the presence of city staff and generate the official punchlist.

The public works inspector (PWI) shall be notified no less than 48 hours prior to the installation of public utilities, infrastructure, roadway, etc. Testing shall be coordinated and scheduled with the PWI as well.

Please call to schedule the site inspection when the site work is being performed.

If you have any questions, please call Glenn Newman at 575-8206.

Solid Waste Division (Brian Pugh 718-7685):

- Prior to temporary CO for building A3 the dumpster enclosure with dumpster needs to be installed.

Tree and Landscape (Greg Howe 444-3470):

By May 1, 2010 numerous erosion issues listed above by the Engineering Division, and also noted below, need to be addressed:

- Erosion control fence and soil stabilization is lacking throughout the site, and soil is washing down the site into storm drainage. There is no erosion control at all on the south side of the driveway.

Prior to final CO for any of the buildings:

- The tree preservation area needs to be inspected and approved. Contact Greg Howe for a final inspection and review of the post-construction tree preservation plan.

- Landscape requirements must be completed including installation of two large species shade trees along the project's Warwick Street frontage. The existing trees and crepe myrtle recently planted do not meet code.

Fire Department (Mark Stevens 444-3448):

Prior to final CO the following items need to be completed:

- Buildings A1 and A2. Fire lane no parking area painted with red strips in front of Building A3.
- Buildings A1 and A2. All drive areas with 20-26 feet distance from curb face to curb face require NO PARKING FIRE LANE identification (Arkansas Fire Code D103.6.1) this is required because it is not a public street and is a fire access road (Arkansas Fire Code 502).
- Building A3.
 - Fire extinguishers provided and inspection tagged by a certified/licensed company located within 75 feet maximum travel distance from any location inside the residence (Arkansas Fire Code 906 and NFPA 10). Extinguishers may be installed in weather protected (plastic or metal) cabinets on the exterior of the building in locations that comply with the 75 feet travel distance requirement.
 - Proper building address numbers to be provided.

Building Safety (Vel Moses 575-8224):

- Building A1 items to be completed: 101-Seal blocking under upper deck and seal all exterior holes i.e. HVAC, gas lines, cables, T&P; extend drain line below cable boxes within 6 inches of the ground; secure dryer vents; fix or remove temp power; vapor barrier incomplete in the crawl; remove trash and construction debris under the dwelling; grippable handrail (102) entry; light for the attic (103) move to access.
- Building A2. Has been completed
- Building A3. A final inspection has not been requested or conducted. Call to schedule a final inspection.

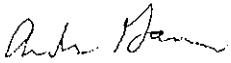
Planning (Andrew Garner 575-8262):

- Prior to final CO for Buildings A1, A2, or A3 the site work must be completed with parking spaces and drive aisles striped.
- Prior to final CO for Buildings A1 or A2, the non-conforming light fixtures throughout the development need to be removed or retro-fitted to meet City lighting ordinance, site erosion and clean-up issues need to be addressed, and two street trees installed.
- Prior to temporary CO for Building A3 the dumpster enclosure with dumpster shall be installed.

THE CITY OF FAYETTEVILLE, ARKANSAS

If you have any questions, please call me at 575-8262.

Sincerely,



Andrew Garner
Senior Planner

Cc: Greg House (ghouse@housesinc.com); Glenn Newman (gnewman@ci.fayetteville.ar.us); Brian Pugh (bpugh@ci.fayetteville.ar.us); Mark Stevens (mstevens@ci.fayetteville.ar.us); Terry Lawson (tlawson@ci.fayetteville.ar.us); Vel Moses (vmoses@ci.fayetteville.ar.us); Greg Howe (ghowe@ci.fayetteville.ar.us); Jeremy Pate (jpate@ci.fayetteville.ar.us)



THE CITY OF FAYETTEVILLE, ARKANSAS

www.accessfayetteville.org

March 25, 2010

Mr. Brian Teague
VIA EMAIL brian@communitybydesignllc.com

Re: Huntingdon Heights Response Letter Dated March 17, 2010

Dear Mr. Teague:

This letter is City staff's response to your letter dated March 17, 2010.

Staff agrees with your proposal that the dumpster enclosure be a requirement for temporary CO of building A3.

The City Engineering Division response is as follows:

- Staff agrees that items #1, #2, and #3 be performed now.
- Staff agrees with allowing the documentation items #1a, #1b, #1d-#1g be postponed until building A3 is ready for a TCO.
- Staff disagrees with allowing items #4-#11 to be required for TCO of building A3. Many of these items are specifically tied to building A1 & A2, specifically items #4, #6, #9, #10, #11 and should be completed with buildings A1 and A2.
- In addition to the above items, the safety railing is required above the retaining wall, hand railing is required on building A2 or eliminate drop off and make the slope no steeper than 3:1, and the erosion between building A2 and A3 must be stabilized, all of which have been discussed previously.

Please contact me if you have any questions.

Sincerely,

Andrew Garner
Senior Planner

cc: Greg House, Owner/Developer
Jeremy Pate, Development Services Director
Greg Howe, Urban Forester
Vel Moses, Building Safety Division
Brian Pugh, Solid Waste Division
Mark Stevens, Fire Department
Glenn Newman, Engineering Division
Chris Brown, Engineering Division



www.accessfayetteville.org

May 3, 2010

Mr. Brian Teague
Community by Design
311 West Spring Street
Fayetteville, AR 72701

Via Email: brian@communitybydesignllc.com

Re: *Huntingdon Heights Inspection Status: AP#'s 37698, 37103, and 33957*

Dear Mr. Teague:

As we have discussed with you on several occasions, the permits at 3164 and 3153 Barnsbury Terrace (AP#'s 37698 and 34103, also known as Buildings A1 and A2 on the site plan) are in violation of City ordinance for exceeding the 90-day temporary certificate of occupancy. Staff has been working with you and the owner/developer for many months to try and finalize these two buildings. A letter to you dated April 13, 2010 was a final attempt to set deadlines to complete the project in a timely fashion prior to us sending this project to the City Prosecutor. An initial deadline for several items was set for May 1, 2010. An inspection by the City on April 30, 2010 and your letter dated April 30, 2010, along with a check provided to the City on April 30, 2010 indicated adequate progress towards the May 1st checklist we have given you.

In order to continue progress towards finalizing the subject permits, the following items need to be completed within the timeframe outlined below. Failure to meet the deadlines noted below will require the Development Services Division to send this project to the City Prosecutor:

Engineering Division (Glenn Newman 444-3424):

By **June 1, 2010** the following item must be completed:

1. Provide a 2 year maintenance bond or letter of credit in the amount of 25% of the actual construction cost of all public improvements (water and sanitary sewer) for the project. A check covering the required amount was submitted on April 30, 2010, with the request by the bank to not cash the check for a period of 30 days, to allow adequate time to process a letter of credit.

If the above items are completed on schedule by June 1, 2010, the Engineering Division will recommend extending the Temporary Certificate of Occupancy for buildings A1 and A2 for an additional 14 days (until **June 15, 2010**) to complete the following tasks:

1. All exposed soil, specifically to the north of A3 be temporary seeded as required in the grading ordinance where construction activities have ceased for more than 15 days, in accordance with UDC 169.06(F)(4).
2. Staff has concerns with the functionality of the rip rap provided between buildings A2 and A3. This should be reevaluated with staff by the deadline.

3. The workmanship of the concrete flume exiting on Warwick in front of building A1 is not acceptable and does not match the approved detail. Reconstruct to match detail and request inspection.
4. Grading beyond the project limits not shown on grading plan was not authorized. The disturbed area must be graded to a maximum of a 3:1 slope, utilities adjusted, and re-vegetated per 169.06(F)(4) *Revegetation* of the Unified Development Code. Written permission of adjacent property owner is not required, since this is the same owner.
5. The sidewalk and approach has settled and cracked on the east side of Warwick Drive where the new sanitary sewer main was installed in front of 3154 Warwick Drive. The back filling of the trench was not inspected nor was the placement of concrete for the sidewalk. The deficient areas shall be removed, subgrade should be inspected for firmness before placement of concrete for sidewalk.
6. The sidewalk that has cracked at the existing sanitary sewer man-hole on the north side of the driveway at 3172 Warwick Drive must be repaired and add a joint at this location to prevent future cracking. Remove and replace to the nearest joint in each direction. Grading and sod should be replaced in this area also to meet predevelopment conditions.

If the above items are completed on schedule by June 15, 2010 Engineering will recommend extending the TCO for buildings A1 and A2 for an additional 45 days (until **July 30, 2010**) to complete the following tasks:

1. An inspection was not requested for the approach patch for the private drive prior to the concrete placement. The thickness of the concrete must be verified at 3172 Warwick Drive. Remove and replace to proper width and thickness as required.
2. An inspection was not requested for the two street crossing for sanitary sewer extensions for this project that required a "Concrete/Asphalt Tee Patch". The material and thickness of the repair must be verified. Remove and replace to proper width and thickness as required.
3. An inspection was not requested for the asphalt patch for the private drive connection to the public street. The material and thickness of the repair must be verified.
4. Final removal all silt from the storm drainage system and vault.
5. Clean up of all debris and excess construction material related to the project, including material placed on adjacent property.
6. The temporary electrical service (no longer being used) behind building A2 shall be removed as a safety concern.

All above items must be completed and accepted by the city prior to July 30, 2010 which will allow the applicant to obtain a Final Certificate of Occupancy for buildings A1 and A2. There will be no additional extensions to the Temporary Certificate of Occupancy for buildings A1 and A2. Written documentation is required by the Owner/Engineer for each milestone date confirming the required items are complete and have been inspected and accepted by the city Engineering Division.

Prior to obtaining a Temporary Certificate of Occupancy of Building A3 (The Last Building), the following items must be performed or provided to the satisfaction of the Engineering Division:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;

3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

Please note, site inspections, at the time Building A3 is complete, may identify additional requirements not included in this transmittal.

The engineer of record shall provide construction inspection for this project including the final inspection in the presence of city staff and generate the official punchlist.

The public works inspector (PWI) shall be notified no less than 48 hours prior to the installation of public utilities, infrastructure, roadway, etc. Testing shall be coordinated and scheduled with the PWI as well.

Please call to schedule the site inspection when the site work is being performed.

If you have any questions, please call Glenn Newman at 575-8206.

Solid Waste Division (Brian Pugh 718-7685):

- Prior to temporary CO for building A3 the dumpster enclosure with dumpster needs to be installed.

Tree and Landscape (Greg Howe 444-3470):

Prior to final CO for any of the buildings:

- Permanent erosion control and soil stabilization throughout the site needs to be installed and inspected.
- The tree preservation area needs to be inspected and approved. Contact Greg Howe for a final inspection and review of the post-construction tree preservation plan.
- Landscape requirements must be completed including installation of two large species shade trees along the project's Warwick Street frontage. The existing trees and crepe myrtle recently planted do not meet code.

Fire Department (Mark Stevens 444-3448):

Prior to final CO the following items need to be completed:

- Buildings A1 and A2. Fire lane no parking area painted with red strips in front of Building A3.
- Buildings A1 and A2. All drive areas with 20-26 feet distance from curb face to curb face require NO PARKING FIRE LANE identification (Arkansas Fire Code D103.6.1) this is required because it is not a public street and is a fire access road (Arkansas Fire Code 502).
- Building A3.

- Fire extinguishers provided and inspection tagged by a certified/licensed company located within 75 feet maximum travel distance from any location inside the residence (Arkansas Fire Code 906 and NFPA 10). Extinguishers may be installed in weather protected (plastic or metal) cabinets on the exterior of the building in locations that comply with the 75 feet travel distance requirement.
- Proper building address numbers to be provided.

Building Safety (Vel Moses 575-8224):

- Building A1 items to be completed: 101-Seal blocking under upper deck and seal all exterior holes i.e. HVAC, gas lines, cables, T&P; extend drain line below cable boxes within 6 inches of the ground; secure dryer vents; fix or remove temp power; vapor barrier incomplete in the crawl; remove trash and construction debris under the dwelling; grippable handrail (102) entry; light for the attic (103) move to access.
- Building A2. Has been completed
- Building A3. A final inspection has not been requested or conducted. Call to schedule a final inspection.

Planning (Andrew Garner 575-8262):

- Prior to final CO for Buildings A1, A2, or A3 the site work must be completed with parking spaces and drive aisles striped.
- Prior to final CO for Buildings A1 or A2, the non-conforming light fixtures throughout the development need to be removed or retro-fitted to meet City lighting ordinance, site erosion and clean-up issues need to be addressed, and two street trees installed.
- Prior to temporary CO for Building A3 the dumpster enclosure with dumpster shall be installed.

If you have any questions, please call me at 575-8262.

