

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
May 1, 2012**

A meeting of the Fayetteville City Council will be held on May 1, 2012 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:

- 1. Municipal Clerk's Week Proclamation**

City Council Meeting Presentations, Reports and Discussion Items:

- 1. 1st Quarter Financial Report 2012**

Agenda Additions:

A. Consent:

- 1. Approval of April 3, 2012 & April 17, 2012 City Council meeting minutes. APPROVED**

2. **McClelland Consulting Engineers, Inc. Task Order No. 8:** A resolution to approve Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service, and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 84-12

3. **David and Susan Druding Settlement Agreement:** A resolution approving a settlement agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 85-12

4. **Bid #12-25 Goodwin & Goodwin, Inc.:** A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 86-12

B. Unfinished Business:

1. **Amend §34.27 Sale of Municipally Owned Real Property:** An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville. *This ordinance was left on the Second Reading at the April 17, 2012 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5497

C. Public Hearing:

1. **Dryve, Inc.:** A resolution to approve the application of Dryve, Inc. for a certificate of public convenience and necessity to operate a limousine service.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 87-12

D. New Business:

1. **Sourcegas Arkansas Inc.:** A resolution authorizing transfer of a natural gas easement on city property adjacent to Highway 16 to Sourcegas Arkansas Inc. as part of the Highway 16 Improvement Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 88-12

2. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 89-12
THIS ITEM MOVED TO NEW BUSINESS D.4**

3. **Street Name Change – Stadium Drive:** A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 90-12

4. **Street Name Change – Bulldog Boulevard:** A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 91-12
THIS ITEM MOVED TO NEW BUSINESS D.2**

5. **Repeal & Replace §178.04 Outdoor Mobile Vendors:** An ordinance repealing and replacing §178.04 Outdoor Mobile Vendors Located on Private Property of the Code of Fayetteville to provide for a variance procedure.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5498

City Council Tour:

Announcements:

Adjournment: 7:30 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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

Subject:	Roll Call				
Motion To:					
Motion By:					
Seconded:					
Lewis Arrived at 6:03 p.m. Tennant Arrived at 6:08 p.m.	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan	✓			

9-0

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

Subject:	Consent				
Motion To:					
Motion By:		<i>Approve</i>			
Motion By:		<i>Boudreaux</i>			
Seconded:		<i>Gray</i>			
<i>Minutes Approved</i>	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
<i>Passed</i>	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan				

84-12
thru
86-12

8-0

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

Subject:		Amend §34.27 Sale of Municipally Owned Real Property			
Motion To:		3rd Read	Require appr. if over \$20,000 Amend	to 14 of Current Ordinance Amend	Pass
Motion By:		Gray	Petty	Lewis	
Seconded:		Lewis	Adams	No Second	
B. 1 Unfinished Business <u>passed</u> 5497	Boudreaux	✓	N		✓
	Kinion	✓	✓		✓
	Petty	✓	✓		✓
	Tennant	✓	N		✓
	Ferrell	✓	N		✓
	Adams	✓	✓		✓
	Lewis	✓	N		N
	Gray	✓	N		✓
	Mayor Jordan				

8-0

3-5 failed

Died for lack of Second

7-1

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

Subject:	Dryve, Inc				
Motion To:		up to 4 Limos Amend	Pass		
Motion By:		Ferrell	Ferrell		
Seconded:		Tennant	Adams		
C. 1 Public Hearing <u>Passed</u> 87-12	Boudreaux	✓	✓		
	Kinion	✓	✓		
	Petty	✓	✓		
	Tennant	✓	✓		
	Ferrell	✓	✓		
	Adams	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
	Mayor Jordan				

8-0

8-0

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

Subject:	Sourcegas Arkansas Inc				
Motion To:		<i>Pass</i>			
Motion By:		<i>Adams</i>			
Seconded:		<i>Boudreaux</i>			
D. 1 New Business <i>Passed</i> <i>88-12</i>	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan				

8-0

Subject:	Fayetteville Police Department Policies				
Motion To:		<i>Pass</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Tennant</i>			
D. 2 New Business <i>Moved to</i> <i>NB #4</i> <i>D. 4</i> <i>89-12</i>	Boudreaux	✓			
	Kinion	✓			
	Petty	<i>Absent during the vote.</i>			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan				

7-0

Subject:		Move # 4 On the agenda to # 2			
Motion To:		Move Bulldog Street Name change on the Agenda			
Motion By:					
Seconded:					
passed	Boudreaux	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan				

8-0

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

Subject:	Street Name Change – Stadium Drive				
Motion To:		<i>Pass</i>			
Motion By:		<i>Tennant</i>			
Seconded:		<i>Ferrell</i>			
D. 3 New Business <i>Passed</i> <i>90-12</i>	Boudreaux	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>✓</i>			
	Tennant	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Adams	<i>✓</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Mayor Jordan				

8-0

Subject:	Street Name Change – Bulldog Boulevard				
Motion To:		<i>Pass</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Boudreaux</i>			
D. 4 New Business <i>Moved to</i> <i>NB# 2</i> <i>D. 2.</i> <i>passed</i> <i>91-12</i>	Boudreaux	<i>✓</i>			
	Kinion	<i>✓</i>			
	Petty	<i>✓</i>			
	Tennant	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Adams	<i>✓</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Mayor Jordan				

8-0

Subject:		Repeal & Replace §178.04 Outdoor Mobile Vendors			
Motion To:		<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>	
Motion By:		<i>Ferrell</i>	<i>Ferrell</i>		
Seconded:		<i>Lewis</i>	<i>Adams</i>		
D. 5 New Business <i>Passed</i> 5498	Boudreaux	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

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



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan

THRU: Sondra Smith, City Clerk

FROM: Kit Williams, City Attorney

DATE: May 2, 2012

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of May 1, 2012

1. **McClelland Consulting Engineers, Inc. Task Order No. 8:** A resolution to approve task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.
2. **Druding Settlement Agreement:** A resolution approving a Settlement Agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.
3. **Bid #12-25 Goodwin & Goodwin, Inc.:** A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of 41,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.
4. **Amend §34.27 Sale of Municipally Owned Real Property:** An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 **Sale of Municipally Owned Read Property** of the Code of Fayetteville.
5. **Dryve, Inc.:** A resolution to approve the application of Dryve, Inc. for a Certificate of Public Convenience and Necessity to operate a limousine service.

6. **SourceGas Arkansas Inc.:** A resolution authorizing transfer of a natural gas easement on City Property adjacent to Highway 16 to SourceGas Arkansas, Inc. as part of the Highway 16 Improvement Project.

7. **Fayetteville Police Department Policies:** A resolution authorizing Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.

8. **Street Name Change – Stadium Drive:** A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.

9. **Street Name Change – Bulldog Boulevard:** A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.

10. **Repeal & Replace §178.04 Outdoor Mobile Vendors:** An ordinance repealing and replacing §178.04 **Outdoor Mobile Vendors Located on Private Property** of the Code of Fayetteville to provide for a variance procedure.

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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 May 1, 2012

A meeting of the Fayetteville City Council will be held on May 1, 2012 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:

1. Municipal Clerk's Week Proclamation

City Council Meeting Presentations, Reports and Discussion Items:

1. 1st Quarter Financial Report 2012

Agenda Additions:

A. Consent:

1. Approval of the April 3, 2012 and April 17, 2012 City Council meeting minutes.
2. **McClelland Consulting Engineers, Inc. Task Order No. 8:** A resolution to approve Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service, and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.

3. **David and Susan Druding Settlement Agreement:** A resolution approving a settlement agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.
4. **Bid #12-25 Goodwin & Goodwin, Inc.:** A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.

B. Unfinished Business:

1. **Amend §34.27 Sale of Municipally Owned Real Property:** An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville. ***This ordinance was left on the Second Reading at the April 17, 2012 City Council meeting.***

Left on the Second Reading

C. Public Hearing:

1. **Dryve, Inc.:** A resolution to approve the application of Dryve, Inc. for a certificate of public convenience and necessity to operate a limousine service.

D. New Business:

1. **Sourcegas Arkansas Inc.:** A resolution authorizing transfer of a natural gas easement on city property adjacent to Highway 16 to Sourcegas Arkansas Inc. as part of the Highway 16 Improvement Project.
2. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.
3. **Street Name Change – Stadium Drive:** A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.
4. **Street Name Change – Bulldog Boulevard:** A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.
5. **Repeal & Replace §178.04 Outdoor Mobile Vendors:** An ordinance repealing and replacing §178.04 Outdoor Mobile Vendors Located on Private Property of the Code of Fayetteville to provide for a variance procedure.

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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



UNIVERSITY OF ARKANSAS

RECEIVED

APR 28 2012

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Facilities Management

April 20, 2012

Mayor Lioneld Jordan
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mayor Jordan and City Council,

The renaming of South Garland Avenue from Stone Street to Martin Luther King Jr. Boulevard and Paris Avenue south of Martin Luther King Jr. Boulevard to Stadium Drive is consistent with the University of Arkansas's plans to connect the existing southern terminus of Stadium Drive to the section proposed for renaming. The University owns most of the property along Virginia Avenue and plans to purchase all of the properties that would make this connection. When this happens, we will ask that Virginia Avenue also be renamed Stadium Drive, making Stadium Drive a continuous street from Maple Street to south of Martin Luther King Jr. Boulevard.

Thank you for your consideration.

Sincerely,

Mike Johnson
Associate Vice Chancellor for Facilities

cc: Chancellor G. David Gearhart
Dr. Don Pederson
Mr. Don Marr
Mr. Jeremy Pate
Mr. Jay Huneycutt

Added at Agenda Session 4/24/12

ALDERMAN AGENDA REQUEST FORM

D. 5
Repeal & Replace §178.04
Outdoor Mobile Vendors
Page 1 of 6

May 1, 2012

FOR: COUNCIL MEETING OF ~~April 24, 2012~~

FROM: Mark Kinion

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

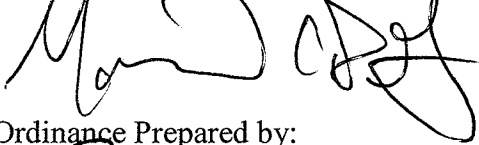
ADM 12-4413: (Outdoor Mobile Vendor Ordinance):

An ordinance to amend Ch. 178 Outdoor Vendors

APPROVED FOR AGENDA:

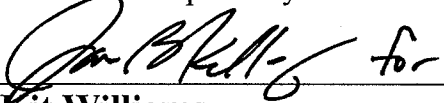
Council Member **Mark Kinion**

Date



4-24-2012

Ordinance Prepared by:



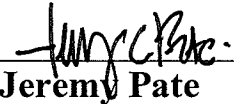
Kit Williams

City Attorney

4-24-12

Date

Packet Prepared by:



Jeremy Pate

Director of Development Services

04-24-2012

Date

04-23-12 P03:28 RCVD

Kinion



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

From: Leif Olson, Planner

Date: April 18, 2011

Subject: ADM 12-4413 Outdoor Mobile Vendor Ordinance Amendments

RECOMMENDATION

Staff recommends approval of an ordinance amending Chapter 178: Outdoor Vendors of the Unified Development Code by adopting a new section permitting outdoor mobile vendors on private property to request a variance from the Planning Commission to operate in the same location for up to one year.

BACKGROUND

The Outdoor Mobile Vendor ordinance was first adopted by the City Council in 2008 to replace the transient merchant license ordinance that previously existed. Alderman Petty, City Staff and stakeholders in the mobile vendor community met in December of 2011 to discuss the limitations of the current ordinance that only permits vendors to stay in one location for a maximum of 90 days. The vendors discussed the difficulty they experience with attempting to plan for their business activity under such a limited time frame. Currently, after their 90 day permit expires they are required to get a new approval and move to a new location. Planning Staff has processed a few outdoor mobile vendors as temporary uses permitted under Use Unit 2: City-wide Uses by Conditional Use through a Conditional Use Permit process at the Planning Commission for a longer time period than 90 days, which was the intent of the ordinance amendment in 2010. However, the City Attorney recently recommended that this Conditional Use Permit process is not the appropriate process and that more specific language should be codified into the Outdoor Mobile Vendor chapter of the Unified Development Code.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING § 178.04 OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY OF THE CODE OF FAYETTEVILLE TO PROVIDE FOR A VARIANCE PROCEDURE

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 §178.04 Outdoor Mobile Vendors Located on Private Property of the Code of Fayetteville, and enacts a replacement §178.04 Outdoor Mobile Vendors Located on Private Property, as presented in the attached Exhibit "A", which is incorporated herein as if set out word for word.

PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

**178.04 Outdoor Mobile Vendors
Located On Private Property**

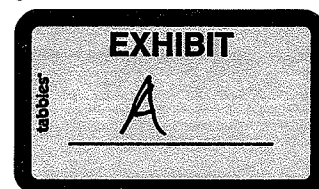
(A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape, and does not create or worsen a dangerous traffic condition.

(B) *Requirements.* Outdoor Mobile Vendors located on private property shall meet the following requirements and submittals prior to approval:

- (1) Permit Application. Each application for a permit to conduct an Outdoor Mobile Vendor business shall be accompanied by a \$50 permit review and processing fee.
- (2) Application for a permit to conduct an Outdoor Mobile Vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
 - (a) Name, address and contact information.
 - (b) Type of items sold or services rendered. A change in product or service will require a new permit to be issued.
 - (c) A valid copy of all necessary permits required by State and County health authorities.
 - (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
 - (e) Means to be used in conducting business including but not limited to a description of any mobile device to be used for transport or to display approved items or services.
 - (f) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
 - (g) Written authorization, signed by the property owner or legal representative of record, stating

that the transient merchant business is permitted to operate on the subject property.

- (3) The permit issued shall not be transferable in any manner.
- (4) The permit is valid for one mobile vendor location only.
- (5) The proposed use must be a permitted use-by-right within the underlying zoning district in order to be permitted.
- (6) An Outdoor Mobile Vendor business may be approved by the Planning Division after making the following determinations:
 - (a) All of the requirements of 178.04(B)(2) have been met.
 - (b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
- (7) Outdoor mobile vendors are allowed on a temporary basis (90 days), by nature of their temporary occupancy, in one location over a one-year (twelve month) timeframe. Outdoor mobile vendors may move to a different location at least one half mile from the original location after this 90-day period has expired. However, a new Outdoor Mobile Vendor Application will have to be reviewed and approved by the Planning Division for a new location.
- (8) Outdoor mobile vendors shall be in compliance with parking lot requirements for any existing and the proposed business. The number of required parking spaces is determined by the use and size of the proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor



TITLE XV UNIFIED DEVELOPMENT CODE

mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

- (C) *Variances.* Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:
- (1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.
 - (2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.
 - (3) A variance may be granted by the Planning Commission when the following findings have been met:
 - (a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.
 - (4) In granting the variance, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance.

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
April 3, 2012**

A meeting of the Fayetteville City Council was held on April 3, 2012 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, Boudreaux, 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: None

Nominating Committee Report:

Alderman Gray read the Nominating Committee Report. A copy of the Nominating Committee report is attached.

Alderman Ferrell moved to approve the Nominating Committee report. Alderman Kinion seconded the motion. Upon roll call the motion passed unanimously.

Agenda Additions: None

Consent:

Approval of the March 20, 2012 City Council meeting minutes.

Approved

McClelland Consulting Engineers, Inc. Amendment No. 1: A resolution approving Amendment No. 1 to the agreement with the McClelland Consulting Engineers, Inc. for airport engineering services.

Resolution 62-12 as recorded in the office of the City Clerk.

Keeling Company: A resolution authorizing purchase of an additional two (2) irrigation wheels from Keeling Company in the amount of \$77,333.34, pursuant to Bid #11-71, for effluent irrigation to hay fields.

This item was removed form the Consent Agenda for discussion.

Crafton Tull & Associates: A resolution approving a contract with Crafton Tull & Associates in an amount not to exceed \$120,000.00 for engineering services to design water and sewer creek crossing repairs related to Spring 2011 floods, approving a project contingency of \$6,000.00, and approving a budget adjustment.

Resolution 64-12 as recorded in the office of the City Clerk.

Bid #12-14 Heckathorn Construction Company: A resolution awarding Bid #12-14 and approving a contract with Heckathorn Construction Company in the amount of \$42,421.00 for the structural repair of three storm damaged structures at the biosolids management site.

Resolution 65-12 as recorded in the office of the City Clerk.

Environmental Consulting Operations, Inc. Amendment No. 6: A resolution approving Amendment No. 6 to the Engineering Contract with Environmental Consulting Operations, Inc. in the amount of \$42,660.00 for pipeline stormwater, wetlands, and environmental issues and 2012 wetland site maintenance and reporting.

Resolution 66-12 as recorded in the office of the City Clerk.

IES Interactive Training USA: A resolution approving an agreement with IES Interactive Training USA in the amount of \$28,462.90, pursuant to a federal procurement agreement with the General Services Administration, for the purchase of a Use of Force Simulator for the Police Department.

Resolution 67-12 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to approve the Consent Agenda as read with Keeling Company removed from the Consent Agenda for discussion. Alderman Kinion seconded the motion. Upon roll call the motion passed unanimously.

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

Keeling Company: A resolution authorizing purchase of an additional two (2) irrigation wheels from Keeling Company in the amount of \$77,333.34, pursuant to Bid #11-71, for effluent irrigation to hay fields.

City Attorney Kit Williams stated we need a motion to amend the resolution to what the Mayor just read. This just added the sales tax.

Alderman Lewis moved to amend the resolution. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Alderman Ferrell moved to approve the resolution. Alderman Kinion seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 63-12 as recorded in the office of the City Clerk.

Unfinished Business:

Amend Chapter 151 Definition of “Family”: An ordinance to amend the definition of “Family” found in Chapter 151 Definitions of the Unified Development Code to allow the City Council to authorize up to five (5) unrelated persons in some units of a Planned Zoning District. ***This ordinance was left on the First Reading at the February 7, 2012 City Council meeting. This ordinance was left on the Second Reading at the February 21, 2012 City Council meeting. This ordinance was left on the Third Reading and tabled at the March 6, 2012 City Council meeting. This item was removed from the table at the March 20, 2012 City Council meeting and placed on the April 3, 2012 City Council agenda.***

Alderman Petty: I do have some final comments but I want to wait until after the public has had a chance to speak before I give those.

Martin Bemberg, resident of 217 E. Lafayette addressed the occupancy ordinance that was passed several years ago. He spoke against the ordinance.

Cathy Short, Sang Valley Neighborhood Association representative stated I am completely against this. She spoke against the ordinance.

Walt Eilers, resident of 2044 West Archer Drive asked the Council to step back from the passage of this amendment and redefine the definition of family. He spoke about investors and

customers and the difference between the two. He asked the Council to consider the impact on the investor's property tax. He spoke against the ordinance.

Alderman Ferrell: When it comes to voters is there any delineation in an investor voter or a customer voter, or are they all voters.

Walt Eilers: They could all be voters but what I know for a fact is the people who live here and are registered to vote, that pay property tax, are the ones that get out and vote. You and I know that from the elections.

Alderman Ferrell: I was just wondering if there was a difference in them.

Walt Eilers: I don't see a difference in the voter, I see a difference in the level of commitment that the people have in the long term.

Donna Daniels, resident of Ward 4 expressed her concerns. She stated this ordinance is about the quality of life and it is not in the best interest in the quality of life of the residents of Ward 4 let alone the rest of Fayetteville. She spoke against the ordinance.

John Faucette, resident of 2104 W. Loren Circle pointed out various issues and questioned the enforcement procedures. He voiced his concern about street signs that he has seen that were down that need to be up. He also voiced his concern about problems he has seen in neighborhoods. He spoke about the Ward 4 meeting and the discussion that happened at that meeting. He also confirmed that the ordinance would go into effect in 30 days.

Alderman Ferrell: Would you agree that growth for a community overall is good?

John Faucette: Probably so in the overall community but I see more growth happening up north.

Alderman Ferrell: Have you complained to Code Compliance before about what is going on before this proposed amendment came about?

John Faucette: No.

Alderman Ferrell: If you happen to see any of those signs down, please let us know and the City will get them back up.

Alderman Gray asked for clarification on what took place at the Ward 4 meeting.

John Faucette: The Developer that is in charge of the Cleveland project was there.

Alderman Gray: He said he was bringing in how many units?

John Faucette: He said 220 units and a lot of people had a lot of questions.

Alderman Gray: Are those two bedroom units?

John Faucette: I don't know because he would not answer that question. I know it would be at least 220 vehicles because there would be 220 units. He would not answer anything higher than that. I have to think personally that he already knows.

Alderman Adams: There is a lot of green space around the University and some of it is zoned single family dwellings 4 houses per acre. Does that concern you at all about a development going in near you? I am specifically thinking about close to the University where by right a property owner can build four houses per acre without ever coming to us. Is that what is best in your mind? Do you prefer us to continue with the zoning in place without considering any other options? Is that what I am hearing you say?

John Faucette: That is probably correct. He explained the areas he was referring to and continued expressing his concerns.

Alan Long, resident of Waterman Woods stated my only concern was that this restriction would prevent a five bedroom duplex unit. He expressed his concerns with how the ordinance was written.

Alderman Petty: Your reading of the ordinance is incorrect when you said that it would require each unit that could allow up to five people be a single free standing unit.

Alan Long: That is not actually what I said. I was reading a direct quote from an email that was sent from John Acken to Rhonda Adams.

Alderman Petty: Then you probably shouldn't repeat it.

Alan Long: My point there was just to point it out.

Alderman Petty: I just want to point out that a duplex in this configuration would be possible.

James Butch Cogger, resident of 2109 W. Loren Circle passed out a copy of the email that was sent to Rhonda Adams that Alan Long previously quoted and read it to the Council. He expressed his concerns and spoke against the ordinance.

Shirley Lucas, a Fayetteville resident stated she believes this is the first time an ordinance has been brought forward for one project. Enforcement is a problem because there is no way to prove that there is more than three. She expressed her concerns with the ordinance.

Alderman Kinion: You were on the City Council during the time when there was a great deal of development. You have also worked here when there was a considerable amount of PZD's that came through. This is specifically looking at a PZD. I am wondering if you can help explain the issue of why it is so critical even though it is a PZD process.

Shirley Lucas: The idea of a PZD was so that we would know what was going in there and the neighborhood would know what was going in there and that is why it was helpful. That seemed to me what a PZD was. That is what bothers me about five bedrooms in a PZD that allows five unrelated people.

Alderman Ferrell: Shirley, do you think that it would help if Code Compliance scheduled someone on a different shift or after hours?

Shirley Lucas: I don't know because would they have enough to do during that shift.

Paula Marinoni, a Fayetteville resident clarified that this ordinance is not being done for her personally. She spoke in favor of the ordinance.

Tim Kautzer, resident of 524 N. Sang Avenue expressed his concerns with the additional traffic this would bring. He spoke against the ordinance.

Steven Kay, resident of 2075 Archer stated I disagree with the five person rule. He spoke against the ordinance.

Candace Hoggatt, resident on the corner of Archer and Sang asked the Council to delay this decision for more consideration.

Alderman Petty thanked everyone who has participated in this in a civil manor. He stated I have done research and I would not propose that this be eliminated. He explained the research he had done and his findings.

Alderman Lewis explained the Ordinance Review Committee meeting discussion. She asked what is the metric that defines success of the ordinance.

Jeremy Pate: I think ultimately the metric is compliance. He explained past enforcement issues and how they were handled.

Alderman Lewis stated there is some kind of perception that people get tired of reporting the nuisance. She stated there is a need to really examine what the breakdown of communication is. She expressed her concerns with the ordinance and she recommended that it be tabled indefinitely and bring it back when we have a real plan for how we are dealing with all these new students.

Alderman Kinion stated I received numerous correspondence and no one generally supports this. He expressed his concerns with the ordinance and stated I do not think we are moving forward in a progressive nature. He stated we need to have standards, an understanding and a consensus. He also suggested that this be tabled indefinitely.

Alderman Boudreaux: Sarah, did you say that the Cleveland project could have five bedrooms?

Alderman Lewis: They are bringing forward a PZD so if this passes they would have an option.

Alderman Boudreaux: I keep going back to the fact that we have to approve a PZD. If this Council approves this then they will have ample opportunity to argue their points against the proposed project. At this point I have not heard anything that would change my mind about supporting this.

Alderman Gray stated I think we just need to work harder at enforcing and I think that is our responsibility as a City, I will be supporting this because I think it is the right thing for the City.

Alderman Adams stated I am not responsible for what other people write to my email inbox. She explained the reasons why she brought this ordinance forward. She stated I want to respect and represent all citizens that have something they need the government to look at.

Alderman Tennant stated what the ordinance means to me is that there can be control from the Planning Commission down to the City Council. I will support it.

Alderman Ferrell asked has anyone heard anything about any ideas of ingress or egress off of Maple for the proposed development.

Jeremy Pate: A portion of Maple abuts the Marinoni property but we have not seen any kind of plans for the development of that property.

Alderman Ferrell stated I have confidence that whatever comes forth will be heavily scrutinized by staff and Planning Commission before it comes to this body. In looking at the future, I will support this.

Mayor Jordan spoke on the Town Hall meeting that was held and discussed some of the comments that were received. He stated I have made contact with the Chancellor of the University and we are going to put some type of Town and Gown Committee together within the next month. As far as enforcement goes how many folks do we have to do Code Enforcement?

Don Marr stated we as staff would agree that enforcement is a challenge. He explained that there are currently three Code Enforcement Officers and he described their enforcement responsibilities throughout the city. Some of these things are just pure staffing requirements. We will be bringing you some ideas for staffing plans because this is a headcount issue to have the staff time to do the things that you are talking about. If you are going to hold staff accountable then you need to give us the head count to do it.

Alderman Lewis: I would certainly support ideas that would come from citizens and staff on tools that are needed to help you see where there is a nuisance and to measure a nuisance. What would help clarify what is a nuisance for people? Also we need ways to plan for more people in these areas. She stated that anything is worth discussion at a Council level.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Lewis and Kinion voting no.

Ordinance 5490 as Recorded in the office of the City

RZN 12-4028 (1400 and 1500 Blocks of N. Desoto Pl./Abshier Heights): An ordinance rezoning that property described in rezoning petition RZN 12-4028, for approximately 2.18 acres, located at 1400 and 1500 Block of North Desoto Place (Track “A” of Abshier Heights) from R-PZD, Residential Planned Zoning District R-PZD 06-1883 to RSF-8, Residential Single-Family, 8 units per acre. ***This ordinance was left on the First Reading at the March 20, 2012 City Council meeting.***

City Attorney Kit Williams read the ordinance.

Alderman Lewis moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Senior Planner gave a brief description of the ordinance.

Alderman Lewis: RSF-8 falls under the form based code, is that right?

City Attorney Kit Williams: No.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: Did you discuss form based code with the developer?

Andrew Garner: I can't recall if we discussed form based codes or not. We felt like their proposal was appropriate and we did not recommend another zoning district.

Alderman Adams: What are you looking for when you consider what is a good transition in a zoning issue like that?

Andrew Garner: It just depends on every neighborhood. We felt like a little bit higher density single family was appropriate in between these two uses.

City Attorney Kit Williams: Multi-family would have been appropriate too and that is what it was originally zoned for. So we are actually down zoning it to get it to residential single family.

Alderman Lewis: So the utilities are already in there.

Andrew Garner: Yes, the utilities and infrastructure has been installed.

Alderman Kinion: Has there been any comment from the neighborhood regarding this?

Andrew Garner: When it originally came through there was quite a bit of comment. With this proposal we only had a couple of inquiries and comments but they said they were not opposed to it.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5491 as Recorded in the office of the City

ADM 12-4029 (Abshier Heights R-PZD Modification No. 4): An ordinance amending a residential planned zoning district entitled R-PZD 06-1883, Abshier Heights, located at the northwest corner of Abshier Drive and Hillcrest Avenue, containing approximately 4.11 acres, to reflect revised architectural standards as described and depicted herein. ***This ordinance was left on the First Reading at the March 20, 2012 City Council meeting.***

Alderman Ferrell moved to suspend the rules and go to the second reading. **Alderman Tennant** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Andrew Garner gave a brief description of the ordinance.

Aubrey Shepherd, a resident of 1101 S. Duncan Avenue spoke on behalf of the citizens who spoke on this proposed area back in 2006.

Alderman Boudreaux: Ms. Jones did not have any concerns about it going to brick. I would certainly respect that if it was a concern but I don't think it was.

Mayor Jordan: Did anyone speak against this project at Planning Commission?

City Attorney Kit Williams: Certainly not on this part of it. They were concerned about the density on the other one but no one was against the brick.

Alderman Lewis: I wanted to clarify if this says "and on the back" or "or on the back".

Andrew Garner: I think we were trying to say brick on the facade on the back of a development.

Alderman Lewis: I think it is fine. I just want to make sure that it is clear, when they are doing it, where the neighbors would like it to be.

Andrew Garner: I think the intent was simply to replace the stone with brick.

Alderman Lewis: I understand the intent. I just want it to say it so that they are held to it.