Sincerely,



Andrew Garner
Senior Planner

Cc: Greg House (ghouse@housesinc.com); Glenn Newman (gnewman@ci.fayetteville.ar.us); Brian Pugh (bpugh@ci.fayetteville.ar.us); Mark Stevens (mstevens@ci.fayetteville.ar.us); Terry Lawson (tlawson@ci.fayetteville.ar.us); Vel Moses (vmoses@ci.fayetteville.ar.us); Greg Howe (ghowe@ci.fayetteville.ar.us); Jeremy Pate (jpate@ci.fayetteville.ar.us)



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

B. 1
Huntingdon Heights Appeal
Page 30 of 34

Greg House
House Inc.
217 N East Ave
Fayetteville, AR 72701

December 6, 2010
Eng # 7968

Re: Huntingdon Heights Lot 28
Temporary Certificate of Occupancy for Building A3
Engineering Requirements

Dear Mr. House:

In response to your request to obtain a Temporary Certificate of Occupancy (TCO) for Building A3 made to Building Safety December 2, 2010, we have prepared a list of outstanding items that will need to be completed to the satisfaction of the Engineering Division as identified below, before Engineering approval will be given:

1. The existing concrete patch in the driveway at 3172 Warwick Drive is not acceptable and must be corrected as specified below and as detailed in the attached sketch. As you are aware, the existing patch was constructed without supervision or inspection by the Engineering Division, and does not meet standards of acceptability with regard to the limits of the patch or the concrete finish.
 - a. Remove the existing concrete patch and continue the saw cut south, the width of the driveway, saw cut along the edge of pavement, remove the existing concrete, place new 6" thick concrete the width of the driveway for a total of approximately 100 sf, finish to match existing surface.
 - b. Coordinate with the property owner to minimize disruption, multiple repair phases may be required.
 - c. Contact Chuck Rutherford to schedule inspection before placement of new concrete.
2. Final removal all silt from the storm drainage system and vault is required.
3. Remove the chlorination piping used to test the water main and backfill the area.

After these items are completed, please contact the Engineering Division for a final inspection.

In addition to the construction related items listed above, the following items must be performed or provided to the satisfaction of the Engineering Division prior to Engineering approval of a TCO:

1. The work shown on the civil site package must be complete and the items on the final punch list completed.
2. One (1) set of as-built drawings (excluding details) of the complete project including drainage patterns as a hard copy and in Tiff or PDF format;
3. Certification that the streets, storm sewer, water and sewer lines, etc., were installed per approved plans and City of Fayetteville requirements;
4. Cross Sections, Volume Calculations, and Certification Retention/Detention Ponds are in accordance with the approved Drainage Report.
5. Surveyor's Certification of Compliance.
6. The As- Built Final Drainage Report as a hard copy and in PDF format.

If you have any questions, please call me at 575-8206.

Sincerely,

Chris Brown, P.E.,
City Engineer



Greg House

From: Greg House [ghouse@housesinc.com]
Sent: Tuesday, December 07, 2010 4:46 PM
To: 'Andrew Garner'; 'jpate@ci.fayetteville.ar.us'
Cc: 'Brian Teague'
Subject: FW: Huntingdon Heights Lot 28
Attachments: Conditions for A3.pdf

Gentlemen – On May 3, 2010 in a letter to Brian, Andrew clarified where we stood with respect to the items that needed to be addressed and the deadlines for each as part. In reliance on that letter we moved forward and have completed all the physical work required therein. In addressing the issue of the approach patch for 3172 Warwick, I specifically asked the inspection department how they suggested that "the thickness of the concrete ...be verified", as stated in Andrew's letter. I asked if we should do a core drill or just expose the pour by digging adjacent to the patch, it was determined that exposing the edge by digging was sufficient, which we did and this was observed by Bob. To be asked to remove this patch for a third time, when this was not in the scope of work detailed in the May understanding and considering the fact that the "patch" has been in place for over a year and a half with no signs of failure, and that we have posted a maintenance bond for public improvements seems patently unreasonable. Please advise – Greg House

From: Glenn Newman [mailto:gnewman@ci.fayetteville.ar.us]
Sent: Tuesday, December 07, 2010 9:10 AM
To: 'Greg House'
Cc: Chris Brown
Subject: Huntingdon Heights Lot 28

Mr. House,

Please see the attached letter identifying the necessary items to obtain the TCO for the referenced project as it relates to the Engineering Division.

Glenn E. Newman, Jr., P.E.
Staff Engineer
City of Fayetteville Engineering Department
113 W. Mountain, Fayetteville, AR 72701
p. 479-575-8206 f. 479-575-8202
<http://www.accessfayetteville.org>
Telecommunication Device for the Deaf
TDD 479-521-1316

Greg House

From: Jeremy Pate [jpate@ci.fayetteville.ar.us]
Sent: Wednesday, December 22, 2010 3:06 PM
To: ghouse@housesinc.com
Subject: Huntingdon Heights Follow-up

Greg,

I did some research into other projects that we have inspected in the past, along with projects where the city has made water/sewer taps that affected existing driveways. In those cases, we have required a full driveway approach be replaced, so what I am seeing Chris detail for you is common practice. I guess I'm not sure where the misunderstanding is, if this is the same policy we have used for years for both public and private projects. You are welcome to sit down with Chris specifically so that everyone is clear where a sawcut is needed and to what extent concrete would need to be replaced in the driveway repair; however, I would highly recommend that you make sure the area for construction is inspected and signed off on before proceeding with another patch. The engineering division has had this same discussion for a number of months now, with what I feel is the same message being conveyed. I have not heard another message being communicated other than the existing patch is not acceptable; my recommendation is to follow through with this punch list item in order to move forward with Huntingdon Heights.

thanks,
Jeremy

Jeremy C. Pate
Development Services Director
City of Fayetteville, Arkansas

Greg House

From: Greg House [ghouse@housesinc.com]

Sent: Thursday, January 06, 2011 2:34 PM

To: 'jpate@ci.fayetteville.ar.us'

Cc: 'kwilliams@ci.fayetteville.ar.us'

Subject: Huntingdon Heights

Jeremy – I am in receipt of Andrew Garner's communication of this morning stating that it is your decision that you will deny our request for TCO's for the building we have been calling A3 in Huntingdon Heights until we finish the apron at 3172 Warwick in the manner specified in your last communication with me. As you know I disagree with your position with respect to the necessity of this work and that it is our position that all that was required was verification of the patch's thickness as per Andrew's letter of May 3, 2010.

After a discussion with Kit this morning per his suggestion, I would propose the following; Huntingdon Heights (hereafter HH) will lodge an appeal of your decision with the City Council this afternoon. In the interim, assuming all the other requirements have been met per the May 3, 2010 letter, HH be granted TCO's for building A3. If HH's appeal is not successful, within 45 days of the council's decision HH will redo the apron according to the specifications outlined in your email of Dec. 22nd, 2010. In the meantime the City is protected by the bond that has already been posted.

HH has tenants ready to move in at a moments notice if permitted and HH has obligations to its lender as well as other expenses that accrue on a daily basis, therefore, if TCO's for these units are not granted, HH will be irreparably harmed and will be forced to seek other remedies if we cannot reach an agreement as to the best way to move forward. I will need a response by noon tomorrow in order to best protect HH's interests.

Respectfully,

Greg House
for Huntingdon Heights, LLC
217 N. East Ave.
Fayetteville, AR 72701
Phone: (479) 521-9155
Fax: (479) 521-6199
ghouse@housesinc.com
www.housesinc.com

City of Fayetteville Staff Review Form

C. 1
CH2M Hill Engineers, Inc.
Page 1 of 12

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

15-Mar-11

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Wastewater Treatment
Division

Utilities
Department

Action Required:

Approval of an Out of Scope Agreement with CH2M Hill Engineers, Inc. for \$265,000 to develop a Use Attainability Analysis (UAA) on the White River, and approving a \$50,000 contingency, and approving a budget adjustment.

\$316,000.00

Cost of this request

\$

-

Category / Project Budget

Wastewater Treatment

Program Category / Project Name

5400.5100.5328.00

Account Number

\$

-

Funds Used to Date

Wastewater Treatment

Program / Project Category Name

\$

-

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒ XX

[Signature]
Department Director

25 Feb 11
Date

Previous Ordinance or Resolution # 256-09

Original Contract Date: 12/15/2009

[Signature]
City Attorney

2-28-11
Date

Original Contract Number: 2113

Paul A. Becker
Finance and Internal Services Director

2-28-2011
Date

Received in City Clerk's Office 02-25-11 P03:58 RCVD

Uon

[Signature]
Chief of Staff

3-1-11
Date

Received in
Mayor's Office



[Signature]
Mayor

3/1/11
Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

Date: February 25, 2011

Subject: Out of Scope Agreement, CH2M Hill Engineers, for \$265,000 for a White River Use Attainability Analysis

RECOMMENDATION

Staff recommends approving an Out of Scope Agreement with CH2M Hill Engineers, Inc. for \$265,000 to develop a Use Attainability Analysis (UAA) for the White River, and approving a \$50,000 contingency, and a budget adjustment.

BACKGROUND

ADEQ has informed the City that the Noland WWTF National Pollutant Discharge Elimination System (NPDES) permit, currently being developed by ADEQ and scheduled for issuance in May, 2011, will contain limits on total dissolved solids (TDS), and minerals, specifically chloride (Cl^-), and sulfate (SO_4^{2-}), unless other actions are taken. The segment of the White River where the Noland plant discharges is on the 303(d) impaired streams list for turbidity, TDS, Cl^- , and SO_4^{2-} . Concentrations measured in the White River exceeded the current site specific water quality standards (WQS) of: Cl^- -20 mg/l; SO_4^{2-} -20 mg/l; and TDS -160mg/l.

The least cost and most common solution, recommended by ADEQ and successfully completed by Jonesboro (the only other City to have fully faces this issue), is to make a third party petition to the Arkansas Pollution Control and Ecology Commission (APCEC) requesting an amendment to Regulation 2 modifying the site specific water quality standard. It involves performing a Use Attainability Analysis (UAA), which evaluates aspects of the river with respect to the designated uses of the stream. The White River has designated uses of aquatic life and drinking water. The latter has the water quality standards of Cl^- - 250 mg/l; SO_4^{2-} - 250 mg/l; and TDS - 500mg/l. The UAA may take a full year or more to complete before the petition to modify the water quality standards can be submitted to the APCEC, and the APCEC may take another year to make a determination. We are also requesting the new NPDES permit be delayed until this process is complete.

DISCUSSION

There are three companies, CH2M Hill, FTN Associates, and GBM^c & Associates, who are leaders in performing UAAs. The attached agreement represents a partnership with CH2M Hill as the lead and FTN in a supporting role. This team presents the optimum combination of experience, capability for quick, responsive action, and familiarity with the White River conditions, to complete this project as quickly as possible. This type out of scope agreement is allowed for within our existing contract with CH2M Hill. As soon as this contract is executed, CH2M Hill will submit a draft schedule for the UAA to ADEQ for approval. That will determine the schedule of work to follow.

BUDGET IMPACT

Funds are proposed to be reduced from two other approved water/sewer projects to fund this new project, as shown in the attached budget adjustment. The budget adjustment is large enough that it is expected to cover this agreement, the expected contract with the environmental attorney to file the petition with the APCEC, with a contingency.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT OF SCOPE AGREEMENT WITH CH2M HILL ENGINEERS, INC. IN THE AMOUNT OF \$265,000.00 FOR DEVELOPMENT OF A USE ATTAINABILITY ANALYSIS (UAA) ON THE WHITE RIVER, APPROVING A \$50,000.00 CONTINGENCY, 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 an out of scope agreement with CH2M Hill Engineers, Inc. in the amount of \$265,000.00 for development of a use attainability analysis (UAA) on the White River. A copy of the agreement is attached as Exhibit "A".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a \$50,000.00 contingency.

Section 3: 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 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



CH2M HILL
9193 South Jamaica Street
Englewood, CO 80112
Tel 720.286.2000

February 28, 2011

Mr. David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

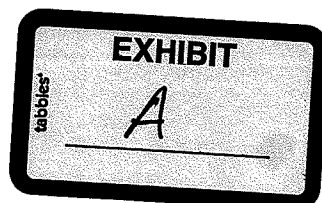
As agreed upon in our previous discussions, CH2M HILL Engineers, Inc. (CH2M HILL) will provide the following Out of Scope services as per the Operations, Maintenance and Management Agreement dated December 15, 2009, executed between the Parties.

What is being provided:

- Services, work, and materials necessary to complete a Use Attainability Analysis (UAA) on the White River segment that the City of Fayetteville's Paul R. Noland Wastewater Treatment Plant (WWTP) discharges into.
- The UAA shall be performed in a manner approved by the Arkansas Department of Environmental Quality (ADEQ), according to a work plan that shall be submitted to ADEQ for approval as one of the initial steps of the process.
- The UAAA shall specifically address the current Arkansas water quality standards for minerals, i.e. Chloride, Sulfate, and Total Dissolved Solids (TDS) for the designated uses.
- A final report shall be issued on the results of the UAA suitable for submittal to ADEQ and the Arkansas Pollution Control and Ecology Commission.

When it is being provided:

Services are expected to be initiated in the spring of 2011 and will be completed according to the timeline approved by ADEQ.