City Attorney Kit Williams: I think it is clear and if not Andrew can make sure that they understand what the intent of the Council is.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5492 as Recorded in the office of the City

New Business:

Regional Urban Stormwater Education Program: An ordinance waiving the requirements of formal competitive bidding and approving a memorandum of Understanding with the MS4 Jurisdictions and the Northwest Arkansas Regional Planning Commission in the amount of \$45,969.00 for the Regional Urban Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension Service to satisfy portions of the NPDES Phase II Stormwater Permit requirements.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance.

Aubrey Shepherd stated I am very much in favor of this but I just wish you guys would take this opportunity to let the public know more information about it.

Alderman Lewis: I think we need to expand this and get people out and demonstrate what it means to control stormwater.

Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Boudreaux moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5493 as Recorded in the office of the City

RZN 12-4042 (1700 Old Wire Road/Cooper and Williams): An ordinance rezoning that property described in rezoning petition RZN 12-4042, for approximately 4.90 acres, located at 1700 Old Wire Road from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation, subject to a Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Andrew Garner gave a brief description of the ordinance. He stated this was heard at the Planning Commission meeting and we didn't have any public opposition.

Alderman Boudreaux: That concerns me since we had so much neighborhood interaction on the other one. I would certainly want to leave it on the second reading.

Tim Cooper, Project Architect stated there were no comments at Planning Commission at all and there are no issues like there was the first time. He described the project.

Alderman Boudreaux: So the reason you are going with the Neighborhood Conservation zoning is because you are going to have smaller lots.

Tim Cooper: That's right.

Alderman Boudreaux: Was there any public there or did they just not speak?

Andrew Garner: I did receive a couple of phone calls and emails inquiring about it and once we showed them what was being proposed I did not hear back from them.

Alderman Ferrell: The first time the other parcel came through it did deal with the streets and that is what brought so many people out.

Alderman Kinion: When we looked at that area, my understanding is that if we change the zoning it is going to pull it up more from the creek.

Tim Cooper: There is actually a utility easement that goes through there and there is a little bit of a flood plain that starts down at the corner. That whole area is not even usable so the houses can be pulled back.

Alderman Kinion: So there is going to be less excavation there with this zoning change because you will be bringing it up where it drops off into that flood plain.

Tim Cooper: Right.

Jackson Williams, also involved with the project showed where the homes would be on the map.

Alderman Kinion: You won't have to do a retention pond there because you have enough run-off on the property?

Tim Cooper: There will still be one on the property for sure.

Alderman Kinion: I am wondering about the velocity of the flow. I think this is probably better with the Neighborhood Conservation.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

Amend Chapter 161 (ADM 12-4085 Zoning Regulations/RMF-24 Setbacks): An ordinance to Amend §161.14 District RMF-24 by repealing the separate setbacks for multi-family structures built within the Hillside/Hilltop Overlay District.

City Attorney Kit Williams read the ordinance.

Andrew Garner gave a brief description of the ordinance.

Alderman Boudreaux: All RMF-24 zones have the same build to zones and side and rear setbacks?

Andrew Garner: The build to zone is just along the front.

City Attorney Kit Williams: The front is the only build to zone.

Alderman Boudreaux: So it hasn't changed the side or rear setbacks. You are allowing a reduced amount of front setback, which is a build to, and you have retained the same side and back setbacks, then you have increased the impervious surface that you have put on that lot right?

Andrew Garner: No. The requirement is still the same. You are just moving it forward.

Andrew Garner and City Attorney Kit Williams briefly explained the setbacks.

A discussion followed on various setback requirements.

Alderman Boudreaux: Is that something they can appeal if it is a problem?

Andrew Garner: I think it would be a rare where you would have a building sitting at the very back of a hillside lot. Typically your access is from the street in the front. He discussed the terms for granting a variance.

Alderman Lewis: The build to zone, there is a range.

City Attorney Kit Williams: 15 feet of give. Between 10 and 25 feet from the right of way.

Alderman Lewis: So they could put it anywhere in there with that in mind.

Aubrey Shepherd asked why are you limiting the architect placement on a lot. He stated this just does not seem necessary.

Alderman Kinion: Would this be a valid reason? You are actually having better preservation in the back of the lot so there is less variation in the natural terrain.

City Attorney Kit Williams: Explained that all land is different because there are different slopes. Sometimes one rule cannot fit all conditions. Sometimes the placement of the house is going to be controlled by the slope of the land.

Alderman Lewis: What would allow or encourage the developer to really take into consideration the existing slope of the land and the soil before putting that kind of work into the build to.

City Attorney Kit Williams: The original hillside/hilltop ordinance setback will reduce for that very purpose to encourage the builder to build closer to the street, but it would not require it.

Alderman Boudreaux: Did you say someone needed to build this way? Why was this brought forward?

Andrew Garner: In this case we feel like the HHOD and the form based zoning code work hand in hand. A build to zone is in line with HHOD so we did not need a separate requirement.

Alderman Boudreaux: So there is a required build to line in all the other zones?

Andrew Garner: Yes.

Alderman Boudreaux: So they have to build close to the street.

A discussion followed on what zones have build to lines.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent during the vote.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

Kum & Go, L.C.: A resolution to grant the appeal of Kum & Go, L.C. and to amend and approve its large scale development to agree with the plat submitted with its appeal letter.

City Attorney Kit Williams gave a brief description of the resolution.

Erin Rushing also gave a brief description and stated we are looking for some kind of resolution to move this forward.

City Attorney Kit Williams: This would require along with the City a request from the State Highway Department for the use of stripes and reflectorized markers. They must attempt to do it and they are responsible to pay for it if it can get approved.

Aubrey Shepherd expressed his concerns with the safety.

Alderman Kinion: If the Highway Department says you can't have the striping and the lines then there is a left hand turn there with no restrictions. Is that correct?

City Attorney Kit Williams: There is a left hand in but not out.

Alderman Kinion: It's the left hand in that concerns me the most because of how close it is to Hill Street. It's hard for me to support an open ended document like that with safety. That is a real concern that I have witnessed.

Chris Brown: We are recommending a striping in place of the median. It is not guaranteed that the Highway Department will approve that but there are some other striping options that may not be the best option. I fully believe we can come up with a striping plan that the Highway Department will permit and that will increase the safety of the driveway.

Alderman Lewis: I would like to propose an amendment.

Erin Rushing: We want is to be able to work with staff as opposed to coming back to this body every time.

Alderman Lewis: I agree with that but I don't want to remove the condition and that is what this says.

City Attorney Kit Williams: If the Highway Department denies any striping at all then you want to see this back? Chris thinks he can work with Kum & Go and the Highway Department but if that fails, if we don't remove the condition at that point, then the Large Scale Development is not approved anymore. It has to come back again for another appeal.

Mayor Jordan clarified that they would have to look at this again if the Highway Department does not approve the median and the striping.

Alderman Lewis: I am not okay with removing the condition if they don't.

Erin Rushing: The developer and the owner are running short on the timing of getting this closed.

Alderman Gray: I would like to see us go on and trust that Chris is going to be able to make something happen. At some point in time we have to decide to let them go.

Don Marr explained the past recommendations. He stated we brought it to you this way, because it felt like at the last session that the majority of you probably would move forward and those of you that would not want to would make an amendment and you would have a vote and decide whether you were going to bring it back or not bring it back. We wrote this on the side of where we believed the majority of you stood at that point. Right now it is written not to come back. We did not want to go through a step if the majority of you were ultimately going to approve it with a three turn.

Alderman Boudreaux clarified what would happen if the Highway Department does not approve the striping.

Don Marr gave an explanation of what would happen.

A discussion followed.

Alderman Ferrell: We have been at this a long time. I wish there was more assurity but I like that Don and Chris feel pretty good that the State is going to work with us.

Alderman Adams: Does the State's recommendation not to do anything matter to us?

Don Marr: It is a State Highway and we are required their approval.

Alderman Adams: I guess what I am saying is doesn't it matter that they don't want to make that happen?

Don Marr: We don't know whether the State's final disposition on the striping is no. We know that the final disposition on the median is no.

Erin Rushing: The median issue is a maintenance issue. They did not want to maintain it. The striping may be a different deal.

Alderman Tennant: I think this company has been very good in waiting on us. We have done our job in making them do it the right way. Worse case scenario I still think this needs to go there and I am confident that we can make this happen in some way, shape or form. I would rather get this done and not have it come back weeks from now and start over.

Alderman Kinion: I am confident that the State is going to come through with this and it won't be back but I have to vote my conscience.

Alderman Lewis: Time does not take away all the risks that were brought up in the first place. I too would like to see the business go in there. Time and how long this has taken should not be a factor in whether or not we control the traffic in that area. Please consider that when voting on whether or not to amend this.

Alderman Adams: It is not only time that we are considering here. It is that we have spent time looking at all these alternatives. I believe we have done due diligence in trying to find alternatives and at some point we have to move forward.

Alderman Lewis moved to amend the resolution and remove the following: If the Arkansas State Highway and Transportation denies Kum & Go, L.C. the right to double stripe and or use raised reflectorized markers as recommended by the Fayetteville City Council, this condition of approval is removed from the Large Scale Development requirements and Kum & Go, L.C. can proceed with its project as shown by its Site Plan B. Alderman Kinion seconded the motion. Upon roll call the amendment failed 3-5. Alderman Lewis, Kinion and Petty voting yes. Alderman Gary, Boudreaux, Tennant, Ferrell and Adams voting no.

Alderman Petty: I don't think we have done our due diligence on this and I will not be able to support this action.

The Mayor asked shall the resolution pass. Upon roll call the resolution passed 5-3. Alderman Gray, Boudreaux, Tennant, Ferrell, and Adams voting yes. Alderman Lewis, Kinion, and Petty voting no.

Resolution 68-12 as recorded in the office of the City Clerk.

Announcements:

Adjournment: 9:55 p.m.

Lionel Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

UNOFFICIAL

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
April 17, 2012**

A meeting of the Fayetteville City Council was held on April 17, 2012 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, Boudreaux, 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:

Arkansas Recreation and Parks Association Awards Presentation

Connie Edmonston, Parks and Recreation Director stated I am proud to announce that at our Annual Arkansas Recreation and Parks Association Conference held in March, the City of Fayetteville was awarded three different awards. The awards were as follows:

Therapeutic Program of the Year: Fayetteville Senior Activity and Wellness Center.

Group Volunteer of the Year: Ozark Off-Road Cyclist. They have built and rebuilt over 2 miles of nature trails at Lake Fayetteville Park and logged in over 800 volunteer hours last year.

Individual Volunteer of the Year: Rollie Friess. He has worked over 375 hours on the habitat restoration project along Clabber Creek Trail.

Connie thanked everyone for the great work they have done in our parks.

Mayor Jordan asked that everyone give the Parks Department a hand.

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the April 3, 2012 City Council meeting minutes.

The minutes were removed from the agenda.

Crain Ford of Little Rock: A resolution approving an agreement with the Crain Ford of Little Rock in the total amount of \$51,390.00 for the purchase of two (2) Ford Fusion hybrid-electric sedans for use by the Police Department pursuant to the state procurement agreement.

Resolution 69-12 as recorded in the office of the City Clerk.

J.A. Riggs Cat of Springdale: A resolution approving an agreement with J.A. Riggs Cat of Springdale in the total amount of \$266,109.00 for the purchase of three (3) backhoe loaders for use by the Water and Sewer Division pursuant to the National Joint Powers Association procurement agreement, and approving a budget adjustment.

Resolution 70-12 as recorded in the office of the City Clerk

Bid #12-23 Prime Contracting, Inc.: A resolution awarding Bid #12-23 and authorizing a contract with Prime Contracting, Inc. in a total amount of \$168,772.75 for the repair of flood damage to a section of Frisco Trail, approving a ten percent (10%) project contingency, and approving a budget adjustment.

Resolution 71-12 as recorded in the office of the City Clerk

Bid #12-26 WasteTech, Division of Kusters Zima Corp.: A resolution awarding Bid #12-26 and authorizing a contract with WasteTech, Division of Kusters Zima Corp. in the amount of \$197,487.00 for the purchase of a fine band screen with associated controls and accessories for the Noland Wastewater Treatment Facility.

Resolution 72-12 as recorded in the office of the City Clerk

NWA Regional Planning Commission Agreement: A resolution approving an agreement with the Northwest Arkansas Regional Planning Commission for services related to cooperative regional efforts to monitor, evaluate and report likely effects that future proposed changes to stream standards and wastewater discharge requirements may have on Northwest Arkansas in the amount of \$40,000.00, and approving a \$5,000.00 project contingency.

Resolution 73-12 as recorded in the office of the City Clerk

CDBG Funds Remaining From 2011 Grant: A resolution approving a budget adjustment in the amount of \$37,247.00 to the Community Development Block Grant program to accurately reflect funds remaining from the 2011 grant.

Resolution 74-12 as recorded in the office of the City Clerk

CDBG Habitat for Humanity Property Purchase Reimbursement: A resolution approving a budget adjustment in the amount of \$92,333.00 to Community Development Block Grant program income related to a housing program lien payoff and a reimbursement from the Habitat for Humanity property purchase.

Resolution 75-12 as recorded in the office of the City Clerk

2012 Interlocal Animal Sheltering Agreements: A resolution approving 2012 interlocal animal sheltering agreements with the cities of Elm Springs, Elkins, Goshen, Tontitown, Winslow, Farmington, Greenland and West Fork.

Resolution 76-12 as recorded in the office of the City Clerk

Southwest Solutions Group: A resolution approving an agreement with Southwest Solutions Group in an amount not to exceed \$34,216.00 for the purchase and installation of a Spacesaver High Density Evidence Storage System for use by the Police Department, pursuant to the National Joint Powers Alliance procurement agreement.

Resolution 77-12 as recorded in the office of the City Clerk

Cruse Uniforms and Equipment: A resolution approving a contract amendment with Cruse Uniforms and Equipment as the Police Department's authorized quartermaster to approve requested price increases.

Resolution 78-12 as recorded in the office of the City Clerk

Amend Resolution 183-11 Botanical Garden of the Ozarks: A resolution amending Resolution 183-11 approving a participation and unsecured loan agreement with the Botanical Garden of the Ozarks to install ten (10) LED lights and poles in the amount of \$30,519.90 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

Resolution 79-12 as recorded in the office of the City Clerk

Butterfield Overland Mail Stage Route National Trail: A resolution to express the City Council's support of the Butterfield Overland Mail Stage Route National Trail to become a national historic trail.

Resolution 80-12 as recorded in the office of the City Clerk

City Clerk Sondra Smith asked that the minutes be removed from the Consent Agenda so that the Council would have a chance to read them.

Alderman Boudreaux moved to approve the Consent Agenda as read with the minutes removed from the agenda. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

RZN 12-4042 (1700 Old Wire Road/Cooper and Williams): An ordinance rezoning that property described in rezoning petition RZN 12-4042, for approximately 4.90 acres, located at 1700 Old Wire Road from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the April 3, 2012 City Council meeting.***

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5494 as Recorded in the office of the City

Amend Chapter 161 (ADM 12-4085 Zoning Regulations/RMF-24 Setbacks): An ordinance to Amend §161.14 District RMF-24 by repealing the separate setbacks for multi-family structures built within the Hillside/Hilltop Overlay District. ***This ordinance was left on the Second Reading at the April 3, 2012 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Development Services Director gave a brief description of the ordinance.

Alderman Lewis: The last time we were asking about the flexibility. In some cases the least impact or the most soil stability may not be close to the road. Can you talk about how that is expressed in here?

Jeremy Pate: The build to zone actually allows you to vary between 10 and 25 feet so there is a 15 foot range along the front. I would certainly think we would take that soil stability, tree preservation; those are the types of things we look at as any consideration for any kind of variance on a lot by lot basis and make a recommendation accordingly.

Alderman Lewis: There is already going to be construction near the road so pushing the footprint and house closer to that as well makes sense.

Alderman Boudreaux: I wanted to make sure that if that was not the best scenario as far as disturbing the soil that there would be a variance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5495 as Recorded in the office of the City

New Business:

APGR Green, Inc.: A resolution to certify the City of Fayetteville's endorsement of APGR Green, Inc., located in Fayetteville, Arkansas, to participate in the Arkansas Equity Investment Tax Credit Program.

Don Marr, Chief of Staff gave a brief description of the resolution.

Alderman Lewis: What we are considering is the endorsement of a business so they can get a tax credit. I want to be supportive of new business. I want the Council to be careful about what we are endorsing. Why would I want to endorse a tax credit for something that is going to cost the community money later to clean up? It is a toxin and pesticide and will runoff and get into the water supply. It is EPA approved but this is a chemical that we need to be aware of.

Chung Tan, Manager for Economic Development of the Chamber of Commerce stated that questions could be addressed to the company and to her.

Alderman Lewis: There is a request to the Arkansas Economic Development Commission to seek approval for income tax credits. I am just wondering is this available to all businesses?

Chung Tan explained this tax credit is available to any company in the State of Arkansas. She explained the criteria that must be met by the company and the process a company must go through to receive the tax credit.

Sam Noto, Vice President of Sales and Marketing, and **David Jones,** President and inventor of the product gave a brief description of their company. David stated this is an incentive to our investors to help us raise capital to get our business going and create jobs.

Alderman Lewis: You created the product that you are going to use. Did you use third product review of the chemical? What was the process for getting EPA approval?

Sam Noto: Two years we have been working with the patent office, EPA and a variety of universities. I understand and appreciate your concerns with poisons and impacts to the water table. We are using a compressed gas and there is no run-off. It is very simple and environmentally safe.

David Jones: Every time someone buys our product it will do away with the runoff that goes into the ground. There is no runoff with our product.

Alderman Lewis: I am so glad you had a chance to tell about it.

Sam Noto: It is really not a chemical based pesticide but in order to sell it as a pesticide you have to have an EPA registration.

Alderman Kinion: So is there licensing and certification associated with the application of the process? Is that how you manage this?

Sam Noto: The actual patent is owned by David.

Alderman Kinion: So you own the patent not the application in the process.

Sam Noto: It is the application process.

Alderman Kinion: I was also worried about contamination of air and water so it sounds like a great advance.

Alderman Ferrell: My question would be why we would not want to help on a deal like this.

Steve Clark, Chamber of Commerce President explained the State's process. He stated we stand here today to tell you that this is an indication and an example of entrepreneurship. For them to go forward they need your endorsement.

Alderman Ferrell: Knowing this community and establishment of entrepreneurs, I don't think they would be coming forward here if everything wasn't right up front. I hope that the business gets started and continues to grow.

Alderman Lewis explained her current job. She stated products have herbicide and pesticide hot spots we are always looking for innovative ways to minimize those things. We can't keep doing the same things. This is a great opportunity to hear about what the vision is.

Alderman Tennant: I just want to thank you all for your diligence and patience. Thank you for sticking with it and hopefully we can help it in some way.

Alderman Ferrell moved to approve the resolution. Alderman Boudreaux seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 81-12 as recorded in the office of the City Clerk.

Bid #12-11 Sweetser Construction: A resolution awarding Bid #12-11 and approving a contract with Sweetser Construction in the amount of \$1,759,900.15 for the construction of a roundabout at the Fulbright Expressway and Futrall Drive, approving a project contingency of \$90,000.00, and approving a budget adjustment.

Chris Brown, City Engineer gave a brief description of the resolution.

Alderman Ferrell: There are going to be people that don't like the roundabout but if you study and read up about them, you will see the amount of safety that exists after they are there.

Alderman Ferrell moved to approve the resolution. Alderman Kinion seconded the motion.

Alderman Tennant: If we were going to put one of these anywhere in Fayetteville this is where I would put it.

Alderman Gray: I agree. This is where we need this particular thing.

Alderman Adams: I was asked to pass on to Chris that we need the next one by the Razorback baseball field.

Upon roll call the resolution passed unanimously.

Resolution 82-12 as recorded in the office of the City Clerk.

City Attorney Kit Williams: Can I say before Chris leaves that as you know we have had a record prior to today of never having to go to court and try a condemnation case. This morning Chris and the Assistant City Attorney were in court to try a condemnation case and I am happy to report that after the jury was selected they were able to reach a settlement. I appreciate Chris's help with this.

Mayor Jordan: Thank you Kit.

Amend §34.27 Sale of Municipally Owned Real Property: An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I know the Ordinance Review Committee did a fantastic job on this.

Alderman Boudreaux: We recommended it unanimously and it maintains the City's power to ensure that the property is properly zoned and appraised if advisable.

Alderman Ferrell: Part of the last paragraph states: *The City Council through such ordinance may place limits on the uses that will be allowed of such property as part of the exchange of property agreement* wouldn't we probably expect reciprocal prohibitions from the other side when we do this?

City Attorney Kit Williams: Yes, it could very well happen. This is only when we are exchanging between another government.

Alderman Ferrell: If and when that comes about we should be reasonable in our needed prohibitions because there is going to be an expectation that could complicate the trade.

City Attorney Kit Williams: I would think that you all would know exactly what this property is going to be used for if you are trading it or selling it to another city.

Alderman Lewis: This closely aligns with our other notification processes so it is more consistent.

Alderman Petty: What are the plans for tonight? Has Cyrus Young and Fran Alexander had a chance to give input at the Ordinance Review Committee or do we need to hold this tonight?

Alderman Boudreaux: They were not at the Ordinance Review Committee meeting and we can hold this. Although, I think that their concerns had to do with notification and we have left the notification like it was and made it more in line with everything else we do in the City. The other concern was appraisals and this leaves that up to the Council. I have not heard from them.

Aubrey Shepherd asked does this make a distinction between donated property or is it something that is strictly on the border such as already designated commercial industrial zones.

City Attorney Kit Williams: There are restrictions in the State law concerning how we acquired the land and whether we can get rid of it that way. This is land that we have acquired through a purchase that is no longer needed for corporate purposes.

Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading

AOS, LLC - Cisco IP Telephony System: A resolution approving an agreement with AOS, LLC in the amount of \$619,978.90 for the purchase of a Cisco IP Telephony System pursuant to a State procurement contract, approving a project contingency of \$25,000.00, and approving a budget adjustment of \$248,750.00.

Paul Becker, Finance Director gave a brief description of the resolution.

Alderman Ferrell: I think this is very consistent because when the Council decided to allocate the funds to look at the Technology and IT assessment and now we have a case where implementation is coming about. I suspect that with the potential this has we are going to see significant savings. I think this is good and I will certainly support it.

Alderman Tennant explained the ways that he looked at this resolution. This will help our productivity, efficiency and management of our City.

Mayor Jordan explained the process in bringing this forward. He stated the long range savings will pay for itself. We are advancing the City to another level by doing this. He thanked the staff that worked on this.

Alderman Gray moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 83-12 as recorded in the office of the City Clerk.

Water and Sewer System Refunding Revenue Bonds, Series 2012: An ordinance authorizing the issuance and sale of not to exceed \$3,800,000 of Water and Sewer System Refunding Revenue Bonds, Series 2012, by the City of Fayetteville, Arkansas for the purpose of refunding the City's outstanding Water and Sewer System Refunding Revenue Bonds, Series 2002B; authorizing the execution and delivery of a third supplemental trust indenture pursuant to which the Series 2012 Bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the Series 2012 Bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the Series 2012 Bonds; authorizing the execution and delivery of an escrow deposit agreement providing for the redemption of the Series 2002B Bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Paul Becker gave a brief description of the ordinance. We hope to save the City around \$250,000 by doing this.

Alderman Lewis: Is that amount over the six years?

Paul Becker: For the life of the bond.

Alderman Ferrell: Was that expected savings the net amount?

Paul Becker: Yes.

Alderman Ferrell: I think timing is everything and the time is right and we could save some money here.

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

City Attorney Kit Williams read the ordinance.

Alderman Boudreaux moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: Will the savings that comes back be rebudgeted as needed? How is that handled?

Paul Becker: It's just a savings of an expense so for this year you won't pay the same expense that you had budgeted for bond interest. In the future it will be available to be reprogrammed for future use.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5496 as Recorded in the office of the City

City Attorney Kit Williams handed out an informational item. He stated we had a typo on September 23, 1998 on a deed where we cited the wrong section and that has been discovered. The Mayor needs to sign a correction deed and he wanted to make sure you were notified and were aware of the situation before he signed it.

Announcements:

Adjournment: 7:20 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

UNOFFICIAL

Dear Don,

March 15, 2012

Nancy Allen told me of the wonderful idea to rename Stone Street to Bulldog Blvd. I love the idea as does Mr. Thomas. The announcement of this change would be a great addition to the celebration of the opening of the Phase I buildings of FHS this fall. Thank you to the Mayor & City Council for supporting our Bulldogs once again. I look forward to our FPS littlehead reading 1000 Bulldog Blvd.

Yours truly
Susan Neip



UNIVERSITY OF ARKANSAS

Facilities Management

RECEIVED

APR 23 2012

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

April 20, 2012

Mayor Lioneld Jordan
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mayor Jordan and City Council,

The renaming of South Garland Avenue from Stone Street to Martin Luther King Jr. Boulevard and Paris Avenue south of Martin Luther King Jr. Boulevard to Stadium Drive is consistent with the University of Arkansas's plans to connect the existing southern terminus of Stadium Drive to the section proposed for renaming. The University owns most of the property along Virginia Avenue and plans to purchase all of the properties that would make this connection. When this happens, we will ask that Virginia Avenue also be renamed Stadium Drive, making Stadium Drive a continuous street from Maple Street to south of Martin Luther King Jr. Boulevard.

Thank you for your consideration.

Sincerely,

Mike Johnson
Associate Vice Chancellor for Facilities

cc: Chancellor G. David Gearhart

Dr. Don Pederson
Mr. Don Marr
Mr. Jeremy Pate
Mr. Jay Huneycutt

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
May 1, 2012**

A meeting of the Fayetteville City Council will be held on May 1, 2012 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:

- 1. Municipal Clerk's Week Proclamation**

City Council Meeting Presentations, Reports and Discussion Items:

- 1. 1st Quarter Financial Report 2012**

Agenda Additions:

A. Consent:

1. Approval of the April 3, 2012 and April 17, 2012 City Council meeting minutes.
- 2. McClelland Consulting Engineers, Inc. Task Order No 8:** A resolution to approve Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service, and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.

3. **David and Susan Druding Settlement Agreement:** A resolution approving a settlement agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.

B. Unfinished Business:

1. **Amend §34.27 Sale of Municipally Owned Real Property:** An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville. ***This ordinance was left on the Second Reading at the April 17, 2012 City Council meeting.***

Left on the Second Reading

C. Public Hearing:

1. **Dryve, Inc.:** A resolution to approve the application of Dryve, Inc. for a certificate of public convenience and necessity to operate a limousine service.

D. New Business:

1. **Sourcegas Arkansas Inc.:** A resolution authorizing transfer of a natural gas easement on city property adjacent to Highway 16 to Sourcegas Arkansas Inc. as part of the Highway 16 Improvement Project.
2. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.
3. **Bid #12-25 Goodwin & Goodwin, Inc:** A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.
4. **Street Name Change – Stadium Drive:** A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.
5. **Street Name Change – Bulldog Boulevard:** A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.

E. City Council Agenda Session Presentations:

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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

City of Fayetteville Staff Review Form

A. 2
McClelland Consulting Engineers,
Inc. Task Order No 8
Page 1 of 10

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

5/1/2012

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: A Resolution to approve Task Order No. 8 in the amount of \$18,000.00 with McClelland Consulting Engineers, Inc., for Plans & Specifications, Bidding Service and Construction Administration, of the Airfield Pavement Rehab & Striping Phase II project. Contact: R. Wayne Jones, P.E., 443-2377; 443-9241 FAX; wjones@mcclelland-engrs.com

\$ 18,000.00

Cost of this request

\$ -

Category / Project Budget

Airport Pavement Rehab & Re-mark

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ -

Funds Used to Date

Airport Capital Exp

Program / Project Category Name

12012 1

Project Number

\$ -

Remaining Balance

Airport

Fund Name

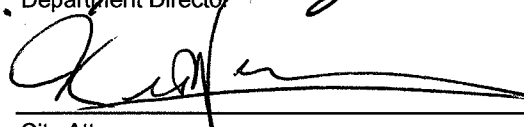
Budgeted Item ☐Budget Adjustment Attached ☒

Department Director
4-16-12
Date

Previous Ordinance or Resolution #

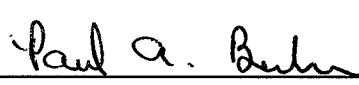
101-09

62-12


City Attorney
4-18-12
Date

Original Contract Date:

Original Contract Number:

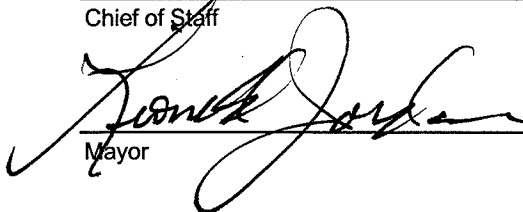

Finance and Internal Services Director
4-18-2012
Date

Received in City 4-17-12 A07:52 RCVD
Clerk's Office



Chief of Staff
4-18-12
Date

Received in
Mayor's Office



Mayor
4/18/12
Date

Comments: This project is eligible for a 90% Grant from DOT/FAA and 5% matching grant from the AR Department of Aeronautics



AVIATION DIVISION
FAYETTEVILLE EXECUTIVE AIRPORT • DRAKE FIELD

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor Jordan
THRU: Don Marr, Chief of Staff
THRU: Staff/Contract Review Committee
THRU: Terry Gulley, Transportation Director *TJG*
FROM: Ray M. Boudreaux, Aviation Director *RB*
DATE: April 12, 2012

SUBJECT: Approve Task Order Number 8 in the amount of \$18,000.00 with McClelland Consulting Engineers for design, engineering and oversight of Phase II of the Pavement Rehabilitation Project at Drake Field. Signature of the mayor.