Price of services: To be billed at CH2M HILL's actual cost plus 18% as per Section 3.2 and Appendix C.1.25 of our Agreement upon completion of the services. Documentation of actual costs shall be provided with invoices.

Estimate of costs: Estimated at approximately \$265,000*

Payment terms: Due upon receipt of OMI's invoice and payable within 30 days as per Section 5.2 of our Agreement.

*Note that the City will be alerted immediately if the ADEQ approved work plan or unforeseen weather or other circumstances cause the estimated costs of the project to exceed this number. No work will be performed above this price until such work is approved in writing by the City.

All other terms and conditions of the Agreement dated December 15, 2009, as amended November 16, 2010, between CH2M HILL and The City of Fayetteville remain in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

CH2M HILL appreciates the opportunity to provide these additional services to the City of Fayetteville.

Sincerely,

Duyen Tran
Project Manager

Both parties indicate their approval of the above-described services by their signature below.

Authorized CH2M HILL:

Authorized City of Fayetteville, Arkansas

Name: Natalie L. Eldredge
Title: Vice President
Date: _____

Name: Lionel Jordan
Title: Mayor
Date: _____

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

C. 1 Y11.0222
CH2M Hill Engineers, Inc.
Page 7 of 12

Budget Year	Division: Utilities Director Department: Utilities Director	Request Date	Adjustment Number
2011		3/15/2011	

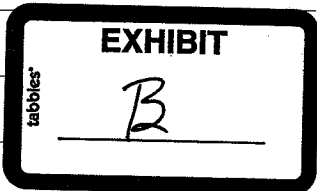
BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

\$400,000 is needed in the White River NPDES UAA and APCEC Action project to develop a Use Attainability Analysis for the White River.

\$265,000 is needed for an an Out of Scope Agreement with CH2M Hill Engineers, Inc. to develop the Use Attainability Analysis due to the ADEQ currently developing a NPDES permit that will contain limits on total dissolved solids and minerals. \$135,000 is needed to cover additional costs associated with the project which includes legal costs for an environmental attorney to file a petition with the APCEC to modify the water quality standards and request that the new NPDES permit be delayed until the analysis process is complete.

Division Head Date 2-28-2011 Budget Director Date 28 Feb 11 Department Director Date 2-28-2011 Finance Director Date 3-1-11 Chief of Staff Date 3/1/11 Mayor Date 3/1/11	Prepared By: Cheryl Partain kspringer Reference: _____ Budget & Research Use Only Type: A B C <u>D</u> E P General Ledger Date _____ Posted to General Ledger Initial _____ Date _____ Checked / Verified Initial _____ Date _____
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TOTAL BUDGET ADJUSTMENT		400,000	400,000		
		Increase / (Decrease)			
Account Name	Account Number	Expense	Revenue	Project.Sub	Number
Contract services	5400.5700.5315.00	265,000	-	11019	1101
Professional services	5400.5700.5314.00	135,000	-	11019	1102
Water line improvements	5400.5600.5808.00	-	100,000	10007	1
Water line improvements	5400.5600.5808.00	-	300,000	01023	1
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To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

Date: February 25, 2011

Subject: Information Paper-Noland Wastewater Treatment Facility NPDES Permitting Issues Relating to Total Dissolved Solids, Chloride, and Sulfate

SITUATION

ADEQ has informed the City that the Noland WWTF National Pollutant Discharge Elimination System (NPDES) permit, currently being developed by ADEQ and scheduled for final issuance in May, 2011, will contain limits on total dissolved solids (TDS) and minerals, specifically chloride (Cl^-), and sulfate (SO_4^{2-}), unless other actions are taken. The segment of the White River where the Noland plant discharges is on the 303(d) impaired streams list for turbidity (sediment), TDS, Cl^- , and SO_4^{2-} . Concentrations measured in the White River both above and below the Noland WWTF discharge exceeded the current site specific water quality standards (WQS) of: Cl^- -20 mg/l; SO_4^{2-} -20 mg/l; and TDS -160mg/l.

According to ADEQ representatives, no point source dischargers are allowed to cause or contribute to an identified impairment. Because the reach of the river where the Noland WWTF effluent discharges (Reach 23) is on the 303(d) list, Noland's effluent, which does contain TDS, Cl^- , and SO_4^{2-} , is subjected to the site specific WQS set for the White River. Any discharge at concentrations above the water quality standards is deemed to contribute to the impairment. As a result, if our NPDES permit were issued today, these same concentrations would become NPDES permit limits. Jonesboro and Huntsville have recently faced this issue same issue.

ALTERNATIVES

Fayetteville and CH2M HILL staff met with ADEQ staff at 2:00, January 26, 2011, to discuss alternatives. ADEQ staff included Ryan Benefield, Steve Drown, Mo Shaffi, Marysia Jastrzebski, John Bailey, and Kim Fuller. City representatives included David Jurgens, Dr. Robert Blanz, P.E., PhD, Billy Ammons, and Duyen Tran. Based on the discussion and the recommendations from ADEQ, Fayetteville has several courses of action. These are not all mutually exclusive; some may be considered in combination.

1. Change the site specific water quality standards. This requires a third party petition to the Arkansas Pollution Control and Ecology Commission (APCEC) requesting an amendment to Regulation 2. It involves performing a Use Attainability Analysis (UAA), which evaluates aspects of the river with respect to the designated uses of the waterway. Designated uses for the White River are aquatic life and drinking water. Aquatic life water quality standards are variable, but as a minimum the drinking water standards of Cl^- - 250 mg/l; SO_4^{2-} - 250 mg/l; and TDS - 500mg/l would apply. Modifying the site specific water quality standard is the most common approach and was recommended by ADEQ in the January 26 meeting. This is the method Jonesboro selected to address the same issue. The UAA may take a full year or more to complete before the petition to modify the water quality standards can be submitted to the APCEC for consideration, and the

APCEC may take another year to make a determination. Simultaneously, we should use every means to get issuance of the new permit delayed. ADEQ staff at the meeting expressed great reluctance to grant an extension, for fear of setting a precedent. Huntsville exerted significant political influence through the City, legislative attention, and the Poultry Federation. As a result, Huntsville received a three year permit that includes monitoring requirements, but no discharge limits, for Cl^- , SO_4^{2-} , and TDS. This was very unusual, and is not available for Fayetteville because we are major discharger. Additionally, this did not solve Huntsville's problem- it simply delayed the final conclusion. Historically, once monitoring begins, discharge limits almost always follow. Thus, Huntsville can expect limits on minerals and TDS when their next permit is issued.

2. Eliminate the source of the TDS and minerals in the stream that are causing the water quality standards to be exceeded. The West Fork of the White River shows impairment upstream from the City's outfall. The Middle and main forks of the White River do not. ADEQ representatives have stated that concentrations of minerals were not an issue until 2004, when a significant increase in TDS and minerals was observed. These higher concentrations have remained since, indicating a long term change in conditions. Staff is obtaining and reviewing the data to further identify exactly when the change occurred. Eliminating the source of this change, and thereby eliminating the source of the minerals, is a hit-or-miss proposition, as a preliminary review has not indicated any potential source for such a change. It may be induced by human action, or may be caused by natural phenomena. The only potential cause identified thus far is the major flood that occurred on April 23-24, 2004. The City of West Fork WWTF is the only other permitted point source upstream; its flow volume is comparatively minor and is extremely unlikely to be the source. Positively identifying the source will take comprehensive stream sampling, and will probably prove unsuccessful no matter how much effort is applied. This alternative should be investigated, but cannot be relied upon as a sole solution to the permitting problem.

3. Do nothing to change the standards. This alternative creates two sub-choices:

a. Upgrade the WWTF to meet the new permit limits. This will result in an approximate \$45 million (very preliminary estimate) initial capital and \$2 million increased annual operational cost for treatment, which could approach a present worth value of \$100 million over the life of the Noland facility.

b. Do not upgrade the WWTF, and accept not meeting the permit requirements. This will result in fines from ADEQ which would be levied as soon as the new limits take affect (this was made clear in the January 26 meeting).

4. Change the state-wide water quality standards. Several cities in Arkansas have faced this issue in recent years, and it will become more common in future permits. As a result, ADEQ representatives agree that there is significant benefit to changing these water quality criteria on a state-wide basis. This process would likely take at least 3 – 5 years, if it would be successful at all. It is also very expensive, and according to the ADEQ officials in our meeting is not currently feasible for ADEQ. This is the best long-term solution, but will not solve the issue for Fayetteville.

5. Invoke legislative action to allow or force ADEQ to address the Regulation. This is a state-wide problem that will impact multiple municipal and other dischargers. As every ADEQ representative agreed, this is not an environmental impact issue but a regulatory one that they are required to enforce. These constituents have no negative impact on the environment at the levels cited in the Regulation, but changes in the White River flow and the low flows experienced in 2007 have caused this to become a permitting issue. ADEQ stated they are unwilling to address the problem on a state-wide basis due to lack of funding and manpower to do so. It will take legislative action to change this position. If no state-wide action is taken by ADEQ, then the responsibility is placed directly on each permitted discharger, who then must invest in a \$300k - \$400 study to make a third party rule change. Any legislative change may help other NPDES permit holders, but cannot occur in time to help with Fayetteville's situation.

6. Partner with West Fork, as the only other NPDES permitted facility on the White River upstream of Beaver Lake. Their NPDES permit expires in 2012. If the ADEQ approach remains unchanged, they will face the same problem. This would require two to four additional sampling sites on the West Fork, but otherwise would not add significant work to the process. West Fork staff is evaluating, and we are executing our initial work so they could join in and cost share on the study and petition.

RECOMMENDATION

As soon as possible, initiate a plan to conduct a UAA. Send the plan to ADEQ for review, comment, and (if they will grant such) approval. Start the UAA soon enough that we catch the spring conditions this year. Request a two year extension of our existing permit from ADEQ while we undergo the study and submit the WQS standards change request to the APCEC. Select and hire an attorney specializing in environmental law to submit the request to the APCEC. Structure our initial work such that West Fork can participate allowing for them to cover their portion of the expense.

BACKGROUND and ADDITIONAL INFORMATION

All attendees in the January 26 meeting agreed these standards are not reasonable for wastewater, and there is no scientific evidence that we know of suggesting that minerals and TDS in the concentrations present in either the river or the wastewater effluent cause harm or degradation to aquatic life or other aspects of the environment. We are not aware of another NPDES permit in Arkansas that currently has discharge limits on these parameters, although Jonesboro and Huntsville have had to address the issue. Most states do not appear to have any type of water quality standard for these minerals and ADEQ admitted that the standards as they currently exist provide no known benefit to the environment. ADEQ further acknowledged that the standards themselves should be changed but insisted that they had neither time nor resources to perform that action. The standards were introduced into the state-wide regulations by ADEQ in the late 1970's, based on a study conducted at that time. That study cannot now be found. Thus, they cannot find the reason these standards were first identified- neither for the entire state nor for the White River. Additionally, there are different impaired water body uses for the White River in the 303(d) list in the 2004, 2006, 2008, and (draft) 2010 publications, but ADEQ staff has not identified the reasons for these changes. It is, they agreed, possible that these numbers, and the resulting inclusion on the 303(d) list, are the result of an error. However, now that the numbers are in the Regulation, they must be either followed or formally changed. As a point of comparison, the proposed limits are much stricter than the recommended standards for finished drinking water, which has recommended (but not required) standards shown in the table below.

The City has never monitored our effluent for these items. There was never a reason to. Preliminary monitoring, conducted since the issue was brought to our attention, indicates our effluent, **at that time**, contained the concentrations shown below. The BWD drinking water concentrations are shown as well.

Constituent	White River Limit	Noland Effluent ² (Jan 2011)	Drinking Water Limit ¹	BWD 2009 Actual
Chloride	20	Average 40.5 range 38.2 - 44.3	250	9
Sulfate	20	Average 57.1 range 37.3 - 61.4	250	27.6
Total Dissolved Solids	160	Average 458, range 397 - 680	500	95

¹ These are aesthetic standards recommended by USEPA and ADH for drinking water; they are not mandatory.

² These are samples taken in January, 2011. These could change drastically for different seasons, influent changes, and treatment process changes.

303(d) List Summary

303(d) Year	Stream Reach for Which City	Impairment	Impaired Use	Reason
2002	West Fork, Fayetteville	None	N/A	N/A
2004	West Fork	TDS, SO ₄ ⁼	Agriculture & Industry	Road const & agriculture
2004	Fayetteville	TDS, Cl ⁻ , SO ₄ ⁼	Agriculture & Industry	Road const & agriculture
2006	West Fork	TDS, SO ₄ ⁼	Agriculture & Industry	Unknown
2006	Fayetteville	TDS, Cl ⁻ , SO ₄ ⁼	Agriculture & Industry	Unknown
2008	West Fork	TDS, SO ₄ ⁼	Agriculture & Industry	Unknown
2008	Fayetteville	TDS, Cl ⁻ , SO ₄ ⁼	Agriculture & Industry	Unknown
2010	West Fork	TDS, SO ₄ ⁼	Agriculture & Industry	Unknown
2010	Fayetteville	TDS, Cl ⁻ , SO ₄ ⁼	None Listed, verbally Aquatic Life (Fisheries)	Unknown

City of Fayetteville Staff Review Form

C. 2
 Arkansas Western Gas Company
 Page 1 of 10

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

15-Mar-11

City Council Meeting Date
 Agenda Items Only

David Jurgens

Submitted By

Utilities Capital Projects

Division

Utilities

Department

Action Required:

Approval approval of a cost share agreement with Arkansas Western Gas (AWG) to extend gas service to the Noland Wastewater Treatment Facility (WWTF), and approval of a bid waiver.

N/A

Cost of this request

78,454

Utilities

Program Category / Project Name

5400.5110.5310.00

Account Number

8,211

Funds Used to Date

East Side WWT

Program / Project Category Name

N/A

Project Number

70,243

Remaining Balance

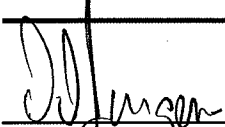
Water/Sewer

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

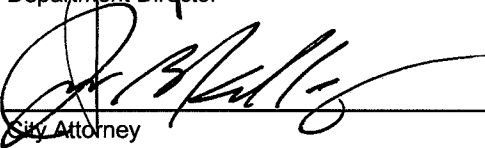
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 Department Director

23 Feb 11
 Date

Previous Ordinance or Resolution #

N/A

Original Contract Date:

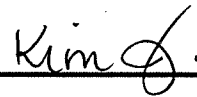
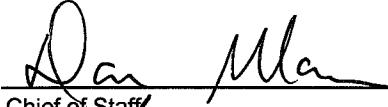

 City Attorney

2-24-11
 Date

Original Contract Number:

Paul A. Becher
 Finance and Internal Services Director

2-25-2011
 Date

 Received in City 02-23-11 P01:49 RCVD
 Clerk's Office


 Chief of Staff

2-24-11
 Date

 Received in
 Mayor's Office


 Mayor

2/25/11
 Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

Date: February 22, 2011

Subject: Approval of a cost share agreement with Arkansas Western Gas to extend gas service to the Noland Wastewater Treatment Facility

RECOMMENDATION

Staff recommends approval of a cost share agreement with Arkansas Western Gas (AWG) to extend gas service to the Noland Wastewater Treatment Facility (WWTF), and approval of a bid waiver.

BACKGROUND

The City currently hauls an average of 15 tractor trailer loads of biosolids weekly to either the Prairie View Landfill in Lamar, or the Ozark Ridge Landfill in Russellville. Fuel prices and tipping fees make the current landfill operation much more expensive than when selected in 2003. There are also significant risks inherent in landfilling, as demonstrated by the American Environmental Landfill's sudden refusal to accept biosolids on 26 August, 2008. Finally, landfilling represents a waste of a potentially valuable biosolids product.

Six solar dryer units currently under construction are expected to dry the material to a range of 40 – 70% solids, depending upon weather conditions. The thermal dryer, also under construction, will dry the biosolids to over 90% solids, and allow for virtually unrestricted and unlimited use of product. We are currently investigating a number of possible beneficial reuses for the dried biosolids after the first batch is processed.

DISCUSSION

The thermal dryer requires natural gas for operation. The current AWG pipeline lacks capacity. This agreement provides for the construction of a 14,500 foot pipeline that has sufficient capacity for current and all future anticipated natural gas requirements. In this agreement, the City agrees to pay a minimum charge of \$5,963.00 per month for 120 months for gas service to the Noland WWTF, including the new biosolids thermal dryer. If the monthly consumption charge is below \$5,963.00, then the City pays the minimum of \$5,963.00. If the consumption meets or exceeds \$5,963.00, then the City only pays for the volume consumed. This is a standard method of paying for Public Service Commission utility extensions.

We intend to evaluate possible use of other fuels in the future to supplement natural gas. These require extensive evaluation and air permitting approvals, and will be evaluated after the initial process is in operation.

BUDGET IMPACT

Funds are available in the Wastewater Treatment operations budget.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT WITH ARKANSAS WESTERN GAS COMPANY IN THE MINIMUM AMOUNT OF \$715,560.00 FOR THE PROVISION OF NATURAL GAS SERVICE AND THE CONSTRUCTION OF NECESSARY PIPING AND INFRASTRUCTURE EXTENSIONS FOR BIOSOLIDS DRYING OPERATIONS AT THE NOLAND WASTEWATER TREATMENT FACILITY

WHEREAS, the City desires to increase the amount of natural gas service provided by Arkansas Western Gas Company to the Noland Wastewater Treatment Facility in order to operate biosolids drying operations; and

WHEREAS, extension of the service will require infrastructure in the form of natural gas pipe extensions of approximately two and three-quarters miles (14,500 feet); and

WHEREAS, entering into a cost-sharing agreement with Arkansas Western Gas Company is the most cost-effective manner of obtaining both the utility service and the needed infrastructure extension; and

WHEREAS, the method proposed in the cost-sharing agreement is the standard method for paying for Public Service Commission utility extensions;

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a contract with Arkansas Western Gas Company in the minimum amount of \$715,560.00 for the provision of natural gas service and the construction of necessary piping and infrastructure extensions for biosolids drying operations at the Noland Wastewater Treatment Facility. A copy of the contract is attached to this Ordinance as Exhibit "A".

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

ARKANSAS WESTERN GAS COMPANY

MAIN EXTENSION AGREEMENT

This Main Extension Agreement ("Agreement") is made and entered into this _____ day of _____, _____, ("Effective Date") by and between the City of Fayetteville, Arkansas (hereinafter referred to as "City"), and Arkansas Western Gas Company (hereinafter referred to as "AWG").

WHEREAS, City is desirous of securing an increase in the amount of natural gas service provided by AWG to the City's Paul R. Noland Wastewater Treatment Facility (the "Wastewater Treatment Facility"); and

WHEREAS, AWG is desirous of furnishing that increased amount of natural gas service to the City at the Wastewater Treatment Facility, in accordance with the rates, terms and conditions set forth in AWG's Tariff filed with the Arkansas Public Service Commission ("Commission"); and

WHEREAS, in order to supply the increased amount of natural gas service to the Wastewater Treatment Facility, AWG will be required to extend its gas mains by constructing a gas distribution main from its P-228A pipeline located at the northwest corner of the intersection of Highway 16 East and Cunningham Road in Fayetteville, to the Wastewater Treatment Facility, a distance of approximately 14,500 feet (hereinafter referred to as "the Extension"); and

WHEREAS, AWG is willing to construct the Extension, but the expected increased revenue from the increased amount of natural gas service to the Wastewater Treatment Facility is insufficient to justify the necessary investment on the part of AWG to construct the Extension; and

WHEREAS, City is willing to pay part of the cost of the Extension, by paying to AWG a minimum of \$715,560.00, in the form of Delivery Charges pursuant to AWG's Tariff filed with the Commission and/or Construction Charges (as described below), over a period of 120 months.



NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND OTHER VALUABLE CONSIDERATION HEREIN ACKNOWLEDGED, CITY AND AWG AGREE AS FOLLOWS:

1. City will pay AWG a non-refundable amount in aid of the construction of the Extension. For the month after the Extension is completed and in operation, and for each of the next 119 months (this 120 month period will hereafter be referred to as the "Repayment Period"), City will pay to AWG a minimum of \$5,963.00 per month in the form of a Delivery Charge, pursuant to the Rate Schedule of AWG's Tariff under which City is being supplied natural gas service at the Wastewater Treatment Facility, and/or a Construction Charge. For any month during the Repayment Period during which City's usage of natural gas service at the Wastewater Treatment Facility is such that the Delivery Charge from AWG for that month is equal to or greater than \$5,963.00, City shall pay no Construction Charge to AWG. However, for any month during the Repayment Period during which City's usage of natural gas service at the Wastewater Treatment Facility is such that the Delivery Charge from AWG for that month is less than \$5,963.00, City shall pay to AWG the difference between \$5,963.00 and the amount of the Delivery Charge for that month as a Construction Charge. During the Repayment Period, City will pay to AWG a minimum of \$715,560.00 (\$5,963.00 x 120 months) in Delivery Charges and/or Construction Charges. All Delivery Charges and Construction Charges will be billed to City on City's regular bill for natural gas service from AWG. During the Repayment Period, City will pay each month, in addition to the Delivery Charge and/or Construction Charge, all additional applicable charges, taxes and fees pursuant to the Rate Schedule of AWG's Tariff under which City is being supplied natural gas service at the Wastewater Treatment Facility (for example, the Customer Charge, the Cost of Gas Charge, any applicable rate adjustment charges, any applicable taxes and fees). If City ceases using natural gas service from AWG at the Wastewater Treatment Facility prior to the end of the Repayment Period, then City will pay to AWG the difference between \$715,560.00 and the total amount of Delivery Charges and/or Construction Charges which City has paid to AWG during the Repayment Period prior to City ceasing the use of natural gas service from AWG at the Wastewater Treatment Facility.

2. AWG has computed the above-stated minimum amount of \$715,560.00 in Delivery Charges and/or Construction Charges based on the construction conditions at the site of the Extension as currently known by AWG. Should AWG encounter any construction conditions of which AWG is presently unaware, including, but not limited to, the need for: the excavation of rocks, the clearing of a right of way, the payment of right of way acquisition costs, and the need to perform boring of a road as part of a road crossing, then City will pay AWG, in addition to the sum set forth earlier in Paragraph 1 above, an amount equal to the additional costs incurred by AWG as a result of the construction condition(s) of which AWG was unaware at the time of the execution of this Agreement. AWG will adjust upward the above-stated minimum amount of \$715,560.00, and the corresponding monthly minimum Delivery Charge and/or Construction Charge payments to reflect the additional costs of construction of the Extension. AWG will provide City with a written explanation for any additional costs for

which City is being billed. Should the amount of the additional costs described in this paragraph exceed \$72,000.00, the amount in excess of that \$72,000.00 must be approved for payment by City's Mayor and City Council.

3. City hereby grants AWG a right of way license and permission to install and operate utility facilities on or across City's property as shown on the approved plans or sketch maps attached hereto and made a part of this Agreement. Prior to AWG beginning work on the Extension, City will, at no cost to AWG, furnish AWG with all necessary easements, rights of way and permits pertaining to land owned by City. Those easements, rights of way and permits must release AWG from any and all claims for damage done to streets, land, fences and crops arising out of the construction of the Extension, except for damages caused by AWG's gross negligence.

4. AWG will use its best efforts to obtain all necessary easements, rights of way and permits pertaining to land owned by persons other than City.

5. AWG will install the Extension. AWG plans to begin installation of the Extension on April 25, 2011. However, AWG will not begin the installation of the Extension until City has: a) provided to AWG all necessary easements, rights of way and permits, pertaining to land owned by City, in a form acceptable to AWG; b) caused the right of way for the Extension to be clearly staked on land owned by City; c) caused the right of way on land owned by City to be reduced to final grade and cleared of all obstructions of any kind, to the satisfaction of AWG; and d) satisfied all the terms and conditions for service in accordance with AWG's Tariff. Moreover, AWG will not begin the installation of the Extension unless and until it has obtained all necessary easements, rights of way and permits, pertaining to land owned by persons other than City, in a form acceptable to AWG. The projected completion date of the Extension is September 30, 2011. AWG shall not be liable for delays in commencing or performing the installation of the Extension caused by the requirements of governmental authorities, lack of necessary easements, rights of way or permits, the unavailability of materials and supplies, accidents, strikes, acts of God, or any other event or condition of whatever nature beyond the control of AWG. AWG reserves to itself the unqualified discretion in dealing with any labor dispute that might delay the commencing or performing of the installation of the Extension.

6. Title to and ownership of the Extension, including the main, pipes and appurtenances, connections thereto and extensions thereof and laterals off of, and including the right to use, operate, maintain and remove same, shall forever be and remain exclusively and unconditionally vested in AWG. City understands, acknowledges and agrees that City shall have no title to, interest in, or ownership of the Extension, including the main, pipes and appurtenances, connections thereto and extensions thereof and laterals off of the Extension.

7. City understands, acknowledges and agrees that this Agreement shall not limit AWG's right to use, extend or change its facilities in any manner or obligate AWG to render any particular service except in the regular conduct of its business as a gas

utility and in accordance with its applicable Tariff and the rules and regulations of the Commission.

8. City's obligation to pay the amounts stated in this Agreement shall not be affected by any other customers of AWG being connected to and served off of any future extensions or laterals coming off the Extension. City specifically understands, acknowledges and agrees that AWG has the right to make further extensions to or laterals off of the Extension, including any extensions or laterals that extend beyond the physical boundaries covered by this Agreement, without any reduction of obligation whatsoever on the part of City.

9. The decision to make further extensions to or laterals off of the Extension, or to serve other customers from such further extensions or laterals, shall be at the sole discretion of AWG, in accordance with its Tariff and the rules and regulations of the Commission then in effect.

10. If an engineering study has been performed in connection with the Extension, a summary of that study is attached to, and made a part of, this Agreement.