RECOMMENDATION: Approve Task Order Number 8 in the amount of \$18,000.00 with MCE for design engineering, bidding services, and project oversight for Phase II of the Pavement Rehabilitation Project to complete rejuvenation of the remainder of the asphalt pavements at the airport. Signature of the Mayor.

BACKGROUND: The Airport board approved the submission of this project for consideration at the April Airport Board meeting. Last fall the Airport received grant funding from the FAA and the Arkansas Aeronautics Commission for Pavement Rejuvenation Project which was used for the Runway and most Taxiways. There was not enough money in the project to complete all pavements as the FAA was in a time of temporary funding from Congress. We received notification that we have our annual entitlement available for 2012 which is enough to complete rejuvenation of all remaining asphalt pavements this year. We will be able to complete South taxiway "B" and east and west side parking aprons. This project will only be completed with receipt of Grant funding. Initial design costs will be incurred in order to apply for the Grants.

Upon receipt of acceptable bids, we will petition the Council for approval to apply for grants from the FAA and the Arkansas Aeronautics Commission and receipt of the funds and award of the contract to complete the work.

BUDGET IMPACT: Total Project cost estimated to be \$172,150.00. This project will be funded FAA 95% and State 5%. Should the Congress require that the FAA only fund 90% of the expense, approximately \$8,600.00 will be required from Airport Fund to complete the Project. It is not yet known whether the 90/10 rule will apply for 2012. Initial expense for plans and specs, and bidding services will not exceed \$10,500.00 and will be initially expensed from the Airport Fund balance

Attachments: Task Order Number
Staff Review
Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION TO APPROVE TASK ORDER NO. 8 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$18,000.00 FOR PLANS, BIDDING SERVICE AND CONSTRUCTION ADMINISTRATION OF THE AIRFIELD PAVEMENT REHABILITATION AND STRIPING PHASE II PROJECT AND TO APPROVE A BUDGET ADJUSTMENT OF \$18,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for Plans, Bidding Service, And Construction Administration Of The Airfield Pavement Rehabilitation And Striping Phase II Project and approves a budget adjustment of \$18,000.00.

PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

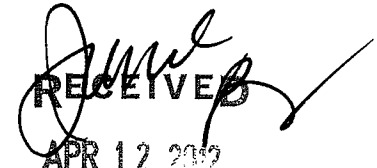
By: _____
LIONELD JORDAN, Mayor

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

A. 2 V11.0415
McClelland Consulting Engineers,
~~Inc. Task Order No 8~~

April 9, 2012

Mr. Ray Boudreaux
Airport Director,
Fayetteville Executive Airport
4500 S. School Suite F
Fayetteville, AR 72701


RECEIVED
APR 12 2012
AIRPORT

Re: Task Order No 8
Phase II Airfield Pavement Rehab & Striping
Fayetteville Executive Airport

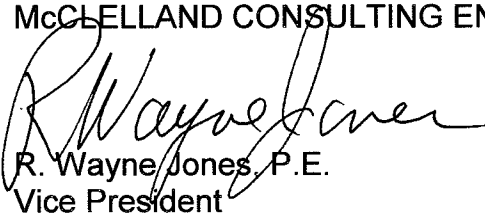
Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No 8 for the Phase II, Airfield Pavement Rehab & Striping Project.

Please advise if you need further information regarding this Task Order.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.


R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 8 (3 copies)

**TASK ORDER NO. 8
PHASE II
AIRFIELD PAVEMENT REHABILITATION & RE-STRIPING**

**STATE OF ARKANSAS
COUNTY OF WASHINGTON**

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on May 5, 2009. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville Executive Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE), sets forth the project description, project schedule, and engineering fees related to the preparation of Phase II Airfield Taxiway and Apron Asphalt Pavement Rehabilitation at Drake Field.

SECTION I - PROJECT DESCRIPTION

The overall project is to consist of the rehabilitation and re-striping of the Airfield Pavement including, Asphalt Pavement Rejuvenation and re-striping of the Taxiway "B", the East T-hangar Apron, the West GA Apron areas. The services to be performed include: Detailed Plans and Specifications, Bidding Services and Construction Administration/Construction Observation Services.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), McClelland Consulting Engineers, Inc. will endeavor to execute the project within the following time periods:

<u>Task</u>	<u>Completion After NTP</u>
A. Prepare Airfield Pavement Striping Plan and Specifications	20 calendar days

SECTION III - SCOPE OF SERVICES

McClelland Consulting Engineers, Inc. shall, generally, provide those services listed in the basic agreement which are applicable to this specific Task Order. Specifically, the project is likely to include:

- A. Prepare the Phase II Airfield Pavement Rehabilitation Plan, specifications, and Bid Documents.
- B. Prepare Bidding Document and recommendations for award of construction contract.
- C. Construction Administration and Inspection.
- D. Providing three sets of "Record Drawings".

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to McClelland Consulting Engineers, Inc. as compensation for his services:

A. Detailed Airfield Striping Plans and Specifications	lump sum of	\$ 8,000.00
B. Bidding Service	lump sum of	\$ 2,500.00
C. Construction, Administration & Inspection	hourly rates estimated to be	\$7,500.00

Appendix A presents hourly rates for personnel anticipated to be assigned to this project by McClelland Consulting Engineers, Inc.

SECTION V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed as of the date and year first herein written.

FOR THE CITY OF FAYETTEVILLE:

By: _____
Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: _____
President

Attest: _____
Vice President

Date: 7/9/12

**APPENDIX A
TASK ORDER NO. 8
Hourly Rates for Personnel
Fayetteville Executive Airport**

<u>CATEGORY</u>	<u>BILLABLE HOURLY RATE</u>
Principal Engineer	\$ 155
Sr. Project Manager	\$ 143
Project Engineer	\$ 135
Project Engineer IV	\$ 127
Project Engineer III	\$ 115
Project Engineer II	\$105
Project Engineer I	\$ 85
Principal Architect	\$ 165
Project Architect	\$ 125
Associate Architect	\$ 110
Architect	\$ 95
Intern Architect	\$ 75
Construction Administrator	\$ 80
Survey Technician	\$ 90
Engineering Technician/Observer IV	\$ 90
Engineering Technician/Observer III	\$ 84
Engineering Technician/Observer II	\$ 65
Engineering Technician/Observer I	\$ 55
Chief Draftsman	\$ 73
Draftsman II	\$ 60
Soils Lab Supervisor	\$ 60
Clerical Support	\$ 50
Mileage	\$ 0.50

City of Fayetteville Staff Review Form

A. 3
David and Susan Druding
Settlement Agreement
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

5/1/2012

City Council Meeting Date
Agenda Items Only

Chris Brown ^{CB}

Submitted By

Engineering

Division

Development Services

Department

Action Required:

A Resolution Approving a Settlement with David Druding and Susan Druding for Purchase of Right of Way along Cato Springs Road

\$ 8,600.00
Cost of this request

\$ 13,451,110.00
Category / Project Budget

Transportation Bond Street Improvements
Program Category / Project Name

4520.9520.5805.00
Account Number

\$ 4,616,500.00
Funds Used to Date

Land Acquisition
Program / Project Category Name

06035.1200
Project Number

\$ 8,834,610.00
Remaining Balance

Sales Tax Construction Bonds
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Wm. C. Pate
Department Director

4-18-12
Date

Previous Ordinance or Resolution #

Dr. P. H. Kelly
City Attorney

4-18-12
Date

Original Contract Date:

Original Contract Number:

Paula A. Bahr
Finance and Internal Services Director

4-18-2012
Date

Received in City 04-13-12 A11:43 RCVD
Clerk's Office

Don Man
Chief of Staff

4-18-12
Date

Received in
Mayor's Office

Donna Joylar
Mayor

4/18/12
Date



Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

City Council Meeting of May 1, 2012

To: Mayor Jordan and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director of Development Services *JP*

From: Chris Brown *CB*

Date: April 18, 2012

Subject: Approval of a Settlement with David Druding and Susan Druding for Purchase of Right of Way and Easements along Cato Springs Road

PROPOSAL:

Cato Springs Road is being improved from South School to Razorback Road as a part of the Transportation Improvement Bond Program. Right of way acquisition was required from many of the property owners along the route. In order to move forward with the project to bidding and construction, condemnation action on some of the properties was approved by the City Council. The City Attorney filed condemnation suits for these properties, and received Orders of Possession from the Circuit Court so that the project could move forward.

In the case of the David and Susan Druding property, \$6,400, representing the City's appraised value for the right of way and easements, was deposited with the Court at the time of the filing. The case has proceeded through the court system, up to the point of a jury trial to determine the actual just compensation to be paid to the Drudings. During the trial yesterday, April 17th, a settlement was reached with the Drudings in the amount of \$15,000, subject to approval by the City Council.

RECOMMENDATION:

Staff recommends approval of a Resolution authorizing the settlement of the Druding Condemnation Case, and approving an additional \$8,600 payment to David Druding and Susan Druding. This settlement is between the City's latest appraised amount of \$7,100 and the Druding's appraisal of \$18,250, and is recommended as a settlement that is fair and equitable to both the City and the Drudings.

BUDGET IMPACT:

The payment for land acquisition will be made from the project budget allocated for the Cato Springs Road Improvements Project, which is funded by the Transportation Bond Fund. An additional payment of \$8,600 will be made to the Drudings, making the total compensation to them \$15,000.

This is the final property condemnation on the Cato Springs Project that had not been resolved.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH DAVID AND SUSAN DRUDING, CONCERNING CONDEMNATION LITIGATION FILED AS PART OF THE CATO SPRINGS ROAD IMPROVEMENT PROJECT, IN THE TOTAL AMOUNT OF \$15,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with David and Susan Druding, in a total amount of \$15,000.00, as full and final settlement of condemnation litigation (City of Fayetteville v. Druding, et al, Washington County Circuit Court Case No. CV 2010-3709-4) filed as part of the Cato Springs Road Improvement Project.

Section 2: That the City Council of the City of Fayetteville, Arkansas, in furtherance of the settlement, hereby approves payment of an additional \$8,600.00 over and above the \$6,400.00 placed on deposit with the court.

PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Departmental Correspondence



www.accessfayetteville.org

LEGAL
DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

CC: KIT WILLIAMS, CITY ATTORNEY

FROM: JASON B. KELLEY, ASST. CITY ATTORNEY

DATE: APRIL 18, 2012

RE: DRUDING CONDEMNATION MATTER/CATO SPRINGS RD. PROJECT

I am pleased to report it appears an amicable settlement has been reached in the above-referenced condemnation case, subject to your approval.

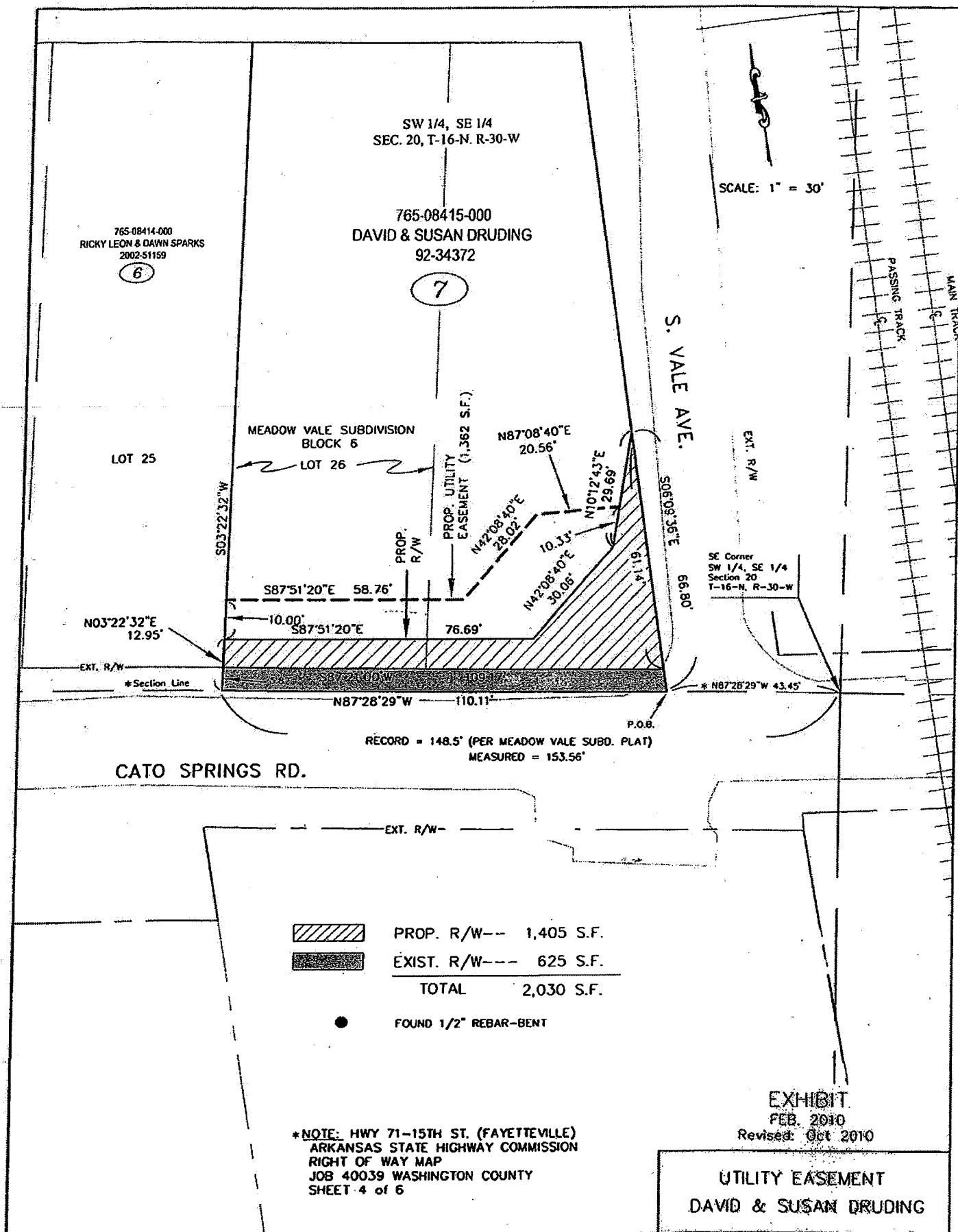
To refresh your memory, the City Council authorized condemnation of right-of-way, a general utility easement and a temporary construction easement from David and Susan Druding, a brother and sister, (and other property owners) along property they owned on Cato Springs Road for purposes of completing the Cato Springs Road Improvement Project.

The Drudings have the last unresolved condemnation case related to the Cato Springs Road project. During the course of the litigation, the Drudings, who were representing themselves without an attorney, insisted that the City pay full fee simple value for the partial taking of the easement the City had to have for utilities. We strongly disagreed with this assertion as contrary to the law.

The Drudings' case was scheduled for trial April 17, 2012. While in court and after the jury was selected, the judge called for a conference in his chambers to inform the parties he agreed with the City's position on the method of calculating compensation owed for the partial taking of an easement and that he would be instructing the jury regarding this correct measure of damages (the before-and-after approach and not the 100% value approach to easement acquisition required of public utility companies). The judge then strongly encouraged the Drudings and the City to reach an amicable settlement.

The judge has approved, conditioned upon your approval, a total settlement of \$15,000.00 to the Drudings as just compensation for the takings. This represents an additional \$8,600.00 payment over and above the initial \$6,400.00 already paid into the court at the beginning of the case. Days before trial, the Drudings were demanding \$32,000.00. The proposed settlement is less than half of that demand, and it is substantially less than the Drudings' appraiser's estimate of \$18,250.00.

I recommend acceptance of this settlement. Though a long process, this case has allowed the City to establish, once again, that sovereign governments are not required to pay 100% fee simple value for the partial taking of easements. To this extent, pursuit of this case has been well worth the City's time and effort in litigation.



AGENDA REQUEST FORM

B. 1
Amend §34.27 Sale of Municipally
Owned Real Property
Page 1 of 6

RECEIVED

MAR 30 2012

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FOR: COUNCIL MEETING OF April 17, 2012

FROM: Ordinance Review Committee
City Attorney Kit Williams

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND §34.27 SALE OF MUNICIPALLY OWNED REAL
PROPERTY OF THE CODE OF FAYETTEVILLE

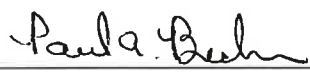
APPROVED FOR AGENDA:



Kit Williams, City Attorney

April 2, 2012
Date





Paul Becker, Finance Director

4-2-2012
Date



Don Mayr, Chief of Staff

4-2-12
Date



Lioneld Jordan, Mayor

4/3/12
Date

Left on Second Reading at the 4/17/12 cc mtg.



Departmental Correspondence

www.accessfayetteville.org

LEGAL
DEPARTMENT

TO: Mayor Jordan
City Council

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

FROM: Kit Williams, City Attorney

DATE: March 30, 2012

RE: Return of revised Ordinance to amend §34.27 from the
Ordinance Review Committee for City Council consideration

Pursuant to the instructions of the City Council, the proposed amendment to §34.27 **Sale of Municipally Owned Read Property** was considered by the Ordinance Review Committee on March 21, 2012. Several improvements relating to recommending that the City Council consider whether an appraisal is advisable and improvements to the Public Notice requirements were adopted by the Ordinance Review Committee who then unanimously recommended this revised ordinance for passage by the City Council.

The Ordinance Review Committee's proposed revision would do the following:

- (1) Maintain the City Council's power to determine whether or not the subject City property should be sold.
- (2) Maintain the City Council's power and responsibility to ensure such property is properly zoned before it is sold and appraised if advisable.
- (3) Maintain public and neighborhood notification prior to any sale by requiring publication in the newspaper, letters to all adjacent property owners and prominently displayed signs at least 15 days before the City Council meeting.
- (4) Restore the City Council's power to consider benefits to our citizens (good paying jobs, clean technology, environmental protection and preservation of sensitive areas, provision of needed services to our citizens, etc.) when determining whether to sell such property, to whom, and for what consideration.

Basically this proposed ordinance requires good public and neighbor notification, but then relies upon the common sense and good judgment of the City Council to make the correct sell or no sell decision in the best interests of the Citizens and City of Fayetteville.

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL §34.27 OF THE CODE OF FAYETTEVILLE
AND TO ENACT A REPLACEMENT §34.27 SALE OF MUNICIPALLY
OWNED REAL PROPERTY OF THE CODE OF FAYETTEVILLE**

WHEREAS, §34.27 of the Code of Fayetteville was enacted on January 2, 2002 in an attempt to ensure that the citizens of Fayetteville would receive the highest possible amount of money for a parcel of City property if the City Council determined to sell such City property because it no longer served a municipal purpose; and

WHEREAS, the number of notices, publications, appraisals, City Council hearings and public bidding process made this selling process so cumbersome, long and expensive that the ordinance was amended by the City Council in 2002, 2004 and 2005 to provide numerous exemptions from §34.27's requirements for various types of land sales; and

WHEREAS, in the decade of its existence, the full process specified in §34.27 for the sale of City property to a private entity has occurred only once, took months to accomplish and resulted in only a single bidder who purchased the property at the minimum set price for the City land; and

WHEREAS, state law specifically authorizes that only the City Council can sell City land by passing a Resolution or can exchange land with another city by passing an Ordinance, thus ensuring that the City Council will always have the final say in any proposed City land sale or exchange.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §34.27 of the Code of Fayetteville and enacts a replacement §34.27 **Sale of Municipally Owned Real Property** of the Code of Fayetteville as shown below:

“§34.27 Sale of Municipally Owned Real Property

(A) The City may sell real property only after the City Council has passed a Resolution expressly authorizing such sale. The City Council shall determine whether the property should be rezoned or appraised prior to its sale.

(B) Such City Council Resolution shall contain a specific finding by the City Council that the subject real property is no longer needed for municipal purposes.

(C) Public Notice, that the City Council is considering the sale of the real property at the City Council Meeting with the appropriate date and time of the meeting and which shall include the property's address, acreage, improvements and potential purchase price, shall be given not less than fifteen (15) days before the City Council may consider a Resolution to approve a sale of City real property (except rights of way or easements for public utilities) by all of the following means:

- (1) First class mail to all adjacent property owners;
- (2) Prominently displayed signs on the property; and
- (3) Publication in a newspaper of general circulation in the City.

(D) The City may exchange real and personal property with other cities or Washington County only after authorization by ordinance passed by the City Council. The City Council through such ordinance may place limits on the uses that will be allowed of such property as part of the exchange of property agreement.”

PASSED and APPROVED this 17th day of April, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

bag or other container) shall be advertised for sale as an organic based fertilizer product at a pre-determined base price twice each year, normally on or about March 1st and September 1st of a given year. Bulk quantities, if available, shall be pre-committed for each marketing period on a first call, first commit basis, up to 60% of the projected available amount. Any remaining amount shall be marketed during the marketing period at the same base price on a first call, first commit basis.

- (2) A base or standard price for bulk quantities of dried biosolids shall be established for each marketing period based on the best information available from fair market value of similar products or from the cooperative extension service. Adjustments as determined by operating personnel may be made based on current costs of production; method of delivery; quality of product available; quantities purchased; or other market-driven conditions.
- (3) Quantities of dried biosolids less than 500 pounds and placed in a bag or other container may be made available to the public via various reputable retail outlets at any given time, according to reasonable terms and conditions as approved by the City Purchasing Manager. The price charged for less than bulk quantities may be adjusted by operating personnel based on current costs of production; method of delivery; quality of product available; quantities purchased; or other market-driven conditions.
- (E) The City Council may waive the requirements for public auction or formal competitive bids for sales of personal property in exceptional situations where such procedures are deemed not feasible nor practical.

(Code 1965, §2-69; Ord. No. 1215, 9-14-59; Ord. No. 1827, 10-4-71; Ord. No. 2006, 5-7-74; Ord. No. 3545, 4-16-91; Code 1991, §34.25; Ord. 4553, 04-06-04; Ord. 4723, 7-19-05; Ord. 5440, 9-20-11)

34.26 Limited Authority of City Employee To Provide Services To The City

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

- (A) The employee fully discloses his or her direct or indirect financial interest in any contract or

service agreement to the City Council and such services are approved by City Council Resolution;

- (B) No favoritism is allowed to the city employee over other possible service providers;
- (C) Such services are not of the same type as performed by the city employee in his or her regular city job, nor are services for the department wherein the employee works;
- (D) The employee's immediate supervisor specifically approves such extension of employee service and ensures it will not adversely affect the employee's regular city employment duties;
- (E) City employees who are not within the Parks and Recreation Department are specifically allowed to work as independent contractors as scorekeepers, referees and umpires for the Fayetteville Parks and Recreation Department without the need for a City Council Resolution.

(Code 1965, §2-70; Ord. No. 3013, 6-5-84; Code 1991, §34.26; Ord. 5351, 9-7-10)

State law reference(s)--Purchase, lease and sale authorized, A.C.A. §14-42-107.

34.27 Sale Of Municipally Owned Real Property

- (A) Municipally owned real property shall not be offered for sale without the express authorization, by resolution, of the City Council. The City Council shall determine whether the property should be rezoned prior to offering it for sale.
- (B) Such resolutions shall contain a specific finding by the City Council that the subject real property no longer serves a municipal purpose.
- (C) Two simultaneous and independent appraisals of the real property shall be obtained by the city for the City Council's consideration, dated within six months of the proposed sale.
- (D) Public notice shall be given not less than thirty calendar days before the first City Council meeting at which such a resolution is introduced, by all of the following means:
- (1) A conspicuous display advertisement placed in a newspaper of general circulation in the city, on at least four separate occasions;
- (2) Certified mail, return receipt requested, to all

CD34:6

Current law

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

adjacent property owners; and

- (3) Signs, prominently displayed, and at all approaches to the subject real property, announcing that the City Council will be considering the sale of the real property, the date on which the sale is to be debated, as well as the telephone number of the mayor's office.
- (E) Upon an affirmative vote of the City Council, the city shall solicit sealed bids, at a minimum price set by the City Council, from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property.
- (F) The city shall sell the subject real property to the highest qualified bidder. In the event none of the bids from a qualified bidder equals the minimum price set by the City Council, the city shall reject all bids, and may reopen the bidding, upon City Council approval.
- (G) Upon receipt of an acceptable bid, and authorization by a separate resolution of the City Council, the conveyance of the real property shall be performed by the mayor and city clerk.
- (H) Exemptions from the requirements of this ordinance:
- (1) The sale of the industrial park, business park, and technology park lands are expressly exempt from the provisions of this ordinance. Industrial park land includes all of the land in and around the South Industrial park as specifically identified within the black bold line on the map attached as Exhibit A.
- (2) The sale of real property to other public entities or to a non-profit corporation for charitable purposes shall only require a single appraisal, a single display advertisement placed in a newspaper of general circulation in the city, the certified mail, and sign requirements set forth in subsections (D)(2) & (3). Following the setting of a minimum price by the City Council no lower than the appraised value, the public entity or non-profit corporation may purchase the property at that price, and the sale shall be exempt from the provisions of subsections (E), (F) & (G) of this ordinance.
- (3) If the City Council has approved by

ordinance the Project Plan for a Redevelopment District that includes the acquisition of real property or buildings with the intent to resell this property to a private developer, this acquired property shall be exempt from the requirements of this section and can be sold by City Council Resolution.

- (4) The dedication of real property to the Arkansas State Highway Commission shall be exempt from the requirements of this section and may be dedicated by City Council Resolution.
- (5) (H)(5) The City Council may sell a water and sewer utility easement to an adjoining city or water and sewer commission if approved by City Council Resolution. Such easement sale is exempt from all requirements of this section.

Note--Ord. 4380, adopted March 19, 2002, enacts provisions for exemptions from the requirements of ordinance; such provisions have been set forth above. This ordinance was enacted with an Exhibit A attached thereto and may be viewed in the office of the city clerk anytime during regular business hours.

(Ord. No. 4358, 1-2-02; Ord. No. 4380, §1, (Ex. A), 3-19-02; Ord. No. 4651, 12-07-04; Ord. 4752, 9-06-05; Ord. 5465, 12-6-11)

State law reference(s)--Purchase, lease and sale authorized, A.C.A. §14-54-302; Bidding process, A.C.A. §14-54-402.

34.28 Purchase By Reverse Internet Auction

- (A) Bidders shall be provided instructions and individually secured passwords for access to the reverse Internet auction by either the City, or reverse Internet auction vendor;
- (B) The bidding process shall be timed, and the time shall be part of the reverse Internet auction specifications;
- (C) The reverse Internet auction shall be held at a specific date and time;
- (D) The reverse Internet auction and bidding process shall be interactive with each bidder able to make multiple bids during the allotted time;
- (E) Each bidder shall be continually signaled

City Council Agenda Items
and
Contracts, Leases or Agreements

5/1/2012

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

Action Required:

Schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Dryve Inc.

N/A
Cost of this request\$ -
Category / Project Budget

Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City Clerk's Office 4-13-12 P02:14 RCVD

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date



Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and Members of the Fayetteville City Council

From: Greg Tabor – Chief of Police 

Date: April 12, 2012

Subject: Request for Public Hearing on a Certificate of Public Convenience and Necessity for Dryve, Inc.

PROPOSAL:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Dryve Inc.

RECOMMENDATION:

City Ordinance §117, article V governs limousine service and requires a public hearing to determine if there exists the further need for service.

The applicants have provided a completed application, proof of insurance and a financial statement. The applicant has asked for a permit to operate one (1) to four (4). Limos.

BUDGET IMPACT:

None

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE APPLICATION OF DRYVE, INC. FOR
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO
OPERATE A LIMOUSINE SERVICE**

WHEREAS, the City Council has received the application of Dryve, Inc. with all necessary supporting documents to operate a limousine service within Fayetteville; and

WHEREAS, after consideration of the public hearing and other facts and considerations, the City Council has determined that further limousine service in the City of Fayetteville is required and desirable for our citizens' public convenience and necessity; and

WHEREAS, after conducting a public hearing on such application, the City Council has determined that Dryve, Inc. is fit, willing and able to perform such public transportation and conform with all of the requirements of the Fayetteville Code and State law.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the application of Dryve, Inc. to operate a limousine service within Fayetteville and authorizes City Clerk Sondra Smith to issue a Certificate of Public Convenience and Necessity to Dryve, Inc. for limousine service.

PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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)

CD117:11

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

Manifest. A daily record prepared by a taxicab driver and/or taxicab company of all trips made by company vehicles showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

Person. Includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

Rate card. A card issued by the city for conspicuous display in each taxicab which contains the rates of fare then in force.

Taxicab. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than seven passengers and not operated on a fixed route. This definition expressly excludes limousines.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.

(Code 1965, Sec. 20-16; Ord. No. 1910, 4-3-73; Code 1991, §117.30; Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04)

117.31 Rates

- (A) All taxicabs shall utilize a meter for calculation of rates and such apparatus shall be clearly visible to the occupant of the vehicle.
- (B) The City Council has the authority to establish the maximum allowable rates for all taxicabs, consistent with the provisions of Arkansas Code Annotated § 14-57-303 for the City sponsored taxi program utilizing City issued taxi coupons. The City Council shall utilize the percentage change as calculated utilizing the change, from year to year, of the rate per mile published by the Internal Revenue Service for the allowed mileage reimbursement rate for Federal Income Tax purposes. Each licensed taxi company shall, on an annual basis, submit to the Fayetteville Police Department and Fayetteville City Clerk the fare schedule the taxi company will utilize for the next twelve (12) months and each taxi company shall cause this fare schedule to posted prominently within each taxi in full view of the passenger.
- (C) The maximum allowable rate effective November 1 shall be left undetermined and shall be established by City Council Ordinance at any time deemed necessary by the Fayetteville City Council.

- (D) Zone A shall be bounded on the west by Razorback to Maple to Garland, on the North by Drake to Gregg Avenue to Futrell/Milsap Road, on the East by College Avenue, Rock Street to Mill Avenue to Huntsville Road to Morningside Drive and on the South by 15th Street. Zone B shall be the remaining portions of Fayetteville not incorporated in Zone A. A Taxi Zone Map, marked Exhibit A, is attached hereto and made a part hereof.

(Ord. No. 4623, 10-05-04; Ord. 4661, 12-21-04; Ord. 4777, 10-04-05)

Cross reference(s)--Public Transit Board, §33.320.

117.32 Certificate Of Public Convenience And Necessity Required; Issuance Procedure

- (A) No person shall operate or permit a taxicab or limousine owned, leased or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.
- (B) An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:
- (1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name of the person to whom complaints should be directed;
 - (2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;
 - (3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers;
 - (4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;
 - (5) The number of vehicles to be available for operation or controlled by the applicant and the location of proposed depots and terminals. The applicant shall furnish a minimum and maximum number of vehicles to be permitted;

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

- (6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;
 - (7) The hours between which the applicant proposes to provide taxicab or limousine service to the general public, and the days, if any, on which the applicant does not propose to provide taxicab service to the general public, and;
 - (8) The rate schedule which the applicant proposes to use to charge passengers.
- (C) Upon the filing of an application, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

D) Findings of the City Council.

- (1) If the City Council finds that further taxicab or limousine service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.
- (2) The City Council shall deny any application in which the proposed hours of service or the proposed rate schedule are found to be unreasonable to meet the public need.
- (3) In making the above findings, the City Council shall take into consideration the number of taxicabs or limousines already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant.

(Code 1965, §§20-17--20-20; Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.32; Ord 4623, 10-05-04; Ord. 4661, 12-21-04)

117.33 Liability Insurance

No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect automobile liability insurance for each vehicle. The insurance shall have limits of not less than \$25,000 for personal injury to, or death of, any one person in any one accident, and liability limits of \$50,000 for personal injury to, or death of, two or more persons in any one accident, and \$25,000.00 for injury to or destruction of property or others in any one accident. The insurance shall be maintained with an insurance company authorized to do business in the state. A certificate evidencing such insurance shall be filed with the finance director.

(Code 1965, §20-21; Ord. No. 1910, 4-3-73; Ord. No. 3038, 10-2-84; Code 1991, §117.33; Ord. 4661, 12-21-04)

117.34 Licensing Requirements

(A) Decal required.

No certificate shall be issued or continued in operation unless the holder thereof has secured an annual permit decal for each vehicle granting the right to engage in the taxicab business. Permit decals shall be placed on the rear window of the permitted vehicle, and be clearly visible at all times. The licensing shall be for the calendar year, with holders required to file annual renewal applications and fees at least thirty (30) days prior to the end of each year; and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control. All vehicles so licensed shall be required to show proof of the purchase of for hire tags from the State of Arkansas.

(B) Surety Bond required.

No certificate shall be issued unless and until the applicant shall file with the City Clerk a surety bond in the amount of \$100.00, conditioned upon the applicant establishing, maintaining, and continuing the proposed service until such time as the certificate issued to the applicant is cancelled, withdrawn, or has expired.

(C) Radio dispatch required.

Every certificate holder shall maintain a radio dispatch system in operation during the hours of operation set forth in the application for the Certificate of Public Convenience and Necessity, capable of providing reasonably prompt service in response to requests received by telephone. Two-way radios are the preferred system. Citizens Band (CB) radios shall not be used. Any holder of a Certificate of Public Convenience and Necessity at the time of passage of this ordinance shall have six (6) months from the effective date thereof to comply with this provision.

CD117:7

From: James Harter
To: Brown, William
Date: 4/3/2012 3:45 PM
Subject: Dryve Inc. Limo Application

Mr. Censullo contacted me by phone with a desire to receive the required city permits for limo operation. I provided him with instructions on the city council process and have since received and reviewed his application materials. I questioned the terms listed in his insurance quote and received explanations in the form of emails from both the insurance company and applicant for clarification of meeting the city ordinance requirements.

I recommend we move his application to the city council docket.

Sergeant James W. Harter
Fayetteville Police Department
100 A West Rock Street
Fayetteville, AR 72701
Desk: (479) 575-8355
Jharter@ci.fayetteville.ar.us
Fax: (479) 587-3552
TDD (Telecommunications Device for the Deaf): (479) 521-1316

Certificate of Public Convenience & Necessity Application/Renewal

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

(479-799-8208)

Dryve, Inc (Thomas M. Censullo, Jr.) 1134 S Washington Ave Unit B, Fayetteville, AR 72701 72701
Applicant Name Address Phone Number

Dryve, Inc. 479-301-0999
Name of Business Phone Number

1134 S Washington Ave Unit B, Fayetteville, AR 72701
Business Location

1134 S Washington Ave, Unit B, Fayetteville, AR 72701
Mailing Address

Corporation
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

Owner/Stockholder - Dr. Avery J. Knapp, Jr. - 109 N. 3rd St. Unit S13, Ft. Smith, AR 72901

Owner/Stockholder/Officer - Thomas M. Censullo, Jr.
1134 S Washington Ave.
Fayetteville, AR 72701

Name of person to whom complaints should be directed:

Thomas M. Censullo, Jr. - 479-799-8208

Financial status of applicant (Attach financial statement or profit and loss statement)

(Attached as letter)

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

None

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

Owner - Dr. Knapp (EMT, Ambulance Experience)

Officer/Owner - Mr. Cersullo - None

Give any facts you believe tend to prove the necessity of granting a certificate:

Local Passenger Transportation Market is underserved. Furthermore, applicant provides targeted contract services to both businesses and consumers, creating competition while minimizing negative impacts (over-advertising, irresponsible operations)

List the number of vehicles that will be under your operation or control: All/1 (current)

Minimum and Maximum number of vehicles to be permitted:

<u>1</u>	<u>4</u>
Minimum	Maximum

List the location of proposed depots and terminals:

Garage - Lockdown Storage (Fayetteville), Maintenance - Private (Lincoln, AR)

Dispatch, Backoffice - Officer's home-office (24-hour cellular dispatch, no traffic)

4-3-12
Date

Dryve, Inc.
1134 S Washington Ave Unit B
Fayetteville, AR 72701

27-Mar-2012

Fayetteville City Council,
Fayetteville Police Department,
To Whom It May Concern,

Regarding the financial status of Dryve, Inc., Dryve, Inc. is excellently positioned to sufficiently maintain profitability and accountability. Dryve, Inc. is a new venture, classified as a C-Corporation for IRS purposes and incorporated in the State of Arkansas on 24-Feb-2012. Equity is provided by the majority shareholder, Dr. Avery Knapp, Jr., who has no outstanding or unpaid judgments at this time. The other shareholder is the sole officer, Thomas M. Censullo, Jr.. Mr. Censullo has no outstanding or unpaid judgments at this time.

Vehicles are leased to and exclusively operated by Dryve, Inc., from Dr. Knapp, and the parties certify said vehicles have no existing liens or security interests. Backup and contingency vehicles will be sourced through local short-term rental facilities. All vehicles are insured for \$1,500,000 Combined Limit through Trucker's Insurance/Northland Insurance (Certificate of Insurance submitted with application); this limit is mandated for DOT/FMCSA Operating Authority. Should additional drivers be employed, Dryve will maintain required employer's insurances and follow all employment regulations, local, state, and federal. Above and beyond local regulations, Dryve, Inc., has a pending FMCSA OP-1(P) Operating Authority application for contract passenger interstate commerce, and operates in accordance with such applicable regulations. Finally, this letter certifies that Dryve, Inc., has no outstanding debts, and retains nominal operating capital in accordance with company procedures. Please direct any requests for information to Mr. Censullo. Thank you for your time.

Dryve, Inc.



Thomas M. Censullo, Jr. - President



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/22/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Truckers Insurance Associates, Inc.
PO Box 1494
Des Moines, IA 50305

CONTACT NAME:
PHONE (A/C No. Ext): 515-276-7704 **FAX (A/C No.):** 515-276-1418
E-MAIL ADDRESS: info@truckers-insurance.com
PRODUCER CUSTOMER ID #:

INSURED

Dryve, Inc.
1134 S. Washington Ave, Unit B
Fayetteville, AR 72701

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Northland Insurance Company	
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☒ ALL OWNED AUTOS ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ☐ NON-OWNED AUTOS		TP256025	03/22/2012	03/22/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,500,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DEDUCTIBLE RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CANCELLATION

DRYVE, INC.

1134 S WASHINGTON AVE UNIT B
FAYETTEVILLE, AR 72701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Doug Wilson



P. O. Box 64816
St. Paul, Minnesota 55164-0816
(800) 328-5972

ARKANSAS
AUTOMOBILE INSURANCE
IDENTIFICATION
CARD

The coverage provided by this policy meets the minimum liability insurance requirements as prescribed by law.

Company Northland Insurance Company Policy Number TP256025

NAIC # 24015

Effective From 03/22/2012 to 03/22/2013

Insured Dryve, Inc.

1134 S. Washington Ave, Unit B

Fayetteville AR 72701-

Description of Vehicles(s)

Year/Make/Model	VIN Number
2006 Lincoln Limo	1L1FM88W36Y611279

TF-087 AR (1/02)

510000



P. O. Box 64816
St. Paul, Minnesota 55164-0816
(800) 328-5972

ARKANSAS
AUTOMOBILE INSURANCE
IDENTIFICATION
CARD

The coverage provided by this policy meets the minimum liability insurance requirements as prescribed by law.

Company NOT A VALID ID CARD Policy Number N/A

NAIC # N/A

Effective From to

Insured NOT A VALID ID CARD

Description of Vehicles(s)

Year/Make/Model	VIN Number
NOT A VALID ID CARD	

TF-087 AR (1/02)

510000



P. O. Box 64816
St. Paul, Minnesota 55164-0816
(800) 328-5972

ARKANSAS
AUTOMOBILE INSURANCE
IDENTIFICATION
CARD

The coverage provided by this policy meets the minimum liability insurance requirements as prescribed by law.

Company NOT A VALID ID CARD Policy Number N/A

NAIC# N/A

Effective From to

Insured NOT A VALID ID CARD

Description of Vehicles(s)

Year/Make/Model	VIN Number
NOT A VALID ID CARD	

TF-087 AR (1/02)

510000



P. O. Box 64816
St. Paul, Minnesota 55164-0816
(800) 328-5972

ARKANSAS
AUTOMOBILE INSURANCE
IDENTIFICATION
CARD

The coverage provided by this policy meets the minimum liability insurance requirements as prescribed by law.

Company NOT A VALID ID CARD Policy Number N/A

NAIC# N/A

Effective From to

Insured NOT A VALID ID CARD

Description of Vehicles(s)

Year/Make/Model	VIN Number
NOT A VALID ID CARD	

TF-087 AR (1/02)

510000

City of Fayetteville Staff Review Form

D. 1
Sourcegas Arkansas Inc.
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

5/1/2012

City Council Meeting Date
Agenda Items Only

Chris Brown *CB*
Submitted By

Engineering
Division

Development Services
Department

Action Required:

Dedication of easements to SourceGas for installation of gas lines on City property adjacent to Highway 16, as part of Highway 16 improvements.

\$ -
Cost of this request

\$ -
Category / Project Budget

Transportation Bond Street Improvements
Program Category / Project Name

--
Account Number

\$ -
Funds Used to Date

Transportation Bonds
Program / Project Category Name

--
Project Number

\$ -
Remaining Balance

2006A Sales Tax Construction
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

John C. Pike
Department Director 04-11-2012
Date

Previous Ordinance or Resolution #

Jim Kelly
City Attorney 4-11-12
Date

Original Contract Date:

Original Contract Number:

Paul A. Beebe
Finance and Internal Services Director 4-12-2012
Date

Received in City Clerk's Office 04-11-12 P03:48 RCVD

Ally Mann
Chief of Staff 4-13-12
Date

Lionel Jordan
Mayor 4/14/12
Date

Received in Mayor's Office

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

MEMO

To: Mayor Jordan and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director of Development Services *J*

From: Chris Brown, City Engineer *CB*

Date: April 11, 2012

Subject: Dedication of Natural Gas Easements on City Property

PROPOSAL:

As part of improvements to Highway 16, SourceGas will be relocating natural gas lines in advance of widening and improvements by the Arkansas Highway and Transportation Department. SourceGas needs easements across City property on either side of the entrance to the City Shop/Solid Waste and Recycling Facility in order to complete their necessary relocations.

RECOMMENDATION:

Dedication of these easements to SourceGas is recommended to allow them to proceed with relocations.

BUDGET IMPACT:

None

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING TRANSFER OF A NATURAL GAS EASEMENT ON CITY PROPERTY ADJACENT TO HIGHWAY 16 TO SOURCEGAS ARKANSAS INC. AS PART OF THE HIGHWAY 16 IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes transfer of a natural gas easement on city property adjacent to Highway 16, and as more particularly described in the attached Exhibit "A", to SourceGas Arkansas Inc. as part of the Highway 16 Improvement Project.

PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

NATURAL GAS EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT The City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **SourceGas Arkansas Inc., an Arkansas Corporation**, whose address is 655 E. Millsap, Suite 104, Fayetteville, Arkansas 72703, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to survey, construct, install, inspect, maintain, renew, repair, remove, replace and operate pipeline(s) and appurtenances, including all above-ground structures associated therewith, for the transportation of natural gas or any other substance which can be transported by pipeline, in on, over under, upon and through the following described lands situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

Part of Lot 2, Final Replat of Fayetteville Industrial Park which is also part of the Southwest Quarter of the Northwest Quarter of Section 23, Township 16 North, Range 30 West, Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

A Thirty (30) foot permanent easement beginning in the Northwest corner, thence running Southwest approximately two hundred eighteen (218) feet and ending in an already existing gas easement.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A Twenty (20) foot temporary construction easement adequate to lay the line.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline and appurtenances or any part thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

Upon completion of construction activities, the Grantee shall restore all disturbed areas or facilities to like or better conditions prior to the commencement of construction activities.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.



WITNESS the execution hereof on this the _____ day of _____, 2011.

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation

By: _____
Lioneld Jordan, Mayor

ATTEST:

Sondra Smith, City Clerk

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF

)
) ss.
)

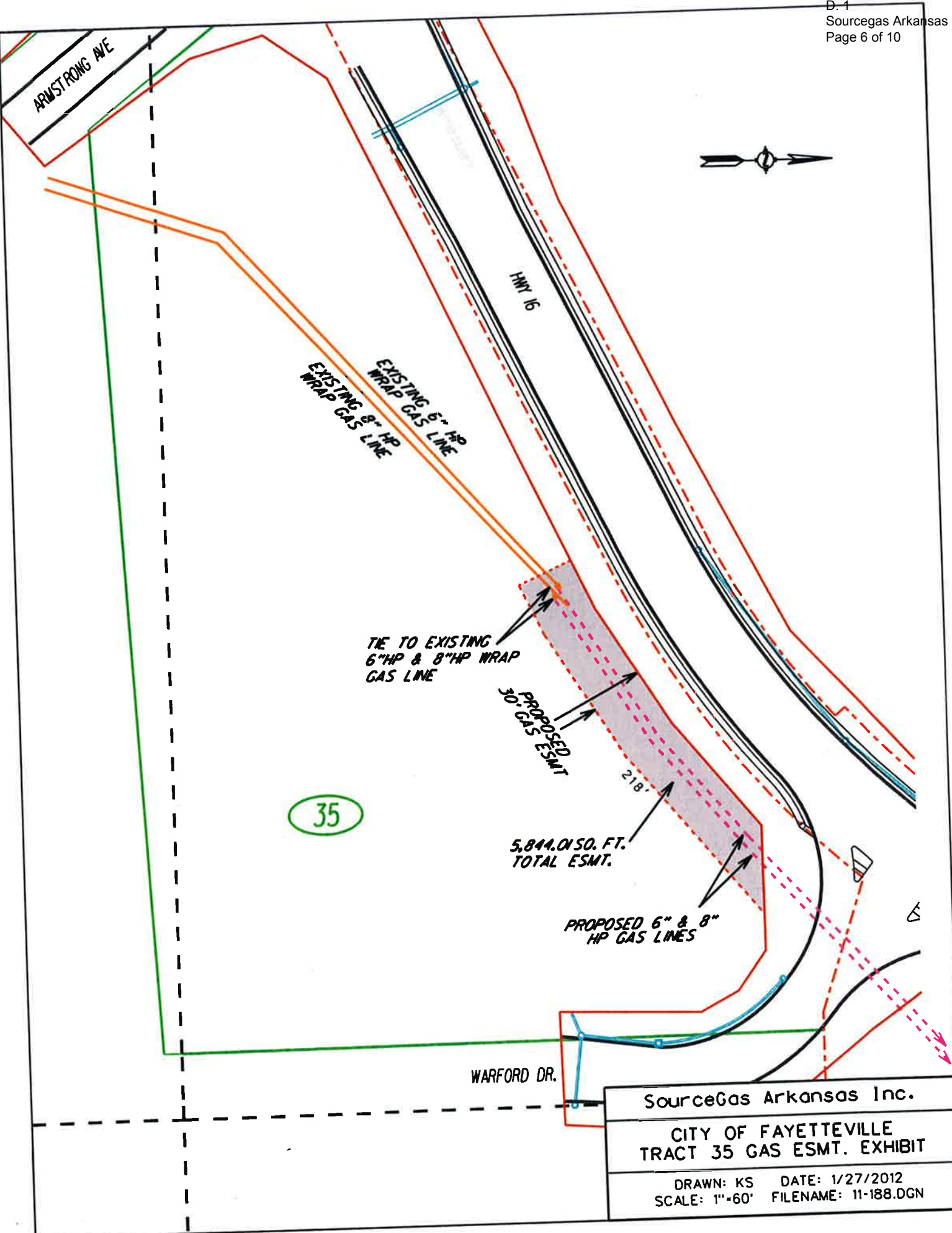
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and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

WITNESS my hand and seal on this _____ day of _____, 2011.

MY COMMISSION EXPIRES:

Notary Public

Easement Legal Descriptions
Furnished and written by:
Roller Land Services, LLC
Nancy Roller
Barbara Fairbanks



SourceGas Arkansas Inc.	
CITY OF FAYETTEVILLE TRACT 35 GAS ESMT. EXHIBIT	
DRAWN: KS SCALE: 1"=60'	DATE: 1/27/2012 FILENAME: 11-188.DGN

NATURAL GAS EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT The City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **SourceGas Arkansas Inc., an Arkansas Corporation**, whose address is 655 E. Millsap, Suite 104, Fayetteville, Arkansas 72703, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to survey, construct, install, inspect, maintain, renew, repair, remove, replace and operate pipeline(s) and appurtenances, including all above-ground structures associated therewith, for the transportation of natural gas or any other substance which can be transported by pipeline, in on, over under, upon and through the following described lands situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed reference Book 98 Page 36970)

Part of the West Half of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter of Section Twenty-three in Township Sixteen North of Range Thirty West, more particularly described as follows, to-wit; Commencing at the Southwest corner of said five acre tract and running thence East 290 feet; thence North 370 feet; thence West 255 feet; thence North 170 feet; thence West 35 feet; thence South 540 feet to the point of beginning, containing 2.60 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A Twenty (20) foot permanent easement beginning forty-five (45) feet from the Northwest corner, thence running South approximately one hundred ninety-three (193) feet and ending, all being adjacent and parallel to the East Right-of-Way of Warford Drive, Fayetteville, Arkansas.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A Twenty (20) foot temporary construction easement adequate to lay the line.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipeline and appurtenances or any part thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

Upon completion of construction activities, the Grantee shall restore all disturbed areas or facilities to like or better conditions prior to the commencement of construction activities.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2011.

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation

By: _____
Lioneld Jordan, Mayor

ATTEST:

Sondra Smith, City Clerk

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF)

ss.

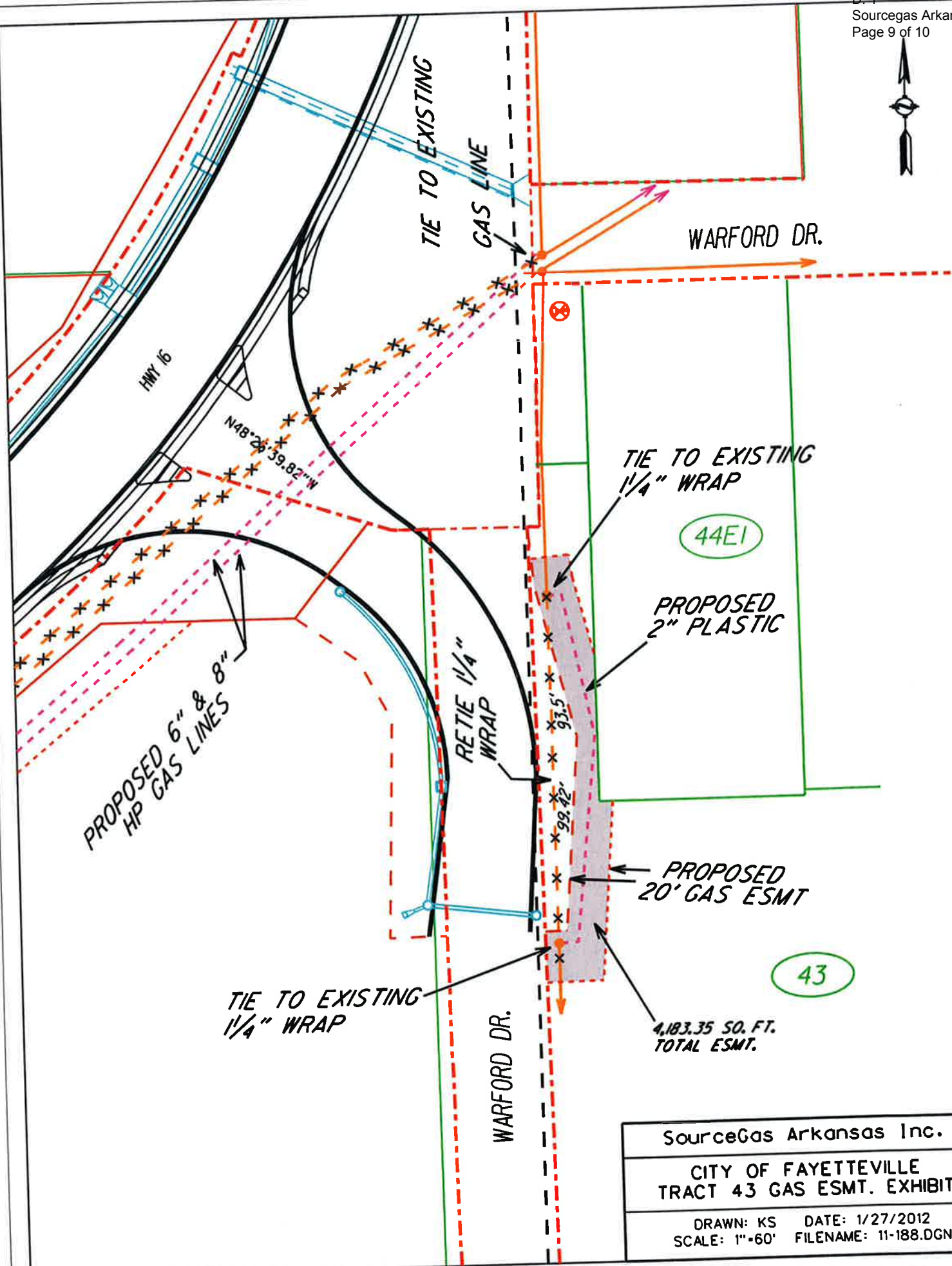
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and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

WITNESS my hand and seal on this _____ day of _____, 2011.

MY COMMISSION EXPIRES:

Notary Public

Easement Legal Descriptions
Furnished and written by:
Roller Land Services, LLC
Nancy Roller
Barbara Fairbanks



SourceGas Arkansas Inc.	
CITY OF FAYETTEVILLE TRACT 43 GAS ESMT. EXHIBIT	
DRAWN: KS SCALE: 1"=60'	DATE: 1/27/2012 FILENAME: 11-188.DGN

City of Fayetteville Staff Review Form

D. 2
Fayetteville Police Department Policies
Page 1 of 58

City Council Agenda Items
and
Contracts, Leases or Agreements

4/17/2012 5/1/12
City Council Meeting Date
Agenda Items Only

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Staff seeks council approval of a resolution to adopt Fayetteville Police Department Policies: 1.2.1, Limits of Authority; 1.3.1, Use of Force; 12.1.1, Direction; 12.2.1, Policies, Procedures and Rules Development and Review Procedures; 26.1.2 Harassment and Discrimination in the Workplace; 41.1.1, Patrol; 42.1.1, Criminal Investigations; 41.2.11, Use of Department Vehicles; 44.1.1, Juvenile Operations; 61.1, Traffic Enforcement; 6.1.11, DWI, DUI; and 61.3 Traffic Direction and Control.

\$0

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director

3-28-12
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

4/5/12
Date

Original Contract Date:

Original Contract Number:

Paul A. Beck
Finance and Internal Services Director

4-5-2012
Date

Received in City 03-23-12 P04:53 RCVD
Clerk's Office

[Signature]
Chief of Staff

4/17/12
Date

Received in
Mayor's Office

[Signature]
Mayor

4/17/12
Date



Comments:

To: Mayor Lioneld Jordan and City Council

From: Greg Tabor, Chief of Police 

Date: Wednesday, March 28, 2012

Re: Police Department Policies

Recommendation:

Council approves a resolution adopting Fayetteville Police Department Policies: 1.2.1, Limits of Authority; 1.3.1, Use of Force; 12.1.1, Direction; 12.2.1, Policies, Procedures and Rules Development and Review Procedures; 26.1.2 Harassment and Discrimination in the Workplace; 41.1.1, Patrol; 42.1.1, Criminal Investigations; 41.2.11, Use of Department Vehicles; 44.1.1, Juvenile Operations; 61.1, Traffic Enforcement; 6.1.11, DWI, DUI; and 61.3, Traffic Direction and Control.

Background and Discussion:

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

Budget Impact:

None

RESOLUTION NO. _____

A RESOLUTION APPROVING FAYETTEVILLE POLICE DEPARTMENT POLICIES 1.2.1 LIMITS OF AUTHORITY, 1.3.1 USE OF FORCE, 12.1.1 DIRECTION, 12.2.1 POLICIES, PROCEDURES AND RULES DEVELOPMENT AND REVIEW PROCEDURES, 26.1.2 HARASSMENT AND DISCRIMINATION IN THE WORKPLACE, 41.1.1 PATROL, 42.1.1 CRIMINAL INVESTIGATIONS, 41.2.11 USE OF DEPARTMENT VEHICLES, 44.1.1 JUVENILE OPERATIONS, 61.1 TRAFFIC ENFORCEMENT, 6.1.11 DWI, DUI, AND 61.3 TRAFFIC DIRECTION AND CONTROL

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 Fayetteville Police Department policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.

PASSED and APPROVED this 17th day of April, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 1.2.1 Limits of Authority	Effective Date:
Reference: 41.2.7, 71.1.1	Version: 1
CALEA: 1.1.3, 1.1.4, 1.2.1, 1.2.2, 1.2.5, 1.2.6, 1.2.7, 1.3.5, 11.3.1, 22.2.7	No. Pages: 8

I. Purpose

The purpose of this policy is to outline the limits of law enforcement authority delegated to officers of the Fayetteville Police Department pertaining to the enforcement of laws, statutes and ordinances within their jurisdiction.

It also defines circumstances and establishes limits involving officer discretion and provides guidelines for exercising such discretion utilizing alternatives to arrest and/or pre-arraignment confinement.

Comment [rt1]: Policy is a combination of old FPD 1.2.1, 1.2.2 and new language to meet CALEA Standards

II. Definitions

Arrest: Arrest is the taking of a person into custody, the purpose of which is to restrain the accused until he can be held accountable for the offense at court proceedings.

Probable Cause: Probable cause has been interpreted as facts and circumstances that amount to more than mere suspicion but less than proof beyond a reasonable doubt that would lead a prudent person to believe a crime has been committed or is about to be committed.

Felony: A felony is a serious offense, which carries a penalty of incarceration usually for one year or more. Persons convicted of felony offenses lose certain rights such as the right to vote, hold an elective office of federal government position or maintain certain licenses.

Misdemeanor: A misdemeanor is a less serious offense punishable by incarceration for not more than one year in a county jail or fine or similar penalty.

Off-Duty: For the purposes of this section, officers are considered to be "off-duty" when not working in furtherance of departmental objectives during regularly scheduled hours or other hours as required by a police supervisor or court order.

III. Policy

A. JURISDICTION AND STATUTORY AUTHORITY

1. Officers of the Fayetteville Police Department shall have within the corporate limits of the City of Fayetteville all the powers invested in law enforcement officers as described under Arkansas Code Annotated 14-52-203. [CALEA 1.2.1, 1.2.2], [CALEA 11.3.1 a.]
2. Officers shall also have the power to serve all civil and criminal process that may be directed to them by any officer of the court and enforce the ordinances and regulations of the city as the city council may direct.
3. In addition to their authority within the corporate limits, officers shall have all the powers invested in law enforcement officers by the Arkansas Constitution, State statutes and the Rules of Criminal Procedure.
4. An officer outside his or her jurisdiction may affect an arrest without a warrant upon having both probable cause and the request or permission of the agency having jurisdiction. Upon doing so, the officer must notify the law enforcement agency having jurisdiction as soon as practicable and relinquish custody of the suspect to that agency as described under Arkansas Code Annotated 16-81-106.
5. An officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the city shall be entitled to all privileges, immunities and benefits to which he would be entitled if acting within the city, including coverage under the worker's compensation laws.
6. Each employee of the department is accountable for the use of delegated authority invested by statute [CALEA 11.3.1 b.].

B. ARREST AUTHORITY

An officer may affect an arrest if there is probable cause to believe a person has committed an offense as it is defined in the Arkansas Criminal Code. Probable cause is the legal requirement for an arrest [CALEA 1.2.5].

1. An arrest occurs when the following conditions exist:
 - a. The officer believes that sufficient legal evidence exists that a crime is being committed, and intends to restrain the suspect;
 - b. The officer deprives the individual of his liberty; and
 - c. The suspect believes he or she is in custody of the police and cannot voluntarily leave.
2. An arrest can be initiated with or without a warrant and must be based on probable cause.
 - a. Arrest Pursuant to Warrant – An arrest warrant issued by the court determines an arrest should be made and directs the police to bring the named person before court.
 - (1) An officer having a warrant in possession may arrest the person named on or described in the warrant at any time and at any place within the jurisdiction of the City of Fayetteville.
 - (2) An officer, who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant

in his possession, may arrest the person named in the warrant according to Arkansas State Law.

- a. The officer must inform the person arrested of the existing warrant, and
- b. The officer must serve the warrant on the person as soon as possible.

b. Arrest Without a Warrant – According to Rule 4 of the Arkansas Court Rules of Criminal Proceedings, a law enforcement officer may arrest a person without a warrant if the officer has reasonable cause to believe that such person has committed [CALEA 1.2.5]:

- (1) a felony;
- (2) domestic violence; as further detailed in FPD 1.2.4, Domestic Violence
- (3) a traffic offense involving:
 - a. death or physical injury to a person; or
 - b. damage to property; or
 - c. driving a vehicle while under the influence of intoxicants or narcotics;
- (4) Any violation of law in the officer's presence.
- (5) A private person may make an arrest where he has reasonable grounds for believing the person arrested has committed a felony.
- (6) It is not necessary that an officer or citizen be able to articulate the specific offense at the time of the arrest.
- (7) A warrant-less arrest by an officer not personally possessed of information sufficient to constitute reasonable cause is valid where the arresting officer is instructed to make the arrest by a police agency, which collectively possesses knowledge sufficient to constitute reasonable cause.
- (8) In the case of a misdemeanor, probable cause as well as the officer's presence at the time of the offense is required, with the following exceptions:
 - a. The officer believes the suspect may cause physical injury to self or others, or damage to property unless immediately arrested (see ACA 16-81-113) and Domestic Abuse Act as defined by Arkansas State Law.
 - b. The suspect has committed the offense of shoplifting when the officer, merchant or merchant's employee who has observed the person accused of shoplifting shall provide a written statement which shall serve as probable cause to justify the arrest (See ACA 5-36-116).
 - c. The officer has reason to believe the suspect will not be apprehended unless immediately arrested.

Comment [rt2]: Language added

3. Upon making an arrest, an officer must:

- a. Identify himself as a law enforcement officer unless his identity is otherwise apparent;
 - b. Inform the arrested person that he is under arrest; and
 - c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.
4. An arrest is complete when:
 - a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or
 - b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.
5. An officer may enter private premises or vehicles to effect an arrest when:
 - a. The officer has in his possession a warrant or order for arrest of a person or is authorized to arrest a person without a warrant or order having been issued;
 - b. The officer has reasonable cause to believe the person to be arrested is present, and
 - c. The officer has given, or made reasonable effort to give notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe the giving of such notice would present a clear danger.
6. Arrest for Serious Crime – When an officer arrests a person for a serious crime, the officer shall advise the supervisor on duty and a determination will be made if the detective division shall be notified of the arrest for further interviewing and investigation.
7. Arrest of Military Deserter – Officers with probable cause that a person is a military deserter may arrest that person and arrange as soon as possible to release the person to the proper military authority.
8. Arrest of Injured Person – Upon arresting a person who has been injured, or is injured during the arrest process, the officer shall conduct an assessment of the injury based on visual and/or verbal clues of the person and/or injury. In doing so, the officer shall [CALEA 1.3.5]:
 - a. Transport the person for normal booking procedures if the injury is apparently non-debilitating and not life threatening.
 - b. Request for Emergency Medical Services to respond to the scene if the injury appears to be life threatening or debilitating.
 - c. Not transport the person to a medical facility if the injury is life threatening or debilitating unless exigent circumstances exist. Further reference may be made to FPD 71.1.1, Detainee Transportation.

Comment [rt3]: Language added to meet
CALEA standards

9. Arrest of Unconscious or Semiconscious Person – Whenever an officer arrests an individual who is unconscious, semiconscious, or otherwise apparently suffering from some disabling condition, and who is unable to provide information on the causes of the condition, the officer should make a reasonable effort to determine if the person arrested is wearing a bracelet or necklace containing the Medic Alert Foundation's emergency alert symbol to indicate that the person suffers from diabetes, epilepsy, cardiac condition or any other form of illness which would cause a loss of consciousness. If such a symbol is found indicating that the person being arrested suffers from one of those conditions, the officer must make a reasonable effort to have appropriate medical care provided.
10. Arrest of Foreign Nationals – Whenever a foreign national is arrested or detained in the United States, there are legal requirements contained in the Vienna Convention on Consular Relations to ensure that the foreign national's government can offer him/her appropriate consular assistance. In all cases the foreign national must be told of the right of consular notification and access. According to the Department of State, this requirement applies even if the foreign national is not in the United States legally. A list of contact information for embassies and consulates within the United States is available in the squad room and the Washington County Detention Center.

Comment [rt4]: Location of information changed from LT Office to Squad room

In some cases, mandatory notification must be made to the nearest consulate or embassy without delay, or within the time specified in a bilateral agreement between the United States and the foreign national's country, regardless of whether the foreign national request such notification. If the foreign national's country is on the list of mandatory notification countries, notify that country's nearest consular official, without delay, of the arrest/detention. A list of the mandatory notification countries is available in the squad room and the Washington County Detention Center.

Comment [rt5]: Location of information changed from LT Office to squad room

Privacy concerns or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his/her government may exist in some mandatory notification cases. The notification process should still be honored, but it is possible to take precautions regarding disclosure of information. The State Department should be consulted in these situations. Under no circumstances should any information indicating that a foreign national may have applied for asylum in the United States or elsewhere be disclosed to that person's government.

It is the responsibility of the arresting officer, not the detaining facility, to notify the arrested person's nearest consular official. It is also the arresting officer's responsibility to inform the arrestee notification has been made. A form documenting arrest notification that can be sent via FAX is available in the squadroom and the Washington County Detention Center. A copy of this notification process should be attached to the arrest report. [CALEA 1.1.4]

11. Misuse of Arrest Authority – Officers of the Fayetteville Police Department shall not misuse the arrest authority that has been delegated to them.

C. USE OF DISCRETION AND ALTERNATIVES TO ARREST

The Chief of Police shall determine what measures (policies and procedures) shall be enforced to influence officer discretion at the operative level of patrol.

Officers are encouraged to be sensitive to cues as the probability of clearance, witness identification, victim prosecution and other factors when making arrests, issuing citations or other law enforcement activities.

In the instances of lesser violations, the officer may weigh the seriousness of the offense and the surrounding circumstances and choose an alternative to arrest. The proper exercise of discretion does not relieve the officer of his responsibility to conduct a thorough investigation. [CALEA 1.2.7]

1. Alternatives to Arrest [CALEA 1.2.6]

- a. Issuance of a citation or criminal summons (when the district judge determines the offense to be citable) which would allow the arrested person to appear in court on his/her own recognizance.
- b. Informal resolution; or
- c. Warnings.

2. At his discretion, an officer may assist, as an alternative to arrest and incarceration, an individual found intoxicated in a public place by taking the following actions [CALEA 1.2.7]:

- a. The officer may transport the intoxicated individual home;
- b. The officer may transport the intoxicated individual to the residence of another individual willing to accept him/her;
- c. The officer may transport the intoxicated individual to a public or private shelter facility if the individual is apparently in need of and unable to provide for himself food, clothing or shelter but not in need of medical care;
- d. The officer may transport the intoxicated individual to a medical facility if it is apparent the individual is in need of but unable to provide for himself immediate medical care.

3. Criminal justice and social services programs are available resources that should be considered and utilized when possible. Officers should carefully weigh the available options in any given situation; supervisory consultation may be necessary. Diversion programs available may include, but are not limited to [CALEA 1.1.3]:

- (1) Juvenile offender diversions via the Juvenile Division of the Fourth Judicial Circuit Court
- (2) Fourth Judicial District Victim's Rights Advocate
- (3) The Fayetteville Women's Shelter

- (4) Northwest Arkansas Rape Crisis Center
- (5) Salvation Army
- (6) Local churches and homeless shelters
- (7) Local mental health facilities (See FPD 41.2.7)

Comment [rt6]: Section added to meet CALEA standard

D. OFF-DUTY ARREST

Officers of the Fayetteville Police Department have liability protection for on-duty and off-duty performance of official duties. This protection does not extend to willful acts to cause injury, to damage or to those actions that the police officer knew, or reasonably should have known, were in conflict with the established policies of this department.

1. When off-duty and within legal jurisdiction of this department, a police officer may make an arrest when:
 - a. There is an immediate need for the prevention of bodily injury or property loss/damage or apprehension of a suspect;
 - b. The arresting officer is in possession of appropriate police identification.
2. Off-duty officers shall not enforce minor traffic offenses or utilize personal vehicles to pursue or attempt the apprehension of persons.
 - a. Off-duty officers may cautiously follow suspects to obtain vehicle and suspect descriptions or destinations, but officers must realize there is no authorization under state law or departmental policy to violate traffic laws while operating a private vehicle.
 - b. If an off-duty arrest is made, the off-duty officer shall abide by all departmental policies and procedures and shall notify an on-duty supervisor of the circumstances of the arrest and complete any documentation required by procedure.
 - c. No prisoner or arrestee, under any circumstances, shall be transported in a privately owned vehicle.

E. POST ARREST PROTOCOL

Comment [rt7]: Section added for CALEA standards

The Chief of Police, state law requirements, and jail procedures will dictate what protocol will be followed post-arrest pertaining to preparing reports, fingerprinting, and photographing.

1. For probable cause arrests made by officers that do not include warrants issued by a judge, officers will complete a preliminary report as part of the booking process as well as an arrest incident report in the police department's reporting system. If the arrest also includes a criminal offense involving a victim, the officer will complete that part of the report as well as the suspect's arrest report [CALEA 1.2.5 a.].
2. Fayetteville Police Department is responsible for the fingerprinting and photographing of arrested subjects per state law requirements. Per Arkansas 12-12-1006, immediately following an arrest for an offense, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, the fingerprints and a photograph of the arrested person if the offense is a felony or a

Class A misdemeanor. Juvenile requirements are set forth in Arkansas 9-27-320, and requires when a juvenile is arrested for any offense that if committed by an adult would constitute a felony or a Class A misdemeanor in which violence or the use of a weapon was involved, the juvenile shall be photographed and fingerprinted by the law enforcement agency. These processes will commonly be completed during booking at the Washington County Detention Center [CALEA 1.2.5 b., c.].

F. Personnel Identification Measures

Comment [J8]: added 7-19-11 for CALEA 22.2.7

The following will govern identification requirements of all police department personnel [CALEA 22.2.7]:

1. All personnel will be issued an identification card that is required to be carried and accessible while the employee is on duty [CALEA 22.2.7 b.]
2. All employees shall be able to display their identification card upon a reasonable and safe request. Sworn personnel should display this in the accompaniment of their issued badge. Exceptions to this display are when necessary during the performance of police duties at an incident where the officer's status is obvious or in a required undercover capacity where doing so would jeopardize the mission of the operation or the officer's cover [CALEA 22.2.7 a.]
3. In cases where an officer is unable to show identification during an incident, that officer should make every attempt to show his credentials to the requesting party once the scene is secured [CALEA 22.2.7 a.]
4. All officers including uniformed officers should have access to their full credentials while on duty for cases where additional credential checks may be required. Exceptions to this requirement may occur in undercover assignments [CALEA 22.2.7 a.]
5. The issuance of identification shall be considered a standard procedure. A record will be maintained documenting the date of issuance, the person issuing, and the person issued. Employees will be expected to maintain their identification in a professional manner. Lost or stolen identification cards shall be reported to the immediate supervisor.
6. Upon separation of employment, the employee shall relinquish his or her identification card to police personnel.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 1.3.1 Use of Force	Effective Date: November 3, 2009
Reference: 1.3.4, 41.3.5	Version: Version
CALEA: 1.3	No. Pages: 6

I. PURPOSE

The purpose of this directive is to state the Fayetteville Police Department policy regarding the use of force, including deadly force, less lethal force and defensive tactics.

Comment [JF1]: This is an existing policy that has been updated to meet CALEA standards.

II. DISCUSSION

The value of human life is immeasurable in our society. Police officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection must at all times be secondary to the protection of life. The officer's responsibility for protecting life must include his own.

III. DEFINITIONS

Deadly Force – Deadly force is that force which may cause death or grave injury or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or grave injury.

Physical Force – Physical force is any bodily impact, restraint, confinement or the threat thereof.

Reasonable Belief – Reasonable believe is fact or circumstances the officers knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Serious Physical Injury – Serious physical injury is bodily injury that creates a substantial risk of death; cause serious, permanent disfigurement; or results in along-term loss or impairment of the functioning of any bodily member or organ.

IV. POLICY

It shall be the policy of the Fayetteville Police Department that its officers shall not use more force in any situation than is reasonably necessary under the circumstances. [CALEA 1.3.1]

A. Use of Deadly Force

1. An officer may use deadly force to protect him or others if he has reasonable belief of immediate threat of death or serious physical injury [CALEA 1.3.2].
2. The use of deadly force should be prohibited in the apprehension of misdemeanants, since the value of human life far outweighs the gravity of a misdemeanor offense.
3. Deadly force shall never be used on mere suspicion that a crime, no matter how serious, was committed or that the person being pursued committed the crime. An officer shall either have witnessed the crime or have sufficient information to know, as a virtual certainty, that the suspect committed an offense for which the use of deadly force is permissible.
4. Officers shall not be permitted to fire at felony suspects when the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force or when there is substantial danger to innocent bystanders. Although the requirement of using lesser force, when possible, is a legal rule, the other limitations are based on sound public policy. To risk the life of innocent persons for the purpose of apprehending a felon cannot be justified.
5. Officers shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another person.
6. Officers shall not fire their weapons to kill, but rather to stop and incapacitate an assailant from completing a potentially deadly act. For maximum stopping effectiveness and minimal danger to innocent bystanders, the officer should shoot at "center body mass".
7. An officer may use deadly force to effect the capture or prevent the escape if the officer reasonably believes that the suspect has committed a felony involving the use or threatened use of deadly force and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.
8. In order to protect the community's interest when officers may have exceeded the scope of their authority in the use of deadly force and to shield officers who have not exceeded the scope of their authority from possible confrontations with the community, officers whose actions or use of force in an official capacity results in death or serious physical injury shall be relieved from line-duty assignment pending administrative review. [CALEA 1.3.8]
9. The killing of an animal is justified by the following conditions:
 - a. For self-defense,
 - b. To prevent substantial harm to the officer or another, or
 - c. When the animal is so badly injured that humanity requires its relief from further suffering
 - d. A seriously wounded or injured animal may be destroyed upon approval from a supervisor.
 - e. The destruction of vicious animals should be guided by the same rules set forth for self-defense and safety of others.
 - f. A use of force form and memorandum to the officer's direct supervisor shall be completed when an animal is killed.

B. Use of Physical Force and Less-Lethal Weapons

All police officers of the Fayetteville Police Department are directed to obtain defensive tactics training and certification to carry and use the departmental authorized less-lethal

weapons. Officers will be issued copies of 1.3.1 and will be instructed in this policy. [CALEA 1.3.12] Defensive tactics and less-lethal weapons provide officers with additional use of force options for gaining compliance of resistant or aggressive individuals in arrest and other enforcement situations that occur in the line of duty.

It shall be the policy of the Fayetteville Police Department that officers use defensive tactics and less-lethal weapons when warranted, but only in accordance with guidelines set forth in section 1.3.4.

All departmentally approved less-lethal devices are deployed as additional police tools and are not intended to replace firearms or self-defense techniques. Officers choosing to use these devices **should not** compromise their safety.

Further reference may be made to section 1.3.4, Less Lethal Weapons and Defensive Tactics.

C. Firearms

1. Issuance of "Use of Force" policy: All officers of the Fayetteville Police Department shall be issued individual copies of and receive instruction on the department's policy regarding use of deadly force prior to being issued a firearm [CALEA 1.3.12]. Officers will receive in-service training on the department's use of force policy on an annual basis [CALEA 1.3.11].
2. Proficiency in Use of Agency-Authorized Firearms: Qualification with the issued service weapon is an **essential job function** of a Fayetteville Police Officer. Failure to qualify may result in the imposition of discipline, up to and including termination of employment. Additionally, failure to qualify with any other department-approved weapon would prohibit that officer from being allowed to carry that particular weapon [CALEA 1.3.10]. A certified weapons instructor shall conduct training and qualification [CALEA 1.3.11 a].
 - a. Officers shall qualify with the issued service weapon four times each year, at least one of which will meet the Arkansas Law Enforcement Standards and Training (ALETA) Standard Qualification Course of Fire for one target [CALEA 1.3.11].
 - b. On all other qualification relays, officers shall qualify with a score equal to or better than the established standard set by the Chief of Police in consultation with the Firearms Instructor.
 - c. Officers certified on the department-approved shotgun or rifle shall qualify annually.
 - d. All firearms training and qualification scores, including remedial training if necessary, will be documented and maintained by the firearms division until an officer separates from the department [CALEA 1.3.11 b].
 - 1) An officer who fails to qualify with his/her issued service weapon after two consecutive attempts shall be referred for immediate remedial training by a certified firearms instructor.
 - 2) The firearms instructor providing the remedial training shall notify the officer's immediate supervisor and the Chief of Police in the
 - 3) event the officer is still unable to qualify at the conclusion of the extra training session. Upon such notification, the supervisor shall immediately relieve the unqualified officer of the issued service weapon and patrol duty, with pay. The unqualified officer will be directed to report to the

training division the next working day for additional remedial training. The officer's authority to carry a firearm shall remain revoked until such time as the officer qualifies or that the determination is made that the officer is not responding to further training [CALEA 1.3.11 c].

- 4) Any officer who fails to qualify and receives remedial training more than twice during a calendar year shall be subject to disciplinary action. If an unqualified officer does not satisfactorily respond to remedial training and remains unqualified, the Chief of Police shall be notified in writing. At such time, the officer will be referred for termination.
- e. Officers shall attain and demonstrate knowledge of the laws concerning the use of firearms and be familiar with and recognize safe-handling procedures for the use of these weapons.
- f. Any officer returning to duty after an absence exceeding three months shall report to the training division for remedial training and qualification prior to being permitted to return to full duty.
3. Except for general maintenance, storage or authorized training, officers shall not draw or exhibit their firearm unless circumstances create strong reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with other sections of this policy.
4. Warning Shots: Officers are not justified in using a firearm to fire a warning shot for any purpose. Warning shots endanger the lives of innocent bystanders and may also prompt a suspect to return fire [CALEA 1.3.3].
5. Off-Duty Possession of Weapons: It shall be the policy of the Fayetteville Police Department to permit full-time sworn members of the department to possess and carry a concealed weapon while off-duty within the corporate limits of Fayetteville. Officers should also be aware that Federal Law, known as the Law Enforcement Officers Safety Act of 2004, provides certified law enforcement officers with the right to carry a concealed firearm in any jurisdiction of the United States.
 - a. Officers are not required to carry a weapon while off-duty but may do so at their option.
 - b. Officers exercising the option to carry a weapon while off-duty are authorized to carry their issued weapon.
 - c. Authorization for officers to carry weapons while off-duty shall be subject to the following conditions:
 - 1) Officers will be required to have in their possession the department-issued badge and official identification card.
 - 2) Officers in plain clothes wearing their firearms exposed to the public view shall display their department badge near the firearm in a manner that is clearly visible to the public unless special circumstances exist.
 - 3) Officers who choose to carry a weapon other than one issued by the police department shall qualify to demonstrate proficiency in the use of that weapon on an annual basis at their own expense.
6. Department-Issued Weapons and Ammunition: Reference may be made to section 41.3.5 for specifications of department-issued weapons and ammunition.
 - a. All department-issued firearms will be inspected on an annual basis by a certified armorer and must be approved by the armorer before being issued and/or carried [CALEA 1.3.9 c,d,e].
 - 1) The firearms division will maintain weapons inspections reports.

- 2) Weapons deemed irreparable will be removed from service with a report indicating such status.
- 3) The firearms division will maintain a record on all weapons in service to include inspection date(s) and maintenance.
- b. Officer Responsibility for Department-Issued Firearm
 - 1) Officers must take reasonable and adequate care of any firearm issued to them.
 - 2) In the event a firearm is lost, damaged, destroyed or stolen, the officer may be subject to financial liability and/or dismissed if a preponderance of evidence establishes negligence or willful destruction or damage of the firearm by the officer.
 - 3) In the event of the loss of department-issued firearm, the officer will immediately notify the shift supervisor who will in turn notify the Chief of Police. The supervisor will also notify local law enforcement authorities of the firearm loss and ensure that the loss is reported through the department's ACIC/NCIC terminal.
 - 4) Officers may choose to leave their issued weapons in their locked lockers at the department. If officers choose to remove their issued weapon from the department while off-duty, it is recommended they be stored in a locked box, separate from the ammunition [CALEA 1.3.9 f].
7. Discharge of Weapon: If an officer, on or off duty, fires a department-issued weapon while acting in his official capacity (except for training purposes such as range qualifications) or in the event of an accidental discharge, the officer shall comply with the following:
 - a. The officer who fired the weapon shall notify the shift supervisor as soon as practicable after the firing has taken place.
 - b. The supervisor shall make a preliminary investigation each time an officer under his command fires a weapon.
 - c. The supervisor shall cause a report to be filed immediately with the Chief of Police regarding the firing of any weapon by police personnel [CALEA 1.3.6 a.].
 - d. If during the performance of duty or on any occasion an officer fires a weapon and in doing so wounds or kills a suspect or perpetrator of a crime, the following procedure is to be followed immediately:
 - 1) Medical aid, to the extent possible, should be given to anyone injured [CALEA 1.3.5].
 - 2) The shift supervisor is to be notified immediately.
 - 3) The shift supervisor will notify the Chief of Police immediately.
 - 4) A shooting team, the members of which will be designated by the Chief of Police, will be called to the scene.
 - 5) The shooting team will be responsible for conducting a thorough investigation into the circumstances surrounding the shooting. The shooting team will, at the conclusion of the investigation, submit a report to the Chief of Police including relevant facts and circumstances surrounding the incident and a conclusion as to whether the discharge violates departmental policy.
 - 6) The shooting team will be functioning with the full authority of the Chief of Police. The team will be in complete control of the internal investigation. All officers, including shift supervisors, shall give the team their full cooperation. No one shall interfere with such an investigation.

- 7) If the facts of the incident support a conclusion that the shot was the result of negligence, the officer shall be required to undergo firearms certification training again.

D. Use of Force Reports: The purpose of this section is to establish specific guidelines that define the situation when a Use of Force Report must be completed. Not every touching by an officer requires a report; circumstances that require a report are outlined in this section [CALEA 1.3.6].

All officers are directed to complete a Use of Force Report when the following criteria are met and turn it in to his supervisor before the end of his shift:

1. Situations that require supervisor notification and completion of the Use of Force Report [Calea 1.3.6 b, c, d]:

- a. An officer exercising police authority uses force which causes death or any visible or apparent physical injury, or which results in the subject saying that he or she was injured.
- b. An officer exercising police authority uses any object including but not limited to a baton, flashlight, hand, fist or foot to strike a blow to a subject.
- c. An officer exercising police authority bodily removes or drags a struggling subject from one place to another, or forcibly places or keeps a person in a prone position.
- d. An officer exercising police authority uses force during or after which a subject loses consciousness.
- e. An officer uses any aerosol irritant or inflammatory agent (see 1.3.4).
- f. An officer uses a Conducted Energy Weapon (see 1.3.4).
- g. An officer discharges a firearm, regardless of duty status and regardless of whether the discharge was accidental or intentional. (Exception: range activity and other lawful and safe target practice)
- h. An officer points a firearm at anyone.

Comment [rt2]: To satisfy 1.3.6 b

2. Use of Force Reports will be submitted by the shift supervisor to the department's administration [CALEA 1.3.7]:
 - a. Each Use of Force Report will be reviewed by the division's respective captain and by the Chief's designated head of Office of Professional Standards (OPS) [CALEA 1.3.7].
 - b. The designated head of OPS will conduct an annual review and analysis of all Use of Force Reports and submit a report to the Chief of Police [CALEA 1.3.13].

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 12.1.1 Direction	Effective Date:
Reference:	Version: 1
CALEA: 11.1.1, 11.2.1, 11.2.2, 11.3.1, 11.3.2, 12.1.1, 12.1.2, 12.1.3, 12.1.4	No. Pages: 3

I. PURPOSE

The purpose of this policy is to define the responsibilities and position of the Chief of Police as the highest ranking member of the Fayetteville Police Department, to designate command during his absence, to establish the agency's organizational structure, to ensure chain and unity of command, to delineate responsibility, to delegate authority, and to make supervisors accountable for the performance of subordinates [CALEA 11.1.1].

Comment [rt1]: Amended language is in yellow high lights and are added to satisfy CALEA standards.

Comment [JF2]: "Chief Executive Officer" replaced with "highest ranking member".

II. POLICY

A. CHIEF OF POLICE

The Chief of Police is the highest ranking member of the Fayetteville Police Department, and as such shall be solely responsible for the management, direction, and control of the operations and administration of Department activities [CALEA 12.1.1]:

1. The Mayor appoints the Chief of Police.
2. The Chief of Police is under the direct supervision of the Mayor.
3. The Chief of Police is responsible for the appointment and supervision of all subordinate employees under his command in the Department.
4. The Chief of Police is also responsible for the direction, planning, training and regulation of discipline within the Department [CALEA 12.1.1].

B. CHAIN OF COMMAND

In order to ensure leadership is available when the Chief of Police is incapacitated, off duty, out of town, or otherwise absent from the decision making process, a supervisory contingency plan shall be in effect. [CALEA 12.1.2 a]. This may also be in effect in exceptional situations, in situations involving personnel of different functions, in normal day-to-day agency operations, and in predetermined emergencies, incidents, or functions that are predetermined for a unique occurrence and set forth in policy [CALEA 12.1.2 b., c., d.]. For anticipated absences for extended periods, the Chief of Police should designate in writing an acting authority during his absence.