11. AWG and City acknowledge that there are no agreements or understandings, written or oral, between the parties related to the Extension other than as set forth in this Agreement, and that this Agreement contains the entire agreement between the parties hereto. This Agreement may not be amended except by written amendment signed by both parties.

12. This Agreement shall be governed in accordance with the laws of the State of Arkansas, the rules and regulations of the Commission, and the Tariff of AWG. In the event of a conflict between this Agreement and any such laws, rules, regulations or Tariff, such laws, rules, regulations or Tariff shall control.

13. This Agreement shall be binding upon the parties hereto and their respective successors and assigns; provided, however, that City shall not have the right to assign this Agreement without the express prior written consent of AWG, which consent shall not be unreasonably withheld.

14. Contracts to which City is a party and documents prepared in connection with work performed under such contracts, which are in City's possession, are subject to the Arkansas Freedom of Information Act (Ark. Code Ann., Section 25-19-101 *et seq.*).

15. City acknowledges that it has been afforded an opportunity to have its attorney review and explain the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives on the date stated above.

ARKANSAS WESTERN GAS COMPANY ^{MA}

CITY OF FAYETTEVILLE, ARKANSAS

By: 

By: _____

Its: SVP

Its: _____

Attest: _____

City Council Agenda Items
and
Contracts, Leases or Agreements3/15/2011 *WBS*
3/1/2011City Council Meeting Date
Agenda Items OnlyJeremy Pate
Submitted ByDevelopment Services
DivisionDevelopment Services
Department

Action Required:

Amendment of Resolution No. 05-07, to reduce the bridge assessment required of the developer for Stonebridge Meadows Subdivision, Phase 5, based on actual cost to the City

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

02-11-2011
Date

Previous Ordinance or Resolution #

City Attorney

2-11-11
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

2-11-2011
Date

Received in City Clerk's Office 02-11-11A10:52 RCVD

Chief of Staff

2-11-11
DateReceived in
Mayor's Office

Mayor

2/17/11
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director 

Date: February 11, 2011

Subject: Stonebridge Meadows Phase 5 Bridge Assessment Reduction

RECOMMENDATION

Staff recommends the Council approve a resolution amending Resolution 05-07 related to the Stonebridge Meadows Phase 5 Subdivision, to reduce the required bridge assessment from \$36,668.92 to \$7,703.00

BACKGROUND

In 2006, the Planning Commission approved the final plat for Stonebridge Meadows Subdivision, Phase 5. This single family residential neighborhood in southeast Fayetteville contains 70 lots. The subdivision was located in the Deadhorse Mountain Bridge assessment area, established by the Planning Commission to review developments having an infrastructure impact in the area for a proportional share of the cost to replace this bridge. At the time, the estimated replacement cost to the City was \$2,160,000, based on the cost of another bridge the City had previously constructed. When staff conducted an analysis of the traffic generated by this development that would likely have an impact on the bridge, the proportional share for this 70-lot development was \$36,668.92 (see attached memo dated August 10, 2005). The amount determined by the Planning Commission is paid to the City and deposited into an escrow account to be utilized when the project is constructed. As permitted by the Unified Development Code, the applicant subsequently requested that the City Council waive the requirement for a cash payment and instead approve an agreement and Performance Guarantee by letter of credit that this amount would be paid within ten days of request by the City. The Council approved the request with Resolution No. 05-07 (attached).

The Deadhorse Mtn Road bridge over the West Fork of the White River was replaced in 2010 by the AHTD. The city applied for and received federal funds to share the cost of the project. Once designed and constructed, the full cost ended up being approximately \$1.5 million, due to a reduced scope of the project from the original estimate. The City's share of that cost was reduced dramatically from the original estimates in 2005, to \$453,110.86. Using the same methodology as when the subdivision was originally approved, Stonebridge Meadows Subdivision Phase 5 would owe the City \$7,703.00 under the new calculation. City staff finds that the bridge assessment contribution for this particular phase of Stonebridge Meadows Subdivision should in fact be reduced, as the full cost of the bridge was shared between the City and the State, thus reducing the City's portion of the cost. The methodology behind the assessment assumes the developer is responsible for a percentage of the cost of the bridge, which, because of a cost-share agreement that arose after the initial assessment was made, has decreased.

DISCUSSION

The City currently holds a letter of credit for \$36,668.92, as required by the agreement with the City. Staff recommends that the Council amend Resolution No. 05-07 and reduce this required amount to \$7,703.00, as explained in the attachments. We feel this is the appropriate action to take at this time; the applicant has agreed to tender this cash contribution no later than March 31, 2011 as a condition of approval of the amendment.

BUDGET IMPACT

The \$7,703.00 contribution will offset a portion of the costs associated with the Deadhorse Mtn Road bridge project.

RESOLUTION NO. _____

**A RESOLUTION AMENDING RESOLUTION NO. 05-07 TO REDUCE THE
PAYMENT GUARANTEE REQUIRED OF MEADOWS ENTERPRISES, INC.
FOR THE DEAD HORSE MOUNTAIN ROAD BRIDGE FROM \$36,668.92 TO
\$7,703.00**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends
Resolution No. 05-07 by striking every reference to \$36,668.92 and replacing each reference
with \$7,703.00.

PASSED and APPROVED this 1st day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

TO: City Council Members
FROM: Matt Casey., Asst. City Engineer
DATE: February 11, 2011
SUBJECT: Stonebridge Meadows Phase 5
Bridge Assessments

The following is the Engineering Division's recommendation to the City Council for the revised off-site assessments:

BRIDGE OVER THE WEST FORK OF THE WHITE RIVER:

The Engineering Division recommends that this subdivision be assessed for a percentage of the construction costs to construct a bridge over the West Fork of the White River on Dead Horse Mountain Road. The following is a rational nexus calculation for this offsite improvement:

Projected Traffic from development – (70 Lots * 9.57 vpd/lot) - 670 vpd
Assume 50% of vehicle trips will use Dead Horse Mountain Road – 335 vpd
Assume 75 % of vehicle trips using Dead Horse Mountain Road go north – 251 vpd
Minor Arterial traffic capacity = 14,800 vpd
% Traffic from development = 1.7%

West Fork of the White River Bridge Costs (City Portion):
\$453,110.86

Stonebridge Meadows Subdivision Phase 5 Percentage of Costs:
 $0.017(\$453,110.86) = \underline{\$7,703.00}$

Therefore, the Engineering Division recommends that the Stonebridge Meadows Subdivision Phase 5 be assessed \$7,703.00 for the Dead Horse Mountain Road Bridge across the West Fork of the White River.

JAMES N. McCORD
Attorney at Law
The Fulbright Building
217 E. DICKSON STREET
SUITE #102
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 442-1490
jimmccordlaw@windstream.net

February 8, 2010

Jeremy Pate
Development Services Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

VIA HAND DELIVERY

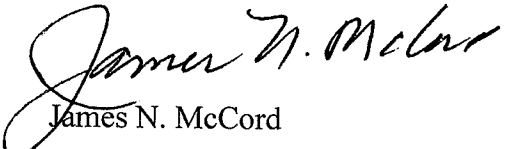
Re: Stonebridge Meadows, Phase V- Dead Horse Mountain Road Bridge Assessment

Dear Jeremy:

I am legal counsel for Meadows Enterprises, Inc. ("Meadows") in connection with the company's development of Stonebridge Meadows Subdivision. I understand from your recent e-mails that the City of Fayetteville has re-calculated the proportionate share of the cost of constructing the new Dead Horse Mountain Road Bridge to be paid by Meadows; and, the amount is \$7,703. This letter will confirm that Meadows will pay the City of Fayetteville this \$7,703 by March 31, 2011. If the Fayetteville City Council must take any action regarding this matter, please have it placed on the agenda for the next Council meeting.

Thank you for your assistance with this matter.

Sincerely,


James N. McCord

pc: Bill Meadows (via e-mail)

RESOLUTION NO. 05-07

A RESOLUTION TO APPROVE THE PERFORMANCE BOND
OF MEADOWS ENTERPRISES, INC. TO GUARANTEE
PAYMENT OF \$36,668.92 FOR DEAD HORSE MOUNTAIN
ROAD BRIDGE UPON REQUEST BY THE CITY

WHEREAS, the Planning Commission determined that Meadows Enterprises, Inc.'s proportional share of the cost to construct the White River bridge on Dead Horse Mountain Road to be \$36,668.92 for Stonebridge Meadows, Phase 5; and

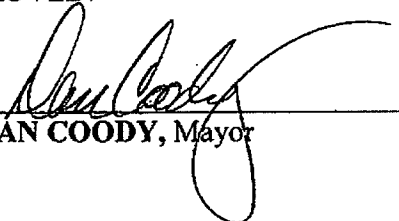
WHEREAS, the City Council may approve a performance bond to guarantee such payment.

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

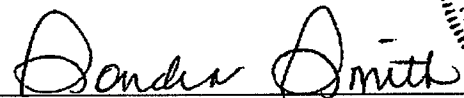
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves and agrees to accept the attached Performance Bond of Meadows Enterprises, Inc. in the amount of \$36,668.92 to be secured by an irrevocable bank letter of credit in the same amount in a form and substance to be approved by the City Attorney. This performance bond shall satisfy Meadows Enterprises, Inc.'s offsite bridge improvement requirement as determined by the Fayetteville Planning Commission for Stonebridge Meadows, Phase 5.

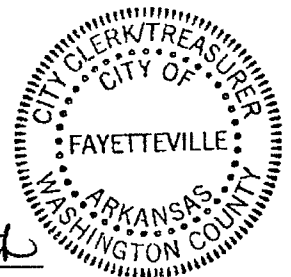
PASSED and APPROVED this 16th day of January, 2007.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk/Treasurer



PERFORMANCE BOND

This Performance Bond executed on the 29th day of December, 2006, by Meadows Enterprises, Inc. ("Meadows") to the City of Fayetteville, Arkansas (the "City").

WHEREAS, Meadows is the owner and developer of Stonebridge Meadows, Phase 5, a subdivision located in the City of Fayetteville, Arkansas; and,

WHEREAS, as a condition for approval of the final plat for Stonebridge Meadows, Phase 5, the Fayetteville Planning Commission has required that Meadows pay to the City the sum of \$36,668.92 as the developer's proportionate share of the cost of constructing improvements to Dead Horse Mountain Road bridge (the "off-site improvements"); and,

WHEREAS, construction of the off-site improvements is to begin at a future date not yet determined; and,

WHEREAS, Section 158.05(B) of the Fayetteville Code of Ordinances provides that (a) the developer may, with the approval of the City Council, guarantee payment of the developer's proportionate share of the cost of off-site improvements as determined by the Planning Commission by executing a performance bond in a form approved by the City Attorney, and (b) performance bonds shall obligate the landowner to pay to the City the amount determined by the Planning Commission within 10 days from receipt of written notice from the City.

NOW, THEREFORE, Meadows Enterprises, Inc. hereby covenants to pay \$36,666.92 to the City of Fayetteville within 10 days from receipt of written notice from the City. This Performance Bond shall be secured by a \$36,666.92 irrevocable bank letter of credit, in form and substance approved by the City Attorney, to be drawn upon by the City of Fayetteville if Meadows does not pay \$36,666.92 in full to the City within 10 days from receipt of written notice from the City. Said notice shall be sent to Meadows Enterprises, Inc., c/o William N. Meadows, President, 3495 E. Goff Farm Road, Fayetteville, AR 72701.

This Performance Bond executed on the date first above written.

MEADOWS ENTERPRISES, INC.

By: William N. Meadows
William N. Meadows, President

Witness: 

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimmccordlaw@alltel.net

December 29, 2006

To: Fayetteville City Council

From: Meadows Enterprises, Inc.

By: James N. McCord *JNM*
Attorney for Meadows Enterprises, Inc.

Re: Performance Bond to Guarantee Payment of Assessment
for Improvements to Dead Horse Mountain Road Bridge

Meadows Enterprises, Inc. ("Meadows") is the developer of Stonebridge Meadows subdivision adjacent to Stonebridge Meadows golf course adjoining Goff Farm Road. As a condition for approval of the final plat for Stonebridge Meadows, Phase 5, the Fayetteville Planning Commission imposed an assessment of \$36,666.82 which the Commission determined to be the developer's proportionate share of the cost of off-site improvements for the Dead Horse Mountain Road bridge. According to City staff, the date on which construction of the bridge improvements will begin has not been determined, but construction is expected to commence within two years.

Because the off-site bridge assessment for Stonebridge Meadows, Phase V, will not be needed by the City for some time, Meadows respectfully requests the City Council to approve the attached performance bond as authorized by Section 158.05(B) of the Fayetteville Code of Ordinances. This Code provision states that the developer may, with the approval of the City Council, guarantee payment of off-site improvements by executing a performance bond in a form approved by the City Attorney. The attached performance bond will be secured by an irrevocable bank letter of credit for the entire \$36,666.82 bridge assessment.

Thank you for your consideration of this request.

pc: Hon. Dan Coody, Mayor
Kit Williams, City Attorney
Sandra Smith, City Clerk
Bill Meadows

*Needs to be
revised and
added to
the Final.
See 1/3/07*

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Brent K. O'Neal, P.E., Staff Engineer
DATE: August 10, 2005
SUBJECT: Stonebridge Meadows Phase 5 (PPL 05-1386)
Bridge Assessments

The following is the Engineering Division's recommendation to the Planning Commission for off-site assessments:

1. BRIDGE OVER THE WEST FORK OF THE WHITE RIVER:

The Engineering Division recommends that this subdivision be assessed for a percentage of the construction costs to construct a bridge over the West Fork of the White River on Dead Horse Mountain Road. The following is a rational nexus calculation for this offsite improvement:

Approximate Dead Horse Mountain Road Bridge dimensions:

Length - 600 L.F.; Width - 60'; Surface Area of Decking - 36,000 s.f.

Projected Traffic from development - (70 Lots * 9.57 vpd/lot) - 670 vpd

Assume 50% of vehicle trips will use Dead Horse Mountain Road - 335 vpd

Assume 75 % of vehicle trips using Dead Horse Mountain Road go north - 251 vpd

Minor Arterial traffic capacity = 14,800 vpd

% Traffic from development = 1.7%

West Fork of the White River Bridge Costs:

36,000 s.f.(\$60.00/s.f.) = \$2,160,000.00

Stonebridge Meadows Subdivision Phase 5 Percentage of Costs:

0.017(\$2,160,000.00) = \$36,668.92

Therefore, the Engineering Division recommends that the Stonebridge Meadows Subdivision Phase 5 be assessed \$36,668.92 for the future Dead Horse Mountain Road Bridge across the West Fork of the White River.

City of Fayetteville Staff Review Form

C. 4
Amend §114.03 First
Thursday Fayetteville
Page 1 of 6

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

3/15/2011

City Council Meeting Date
Agenda Items Only

Julie McQuade, Community Outreach Coord. *gm*

Submitted By

Division

Communications & Volunteer Services

Department

Action Required:

City Council approval of an ordinance to amend Chapter 114.03 (B) to include the block of Mountain Street between East and Block Streets and parking spaces on both sides of this block for the First Thursday Fayetteville event.

_____	\$ _____	_____
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 ☐

[Signature] 2-25-11
Department Director Date

[Signature] 2-28-11
City Attorney Date

Previous Ordinance or Resolution # 5307

Original Contract Date: _____

Original Contract Number: _____

Paul A. Buh 2-28-2011
Finance and Internal Services Director Date

Received in City 02-25-11 A09:03 RCVD
Clerk's Office *WJ*

Don Man 3-1-11
Chief of Staff Date

Received in
Mayor's Office

ENTERED
2/28/11
PH

Lionel Jordan 3/1/11
Mayor Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan and City Council

Thru: Lindsley Smith, Communications & Volunteer Services *LS*

From: Julie McQuade, Community Outreach Coordinator *JM*

Date: February 25, 2011

Subject: First Thursday Fayetteville

PROPOSAL: The City Administration is requesting an ordinance to amend Chapter 114.03 (B) of the Fayetteville Code to include the block of Mountain Street between East and Block Streets and parking spaces on both sides of this block for the First Thursday Fayetteville monthly cultural arts event.

RECOMMENDATION:

In 2010, Ordinance 5307 amended Chapter 114 of the Fayetteville Code to establish the First Thursday Fayetteville cultural arts event on the Fayetteville downtown square during the months of April through November annually. Since that time, this cultural arts event has been successful in bringing cultural arts to the public; increasing revenues for local artists, merchants and restaurants in the area; and providing opportunities for local non-profits to raise funds for their programs. First Thursday Fayetteville participation grew rapidly in 2010 and continues to grow.

In order to accommodate the growth of this monthly cultural arts event, city staff recommend adding the block of Mountain Street between East and Block Streets to the area allowed for location of this event.

BUDGET IMPACT:

There is no budget impact.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SUBSECTION (B) OF §114.03 FIRST THURSDAY FAYETTEVILLE OF CHAPTER 114: FOOD SALES OF THE CODE OF FAYETTEVILLE TO ADD ADDITIONAL LOCATIONS FOR THE EVENT

WHEREAS, the City of Fayetteville enacted §114.03 of the Code of Fayetteville to authorize the Fayetteville Convention and Visitors Bureau to control public parking spaces on both sides of East Avenue on the Fayetteville Square and to close East Avenue to traffic from 4:00 p.m. until 10:00 p.m. on the first Thursday of the month; and

WHEREAS, the City of Fayetteville desires to add additional locations for the event on Mountain Street between East Avenue and Block Street, including parking spaces on both sides of the Mountain Street on this block,

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 §114.03(B) of the Code of Fayetteville so that after amendment, it shall read as follows:

“(B) *Location, parking restrictions and administration.* First Thursday Fayetteville shall be located and have control over the public parking spaces along both sides of East Avenue between Mountain Street and Center Street and along both sides of Mountain Street between East Avenue and Block Street during its hours of operation. The Fayetteville Convention and Visitors Bureau shall administer First Thursday Fayetteville and is authorized to remove or request the ticketing of vehicles parked within the allocated areas on East Avenue or Mountain Street between 4:00 P.M. and 10:00 P.M on days of the event. The Bureau is further authorized to close East Avenue between Mountain Street and Center Street and Mountain Street between East Avenue and Block Street to vehicular traffic during the First Thursday Fayetteville event.”

PASSED and **APPROVED** this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

ORDINANCE NO. 5307

AN ORDINANCE TO AMEND THE CODE OF FAYETTEVILLE BY ENACTING §114.03 **FIRST THURSDAY FAYETTEVILLE** TO AUTHORIZE THE FAYETTEVILLE CONVENTION AND VISITORS BUREAU TO CONTROL THE PUBLIC PARKING SPACES ON BOTH SIDES OF EAST STREET ON THE SQUARE AND TO CLOSE EAST STREET TO TRAFFIC FROM 4:00 P.M. UNTIL 10:00 P.M. ON THE FIRST THURSDAY OF THE MONTH

WHEREAS, First Thursday Fayetteville has been authorized by special event permits to use all public parking spaces on both sides of East Street between Center and Mountain and close East Street at that location on the first Thursdays of August, September, October and November of 2009; and

WHEREAS, First Thursday Fayetteville has been very successful in providing many citizens opportunities to view and purchase art and share the evening downtown environment during the initial four First Thursday events; and

WHEREAS, it is preferable to establish by ordinance rather than monthly special event permit the authority to conduct First Thursday Fayetteville on a monthly basis.

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 Fayetteville Code by enacting a new §114.03 **First Thursday Fayetteville** as shown below:

"114.03 First Thursday Fayetteville.

"(A) *Establishment, hours and dates.* First Thursday Fayetteville is hereby established. This monthly event shall run on the first Thursday of every month from April through November during the hours of 4 P.M. through 10 P.M.



Page 2
Ordinance No. 5307

“(B) *Location, parking restrictions and administration.* First Thursday Fayetteville shall be located and have control over the public parking spaces along both sides of East Avenue during its hours of operation. The Fayetteville Convention and Visitors Bureau shall administer First Thursday Fayetteville and shall be empowered to remove or request the ticketing of vehicles parked within the East Street allocated area during the 4:00 P.M. to 10:00 P.M. operating hours. The Bureau shall also be empowered to close East Street between Mountain and Center Streets to vehicular traffic during the First Thursday Fayetteville event.

“(C) *Articles permitted to be sold.* Only objects of art or craft produced and sold by a local artist or craftsman may be sold at the First Thursday Fayetteville event. The Fayetteville Convention and Visitors Bureau is empowered to assign precise locations for any vendors wishing to display or sell their personally created art or craft work.

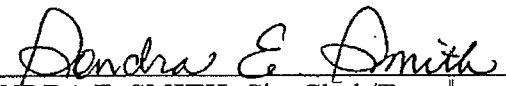
“(D) *Sanitation.* At the close of a vendor’s operation (no later than 10:00 P.M.), the vendor shall clean the immediate area around the vendor’s operation and ensure that all trash and debris are removed and properly discarded.”

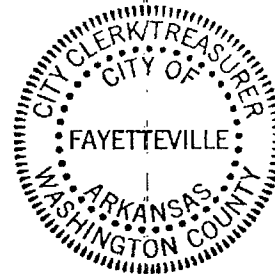
PASSED and APPROVED this 16th day of March, 2010.

APPROVED:

ATTEST:

By: 
LIONEL JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



AGENDA REQUEST

FOR: COUNCIL MEETING OF MARCH 15, 2011

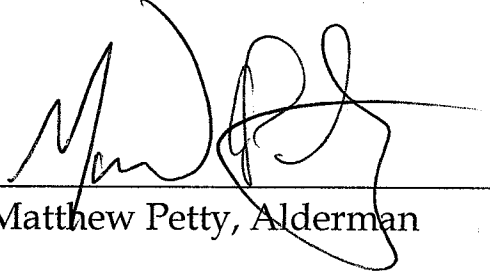
FROM:

ALDERMAN MATTHEW PETTY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §117.102 **Pedicab Permitted Zone Of Operation And Approved Fixed Routes** (B) *Route Approval* And (F) Of The Fayetteville Code To Allow Use Of Pedicabs On Streets With A Posted Speed Limit Of Thirty-Five (35) Miles Per Hour Or Higher If Authorized By The Transportation Services Director and (D) To Allow Pedicabs To Operate On Scull Creek Trail, Mud Creek Trail And Frisco Trail

APPROVED FOR AGENDA:


Matthew Petty, Alderman

FEB 22, 2011
Date


City Attorney
(as to form)

Feb 22, 2011
Date

02-23-11A09:46 RCVD

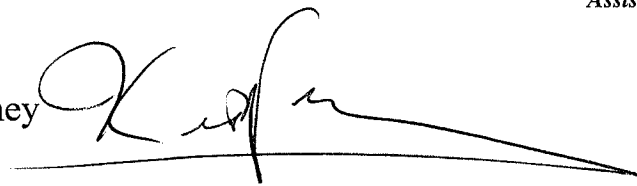
Kim G.

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney



DATE: February 22, 2011

**RE: Pedicabs permitted on streets with 35 m.p.h. and higher limits; and
pedicabs permitted by right on the full length of Frisco Trail, Scull
Creek Trail and Mud Creek Trail**

Alderman Petty brought these proposed changes to the Pedicab Ordinance to the Ordinance Review Committee and won a recommendation of approval. These ordinances are now presented to the City Council as a whole for its consideration.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §117.102 **PEDICAB PERMITTED ZONE OF OPERATION AND APPROVED FIXED ROUTES (B) *ROUTE APPROVAL* AND (F) OF THE FAYETTEVILLE CODE TO ALLOW USE OF PEDICABS ON STREETS WITH A POSTED SPEED LIMIT OF THIRTY-FIVE (35) MILES PER HOUR OR HIGHER IF AUTHORIZED BY THE TRANSPORTATION SERVICES DIRECTOR AND (D) TO ALLOW PEDICABS TO OPERATE ON SCULL CREEK TRAIL, MUD CREEK TRAIL AND FRISCO TRAIL**

WHEREAS, pedicab operators would like the option to operate their pedicabs on streets and highways in Fayetteville with speed limits of 35 m.p.h. or higher upon approval of the Transportation Services Director; and

WHEREAS, pedicab operators would like the right to operate on Scull Creek Trail, Mud Creek Trail and Frisco Trail without needing the approval of the Transportation Services Director.

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 §117.102 **Pedicab Permitted Zone of Operation and Approved Fixed Routes** (B) *Route Approval* (1) by repealing the last sentence of this subsection that prohibits operation of pedicabs on any street with a posted speed limit of 35 m.p.h. or more, other than to cross such street.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.102 **Pedicab Permitted Zone of Operation and Approved Fixed Routes** by repealing subsection (F) in its entirety and enacting a replacement (F) as shown below:

“(F) No pedicab shall be operated on a street with posted speed limit of thirty-five (35) miles per hour or greater, except for the purpose of crossing that street unless authorized by the Transportation Services Director.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.102 **Pedicab Permitted Zone Of Operation And Approved Fixed Route** by repealing (D) of the Fayetteville Code in its entirety and enacting a new (D) as follows:

“(D) *Operation on City Trails*. Pedicabs may be operated on the entire length of the Frisco Trail, the Scull Creek Trail and the Mud Creek Trail, except that portions of these trails may be closed to pedicabs by the Transportation Services Director for special events or if the trail section is deemed too narrow for pedicabs or if use of pedicabs on the section of trail could cause safety issues. The Transportation Services Director may authorize pedicab operations on other city transportation trails. Pedicabs may not operate on any recreation trails in city parks (such as Lake Fayetteville, Wilson Park, Gulley Park, etc.).”

PASSED and **APPROVED** this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CURRENT LAW

FAYETTEVILLE CODE OF ORDINANCES TITLE XI BUSINESS REGULATIONS

Permitted Zone Of Operation into such zone or onto an approved route where operations may begin. The City Council may further restrict the hours and dates of operation in Pedicab Permitted Zone Of Operation for any or all pedicab companies.