The following list of supervisors specifies the chain of command that shall be followed during the Chief's absence. Job descriptions are maintained in Human Resources [CALEA 11.1.1]:

1. Deputy Chief(s) of Police by seniority in rank
2. Captain(s) by seniority in rank
3. Lieutenant(s) by seniority in rank
4. Sergeant(s) by seniority in rank
5. Corporal by seniority in rank

C. SWORN SUPERVISORY RESPONSIBILITY [CALEA 11.1.1]

1. Supervisory personnel shall be responsible for maintaining the Department's high level of standards and shall be held accountable for the activities and performance of employees under their immediate supervision [CALEA 11.3.2].
2. In order to achieve the basic goals and objectives of the Fayetteville Police Department, each supervisor must effectively direct, coordinate, and control the performance of each employee under his immediate supervision.
3. It shall be the policy of the Fayetteville Police Department to assign supervisory personnel with peripheral assignments at the order of the Chief of Police in addition to their primary responsibility of supervising subordinates so that Department goals and plans are being performed properly according to policies and procedures.

D. NON-SWORN SUPERVISORY RESPONSIBILITY [CALEA 11.1.1]

1. Non-sworn supervisors in the department will follow the same tenets of supervision as sworn supervisors and meet the same standards as set forth in this policy.
2. The following is a list of non-sworn supervisory positions. Job descriptions are maintained in Human Resources:
 - a. Dispatch Manager
 - b. Assistant Dispatch Manager
 - c. Lead Dispatcher
 - d. Support Services Manager
 - e. Records Coordinator
 - f. Property and Evidence Manager
 - g. Information Technology Manager

E. AUTHORITY AND RESPONSIBILITY [CALEA 11.3.1]

1. All personnel shall exercise such authority as is commensurate with their responsibilities to perform the tasks and duties described in their job description [CALEA 11.3.1 a.].
2. All personnel shall be responsible for that authority which is delegated to them and shall be held accountable for the exercising of that authority [CALEA 11.3.1 b.].

F. UNITY OF COMMAND

One supervisor will be responsible for an organizational unit. Personnel will be accountable to one supervisor at any given time. Normally, this will be the immediate supervisor of the employee's organizational unit. [CALEA 11.2.1, 11.2.2]

G. LAWFUL ORDER OF A SUPERVISOR

All employees shall promptly and to the best of their ability carry out any lawful orders directed by a supervisor, including any order relayed from a supervisor by an employee of the same or lesser rank. A "lawful order" is an order which officers or employees should reasonably believe to be in keeping with the performance of their duties [CALEA 12.1.3].

1. Officers or employees shall not obey any order which they know or should know would require them to commit any illegal act.
2. Insubordination shall include conduct directed at a superior officer which is disrespectful, mutinous, insolent, or abusive in nature.
3. Supervisory personnel shall retain a proper reserve and respect in all official relations with subordinates, being careful to abstain from violent or abusive language in giving orders or direction to subordinates.

H. CONFLICTING ORDERS

In the event an employee receives an order which is in conflict with a previous order, rule, regulation, or directive, the employee shall immediately and respectfully inform the supervisor issuing the order of the conflict [CALEA 12.1.3].

1. If the supervisor does not alter or retract the conflicting order, the most recent order shall stand and the responsibility for the conflict shall be placed on the supervisor. The employee shall not be held responsible for disobedience of the order.
2. The employee shall advise his immediate supervisor through departmental correspondence of the situation surrounding the conflicting order and the supervisor shall resolve the situation.
3. The Chief of Police shall be provided a copy of all correspondences concerning the conflicting order and resolution.

I. FUNCTIONAL COMMUNICATION [CALEA 12.1.4]

1. STAFF MEETINGS: The Chief of Police or his designee will conduct a staff meeting as needed:
 - a. Time will be set-aside at the end of the staff meeting for discussing areas of special interest to staff members.
 - b. The staff meeting will include those individuals whose presence is deemed necessary.

2. COOPERATION

- a. The department shall strive to maintain good internal communication and encourage full cooperation among organizational components. To that end, regular meetings are suggested among personnel of separate organizational components to provide an effective network of personnel communication.
- b. Other means of personnel communications are available for use including patrol shift briefings, staff meetings, Labor-Management meetings, e-mail, voice mail, and the exchange of daily bulletins/memorandums.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 12.2.1 Policies, Procedures, & Rules Development & Review Procedures	Effective Date:
Reference:	Version: 1
CALEA: 12.2.1, 12.2.2	No. Pages: 2

I. PURPOSE

The purpose of this directive is to establish procedures for development of new or revised department policies, procedures, and rules. Departmental "General Orders" will also be covered in this policy.

II. POLICY

A. It shall be the policy of the Fayetteville Police Department that its members receive written communications in an orderly manner so that accurate information flows smoothly throughout the organization. For the purpose of clarification:

1. A "Policy, Procedure, & Rule" is a written directive concerning policies, procedures, and rules for department personnel which must be approved by the governing body of the municipality (Arkansas Code Annotated 14-51-302). [CALEA 12.2.1 f., g.]

2. A "General Order" is a written statement defining in more specific terms the procedures for day-to-day operation of the department. General Orders are approved and issued by the Chief of Police as necessary for maintaining an efficient operation. General Orders are intended to greatly benefit an officer by giving more specific details for a particular subject but maintaining the spirit of the more formal Policies, Procedures, & Rules which require approval of City Council. [CALEA 12.2.1 h]

3. The Chief of Police has the authority to issue, modify, or approve policies in order to seek approval by resolution of the City Council and has the authority to issue, modify, or approve general orders. [CALEA 12.2.1 b.]

4. Other officers of the Fayetteville Police Department assigned to Administration have the authority to identify and/or author the necessity for changes or additions to policy and general orders; however, only the Chief of Police or his acting designee have the authority towards issuance. [CALEA 12.2.1 c.]

B. The following method will be used for review of newly proposed or revised policies, procedures and rules.

Comment [rt1]: All underlined language has been added to meet CALEA standards

1. The Chief of Police will assign ranking members of the department to policy review that will include the identification of policy needs, writing new policy, updates, indexing, purging, and revisions. [CALEA 12.2.1 e.]

2. The ranking members assigned to policy review will analyze and research policy needs to ensure policies meet all governing standards, suit the operations of this department, and do not contradict other agency directives or law. [CALEA 12.2.1 i.]

3. The following shall have the opportunity to review new or updated policies, procedures, and rules and provide feedback prior to approval by the City Council.

a. Mayor

b. City Legal Staff

c. All employees of the department

C. Dissemination and Storage of Policies and General Orders [CALEA 12.2.2]

Comment [rt2]: Section added to meet CALEA standard

1. The department's written policies and general orders will be stored in the agency's policy management software system [CALEA 12.2.2 b.):

- a. The agency's policy management software system will be accessible to all personnel.
- b. Hard copies of the entire computer manual will be placed in Administration and in the officers' squad room.
- c. The manual will be kept up to date regarding any changes that are made in policies or general orders.
- d. The dissemination of existing, new, and newly revised directives to all personnel will be accomplished through the agency's policy management software system. [CALEA 12.2.2 a.]
- e. The policy management software system will ensure and log receipt and review of disseminated directives.[CALEA 12.2.2 c]

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 26.1.2 Harassment & Discrimination in the Workplace	Effective Date:
Reference: 26.1.1	Version: 1
CALEA: 26.1.3	No. Pages: 3

I. PURPOSE

The purpose of this policy is to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating and resolving complaints of harassment and discrimination. Federal law provides for protection of classes of persons based on race, color, sex, religion, age, disability and national origin. [Calea 26.1.3]

Comment [rt1]: Areas in yellow high light were amended to reflect changes to the city's policy

II. DISCUSSION

It is the policy of this department that all employees have the right to work in an environment free of harassment or discrimination. This department will not tolerate, condone or allow harassment or discrimination by employees, whether sworn, civilian, or other non-employees who conduct business with this agency. This department considers harassment and discrimination of others a form of serious employee misconduct. Therefore, this department shall take direct and immediate action to remedy all reported instances of harassment and discrimination.

III. POLICY

A. Prohibited Activity

1. No employee will be given or denied any assignment based only upon age, sex, race, religion, politics, physical handicap or sexual orientation unless such action would avoid a direct threat to the safety of the individual or others.
2. No employee shall harass or bully another employee.
3. Employees shall not make offensive or derogatory comments to, or concerning, any person or group of people, either directly or indirectly, based on race, color, sex, religion, age, disability, national origin, or sexual orientation. Such harassment is a prohibited form of discrimination under state and federal employment law and is misconduct subject to disciplinary action by the department.
4. Sexual harassment is prohibited. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

- b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee;
- c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

5. Individuals covered under this policy include department members defined as employees.

B. Management Responsibilities

1. Each supervisor shall be responsible for preventing acts of harassment and discrimination. This responsibility includes:

- a. Monitoring the work environment on a daily basis for signs that harassment or discrimination may be occurring;
- b. Counseling all employees on the types of behavior prohibited, and the department's procedures for reporting and resolving complaints of harassment and discrimination;
- c. Stopping any observed acts that may be considered harassment or discrimination, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision; and
- d. Taking immediate action to prevent retaliation towards the complaining party and to eliminate the hostile work environment where there has been a complaint of harassment or discrimination, pending investigation:
 - If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant.
 - Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.
- e. Failure to carry out these responsibilities will be considered in any evaluation or promotional decision and may be grounds for discipline.

2. Each supervisor has the responsibility to assist any employee of this agency who comes to that supervisor with a complaint of harassment or discrimination in documenting and filing a complaint with the Chief of Police.

3. Each employee is responsible for assisting in the prevention of harassment through refraining from participation in, or encouragement of, actions that could be perceived as harassment or discrimination.

C. Complaint Procedures

1. Any employee encountering harassment or discrimination is encouraged to inform the person that his or her actions are unwelcome and offensive. The employee is encouraged to document all incidents of this nature in order to provide the fullest basis for investigation.

2. Any employee who believes that he or she is being harassed or discriminated against shall report the incident(s) as soon as possible so that steps may be taken to protect the employee, and so that appropriate investigative and disciplinary measures may be initiated. The employee may report a complaint to any supervisor, the Chief of Police or the Human Resources Division.

- a. The person taking the complaint shall promptly report the complaint to the Chief of Police, who will, in turn, notify the Human Resources Division.

3. The City's Human Resources shall be responsible for investigating any complaint alleging harassment or discrimination.

4. There shall be no retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint.

5. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.

6. This policy does not preclude any employee from filing a complaint or grievance with an outside agency.

D. Retaliation

1. Retaliation against any employee for filing harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint, is illegal and is prohibited by this agency and by federal statutes.

2. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same complaint procedures established for harassment and discrimination complaints.

3. Monitoring to ensure that retaliation does not occur is the responsibility of the Chief of Police or any supervisor within the department.

4. Any employee experiencing retaliation for having brought forth a complaint should report it immediately to his/her supervisor, supervisor's supervisor, the Chief of Police or the Human Resources Division.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 41.1.1 Patrol	Effective Date: June 7, 2011
Reference: 41.2.17, 41.3.5, 1.2.2, G.O. #24	Version: 1
CALEA: 41, 81	No. Pages: 6

I. PURPOSE

The purpose of this directive is to state policies relating to the organization, administration, and operations of the patrol component of the Fayetteville Police Department.

Comment [JF1]: Highlighted sections have been added to more fully meet CALEA requirements.

II. POLICY

The patrol function is a primary law enforcement responsibility and embraces much more than the act of patrolling. It is a generalized service in which officers engage in a wide variety of activities to include, but not limited to, enforcing traffic/criminal laws, apprehending criminals, responding to calls for service, crime prevention, accident investigation, conducting preliminary and follow-up investigations, community relations, maintenance of public order, etc. It is the policy that the Fayetteville Police Department shall be available for public service and emergency calls 24 hours a day, each day of the week. [CALEA 41.1.1a]

A. ORGANIZATION AND ADMINISTRATION

1. Patrol Performance

- a. The Chief of Police shall be responsible for reviewing annual patrol performance measures.
- b. These performance measures must be attainable, quantifiable, and measurable.

2. The Chief of Police will be responsible for establishing procedures to ensure positive communication between patrol and other divisions and programs within the department.

3. Officer Assignment

- a. The Chief of Police will be responsible for assigning officers to a shift [CALEA 41.1.1 b].
- b. The assignment will be based on a uniform procedure to ensure impartiality in the decision making process. Supervisors assigned to patrol will make decisions pertaining to any shift scheduling amongst personnel and shall

consider this based on department needs and personnel requests [CALEA 41.1.1 c].

c. Patrol shift supervisors scheduling responsibilities include:

- 1) Beat assignment and beat rotation schedules [CALEA 41.1.1 d,e].
- 2) Ensuring sufficient personnel are available for daily assignment to meet prescribed minimum staffing levels.
- 3) Anticipating pre-planned major events and ensuring availability of personnel required.
- 4) Monitoring and minimizing overtime expenditures.
- 5) Coordinating officers' attendance at training, meetings, court, etc.

d. The shift supervisor(s) will be responsible for field operations.

e. When determining scheduling for patrol officers and first line supervisors, daily workload requirements, maximum coverage and departmental needs take priority over personal preference. [CALEA 41.1.1 f].

4. Roll Call and Briefing

a. Officers shall attend roll call and briefing at the beginning of each shift until released by the shift supervisor. Shift roll call/briefing shall include [CALEA 41.1.2]:

- 1) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations;
- 2) Notifying officers of potential and actual police hazards in the area;
- 3) Notifying officers of changes in schedules and assignments;
- 4) Notifying officers of new or revised policies, procedures, rules and general orders; and
- 5) Evaluating officer readiness to assume patrol (uniform, equipment, vehicle, etc).

5. Response to some calls may require additional officers in order to deal effectively with the incident. The Chief of Police and/or his designee will determine these call types. Examples include, but are not limited to [CALEA 81.2.4 e.]:

- a. An assault/battery on an officer;
- b. On-scene arrest for a felony or violent misdemeanor;
- c. Resistance to arrest;
- d. Use of force;
- e. A crime in progress; or
- f. A fleeing suspect.

Central Dispatch Center shall ensure the dispatch of two officers to these call types and patrol supervisors have the authority to increase/decrease the number of officers responding to any incident. When necessary, officers should request back-up assistance, and when possible, responding officers should coordinate their simultaneous arrival.

6. Certain responses may require the presence of a patrol supervisor at the scene for the purpose of assuming command. Examples include, but are not limited to [CALEA 81.2.4 f.]:

- a. Critical incident requiring scene organization;
- b. Confirmed robbery with ensuing investigation;
- c. Major events or multi-faceted special event;
- d. Officer involved death or serious injury investigation.

7. The Chief of Police shall determine what calls do not require the dispatch of an officer and can be effectively handled by receiving information through an alternative method (telephone, on-line, etc).

8. The Chief of Police shall be notified through the chain of command as soon as possible of the following types of incidents:

- a. Serious injury to police officer.
- b. Accident involving police vehicle where an officer or citizen is injured or major property damage is involved.
- c. Major crimes to include murder, bank/store robbery, prisoner escape, or any heinous crime.
- d. Barricaded/hostage situation.
- e. Disasters or catastrophes.
- f. Serious complaint or incident involving an officer.
- g. Fatality accidents.
- h. Any incident where there may be a question of the department's liability or which may result in a heightened community interest [CALEA 11.4.5].

9. Incidents of a less serious nature shall be reported through the chain of command as directed.

B. OPERATIONS

1. Preliminary and Follow-up Investigations.

Preliminary investigation is a matter of routine for patrol officers. Follow-up investigations may be done at the officer's initiation or supervisor direction. Follow-up investigations on certain crimes may be coordinated and/or conducted by investigative personnel as determined by a supervisor.

2. An emergency mode of operation with emergency lights and siren activated may be used when responding to the following listed emergencies. Officers may exceed the speed limit, proceed with caution through stop signs and red lights, and may disregard other traffic laws when done safely in response to the following listed emergencies [CALEA 41.2.1]:

- a. Authorized pursuits
- b. Aggravated assault in progress
- c. Rape in progress
- d. Armed robbery in progress
- e. Kidnapping in progress

- f. Injury accident
- g. Officer in need of assistance
- h. Any other serious incident or with supervisor authorization

This exemption shall not relieve any officer of an authorized emergency vehicle from the lawful responsibility to drive with due regard for the safety of all persons, nor shall it protect the officer from the consequence of a reckless disregard for the safety of others.

3. In the course of routine patrol and in response to non-emergency calls, officers will operate their vehicles without the use of emergency lights or siren.

4. Officers assigned to patrol must understand, as first responders, they may find themselves on many occasions at scenes where they need to make additional notifications to personnel or agencies with specific expertise and/or authority [CALEA 41.2.4]:

- a. Officers of the Fayetteville Police Department are expected to make logical decisions in this area and fully consider various types of notifications that may need to be made for safety as well as case or investigation preservation and purposes.
- b. In cases of death response/investigation, officers with the assistance of dispatch should notify the shift supervisor, detective supervisory personnel, and the coroner's office.
- c. In incidents where medical treatment is warranted, officers should ensure Emergency Medical Services personnel are notified.
- d. In cases where public utilities have been disturbed, officers should request dispatch assist them in making the proper notifications to public utilities personnel.
- e. In cases involving crimes in other jurisdictions, officers shall be responsible for making prompt notification to the appropriate law enforcement agency. Officers shall also be responsible for applicable reports or documentation.

5. Officers responding to an investigation of missing persons will apply the following protocol:[CALEA 41.2.5] [CALEA 41.2.6 e]:

- a. If the missing person is determined to be a child, elderly (age 65 or older or an Alzheimer's patient) or disabled, the officer shall notify the supervisor and follow the guidelines set forth in appropriate FPD General Orders [CALEA 41.2.5] [CALEA 41.2.6 b].
- b. In cases of missing persons where foul play is suspected, the officer shall report this information to his supervisor who shall make notification to a supervisor of CID [CALEA 41.2.5 f].
- c. In other types of missing person reports, officers will investigate without delay. The responding officer shall gather investigative information and a detailed description of the missing person and initiate the notification process through NCIC/ACIC. Upon locating the missing person, officers will ensure the missing person's status is updated in NCIC/ACIC [CALEA 41.2.5 a, b, c].
- d. Follow up investigation will be conducted by patrol and/or investigative personnel when necessary [CALEA 41.2.5 d, e].

- e. In each missing person report situation, officers and their supervisors will make a determination as to what type of field search effort will be undertaken. Requests for additional resources or coordination with other agencies may be necessary. Factors to be considered in this determination include:

- 1) Length of time that has passed since the disappearance;
- 2) Age and mobility of the missing person;
- 3) Infirmary and/or need for medication;
- 4) Suspicious circumstances to include foul play suspected.

- f. Types of searches that may be used include, but are not limited to [CALEA 41.2.5e]:

- 1) At the time of report, officers should always begin with a search of the missing person's residence and surrounding area. Children in particular may be hiding or have gone unnoticed inside the residence;
- 2) Door to door (foot search making contacts with residents/passers-by);
- 3) Neighborhood canvas (larger scale foot and vehicle search);
- 4) Use of canine.

- g. The supervisor will ensure the following information, if known, is broadcasted:

- 1) Name, race, sex, and date of birth;
- 2) Physical description;
- 3) Clothing description;
- 4) Physical/Mental disabilities;
- 5) Unusual circumstances;
- 6) Vehicle information.

6. Field Interviews/Intelligence Reports - Patrol personnel will document all field interviews/intelligence reports to provide other officers and detectives with information concerning suspicious persons (See FPD 1.2.2).

7. Officer Access to Radio Communications

- a. When possible, all patrol officers shall be equipped with a portable radio and/or a mobile radio unit.
- b. Patrol officers shall give their badge number as their unit number in radio communications.
- c. Patrol officers shall utilize the appropriate 10-code, signals and dispositions in keeping each other, supervisors, and dispatchers informed of locations, the nature or status of a call, and developments in an investigation.

8. Uniforms – Refer to 41.3.5 Grooming and Uniform Requirements.

9. Specialized Assignments - Fayetteville Police Department recognizes the need to staff specialized units which provide a supportive function to the patrol division [CALEA 16.2.3].

- a. An announcement shall be made and posted to all personnel when an opening occurs to a specialized unit.
- b. The announcement will contain requirements and criteria for personnel to be appointed to the specialized unit.
- c. The announcement will describe the selection process to be used for appointment to the specialized unit.
- d. The following are specialized units within the department:

- 1) Detective
- 2) Emergency Response Team
- 3) Crisis Negotiation Team
- 4) Canine Officer
- 5) Bicycle Patrol
- 6) Motorcycle Patrol
- 7) School Resource Officer
- 8) Field Training Officer

9. Canine, motorcycle and bicycle units - The canine, motorcycle and bicycle units provide a specialized, supportive function to patrol units.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 42.1.1 Criminal Investigations	Effective Date:
Reference: 44.1.1, 82.1.1	Version: 1
CALEA: 42	No. Pages: 6

I. PURPOSE

The purpose of this directive is to establish procedures relating to the Fayetteville Police Department's Criminal Investigation function. This policy will provide guidance to both uniformed officers and officers specializing in investigations.

Comment [rt1]: This is a new policy per CALEA standards. Most of the information in this policy had been done in practice but not documented in formal policy.

II. POLICY

A. Administration

1. Fayetteville Police Department will provide and support 24-hour service capabilities for its various criminal investigation functions [CALEA 42.1.1]:

- a. Supervisors assigned to each criminal investigation function of the police department will manage and maintain call-out protocol to include an on-call investigator duty roster.
- b. Prior to assignment to an investigative position, officers must understand the importance and necessity of an on-call function and agree and accept their individual role in this function.

2. Fayetteville Police Department will utilize a computerized case file management system to manage reports and investigations [CALEA 42.1.3 a.], [CALEA 82.1.5]:

- a. Information regarding status of cases will be systematically recorded and updated by employees assigned to the investigative divisions and overseen by investigation supervisors.
- b. Investigators will determine the status of each case [CALEA 42.1.3 b.]:
 1. Open/Active- Indicates a report has been submitted and may be, or has been, assigned for investigation.
 2. Cleared by Arrest- A suspect has been identified and arrested.
 3. Cleared by Exception- The case has been investigated to a satisfactory conclusion.
 4. Inactive- All available leads have been exhausted, but the case has not been brought to a satisfactory conclusion.
 5. Unfounded- Investigation has determined the offense did not occur.
- c. Case files should contain preliminary investigative reports, records of statements, results of examinations of physical evidence, case status reports, and other reports needed for investigative purposes [CALEA 42.1.3 c.].
- d. Case files will be maintained, updated, and primarily accessed by assigned investigators [CALEA 42.1.3 d.].
- e. Case files will only be purged under court order or in compliance with State or Federal guidelines [CALEA 42.1.3 e.].

3. The following guidelines will apply to the intelligence function of the Fayetteville Police Department [CALEA 42.1.6]:

- a. The intelligence function of the Fayetteville Police Department will be maintained by the Criminal Investigation Division (CID). The administration of the intelligence function will be overseen by the lieutenant assigned to CID [CALEA 42.1.6 a.].
- b. The Fayetteville Police Department expects and requires that all levels of agency personnel value information that may be categorized as intelligence and report such information according to the requirements of this policy. All levels of sworn officers are required to report on intelligence matters to the CID. Non-sworn personnel may seek the assistance of sworn officers to collect and report information, or depending on the circumstances of the reporting person, non-sworn personnel of the police department may collect the information and report it to the CID [CALEA 42.1.6 b.].
- c. Training for sworn personnel on the identification, reporting, and dissemination of intelligence will be accomplished during the Field Training Officer Program [CALEA 42.1.6 c.].
- d. The CID lieutenant is responsible for the analysis, security, storage, and dissemination of intelligence information. The CID lieutenant will safeguard the integrity of all intelligence files, ensure that legal requirements are being followed, and ensure the security of these files. Intelligence files will be maintained separately from other agency records to prevent compromise of the integrity of the file system [CALEA 42.1.6 d.].
- e. The CID lieutenant will ensure that intelligence information will be limited to criminal conduct and activities presenting a threat to the community [CALEA 42.1.6 e.].
- f. Legal and privacy requirements of the intelligence function will be maintained by the CID lieutenant [CALEA 42.1.6 f.].
- g. The CID lieutenant will ensure that vital intelligence information is acted upon and successfully disseminated or transferred to corresponding components within the police department and to outside agencies and components where that information is practical, vital, as well as legally required [CALEA 42.1.6 g.].
- h. Intelligence information believed to be out of date or incorrect will be purged under the authority of the CID lieutenant [CALEA 42.1.6 h.].
- i. An annual review of procedures and processes of the intelligence function will be overseen by the CID lieutenant [CALEA 42.1.6 i.].

B. Operations

1. Officers in every assignment of the department shall value the importance of each investigation. The following steps will be considered in the preliminary investigation and documented when applicable [CALEA 42.2.1]:

- a. Securing the scene;
- b. Providing aid, to the extent possible, to the injured;
- c. Maintaining and protecting the crime scene and arranging for the collection of evidence [CALEA 42.2.1 c.];
- d. Observing all conditions, events, and remarks [CALEA 42.2.1 a.];
- e. Locating and/or identifying witnesses and suspects [CALEA 42.2.1 b.];
- f. Interviewing and obtaining statements from complainants, witnesses, and suspects [CALEA 42.2.1 d.];
- g. Determining whether an offense has been committed and the exact nature of the offense;
- h. Effecting an arrest at the scene or through immediate pursuit of the suspect;

- i. Furnishing other units with descriptions, method, direction of flight, and other relevant information;
- j. Accurately recording all pertinent information using prescribed reporting methods.

2. The following steps will be considered when conducting follow-up investigations and will be completed when applicable [CALEA 42.2.2]:

- a. Reviewing and analyzing all previous reports prepared in the preliminary phase, departmental records, and results from laboratory examinations [CALEA 42.2.2 a.];
- b. Conducting additional interviews and interrogations [CALEA 42.2.2 b.];
- c. Seeking additional information from uniformed officers and informants [CALEA 42.2.2 c.];
- d. Planning, organizing, conducting searches, and collecting, preserving, analyzing, and evaluating evidence [CALEA 42.2.2 d.];
- e. Identifying and apprehending suspects [CALEA 42.2.2 e.];
- f. Determining suspect involvement in other crimes [CALEA 42.2.2 f.];
- g. Determining in detail the exact circumstances of the offense;
- h. Checking suspects' criminal histories [CALEA 42.2.2 g.];
- i. Recovering stolen property;
- j. Maintaining contact with case principals [CALEA 55.2.4];
- k. Reporting information obtained in investigations in accordance with departmental reporting methods;
- l. Preparing cases for court presentation [CALEA 42.2.2 h.].

3. Officers of the Fayetteville Police Department must understand that persons must be afforded certain constitutional rights in respect to interrogation and access to counsel [CALEA 1.2.3 b, c]:

- a. Interrogation refers not only to express questioning, but also to any words or actions on the part of the police, other than those normally associated with arrest and custody, that the police should know are reasonably likely to elicit an incriminating response from a suspect.
- b. When questioning a person in custody, officers shall provide the person with Miranda Rights. (For juveniles, see FPD 44.1.1.)
- c. Upon a person invoking their right to counsel, officers shall cease any line of questioning relating to an alleged criminal offense. Once a person has invoked their right to counsel, an interrogation may precede only in the following two scenarios: the interrogation is conducted in the presence of an attorney, or the person that has invoked his rights makes a self-initiated declaration to the officer that he wants to initiate further communications, exchanges, or conversations with the police. Prior to any discussion pertaining to an alleged criminal offense when a person makes a self-initiated declaration after having invoked his rights to counsel, the officer should discuss clearly and openly with the person that he invoked his rights to an attorney, is under no obligation to answer questions, and is entering discussion with the officer at his or her own prerogative and direction.

4. For each long-term multi-jurisdictional investigative task force of which the department is a participant, the department will ensure it maintains a directive that includes the following criteria [CALEA 42.2.5]:

- a. a written purpose [CALEA 42.2.5 a.];
- b. defining authority, responsibilities, and written agreements [CALEA 42.2.5 b.];
- c. evaluating results and the need for continued operations [CALEA 42.2.5 c.].

5. The following rules shall apply to the department's use of technical aids for the detection of deception [CALEA 42.2.6]:

- a. The Chief of Police may choose from a variety of devices used for the detection of deception;
- b. Use of these devices will be restricted to trained personnel that have graduated from the accepted training institutions and have demonstrated sound fundamentals in the use of equipment;
- c. Testing of juveniles requires both the consent of the juvenile and the juvenile's parent or legal guardian.

6. The department will retain directives in its Criminal Investigation Division governing confidential informants to include [CALEA 42.2.7]:

- a. Inclusion of informants in a master file [CALEA 42.2.7 a.];
- b. Content of the informant file, to include biographical and background information, criminal history record, if any, and code name or number of each informant [CALEA 42.2.7 b.];
- c. Maintenance and security of informant file and related codes [CALEA 42.2.7 c.];
- d. Other methods to protect the identity of informants [CALEA 42.2.7 d.];
- e. Criteria for paying informants, if applicable [CALEA 42.2.7 e.];
- f. Precautions to be taken with informants, generally [CALEA 42.2.7 f.]; and
- g. Special precautions to be taken with juvenile informants [CALEA 42.2.7 g.].