(B) *Route Approval.*

(1) All routes outside of the permitted zone of operation shall be approved by the city's Transportation Services Director. In no event shall a requested route permit operation of a pedicab on any street with a posted speed limit of thirty-five (35) miles per hour more, other than to cross said street.

(2) Operators shall submit to the city's Transportation Services Director all requests for temporary changes in authorized routes, or for participation in special events such as festivals, parades or weddings, not less than three (3) days before the effective date of the change or event.

(C) No pedicab shall be operated in a location where such operation is not authorized by this ordinance or prohibited by the laws of the State of Arkansas or the Fayetteville City Code.

(D) No pedicab may operate on city transportation trails without the express prior approval of the route and fare by the Transportation Services Director. Pedicabs may not operate on any recreational trails in city parks (such as Lake Fayetteville, Wilson Park, Guley Park, etc.).

(E) The operator of a pedicab shall maintain at least one hand on the handlebars at all times during movement of the pedicab.

(F) No pedicab shall be operated on a street with a posted speed limit of thirty-five (35) miles per hour or greater, except for the purpose of crossing that street.

(G) No pedicab shall be operated using a gas powered assist motor.

117.103 Pedicab Driver's Permit

(A) *Pedicab Driver's Permit Required.* No person shall operate a pedicab for hire or for a gratuity upon the streets of the city, and no person who owns or controls a pedicab shall permit it to be so operated, unless the driver of said vehicle shall have first obtained and shall have then in force a pedicab driver's permit issued under the provisions of this

article.

(B) *Pedicab Driver's Permit Application.*

(1) An application for a pedicab driver's permit shall be filed with the Fayetteville Police Department on forms provided by the city. Such application shall be verified under oath and shall contain the following information:

(a) Valid current Arkansas Driver's license.

(b) The names and addresses of four (4) residents of the county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant;

(c) A concise history of the applicant's employment;

(d) Proof of training in the use and operation of a pedicab pursuant to a curriculum approved by the chief of police.

(e) Proof of existing employment or a promise of employment when a pedicab driver's permit is issued with the pedicab company that has a valid Certificate of Public Convenience and Necessity.

(C) *Police Investigation.* The police department shall conduct an investigation of each applicant for a pedicab driver's permit, and a report of such investigation with a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the chief of police.

(D) *Issuance of Permit.* The chief of police or designee shall, upon consideration of the application and the reports required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city council to offer evidence why his/her application should be reconsidered.

(E) *Form and Term of Permit.*

(1) Upon approval of an application for a pedicab driver's permit, the chief of police or designee shall issue a permit to the applicant for an issuance fee of \$35.00, which shall bear the name, address, age, signature, and photograph of the applicant.

(2) The pedicab driver's permit shall remain in effect unless suspended or revoked until

AGENDA REQUEST

FOR: COUNCIL MEETING OF MARCH 15, 2011

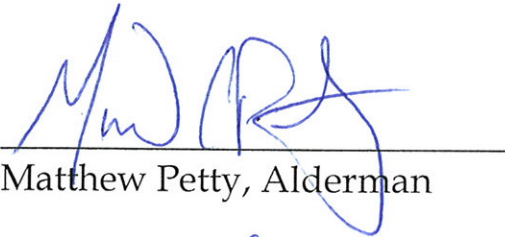
FROM:

ALDERMAN MATTHEW PETTY

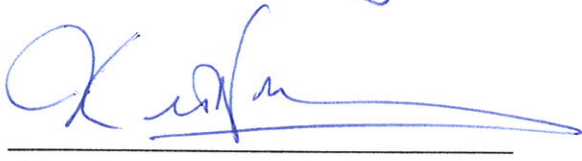
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §174.03 **Exemptions** Of Chapter 174 **Signs** Of The Fayetteville Code To Allow Advertising On Pedicabs

APPROVED FOR AGENDA:


Matthew Petty, Alderman

FEB 22, 2011
Date


City Attorney
(as to form)

Feb 22, 2011
Date

02-23-11P01:49 RCVD

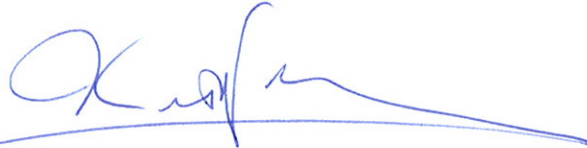
Kim J.

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney



DATE: February 23, 2011

RE: Alderman Petty's proposed ordinance for signs on pedicabs

Alderman Petty brought this proposed ordinance to the Ordinance Review Committee along with his other proposed changes. The Ordinance Review Committee split two to two on whether to recommend approval or denial and then voted to forward it to the whole City Council without a recommendation.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §174.03 **EXEMPTIONS** OF CHAPTER 174
SIGNS OF THE FAYETTEVILLE CODE TO ALLOW ADVERTISING ON
PEDICABS

WHEREAS, pedicab companies would like to be able to place advertising signs for other businesses on their pedicabs.

**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 §174.03 **Exemptions** of Chapter 174 **Signs** of the Fayetteville Code by enacting a new (S) as shown below:

“(S) *Pedicabs*. Pedicabs not operating on city trails may be allowed one advertising sign placed upon the rear of the pedicab and extending no higher than the stock body of the pedicab. The sign shall not be illuminated and shall not exceed six square feet (2’ x 3’). Prior to displaying this sign publicly, such sign as attached to the pedicab must be presented to the Zoning and Development Administrator for permitting and, if the sign is in full compliance with this subsection, approval.”

PASSED and **APPROVED** this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

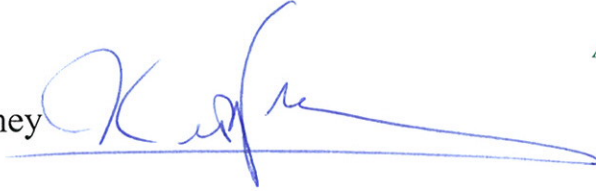
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

TO: **Mayor Jordan**
City Council

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

FROM: **Kit Williams**, City Attorney



DATE: **February 23, 2011**

RE: **Proposed ordinance to allow offsite advertising signs on pedicabs**

I must oppose this proposed ordinance as a weakening of the legal supports of our Sign Ordinance. After much discussion and consideration, the Fayetteville Board of Directors decades ago passed Fayetteville's Sign Ordinance which required numerous businesses to remove their existing signs and replace them with signs conforming to the new standards. The ordinance also required the removal of all bill boards and other **off-site advertising signs**. This ban on offsite signs is the heart of the Sign Ordinance.

Fayetteville's Sign Ordinance was not supported by many businesses, and the Sign Ordinance was challenged in Court several times. The Arkansas Supreme Court upheld the constitutionality of our Sign Ordinance as properly supported by the City of Fayetteville's legitimate considerations of traffic safety and aesthetics. Our neighboring cities, especially Springdale, initially scoffed at our Sign Ordinance which was supposed to kill our commercial sales. Decades later Springdale has almost caught us in population, but as shown in the most recent City & Town magazine (Feb. 2011), Springdale's commercial sales are less than 58% of ours. In fact statewide, only Fort Smith with \$3.0 million in monthly municipal sales tax receipts tops our \$2.5 million. No other city collects even \$2.0 million. These facts show that our Sign Ordinance has made our City more attractive not only to citizens, but our commercial establishments.

Most of our neighboring cities have, too late, tried to follow our lead with their own sign ordinances. Unfortunately, the sign lobby convinced the Legislature to enact a law to prevent other cities from forcing the removal of billboards as Fayetteville accomplished. Other cities such as Bentonville have tried other ways to reduce the number of billboards (which are large off-site signs) in their city.

According to the Northwest Arkansas Times, February 19, 2011, page 2A, Mayor Bob McCaslin stated: "Anything we can do to reduce the number of billboards in town is a plus for all of us. None of us want to have a thoroughfare where there is nothing but signs sticking up in the air." Mayor McCaslin was defending an ordinance that allowed the installation of an electronic billboard for every four standard billboards which are removed. After a two-sided electronic billboard was installed the headline read: "Officials Question Billboard Decision." Aldermen said these electronic billboards are "very bright and very distracting, especially at night," and "a bad idea."

Rather than facing a billboard problem and following Bentonville's effort to do everything possible to reduce the number of billboards, the City of Fayetteville needs to ensure its long standing Sign Ordinance banning billboards and all off-site signs is preserved. Would allowing off-site advertising signs (small billboards) on pedicabs endanger the legal support of our Sign Ordinance? It would be another chink in our legal armor for it would provide an exemption to the off-site prohibition which our Sign Ordinance states is necessary to achieve our aesthetics and traffic safety goals.

Two years ago I informed you that **a sign regulation that allows too many exemptions could be held invalid by a court because the exemptions have undermined the goals the ordinance was supposed to protect.** Billboard companies look at city sign ordinances and examine them for constitutional weaknesses such as excessive exemptions. This recently happened to Los Angeles.

Los Angeles adopted its sign ordinance on April 30, 2002, supported by the same purposes of the Fayetteville Sign Ordinance passed decades earlier: traffic safety and aesthetics. In eight early appeals to the Arkansas Supreme Court and a more recent appeal to the Eighth Circuit Court of Appeals, our Sign Ordinance (with some necessary amendments) has been held constitutional.

The Los Angeles ordinance was challenged by a billboard company, Metro Lights, which installed several billboards (off-site signs) in violation of the sign ordinance. The Federal District Court struck down the L.A. sign ordinance on grounds that the city had allowed too many exemptions for off-site signs at transit stops and on busses which undermined the City's grounds of aesthetics and traffic safety.

“(T)he Supreme Court has held that a regulation can be unconstitutional if it ‘in effect restricts too little speech because its exemptions ... diminish the credibility of the government’s rationale for restricting speech in the first place.’ City of Ladue v. Gilleo, 512 U.S. 43, 50-51, 52 (1994).”
Metro Lights v. City of Los Angeles, Case No. 07-55179, page 46 (January 6, 2009, 9th Cir.)

Fortunately, the Ninth Circuit Court of Appeals reversed the decision in favor of the billboard company and held Los Angeles’ Sign Ordinance did pass constitutional muster.

“It is well-established that traffic safety and aesthetics constitute substantial government interests.” Id. at 45

CONCLUSION

As City Attorney, I am charged with the defense of the constitutionality and legality of all the city ordinances that the City Council passes. None has been attacked in Court more than our Sign Ordinance. Therefore, I remain concerned about anything that could weaken the constitutional and legal support for the Sign Ordinance which certainly includes too many exemptions to its most basic prohibition against off-site signage.

I must oppose this proposed new exemption for off-site signs on pedicabs as I will any additional off-site advertising sign exemption. I opposed the exemption for advertising signs on taxicabs and buses. Adding an exemption for pedicabs because taxicabs were given one is not a question of fairness, but of weakening our Sign Ordinance still further.

Be thankful that the hard work of prohibiting billboards and other off-site signs was accomplished by your predecessors on the Fayetteville Board of Directors decades ago. Now, rather than wrestling with “Anything we can do to reduce the number of billboards in town,” like our neighboring cities, we must only be careful to **preserve** our Sign Ordinance’s prohibition of billboards and other off-site signs.

CITY SALES AND USE	AMOUNT		Gosnell	13,342.68	12,809.12	Patterson.....	924.85	1,622.58	Elm Springs.....	206.65	197.00
Alexander	43,076.42	28,353.59	Gould.....	3,062.83	2,800.25	Pea Ridge.....	21,136.40	21,464.79	Garfield.....	7,780.00	7,780.00

AGENDA REQUEST

MARCH

FOR: COUNCIL MEETING OF [REDACTED] 15, 2011

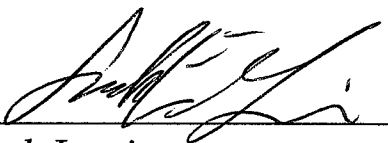
FROM:

SARAH LEWIS, COUNCILMEMBER

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

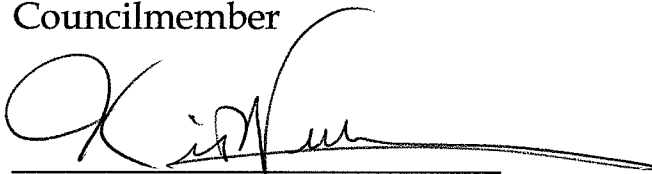
An Ordinance To Amend §117.47 Advertising Of The Fayetteville Code To Remove Authorization To Place Advertising Signs On Taxicabs

APPROVED FOR AGENDA:



Sarah Lewis,
Councilmember

2/8/11
Date



City Attorney

Feb 8, 2011
Date

02-23-11A09:46 RCVD

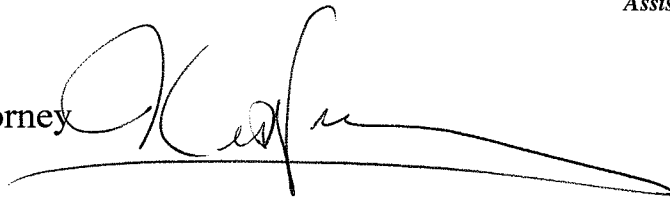
Kim G.