7. The following procedures shall apply to uniform and non-uniformed personnel utilizing designated interview and interrogation rooms [CALEA 42.2.10]:

- a. In the presence of persons being interviewed, officers shall not enter the interview room with their firearms but may retain possession of other non-lethal weapons. Firearms shall be locked in departmental provided lock boxes [CALEA 42.2.10 a.].
- b. Detainees and arrested persons should be searched prior to being placed in an interview room. The room should be searched prior to and after the person has been in the room. Consideration shall also be given for possession of firearms to persons not under arrest [CALEA 42.2.10 b.].
- c. A detainee is under the immediate officer's care until that time he has verbally or physically relinquished control of the detainee to another officer, either for the purposes of interviews or transport [CALEA 42.2.10 b.].
- d. During interviews, there shall be no more than one suspect and two investigators in the interview room. An exception to this rule is that suspects are afforded legal representation [CALEA 42.2.10 c.].
- e. After hours, officers and detectives should make shift supervisors assigned to the station aware of interviews taking place [CALEA 42.2.10 d.].
- f. Supervisors assigned to CID are responsible for maintaining minimal furnishings in the interview room and should see that the rooms remain uncluttered. All officers/detectives conducting interviews are responsible for inspection of the interview rooms and removal of hazardous items prior to interviews [CALEA 42.2.10 e.].
- g. Officers/detectives conducting interviews and interrogations should ensure that persons are afforded adequate access to restrooms, water, and breaks [CALEA 42.2.10 f.].

8. Eyewitness identification is a frequently used investigative tool. The following is to establish procedures for the eyewitness identification of suspects through the use of photographic line-ups. This department does not utilize physical line-ups. A witness' degree of attention and their

opportunity to view the criminal during the crime, the accuracy of a witness' prior description of the suspect and their overall confidence regarding witness statement and conduct, and the length of time between the crime and subsequent identification should be considered relevant observations in considering a line-up [CALEA 42.2.11]:

- a. Photograph line-ups will consist of a minimum of six individual photographs (six is recommended). Only one member of the photographic line-up will be a suspect in the case. Each member of a photographic line-up should resemble the witness's description of the suspect's significant features, such as: age, race, facial features, weight, build, and any unique or unusual features. If possible, the photograph should be recent and resemble the suspect's appearance at the time the offense was committed. Photographic line-ups should be compiled using the same quality of photo, i.e. all black and white or all color, and not a mixture [CALEA 42.2.11 a.].
 - b. If possible, photographic line-ups should be video and/or audio recorded [CALEA 42.2.11 b.].
 - c. If the same photographic line-up is to be presented to multiple witnesses, then those witnesses should be separated before and during the administration of the identification process [CALEA 42.2.11 c.].
 - d. Before a photographic line-up identification procedure begins, the witness should be informed that the offender may or may not be among the photographs shown. Also, before a photographic line-up identification procedure begins, the witness should be informed that they may take as much time as needed to review the line-up, and they are not required to make identification [CALEA 42.2.11 d.]. The officer presenting the line-up will be alert to the level of confidence expressed by the witness [CALEA 42.2.11 e.].
 - e. The officer presenting the line-up is prohibited from indicating in any way the identity of the suspect. The witness should understand that their contribution is important whether they can identify the suspect or not and that the investigation will continue [CALEA 42.2.11 f.].
 - f. All line-ups will be documented (along with the results) in a supplemental report added to the original investigative case file [CALEA 42.2.11 g.].
9. Eyewitness identification is a frequently used investigative tool. The following is to establish procedures for the eyewitness identification of suspects through the use of show-ups or field identifications. Because of the inherent suggestiveness of these types of identifications, they should be avoided if possible. However, circumstances are not always conducive to preferable identification techniques and sometimes necessitate the use of these types of identifications. When these show-ups or field identifications are utilized, or considered for use, the following conditions should be considered: the witness' degree of attention and their opportunity to view the criminal during the crime, the amount of time that the suspect was detained and brought before the witness and the length of time since the incidents passing is reasonable, a photographic line-up is impractical, the accuracy of the witness' prior description of the suspect, and there is an immediate need to arrest the suspect [CALEA 42.2.12 a.]:
- a. If possible, show-up / field identification line-ups should be video and/or audio recorded.
 - b. The witness should be transported to the suspect's location in a police vehicle [CALEA 42.2.12 b.].

- c. If there are multiple witnesses, only one should participate in the show-up / field identification. If a positive identification is made, the other witnesses should be shown a photographic line-up [CALEA 42.2.12 c.].
- d. Before a show-up / field identification viewing, the witness should be advised the subject being viewed may not be the offender, and they are not required to make identification [CALEA 42.2.12 d.].
- e. The officer presenting the line-up will be alert to both: the level of confidence expressed by the witness, and the level of certainty demonstrated by the witness at the identification. This information should be documented in the officer's report [CALEA 42.2.12 e.].
- f. The officer presenting the show-up / field identification is prohibited from indicating in any way, the identity of the suspect. The witness should understand that their contribution is important whether they can identify the suspect or not and that the investigation will continue [CALEA 42.2.12 f.].
- g. All show-ups / field identifications will be documented (along with the results) in an officer's report and included in the investigative case file [CALEA 42.2.12 g.].

POLICIES, PROCEDURES, AND RULES

Subject: 41.2.11 Use of Department Vehicles	Effective Date:
Reference: 41.2.8, 41.2.13	Version: 1
CALEA: 41.3.1, 41.3.2, 53.1.1	No. Pages: 4

I. Purpose

The purpose of this policy is to establish guidelines for the use and operation of vehicles owned, leased or operated by the Fayetteville Police Department.

II. Policy

Officers and employees of this department shall operate department vehicles in a legal, safe and courteous manner. Employees shall not abuse or misuse department vehicles and equipment. Employees are responsible for the care and maintenance of vehicles in their control. Employees shall make proper use of vehicle safety equipment while operating department owned or authorized vehicles.

III. Procedures

A. Vehicle Safety Inspection - Patrol vehicles shall be inspected on a daily basis by the officer assigned to the vehicle. [CALEA 53.1.1]

1. Deficiencies shall be noted and brought to the attention of a supervisor to make a determination as to whether the vehicle should be removed from service until repaired. Repair requests will be completed on vehicle maintenance requests.
2. Equipment required for patrol vehicles will be replenished or repaired upon inspection or as needed.
3. The inspection will be documented on officers' daily activity reports.

B. Vehicle Equipment

1. Patrol vehicles will be conspicuously marked and outfitted with the following specifications: [CALEA 41.3.1]
 - a. Exterior mounted operational emergency lights
 - b. Siren
 - c. Agency's name in reflective materials
 - d. Unit number
 - e. Reflective striping on sides

2. Equipment required for patrol vehicles will be replenished or repaired or as needed. The department will assign a primary and secondary supervisor to monitor equipment needs and deficiencies through the use of inspections and the daily vehicle inspection process. Equipment for vehicles to maintain operational readiness includes but is not limited to [CALEA 41.3.2]:

- a. Fire extinguisher
- b. Tire deflation device
- c. Spare tire/jack
- d. 50 ft. measuring tape and rolling tape measure
- e. Blanket
- f. Crime scene tape
- g. Paper towels and bags
- h. Personal protective equipment – gloves, masks, shoe covers, tyvex suit
- i. Radar unit and tuning forks
- j. Digital camera
- k. VL removal tool
- l. Prisoner leg straps/belly chain

C. Take Home Units- Officers will be assigned either a marked or unmarked vehicle for use according to the responsibilities of the officer's position and the needs of the department (i.e. canine units, drug task force officers, etc).

1. To serve as a crime deterrent, take home units that are marked will be parked in the officer's driveway or an openly prominent location at the officer's residence.
2. The assignment of a take home unit is a privilege, not a right, and can be revoked at any time. Assignment of a take home unit is determined by the Chief of Police.
3. No alcoholic beverages are to be consumed or carried in take home units, nor are they to be driven after the officer has been consuming alcoholic beverages.
4. While off duty, officers will not take law enforcement action to address a minor violation. The off duty officer in a marked unit should be prepared to assist in traffic control on motor vehicle collisions until assigned officers arrive.
 - a. While off duty,
 - b. Officers in take home units must carry their credentials and service weapon.
 - c. While off duty, officers in take home units will dress in such a manner as to not discredit the department should they have to perform in a professional capacity.
5. Use of take home vehicles is limited to commuting to and from work, court, training, and other approved functions or other de minimis use.
6. Take home vehicles can be driven to department approved extra jobs requiring the performance of law enforcement duties.
 - a. Assigned vehicles will not be used to patrol private property. The vehicle will be parked at a suitable location while security/protective services are being performed.

D. Command vehicles are assigned to positions of command responsibility critical to the operational efficiency of the police department as designated by the Chief of Police. Any member having a command assignment must be able to communicate with the department at all times and is subject to immediate response when needed. Use of command vehicles is determined by the Chief of Police.

E. Special Purpose Vehicles [CALEA 41.1.3]

1. Motorcycles, bicycles, the ERT Transport Vehicle, and any other non-conventional vehicles shall be considered special-purpose vehicles of the Fayetteville Police Department and shall be treated accordingly.
2. The above mentioned special-purpose vehicles shall only be operated by authorized and assigned personnel that have completed or are undergoing required training as determined by the Fayetteville Police Department. In the event of a life threatening situation, sworn personnel not typically authorized may make use of a special-purpose vehicle.
3. The supervisor assigned over the unit of primary use of each special-purpose vehicle shall be responsible for required maintenance and for the determination and upkeep of required equipment to be kept in or on the vehicle.

F. Vehicle Operation

1. Employees shall operate department vehicles in a careful and prudent manner. Unsafe, negligent or reckless driving is prohibited. Traffic laws and department policies shall be followed unless emergency circumstances warrant otherwise.
2. Department vehicles will be kept clean and serviceable at all times (i.e. washed, vacuumed, fueled, etc).
3. Seatbelt usage – refer to 41.2.13
4. When parked and/or unattended, department vehicles, when practical, shall be properly secured by:
 - a. Locking the doors
 - b. Ensuring the windows are up
 - c. Ensuring any firearm in the vehicle is locked/secured
5. Due to the nature of law enforcement work, officers are allowed to eat and/or drink in department vehicles; however, the vehicles must be kept clean of debris and trash by the end of the shift.
6. Passengers will generally be limited to police officers, city employees or other governmental officials. However, limited transportation of others is permissible, such as the transportation of an immediate family member to school or work or other incidental transportation needs. Exceptions to this rule include detainees, persons needing assistance, persons authorized in a ride along, persons assisting the officer or other persons with approval of a supervisor.
7. Authorization and protocol for citizen ride along program are as follows:
 - a. An “Indemnify, Defend and Hold Harmless” agreement must be signed by the citizen wishing to participate in a ride along.
 - b. The citizen shall only be permitted to ride with personnel approved by a supervisor.

- c. The citizen shall follow the directives of the patrol officer to whom they may be assigned.
 - d. The citizen shall remain in the patrol unit unless the officer directs the citizen that it is safe to exit the unit. The citizen shall not exit the vehicle on any "high risk" calls to which they may be assigned. This includes family violence calls unless no elements of risk are present nor are expected and only a reporting procedure is necessary.
 - e. Under no circumstances will a citizen be present in a patrol vehicle involved in any aspect of a pursuit.
8. Employees are prohibited from taking department vehicles outside the city limits of Fayetteville. Exceptions to this rule include:
- a. Following up on an investigation, with supervisor approval
 - b. Police pursuit (Further reference can be made to 41.2.8, Pursuit policy)
 - c. Completing an assignment, with supervisor approval
 - d. Picking up supplies
 - e. Going to court
 - f. Take home units authorized by the Chief of Police
 - g. Attending meetings, training, etc.

POLICIES, PROCEDURES, AND RULES

Subject: 44.1.1 Juvenile Operations	Effective Date:
Reference: 44.2.4	Version: 1
CALEA: 44	No. Pages: 3

I. PURPOSE

The purpose of this directive is to establish policies concerning the department's juvenile programs and the processing of juvenile offenders and victims [CALEA 44.1.1].

Comment: This is a new policy to meet C.A.L.E.A. standards. Many of these functions were done in practice but never documented in formal policy.

II. POLICY

A. ORGANIZATION AND ADMINISTRATION - The Fayetteville Police Department is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency and victimization.

1. The Fayetteville Police Department shall maintain an investigative division with specializations associated with juvenile matters, this division will fall under the command of the Criminal Investigation Division (CID).
2. The responsibility of juvenile operations and delinquency prevention efforts is to be shared by all agency personnel and not just limited to the responsibility of CID. In particular, all patrol officers should familiarize themselves in proper handling of juvenile problems, both criminal and non-criminal.
3. The Fayetteville Police Department will strive to maintain a working relationship with other elements of the juvenile justice system, namely the Washington County Juvenile Court and the Washington County Prosecutor's Office.
4. An additional resource regarding Juvenile Operations is the School Resource Officer Division (reference can be made to FPD 44.2.4).

B. OPERATIONS

1. Encountering Abuse and Neglect:

- a. Any time an officer encounters a juvenile who has been exposed to neglect or abuse, the officer shall report the neglect and or abuse to the DHS Hot Line. Contacting the local DHS office or a local DHS employee does not fulfill the obligation of reporting to the hot line.

2. Taking Juvenile Into Custody - A juvenile may be taken into custody without a warrant:
 - a. Pursuant to an order of the court under Arkansas Code § 9-27-301 (Act 273 of 1989); or
 - b. By a law enforcement officer without a warrant under circumstances as set forth in Arkansas Rules of Criminal Procedure 4.1 (also see Policy 1.2.1); or
 - c. By a law enforcement officer or by a duly authorized representative of the Department of Human Services (DHS) if there are clear, reasonable grounds to conclude that the juvenile is in immediate danger and that removal is necessary to prevent serious harm from his surroundings or from illness or injury and if parents, guardians, or others with authority to act are unavailable or have not taken action necessary to protect the juvenile from the danger and there is not time to petition for and obtain an order of the court prior to taking the juvenile into custody [CALEA 44.2.2 b.].
 - d. When determining to take a child into protective custody, officers will follow the legal guidelines of Arkansas law. When necessary, officers may seek guidance from a supervisor [CALEA 44.2.2 b.].
3. Alternatives to Arrests of Juveniles for Delinquent Acts - Officers making contact with a juvenile who has committed a delinquent act which does not involve a victim, (such as loitering, etc.) or an act whose victim does not wish to press charges may use alternatives to arrest [CALEA 44.2.1 a.] [CALEA 44.2.2 a.].
 - a. Alternatives to arrest include: verbal warning, referral to a School Resource Officer or other juvenile services office, conference with the juvenile's parent(s) or guardian, or report and referral to Washington County Prosecutor's Office Juvenile Division [CALEA 42.2.1 c.].
 - b. If alternatives to arrest are employed, it is not necessary to contact any officials with the juvenile court system.
4. Taking a Juvenile into Custody - With or Without a Warrant
 - a. No juvenile shall be incarcerated in the Washington County Jail. An exception to this is afforded to prosecutors under state law, when charging juveniles as adults [CALEA 44.2.2 c.].
 - b. The officer should always attempt to make contact with the parent(s) or legal guardian of any juvenile taken into custody and advise them of the situation [CALEA 44.2.2 e].
 - c. When a juvenile is taken into custody the officer should also contact the juvenile intake officer of the Washington County Juvenile Court to discuss terms and conditions of release.
 - d. An alternative to taking a juvenile into custody is release of the juvenile through the use of a uniform traffic ticket/citation or an Arkansas Criminal Citation [CALEA 44.2.1 b.]. If the juvenile is to be released on a traffic violation that would go through Fayetteville District Court, it is not necessary to obtain the authorization of the Washington County Juvenile Court Intake

Officer. However, if the juvenile is to be released on a criminal violation that would go through Washington County Juvenile Court, the intake officer should be contacted.

- e. Traffic Offenses - If a juvenile is taken into custody for a warrant on a traffic offense from another jurisdiction, the jurisdiction which issued the warrant should immediately be contacted to determine conditions for release. If the juvenile cannot be immediately released, the juvenile detention center should be contacted [CALEA 44.2.2 d].

5. Taking a Juvenile into Custody - Protective Reasons

- a. An officer may take into custody any "Dependent-neglected juvenile". "Dependent-neglected juvenile" means any juvenile who as a result of abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness is at substantial risk of serious harm. When determining to take a child into protective custody, officers will follow the legal guidelines of Arkansas law. When necessary, officers may seek guidance from a supervisor [CALEA 44.2.2 b].
- b. Any officer taking a juvenile into custody as a "Dependent-neglected juvenile" should immediately contact the Washington County Department of Human Services and the juvenile intake officer. Custody of the juvenile will then be transferred to the Washington County Department of Human Services.

6. Investigation of Juvenile Offender- Interrogation

- a. Officers of the Fayetteville Police Department must understand that just like adults, juveniles must be afforded certain constitutional rights in respect to Miranda rights. When a juvenile is taken into custody for a delinquent act or criminal offense, a juvenile may invoke his or her right to speak to a parent or guardian in addition to standard Miranda.
- b. During an interview, the juvenile's parent or guardian must be present in the building; the parent or guardian must be aware the juvenile waived his/her rights; the parent or guardian must have had the chance to speak with the juvenile about the waiver and the parent or guardian should sign the waiver before an investigator questions a juvenile in custody.
- c. When questioning a juvenile in custody for a delinquent act or criminal offense, officers shall provide the juvenile his or her rights using the Juvenile Waiver of Right to Counsel form. Officers should refer to Arkansas Statute 9-27-317 that governs Questioning of a Juvenile.
- d. The duration of interviews that officers or detectives conduct will be reasonable in length, taking into consideration the age and psychological state of the juvenile.
- e. Juveniles who are in the custody of the Department of Human Services must be represented by their attorney ad litem before they can be questioned by police.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 61.1 Traffic Enforcement	Effective Date:
Reference: 61.1.11, 61.3	Version: 1
CALEA: 61	No. Pages: 5

I. Purpose

The purpose of this policy is to establish the procedures that enable the Fayetteville Police Department to execute its traffic related responsibilities and services. The department's activities are specifically directed toward reducing violations through preventive patrol and active enforcement, and our standards govern the relationships that exist with motorists, pedestrians, courts, and prosecutors.

Comment [rt1]: This is a new policy to meet CALEA standards. Although most of this information was done in practice, it was never documented in formal directives.

II. Policy

A. Traffic Enforcement

1. The prevailing goal of the Fayetteville Police Department's traffic enforcement efforts shall be the reduction and prevention of traffic collisions. The following measures shall be taken with that goal in mind [CALEA 61.1.1]:

- a. The patrol captain or designee will periodically review and compare traffic collision data [CALEA 61.1.1 a].
- b. The patrol captain or designee will oversee compilation and review of traffic enforcement activities data using the department's traffic records system [CALEA 61.1.1 b].
- c. The patrol captain or designee will compare collision data with that of traffic enforcement activities data with the overall purpose to develop the best implementation of selective traffic enforcement [CALEA 61.1.1 c].
- d. Traffic complaints taken from the public shall also be taken into consideration.
- e. Areas and specific times of the day and week where multiple collisions have occurred or where complaints have been validated shall be identified. Information will be provided by the patrol captain or his designee to the patrol lieutenants who shall oversee selective assignments of enforcement personnel. [CALEA 61.1.1 d] Traffic enforcement personnel may be assigned with the purpose of combating the problem areas identified [CALEA 61.1.1 e].
- f. The patrol captain or his designee will evaluate these areas where selective traffic enforcement assignments were made and identify and document reductions in traffic collisions and traffic complaints [CALEA 61.1.1 f].

2. Officers of the Fayetteville Police Department are required to take appropriate enforcement actions incidental to traffic law violations and should do so in a firm, fair, and impartial manner. Officers have the discretion to address traffic violations by the following courses of action [CALEA 61.1.2]:

- a. physical arrest;
- b. citation;
- c. warning.

3. This policy establishes procedures for officers in their response to violators of specific types of classifications [CALEA 61.1.3]:

- a. It is the policy of Fayetteville Police Department that non-residents of our agency's service area shall be treated with the same respect and dignity as residents [CALEA 61.1.3 a].
- b. It is the policy of Fayetteville Police Department that in the case of traffic violations involving juveniles, juveniles may be warned, ticketed, or arrested if justified. Officers shall follow the protocol set forth in 44.1.1 Juvenile Operations Policy [CALEA 61.1.3 b].
- c. By law, members of the United States Congress and the Arkansas Legislature are immune from arrest during their attendance at the session of their respective houses of the legislature and when going to and returning from these sessions, except in cases of treason, felony, and breach of the peace. Officers should exercise good judgment and discretion when facing traffic violators that fall in this category. [CALEA 61.1.3 c].
- d. Actions that may be taken regarding foreign diplomats, consular officials, and their staff members depend on the person's status. All persons who may have a legitimate claim to some sort of immunity should carry diplomatic identification issued by the U.S. State Department. It is the expectation of the Fayetteville Police Department and this policy that all dealings with such persons shall be handled with courtesy and respect and an awareness of the importance of avoiding an incident that will reflect unfavorably on our city, state, and country. Diplomatic and Consular Privileges differ upon category. If enforcement action is considered justified and required, a traffic citation is the preferred release method. Each category of official may be issued a traffic citation; however, certain categories of officials cannot be arrested or prosecuted due to immunities. Officers and supervisors faced with criminal charges on these officials should contact supervisory personnel of our Criminal Investigation Division for guidance [CALEA 61.1.3 d].
- e. Military personnel may be issued warnings, traffic citations, and may be arrested under the same circumstances as other violators in most cases. In cases where military personnel are legitimately in transport to an active duty station under orders of their commanding officer and when a physical arrest is at stake, officers should consult their supervisor. The supervisor will assist in making an appropriate determination based on a review of the military person's paperwork, communication with commanding officers that may apply, and review of Arkansas State Law 16-81-102 where immunity to arrest may apply [CALEA 61.1.3 e].

4. Officers of the Fayetteville Police Department will utilize electronic ticketing, when possible, at the time motorists are charged with violations. Fayetteville Police support personnel will provide patrol continued support in the operations of electronic ticketing. Officers shall provide the following information to motorists relating to the specific charge [CALEA 61.1.4]:

- a. court appearance date [CALEA 61.1.4 a.];
- b. a determination of optional or mandatory nature of court appearance by the motorist [CALEA 61.1.4 b.];
- c. notice of whether the motorist is allowed to pay the fine by mail or at the police department [CALEA 61.1.4 c.]; and
- d. other pertinent information that must be provided to the motorist prior to release [CALEA 61.1.4 d.].

5. It is the goal of this policy to provide officers with a consistent approach toward traffic law violations [CALEA 61.1.5]:

- a. It is the policy of the Fayetteville Police Department to aggressively enforce situations involving the operation of a vehicle by a driver under the influence of alcohol or drugs. A physical arrest is the preferred method in these situations. Officers will be guided by Fayetteville Police Policy 61.1.11 DWI, DUI [CALEA 61.1.5 a.].
- b. Officers encountering operators driving with a suspended or revoked driver's license based on a previous DWI are encouraged to make a physical arrest. Operators whose license has been suspended for other reasons may be issued a citation, but officers should ensure they don't continue to drive the vehicle [CALEA 61.1.5 b.].
- c. Officers of the Fayetteville Police Department shall be afforded discretion when deciding upon speeding violations. Officers may give consideration to weather conditions, the subject's manner of driving, traffic volume, location of the offense, and any pedestrian location in determining the appropriate course of action [CALEA 61.1.5 c.].
- d. Officers should be attuned to other hazardous violations that can result in motor vehicle collisions, injury, and death. Officers are asked to remain alert and to take appropriate actions with violators [CALEA 61.1.5 d.].
- e. Officers should be attuned to non-hazardous and non-moving violations. In these types of cases, officers are afforded discretion in ensuring violators understand the laws [CALEA 61.1.5 h.].
- f. Officers must also be prepared to deal with off-road vehicle violations. In these situations, officers must weigh potential impacts of the vehicle's actions, city ordinances, and state laws [CALEA 61.1.5 e.].
- g. Officers should be mindful of equipment violations of operators and be willing to take enforcement action. In many of these cases, operators in these situations may be displaying an overt disregard for the law and safety of others [CALEA 61.1.5 f.].
- h. In dealing with commercial vehicle violations, officers should be mindful of state laws regarding commercial drivers' licenses. Officers may utilize the Arkansas State Police, the Arkansas Highway Police, and the Department of Transportation [CALEA 61.1.5 g.].
- i. Officers may encounter violators that have violated multiple laws. This is often the case involving DWI offenses. Officers should be mindful of these different violations and cite or warn accordingly while documenting the various violations [CALEA 61.1.5 i.].
- j. Officers should understand that newly enacted laws and regulations will occur. The department's administration and supervisors will assist in identifying these newly enacted laws and introduce them during shift briefings, via email, and with new policies when necessary. Supervisors should keep an open mind with newly enacted laws and show a willingness to discuss them with their subordinates [CALEA 61.1.5 j.].

- k. Officers are expected to stay informed of current traffic law. Officers shall understand the difference between primary and secondary violations listed in state statutes and will not stop a vehicle based solely on a secondary violation.
- l. Investigating officers will have discretion and make all reasonable attempts to establish fault in motor vehicle collisions and may issue a citation or make a physical arrest when warranted [CALEA 61.1.5 k.].
- m. Officers should be familiar with state laws and city ordinances that govern the movement of pedestrians and bicycles. Officers are afforded the discretion to issue citations when practical and to take opportunities to educate persons when in the best interest of the safety of that person and the public [CALEA 61.1.5 l.].

6. The following will govern traffic law enforcement practices for the Fayetteville Police Department [CALEA 61.1.6]:

- a. Officers assigned to patrol will perform area traffic patrol assignments within their assigned patrol beats (area, line or directed) [CALEA 61.1.6 a.].
- b. Officers are permitted, independently or through orders, to conduct stationary observation of traffic. This can be conducted in either covert or overt fashion [CALEA 61.1.6 b.].
- c. Officers will use standard marked patrol units when making law enforcement traffic stops. Unless exigent circumstances are present, unmarked vehicles shall not be used to make law enforcement traffic stops [CALEA 61.1.6 c.].

7. The majority of violators contacted by police may be ordinary citizens who may form their opinion of the police department based on this one encounter. Officers shall engage in a professional manner in their contacts [CALEA 61.1.8]:

- a. Officers should extend a customary greeting to each person on stops, and officers should identify themselves by name and jurisdiction and explain the reason for the stop.
- b. Officers should afford the person the opportunity to provide their explanation of their driving behavior.
- c. Officers should attempt to politely ask for the person's identification and remain courteous while projecting a professional demeanor during the interview or questioning.
- d. Officers should minimize conflict with the violator while facilitating a professional interaction.

8. Routine enforcement, collision reporting, and investigation activities frequently lead to the discovery of drivers who have suspected incompetence, physical or mental disability, disease, or other conditions that might prevent the person from exercising reasonable care over a motor vehicle. An officer having grounds to believe a driver is incompetent shall forward report documentation with an attached letter to Arkansas Driver Control of the Office of Driver Services [CALEA 61.1.12].

9. Parking enforcement of the Fayetteville Police Department will be carried out in the following categories to include routine patrol, parking complaints, traffic hazards, and special events [CALEA 61.1.13]:

- a. Officers assigned to patrol should use sound judgment and appropriate discretion when encountering parking violations of their own observation ;

- b. Officers responding to a complaint of a parking violation should first investigate to determine the validity of the complaint and take appropriate action (warning, citation, towing, etc);
- c. Officers responding to a complaint where a traffic hazard exists shall attempt to locate the operator to remove it before towing the vehicle;
- d. Officers may often encounter parking violations during special events. Generally, the supervisor in charge of the event will have contingency plans for parking issues in areas of our venues. Officers should report newly found parking issues during the special event.

B. Safety Checkpoints - Roadside safety checks when used will be part of a directed patrol assignment. They are required to be planned and supervised by a ranking officer of this department [CALEA 61.1.6 d.].