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney



DATE: February 8, 2011

RE: Amendment of §117.47 Advertising to remove authority for advertising signs on taxicabs

Councilmember Sarah Lewis asked that I draft an ordinance to repeal that portion of a 2004 ordinance that for the first time allowed advertising signs on taxis. She did not ask that the ordinance prohibit advertising signs on a bus.

From a legal point of view to protect the integrity of Fayetteville's Sign Ordinance, I opposed allowing signs on cabs or buses. I now support Councilmember Lewis' suggestion that advertising signs no longer be allowed on taxis. Allowing such signs on taxis weakens the City's primary legislative purposes: aesthetics and traffic safety: that support our Sign Ordinance and its ban on off-site signs (billboards). Too many exceptions to such a ban could cause a Court to reason that the ordinance will no longer achieve its goals and thus be invalid. That would mean the return of billboards to Fayetteville. Therefore, I oppose any further exceptions to our ban on off-site signs so that Fayetteville's Sign Ordinance may endure.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §117.47 **ADVERTISING** OF THE
FAYETTEVILLE CODE TO REMOVE AUTHORIZATION TO PLACE
ADVERTISING SIGNS ON TAXICABS

WHEREAS, prior to 2004, owners of taxicabs could not place signs advertising other businesses on their cabs; and

WHEREAS, even after the change in 2004, most taxicabs do not display such signs which cause a detrimental aesthetic impact upon the citizens and City of Fayetteville.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §117.47 **Advertising** of the Fayetteville Code in its entirety and enacts a replacement §117.47 as follows.

“§117.47 Bus Placards.

“Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a bus to permit advertising matter to be affixed or installed in or on such bus. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a bus shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area. It shall be unlawful for any person to display on any bus any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading or deceptive.”

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Current

law

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

117.47 Advertising

- (A) Subject to the restrictions provided herein, it shall be lawful for any person owning or operating a taxicab, bus, van, or motor vehicle for hire to permit advertising matter to be affixed or installed in or on such taxicab, bus, van, or motor vehicle for hire. The advertising shall not in any way obstruct the vision of the driver of the vehicle. Advertising on a taxicab shall be limited to one sign located on the rear of the vehicle which sign shall not exceed nine square feet in area. Advertising on a bus or van shall be limited to one sign on each side of the vehicle and one sign on the rear of the vehicle, none of which signs shall exceed 12 square feet in area.
- (B) It shall be unlawful for any person to display on any taxicab, bus, van, or motor vehicle for hire any advertisement of tobacco products, alcoholic beverages, x-rated motion pictures, or any advertisement that is false, misleading, or deceptive.

(Code 1965, §20-33.10; Ord. No. 1910, 4-3-73; Ord. No. 2750, 8-18-81; Code 1991, §117.47; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.48 Enforcement

The police department possesses the authority under existing law to issue citations as appropriate.

(Code 1965, §20-33.11; Ord. No. 1910, 4-3-73; Code 1991, §117.48; Ord. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.49 Meter Rates Established

- (A) It shall be unlawful for any person, owning, operating, driving, or in charge of any taxicab for hire in the city to drive or operate such taxicab, or to use or advertise in connection therewith the word "taxi," "taxicab," or "cab" or in soliciting trade from the public to represent or exhibit such vehicle as a "taxi," "taxicab," or "cab" unless such vehicle is equipped with an approved fare meter according to the provisions of this chapter. An approved fare meter is a meter that registers accumulating fare charge with each amount being visible to passenger(s).
- (B) Taxi services provided to patrons utilizing City issued taxi coupons shall be based on a zone rate system with the initial meter charge, charge per mile and additional person charge incorporated into a flat rate per zone. The Zone Rate shall be used exclusively by all taxicabs excluding waiting time except as provided in subsection (D) below. The ceiling rates shall apply to all taxicabs operating in

the city. The initial zone rates are set out as follows:

Ceiling rate, no more than a rate of:

- | | |
|--|---------|
| (a) Travel within One Zone | \$8.00 |
| (b) Travel incorporating Two Zones | \$12.00 |
| (c) No charge for additional person shall be charged. | |
| (d) Waiting time ceiling rate, not to exceed \$10.00 per hour. | |
- (C) Taxi companies shall utilize the zone of the trip origination and zone of the trip destination for purposes of valuation for the trip.
- (D) A taxicab operator may make special contractual arrangements in advance with persons at fares either higher or lower than those set forth by this article, but such contract must be in writing and a copy thereof filed with the City Clerk.

(Ord. 4751, 9-06-05; Ord 4777, 10-04-05)

117.50-117.59 Reserved

**ARTICLE V
LIMOUSINE SERVICE**

117.60 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Limousine service. Transportation service over the streets of the city, in a type of automobile commonly referred to as a limousine. This definition expressly excludes taxicabs.

(Code 1965, §20-34; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.60; Ord. No 4623, 10-05-04; Ord. 4661, 12-21-04)

117.61 License Required; Fee

It is hereby declared to be a privilege for any person to furnish limousine service, and no person shall engage in such undertaking without first paying to the city an annual license fee of \$100.00 for each limousine used on the streets of the city, for the privilege of engaging in such business, and obtaining a Certificate of Public Convenience and Necessity. The fee shall be paid on or before January 1st of each year.

(Code 1965, §20-35; Ord. No. 1080, 4-4-55; Ord. No. 2099, 4-15-75; Code 1991, §117.61; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

City Council Agenda Session
March 8, 2011

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 15, 2011**

A meeting of the Fayetteville City Council will be held on March 15, 2011 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 March 1, 2011 City Council meeting minutes.

2. **Bid #11-16 Downing Sales and Service:** A resolution awarding Bid #11-16 and authorizing a contract with Downing Sales and Service in the amount of \$166,308.00 for the purchase of one (1) refuse roll off truck for use by the Solid Waste Division, and approving a budget adjustment.

3. **Bid #11-18 Sweetser Construction, Inc.:** A resolution awarding Bid #11-18 and authorizing a contract with Sweetser Construction, Inc. in the amount of \$1,057,331.00 for the construction of water main interconnections and the Stone Mountain Pump Station for the Canterbury Road Water Tank, approving a project contingency of \$53,000.00, and approving a budget adjustment.
4. **Insituform Technologies, Inc.:** A resolution approving a contract extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.
5. **Bid #11-20 North Point Ford:** A resolution awarding Bid #11-20 and authorizing a contract with North Point Ford in the amount of \$90,020.00 for the purchase of two (2) Ford F-250 heavy duty pickup trucks for use by the fire department, and approving a budget adjustment.
6. **Lake Sequoyah Lease Agreement with William Keith Shofner, Jr.:** A resolution approving a lease contract with William Keith Shofner, Jr. on 82.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.
7. **Lake Sequoyah Lease Agreement with Jeff Price:** A resolution approving a lease contract with Jeff Price on 54.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

B. Unfinished Business:

1. **Huntingdon Heights Appeal:** An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr. *This item was tabled at the February 3, 2011 City Council meeting to the February 15, 2011 City Council meeting. This item was tabled at the February 15, 2011 City Council meeting to the March 15, 2011 City Council meeting.*

C. New Business:

1. **CH2M Hill Engineers, Inc.:** A resolution approving an out of scope agreement with CH2M Hill Engineers, Inc. in the amount of \$265,000.00 for development of a Use Attainability Analysis (UAA) on the White River, approving a \$50,000.00 contingency; and approving a budget adjustment.
2. **Arkansas Western Gas Company:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Arkansas Western Gas Company in the minimum amount of \$715,560.00 for the provision of natural gas service and the construction of necessary piping and infrastructure extensions for biosolids drying operations at the Noland Wastewater Treatment Facility.

- Moved to Consent
- (3.) **Amend Resolution No. 05-07:** A resolution amending Resolution No. 05-07 to reduce the payment guarantee required of Meadows Enterprises, Inc. for the Dead Horse Mountain Road Bridge from \$36,668.92 to \$7,703.00.

- 4 ✓ **Amend §114.03 First Thursday Fayetteville:** An ordinance amending subsection (B) of §114.03 First Thursday Fayetteville of Chapter 114: Food Sales of the Code of Fayetteville to add additional locations for the event.
- 5 ✓ **Amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes:** An ordinance to amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes (B) Route Approval and (F) of the Fayetteville Code to allow use of pedicabs on streets with a posted speed limit of thirty-five (35) miles per hour or higher if authorized by the Transportation Services Director and (D) to allow pedicabs to operate on Scull Creek Trail, Mud Creek Trail and Frisco Trail.
- 6 ✓ **Amend §174.03 Exemptions:** An ordinance to amend §174.03 Exemptions of Chapter 174 Signs of the Fayetteville Code to allow advertising on pedicabs.
- 7 ✓ **Amend §117.47 Advertising:** An ordinance to amend §117.47 Advertising of the Fayetteville Code to remove authorization to place advertising signs on taxicabs.

Announcements:

Added: C.3. Merit Employee
Service Awards

Adjournment:

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Pre-Agenda Meeting 3/2/11

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 15, 2011**

A meeting of the Fayetteville City Council will be held on March 15, 2011 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 March 1, 2011 City Council meeting minutes.
2. **Bid #11-16 Downing Sales and Service:** A resolution awarding Bid #11-16 and authorizing a contract with Downing Sales and Service in the amount of \$166,308.00 for the purchase of one (1) refuse roll off truck for use by the Solid Waste Division, and approving a budget adjustment.

3. **Bid #11-18 Sweetser Construction, Inc.:** A resolution awarding Bid #11-18 and authorizing a contract with Sweetser Construction, Inc. in the amount of \$1,057,331.00 for the construction of water main interconnections and the Stone Mountain Pump Station for the Canterbury Road Water Tank, approving a project contingency of \$53,000.00, and approving a budget adjustment.
4. **Insituform Technologies, Inc.:** A resolution approving a contract extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.
5. **Bid #11-20 North Point Ford:** A resolution awarding Bid #11-20 and authorizing a contract with North Point Ford in the amount of \$90,020.00 for the purchase of two (2) Ford F-250 heavy duty pickup trucks for use by the fire department, and approving a budget adjustment.
6. **Lake Sequoyah Lease Agreement to William Keith Shofner, Jr.:** A resolution approving a lease contract with William Keith Shofner, Jr. on 82.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.
7. **Lake Sequoyah Lease Agreement to Jeff Price:** A resolution approving a lease contract with Jeff Price on 54.55 acres of land adjacent to Lake Sequoyah for purposes of pasturing cattle and horses, and cutting and baling hay.

B. Unfinished Business:

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5. **Amend §117.47 Advertising:** An ordinance to amend §117.47 Advertising of the Fayetteville Code to remove authorization to place advertising signs on taxicabs.

6. **Amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes:** An ordinance to amend §117.102 Pedicab Permitted Zone of Operation and Approved Fixed Routes (B) Route Approval and (F) of the Fayetteville Code to allow use of pedicabs on streets with a posted speed limit of thirty-five (35) miles per hour or higher if authorized by the Transportation Services Director and (D) to allow pedicabs to operate on Scull Creek Trail, Mud Creek Trail and Frisco Trail.

7. **Amend §174.03 Exemptions:** An ordinance to amend §174.03 Exemptions of Chapter 174 Signs of the Fayetteville Code to allow advertising on pedicabs.

Announcements:

Adjournment:

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Nominating Committee Report
Meeting: Wednesday, March 9, 2011
City Hall, Room 326, 5:00 p.m.

Members Present – Adella Gray, Bobby Ferrell, Rhonda Adams, and Mark Kinion

The Committee recommends the following candidates for appointment:

Advertising and Promotion Commission

- **Hannah Mills** – One term ending 03/31/15.

Airport Board

- **Joshua Mahoney CM** – One unexpired pilot term ending 12/31/13.

Board of Adjustments

- **Jeff Hagers** – One term ending 03/31/16.
- **Kristen Knight** – One term ending 03/31/16.

Civil Service Commission

- **Peggy Hart** One term ending 03/31/17.
- **Martin Schoppmeyer** – One term ending 03/31/17.

Environmental Action Committee

- **Connie Crisp** One unexpired term ending 06/30/13.

Fayetteville Public Library Board of Trustees

- **Kim Agee** One term ending 04/01/16.

Planning Commission

- **Kyle Cook** - One term ending 03/31/14.
- **Tracey Hoskins**– One term ending 03/31/14.
- **Jeremy Kennedy**– One term ending 03/31/14.

Walton Arts Center Council, Inc.

One unexpired term ending 06/30/13

- **Curt Rom** – thru 6/30/11.
- **Steve Clark** – 7/1/11 – 6/30/13

Tree and Landscape Advisory Committee

- **Shannon Sowerwine** – One unexpired Utility Representative Term Ending 12/31/11
Citizen at Large substituted due to no applicant from the appropriate category applying.

Amend 174.03 Exemptions
Handed out at the City Council Meeting 3/15/11