1. Checkpoints are an effective means of enforcing the laws of the State of Arkansas while protecting all motorists. Safety Checkpoints will be conducted within the following parameters:
 - a. Each checkpoint must be conducted in a location furnishing adequate visibility for motorists traveling in either direction. When considering the location, the consideration for officer and public safety is paramount.
 - b. A pull-off area safe zone will be established for vehicles traveling both directions.
 - c. Marked units with activated emergency lights will be stationed at each end of the checkpoint area.
 - d. A supervisor of the department will be required to administer the safety check point.
2. Officers assigned to a safety checkpoint will abide by the following rules:
 - a. Officers are required to wear reflective vests.
 - b. Officers are to cautiously approach all vehicles and to be alert to suspicious movements and actions of the occupants.
 - c. Officers will allow the driver and occupants to remain inside their vehicle unless their removal from the vehicle is necessary due to facts leading the officer to reasonably suspect that: a crime has been or is being committed; the person presents some danger to the officer or others; or the person is armed and presently dangerous.
 - d. Officers are instructed to advise the driver of the vehicle, "This is a police safety checkpoint."
 - e. Officers should then check the vehicle operator's driver's license and vehicle registration.
 - f. Officers should take any action deemed necessary or appropriate.
 - g. Officers should close the stop by thanking the vehicle operator for his cooperation and by promptly releasing the vehicle and occupants unless an arrest is made.

Note: It should be noted that in the case of working in conjunction with the Arkansas State Police, the requirements set forth in this policy meet the requirements of the Arkansas State Police.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 61.1.11 DWI, DUI	Effective Date:
Reference:	Version: 1
CALEA: 61.1.11, 61.1.5, 61.1.10	No. Pages: 5

I. Purpose

The purpose of this policy is to provide guidelines to aid in the effective recognition, apprehension and prosecution of persons who are driving under the influence of alcohol or drugs. This policy shall apply to all sworn members of the Fayetteville Police Department. [CALEA- 61.1.11]

Comment [rt1]: This is a new policy to meet CALEA standards. Although the information herein had been done in practice, it was never documented in formal policy.

II. Policy

- A. As part of its efforts to ensure the safety of motorists and pedestrians, the Fayetteville Police Department will aggressively enforce laws pertaining to traffic violations by drivers who operate a motor vehicle while under the influence of alcohol or drugs. This effort will be undertaken in the following manner: [CALEA- 61.1.10]
1. By fielding specially trained and equipped personnel;
 2. By identification of these offenses as a priority enforcement activity; and
 3. Participation in DWI Enforcement effort programs, provided program and funding is available.
 4. The Patrol Captain or designee will assign selective personnel at times and locations where analysis and history show a significant number of violations and collisions involving impaired drivers have occurred.
- B. A physical arrest is the preferred method in all cases where sufficient probable cause exists that an operator of a motor vehicle is DWI or DUI. [CALEA- 61.1.5.a]

III. Procedure [CALEA- 61.1.11]

- A. A police officer's observations are crucial in establishing the requisite probable cause necessary to arrest a motorist for a DWI violation. Police officers must rely on their formal training and experience, placing particular emphasis on those driving actions that give rise to the officer's belief a motorist is driving under the influence. The following basic detection methods should be utilized:
1. Conducting surveillance on a driver suspected of DWI in order to observe his or her behavior;
 2. Initiating a traffic stop after observing a moving or equipment violation;

3. Observing the actions of drivers during accident investigations; and
4. Acting upon the reports of witnesses in regard to erratic or improper vehicle operation.

B. After the decision has been made to stop a motorist suspected of DWI, the officer shall follow departmental procedures for initiating a misdemeanor traffic stop. Certain guidelines and competent evidence must be used to support an arrest, including the following:

1. Fully document all observations related to driver behavior, make sure to note erratic or improper vehicle operation, and utilize MVR anytime available.
2. Note any observations concerning the physical, mental, or emotional condition of the driver, aside from those concerned with vehicle operation, that add to the suspicion of intoxication and/or impairment. (Example: odor of intoxicants, slurred speech, bloodshot eyes, general appearance, etc.)
3. Closely observe driver for signs of impairment of physical or mental functions, as evidenced by poor coordination, equilibrium, or comprehension; or a lack of concentration or confusion. Note if the driver has difficulty following simple instructions, answering questions, or fumbling with wallet or papers.
4. Use of testimony by witnesses who observed the driver's behavior to establish operation and to describe erratic vehicle operation if noted. (Usually related to a traffic accident.)

C. After making contact with a person suspected of DWI, officers are strongly encouraged to conduct field sobriety or performance tests to support their probable cause a person is under the influence of some type of intoxicant or drug. The following tests are certified for use by the National Highway Traffic Safety Administration to determine probable cause indicative of a lack of sobriety:

1. Walk and Turn Test;
2. One-Leg Stand Test; and
3. Horizontal Gaze Nystagmus Test.

Officers are not limited to conducting only these tests. Any other tests, such as alphanumeric tests, finger to nose test, or others that will support probable cause that a person is under the influence may be utilized. Officers should record these tests on MVR whenever available (see G.O. #22).

D. Arkansas' Implied Consent Law, §5-65-202, states that any person who operates a motor vehicle or is in actual physical control of a motor vehicle in this state shall be deemed to have given consent to undergo this chemical test.

E. If after conducting field sobriety tests, an officer has sufficient probable cause to believe a driver has consumed a substance that is impairing his or her ability to operate a motor vehicle, the officer shall arrest the driver following standard arrest procedures. The

officer will request the driver submit to a chemical analysis in accordance with the Implied Consent Law.

F. Upon arrival at the testing facility, the officer shall inform the arrested individual of his or her rights pertaining to the breath test, pursuant to Act 549 of 1983, also known as the Omnibus DWI Act. This statement of rights pertaining to DWI or DUI cites the following:

1. Implied consent statute;
2. Type of chemical analysis to be utilized;
3. Refusal to submit to this chemical test;
4. Right to an additional test by a qualified person; and
5. After taking an additional test, if found not guilty, the Fayetteville Police Department will reimburse the person for the cost of the additional test.

G. Pursuant to Arkansas §5-65-203, which governs the administration of chemical tests, the law enforcement agency that employs the arresting officer shall designate which test shall be administered. The Fayetteville Police Department shall utilize chemical testing in the following order of preference:

1. Breath Test - If the arresting officer believes the offender is solely under the influence of alcohol, a formalized breath test will be conducted. The breath test will be the preferred test utilized by the Fayetteville Police Department.
2. Blood Test – If circumstances make the administration of a breath test impractical or if the arresting officer has reason to believe the offender is under the influence of either a combination of alcohol and drugs or drugs only, a blood test may be utilized. If the officer has reason to believe drugs are involved, he is encouraged to seek the assistance of a certified “Drug Recognition Expert” (DRE).
3. Urine Test – If the arresting officer believes the driver’s impairment is solely from drugs, a DRE should be contacted, and a complete drug recognition examination should be conducted. As a portion of this examination, a urine sample will be collected in accordance with methods set forth by the DRE.

H. A certified officer will conduct the breath test and shall be responsible for completing all pertinent information and logbook requirements in a timely manner.

I. The arresting officer is responsible for the disposition of all evidence collected as a result of the administration of a blood test. The blood vials will be placed in the custody of the Property and Evidence Division in accordance with policy. Blood samples shall be submitted for processing in the following manner:

1. Alcohol Only – Samples will be submitted to the Arkansas Department of Health for analysis. The arresting officer must complete an Arkansas Department of Health submission form to be submitted in addition to the FPD Evidence Submission Form. The chain of custody section on the Department of Health form must be completed.

2. Alcohol and/or Drugs – Samples will be submitted to the Arkansas Crime Laboratory for analysis. The arresting officer must complete a State Crime Lab submission form, in addition to the FPD Evidence Submission Form. Since a chain of custody form is not included with the State Crime Lab submission form, officers shall include the chain of custody information within the narrative of their report.
- J. The Drug Recognition Expert (DRE) who administers the drug recognition evaluation shall be responsible for properly submitting the urine sample to the custody of the Evidence Custodian:
1. The urine sample container shall be sealed with a biohazard label and then heat-sealed in a polyethylene bag before placing it in the refrigerator.
 2. In addition to the FPD Evidence Submission Form, a State Crime Lab submission form shall be completed.
 3. Since no chain of custody form is included with the State Crime Lab submission form, the DRE shall include the chain of custody information within the narrative of his report.
- K. When a driver of a motor vehicle submits to a chemical analysis at the request of a Fayetteville police officer, the driver then has the right to request an additional chemical test. Pursuant to state law, if this request is made, the arresting officer must assist the driver in obtaining the type of test that he or she has requested at the driver's expense. Officers must advise the person being tested that if they take an additional test and are found not guilty, the Fayetteville Police Department will reimburse the person the cost of the additional test.
- L. Arkansas law also states it is unlawful to operate or be in actual physical control of a motor vehicle while intoxicated. Officers should always be prepared to testify as to the level of intoxication observed at the time and not depend solely on the results of the chemical analysis. Arkansas law dictates more stringent legal limits of alcohol concentration for those persons under the age of 21.
- M. The arresting officer shall be responsible for delivering the arrested driver to the Washington County Jail in accordance with policy regarding prisoner handling and transportation. The arresting officer shall ensure that all appropriate intake forms, probable cause affidavits, and citations are completed at the time of booking.
- N. After the offender is arrested and secured, the arresting officer will be responsible for securing the arrested driver's vehicle. The arresting officer shall have the choice of vehicle impoundment, authorized release to a sober third party driver possessing a valid driver's license at the request of the arrested person, or secure and leave at the place of arrest with authorization from the arrested person.
- O. The arresting officer shall submit the following paperwork, per established departmental procedures:
1. Statements of Rights form;
 2. Arkansas Department of Health Breath / Blood Alcohol Report Form; and

3. BAC results.
4. State of Arkansas Department of Finance and Administration – Omnibus DWI Law Official Driver License Receipt and Notice of Suspension/Revocation Form – Yellow Copy

P. The arresting officer shall retain possession of the arrested person's driver's license and submit it along with the completed State of Arkansas Department of Finance and Administration – Omnibus DWI Law Official Driver License Receipt and Notice of Suspension/Revocation Form. After completion, the white copy and yellow copy along with the driver's license will be placed in our Records' mailbox. The two pink pages of this form shall be given to the driver as a receipt for his or her driver's license.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 61.3 Traffic Direction and Control	Effective Date:
Reference: 61.1	Version: 1
CALEA: 61	No. Pages: 3

I. Purpose

The purpose of this policy is to establish the procedures that enable the Fayetteville Police Department to execute its traffic related direction and control responsibilities and services.

Comment [rt1]: This is a new policy to meet CALEA standards. Many of these functions were done in practice but never documented in formal policy.

II. Policy

A. Traffic Direction and Control

1. The following protocol will govern performance of agency activities related to traffic engineering. Goals of this identification and reporting should be directly related to the discovery and remedy of collision and congestion hazards [CALEA 61.3.1]:

- a. Officers of the Fayetteville Police Department that observe what is believed to be a traffic engineering deficiency, or investigate a collision which is caused by a deficiency, should report it to the City of Fayetteville Transportation Division [CALEA 61.3.1 a.].
- b. The Patrol Captain shall include a summary of collision and enforcement data in the annual traffic report which will be provided to the City of Fayetteville Transportation Division [CALEA 61.3.1 b.].
- c. When requested, the department will participate in local and regional transportation system management planning and will provide a department representative to serve on active planning boards. Fayetteville Police will participate in criminal justice planning committees and will provide a department representative to active planning committees [CALEA 61.3.6].

2. The following protocol will pertain to traffic direction and control [CALEA 61.3.2]:

- a. Traffic collisions often leave roadways partially or fully blocked. Officers should perform the following at a collision scene of this variety [CALEA 61.3.2 a.]:
 - (1) Officers should first attempt to protect the collision scene by properly positioning their police vehicles while using adequate emergency lighting.
 - (2) Officers may require and may therefore request additional officers to assist in directing traffic until the roadway can be cleared.
 - (3) Officers at the scene should coordinate their traffic direction to eliminate confusion on the part of motorists.

- (4) In cases of fatal or serious collisions, it may be necessary to completely or partially block the roadway for an extended time. The use of barricades as well as additional officers is authorized for such collisions.
- b. Officers of the Fayetteville Police Department will make use of uniform hand signals and gestures for manual traffic direction when working traffic [CALEA 61.3.2 b.].
- c. Officers may be requested to assist with traffic direction at scenes of critical incidents [CALEA 61.3.2 c.]:
 - (1) Officers, depending on assignment and self-initiated determination, may be asked to divert traffic flow away from the incident, stop traffic from entering, or bring traffic out of the area of the incident.
 - (2) Officers shall ensure motorists/citizens follow instruction and shall ensure they are not allowed to interfere with officials or apparatus. When assisting the fire department, officers shall prevent motorists from driving over fire hoses.
- d. Officers will also be required to assist during periods of adverse road and weather conditions [CALEA 61.3.2 d.].
- e. Traffic light locations may at times need manual operation by officers in times of special events, ballgames, or adverse weather conditions [CALEA 61.3.2 e.].
- f. Officers will at times make use of temporary traffic control devices that may include barricades, traffic cones, and illuminating instruction signs. During special events and ballgames with heavy traffic, these will normally be placed in the form of planned assignments. Temporary traffic control devices can also be requested and placed during serious collisions and for critical incidents that occur on a random basis [CALEA 61.3.2 f.].
- g. Any Fayetteville Police Officer directing traffic, or in the roadway controlling traffic, will be required to wear their department issued reflective vest at all times [CALEA 61.3.2 g.].

3. The following protocol will govern escorts [CALEA 61.3.3]:

- a. Planned escorts will be channeled through the Special Events Division for approval and assignment of personnel. Planned escorts may include ballgame request escorts, protection escorts of dignitaries and public officials, escorts of emergency vehicles, escorts of oversized vehicles, or escorts of hazardous vehicles [CALEA 61.3.3 a.].
- b. Sudden requests for the aforementioned types of requests that were not planned or pre-approved will be channeled through the on-duty supervisor. These requests should be accommodated when at all possible and will depend on staffing levels weighted against circumstances surrounding safety issues and the nature of the assignment [CALEA 61.3.3 a.].
- c. Funeral escorts may be assigned to patrol by dispatch personnel as a routine function.
- d. Escorts of civilian vehicles in medical emergencies are not authorized. Officers shall have the option of letting the civilian vehicle proceed to the hospital on its own or call for emergency medical services to respond. In very extreme circumstances, officers may transport injured individuals to the hospital [CALEA 61.3.3 b.].

B. Other Services

1. The following protocol will govern the provision of assistance to individuals or motorists [CALEA 61.4.1]:

- a. Fayetteville Police Officers will provide assistance to stranded motorists in the following capacities [CALEA 61.4.1 a]:
 - (1) Officers performing routine patrol should stop and provide reasonable assistance to stranded motorists.
 - (2) When en-route to a non-emergency call, officers should divert from that call and assist a stranded motorist where there is an appearance of emergency.
- b. Officers should assist stranded motorists by calling for mechanical or towing services [CALEA 61.4.1 b].
- c. Officers should ensure the vehicle is towed and persons are safely moved in cases that involve a hazardous or dangerous location [CALEA 61.4.1 c].
- d. When necessary, officers will request the fire department or ambulance service through dispatch and provide assistance to the extent possible [CALEA 61.4.1 d].

2. Roadway hazards are contributing factors in many traffic collisions. The following will provide protocol for taking action to correct hazardous highway and road conditions [CALEA 61.4.2]:

- a. Officers who locate or are dispatched to debris on the roadway or roadside that is easily removable by one person are encouraged to utilize their emergency lighting and position their vehicle for safety purposes as they remove the debris from the roadway.
- b. For dealing with debris or animals that are larger or more problematic, officers should utilize dispatch to notify the appropriate city service to remove it. For debris on highways with faster moving traffic where there is a likelihood of a collision, the police department will make every attempt to provide traffic control until such time the debris can be removed.
- c. Officers locating or being dispatched to defects in the roadway, highway safety equipment, signs, or damaged mechanical traffic control devices should report to dispatch in order to make proper and immediate notification.

3. The Fayetteville Police Department will utilize the department's website, social networking sites and various media outlets for dissemination of traffic safety information to the public. The Department's Community Oriented Policing Division will be in charge of this service [CALEA 61.4.4].

City Council Agenda Items
and
Contracts, Leases or Agreements

5/1/2012

City Council Meeting Date
Agenda Items Only

David Jurgens

Submitted By

Utility Division

Division

Utility Division

Department

Action Required:

A resolution to award a contract in the amount of \$1,575,497.00 to Goodwin & Goodwin(bid 12-25) for the relocation of existing water and sewer lines on Garland Ave. from North to Janice Street. Also, to approve a project contingency of 5% (\$78,775) and to approve a budget adjustment. AHTD will reimburse the City \$101,990.00 upon completion of the project.

\$101,990 Federal Grants-Capital
\$815,529.00 Cont Srv & Contingency

\$736,753.00 Contract Services

Cost of this request

5400.0940.4309.00

5400.5640.5315.00 520800

5400.5740.5315.00 581800

Account Number

06035.2250

Project Number

\$ 1,887,505.00

Category / Project Budget

\$ -

\$ -

\$ 132,281.00

Funds Used to Date

\$ -

\$ -

\$ 1,755,224.00

Remaining Balance

Garland Ave. W/S relocations

Program Category / Project Name

Garland Ave. W & S

Program / Project Category Name

W & S Revenue bonds

Fund Name

Budgeted Item ☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Services Director

Date

Received in City
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Water/Sewer Committee

Date: April 13, 2012

Subject: Hwy. 112 (Garland Ave.) Water and Sewer Relocation Construction Contract- Goodwin & Goodwin

RECOMMENDATION

City Administration recommends awarding a contract to Goodwin & Goodwin, Inc., for \$1,575,497 for construction of water and sewer improvements on Garland Avenue from North Street to Janice Street, approving of a 5% project contingency for \$78,775, and approving the attached Budget Adjustment.

BACKGROUND

Relocation of existing water and sewer lines is required in preparation for the combined Arkansas Highway Department (AHTD) and City widening of Hwy. 112 (Garland Ave.) from North Street to Janice Street. The majority of the existing water and sewer lines in this section of roadway are located within the AHTD right of way (ROW), so the City will bear the majority of the expense to relocate these lines.

DISCUSSION

On April 11, 2012, the City received five construction bids shown below. Per the previously approved agreement, the AHTD will reimburse the City for 6.47% of the total project cost, \$101,990, and the City to pay the remaining 93.53%, or \$1,473,507. In general, the AHTD pays for relocating lines currently existing outside the existing ROW, and the City pays for lines that are currently inside the ROW and any increases in capacity. In this arrangement, the City designs, awards, and supervises construction of the utility relocation project, and will submit monthly requests for reimbursement from the AHTD.

Contractor	Bid
Goodwin & Goodwin	\$ 1,575,497.00
Fochtman	\$ 1,682,997.50
Redford	\$ 1,743,820.00
T-G Excavating	\$ 1,811,111.00
B R McGinty	\$1,675,153,616.45
Engineer's Estimate	\$ 1,588,807.00

BUDGET IMPACT

This project is funded from several sources, including water and sewer revenue bonds, water and sewer funds, and possibly transportation bond funds. The budget adjustment moves funds as appropriate to reflect the various funding sources.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT FOR RELOCATION OF WATER AND SEWER MAINS ALONG GARLAND AVENUE WITH THE LOW BIDDER, GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$1,575,497.00 WITH A PROJECT CONTINGENCY OF \$78,775.00 AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00, approves a budget adjustment and authorizes Mayor Jordan to sign this attached contract.

PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

Vendor #: 293 Vendor Name: Goodwin & Goodwin

Address: 3503 Free Ferry Rd.

City: Fort Smith State: AR

Requester: Matt Casey

Requisition No.: Date: 4/12/2012

P.O Number: Expected Delivery Date:

Mail Yes: XX No: No: XX

Taxable Yes: No: Quotes Attached Yes: No: XX

Division Head Approval:

Extension: 429

Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1 Contract Services	1		101,990.00	\$101,990.00	5400.5600.5315-00	06035.2250		
2 This is a grant				\$0.00	5808.00			
3				\$0.00				
4 Contract Services	1		736,754.00	\$736,754.00	5400.5640.5345-00	06035.2250		
5 Contract Services	1		736,753.00	\$736,753.00	5400.5740.5345-00	06035.2250		
6				\$0.00	5815.00			
7				\$0.00				
8				\$0.00				
9				\$0.00				
10				\$0.00				
* Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$1,575,497.00

Tax: \$1,575,497.00

Total: \$1,575,497.00

Approvals:

Mayor:

Department Director:

Budget Manager:

Utilities Manager:

Finance & Internal Services Director:

Dispatch Manager:

Purchasing Manager:

IT Manager:

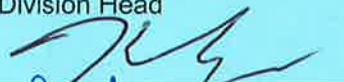
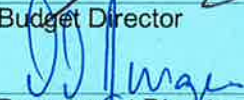
Other:

D. 3 V11.0310
Bid #12-25 Goodwin & Goodwin
Page 5 of 34

Budget Year	Division: Utilities Director	Request Date	Page 5 of 34 Adjustment Number
2012	Department: Utilities Director	4/12/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

Contract for Garland Avenue Water & Sewer Improvements will be awarded to Goodwin & Goodwin with a bid of \$1,575,497.00
AHTD will reimburse the City \$101,990.00 upon completion of the project.

Division Head		Date	4/13/2012
Budget Director		Date	13 Apr 12
Department Director	Paul A. Bach	Date	4-16-2012
Finance Director		Date	4-16-12
Chief of Staff		Date	4/12/12
Mayor		Date	

Prepared By:	
Reference:	
Budget & Research Use Only	
Type:	A B C D E P
General Ledger Date	
Posted to General Ledger	
Checked / Verified	

[illegible]

DOCUMENT 00500 – AGREEMENT

BETWEEN OWNER AND CONTRACTOR

Contract Name/Title: Garland Ave. Water and Sewer Improvement Project
Job 040489 (Utilities) STP-9142(22)
Hwy. 112 Spur – North Route 112 Section 1
Washington County

Contract No.: _____

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2012 by and between The City of Fayetteville, Arkansas and _____. (hereinafter called Contractor).

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The work under this Contract includes, but is not limited to:

The construction of water and sewer main relocations for the widening of Garland Avenue (Highway 112) from North Street to Janice Avenue including approximately 5400 feet of water main from 2" to 24" in diameter, approximately 3020 feet of 8" sewer main, highway bores, fire hydrants, fittings, manholes and related facilities.

The Contract includes work in AHTD Right-of-way, City of Fayetteville Right-of-way and in General Utility Easements.

Refer to Section 00400-Bid Form for quantities:

ARTICLE 2 - ENGINEER

2.01 The Contract Documents have been prepared by the City of Fayetteville Engineering Division. City of Fayetteville Engineering Division assumes all duties and responsibilities, and has the rights and authority assigned to City of Fayetteville Engineering Division in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:

- A. The Work will be Substantially Completed within **180** calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within **210** calendar days after the date when the Contract Times commence to run.

3.03 LIQUIDATED DAMAGES:

- A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially 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 Fifty Dollars (\$750.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville Seven

DOCUMENT 00500 – AGREEMENT (continued)

Hundred Fifty Dollars (\$750.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal (BID FORM) which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.
- 4.02 As provided in the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the General Conditions.
- 4.03 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.

ARTICLE 5 - PAYMENT PROCEDURES

- 5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:
- A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.
- 5.02 PROGRESS PAYMENTS, RETAINAGE:
- A. The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price

DOCUMENT 00500 – AGREEMENT (continued)

Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.
 - a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and
 - b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.
2. Upon Substantial Completion, The City of Fayetteville shall pay an amount sufficient to increase total payments to Contractor to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Contractor has carefully studied all:
 - (1) Reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) Reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated

DOCUMENT 00500 – AGREEMENT (continued)

in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.

- E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.

DOCUMENT 00500 – AGREEMENT (continued)

- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:
1. This Agreement.
 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. Contractor's Bid.
 - c. Documentation submitted by Contractor prior to Notice of Award.
 3. Performance, Payment, and other Bonds.
 4. General Conditions.
 5. Supplementary Conditions.
 6. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
 7. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title: Garland Ave. Water and Sewer Improvement Project
 8. Addenda numbers one (1) to ____ (____), inclusive.

DOCUMENT 00500 – AGREEMENT (continued)

9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

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

8.03 SUCCESSORS AND ASSIGNS:

- A. The City of Fayetteville and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

8.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon The City of Fayetteville and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 FREEDOM OF INFORMATION ACT:

- A. 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.

8.06 LIENS:

- A. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§18-44-501 through 508) prohibits the filing of any mechanics' of materialmen's liens in relation to this public construction project. Arkansas law requires and the contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment or labor or material on the bond. The contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor and Engineer. Two

DOCUMENT 00500 – AGREEMENT (continued)

counterparts each has been delivered to The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor or identified by Engineer on their behalf.

This Agreement will be effective on _____, 20__, which is the Effective Date of the Agreement.

CONTRACTOR _____ CITY OF FAYETTEVILLE _____

By: _____ By: _____

Title: _____ Title: _____

(SEAL)

(SEAL)

Attest _____ Attest _____

Address for giving notices

Address for giving notices

DOCUMENT 00500 – AGREEMENT (continued)

_____	_____
_____	_____
License No. _____	(attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement)
Agent for Service of process _____	

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

Approved As to Form:

By: _____

Attorney For: _____

END OF DOCUMENT 00500

GARLAND AVE. WATER & SEWER IMPROVEMENTS - BID TAB - APRIL 11, 2012

Item No.	Item Description	Unit	Quantity	Engineer's Estimate	Goodwin & Goodwin	B.R. McGinty Mech. Cont	Foehman	Redford Construction	T-G Excavating
				Unit Price	Total Bid	Unit Price	Total Bid	Unit Price	Total Bid
1	ACT 201.1903 TRENCH AND EXCAVATION SAFETY SYSTEM	LS	1	\$40,000.00	\$40,000.00	\$10,476.00	\$10,476.00	\$2,500.00	\$2,500.00
2	TRAFFIC CONTROL	LS	1	\$20,000.00	\$20,000.00	\$22,310.73	\$22,310.73	\$18,000.00	\$18,000.00
3	MOBILIZATION	LS	1	\$15,000.00	\$15,000.00	\$33,399.30	\$33,399.30	\$68,000.00	\$68,000.00
4	SITE PREPARATION	LS	1	\$17,000.00	\$17,000.00	\$14,807.02	\$14,807.02	\$75,000.00	\$75,000.00
5	24-INCH DUCTILE IRON PIPE, CLASS 300 WITH DOUBLE POLYWRAP	LF	485	\$120.00	\$58,200.00	\$119.69	\$57,669.05	\$200.00	\$97,000.00
6	12-INCH PVC, C-900, CLASS 200 DR-14 WATER MAIN	LF	2555	\$50.00	\$127,750.00	\$46.989	\$119,425.00	\$70.00	\$178,850.00
7	6-INCH PVC, C-900, CLASS 200 DR-14 WATER MAIN	LF	1882	\$40.00	\$75,280.00	\$33.28	\$62,632.96	\$65.00	\$122,340.00
8	4-INCH PVC, C-900, CLASS 200 DR-14 WATER MAIN	LF	201	\$30.00	\$6,030.00	\$16.034	\$3,222.82	\$60.00	\$12,000.00
9	2-INCH PVC, SDR 13.5, CLASS 150 WATER MAIN	LF	278	\$10.00	\$2,780.00	\$8.04	\$2,235.12	\$30.00	\$8,340.00
10	1-INCH POLYETHYLENE CLASS 200 WATER SERVICE TUBING	LF	2466	\$6.00	\$14,796.00	\$2.99	\$7,373.34	\$15.00	\$37,050.00
11	24-INCH CLASS 2808 BUTTERFLY VALVE W/BOX	EA	2	\$1,000.00	\$2,000.00	\$1,074.54	\$2,149.08	\$1,125.00	\$2,250.00
12	12-INCH CLASS 2808 BUTTERFLY VALVE W/BOX	EA	7	\$2,500.00	\$17,500.00	\$2,265.44	\$15,658.08	\$2,131.00	\$14,917.00
13	8-INCH GATE VALVE W/BOX	EA	10	\$1,500.00	\$15,000.00	\$1,831.45	\$18,314.50	\$1,510.00	\$15,100.00
14	6-INCH GATE VALVE W/BOX	EA	1	\$1,200.00	\$1,200.00	\$1,289.83	\$1,289.83	\$1,060.00	\$1,060.00
15	2-INCH GATE VALVE W/BOX	EA	5	\$800.00	\$4,000.00	\$1.51	\$7.55	\$850.00	\$4,250.00
16	THREE WAY FIRE HYDRANT ASSEMBLY W/VALVE	EA	11	\$2,500.00	\$27,500.00	\$23.36	\$255.86	\$3,500.00	\$38,500.00
17	REMOVE EXISTING FIRE HYDRANT AND DELIVER TO OWNER	EA	7	\$500.00	\$3,500.00	\$10.86	\$76.02	\$500.00	\$3,500.00
18	2-INCH BLOWOFF ASSEMBLY	EA	1	\$800.00	\$800.00	\$4.51	\$4.51	\$2,500.00	\$2,500.00
19	12-INCH X 12-INCH TAPPING SLEEVE AND VALVE W/BOX	EA	1	\$4,000.00	\$4,000.00	\$3.58	\$3.58	\$6,000.00	\$6,000.00
20	8-INCH X 8-INCH TAPPING SLEEVE AND VALVE W/BOX	EA	6	\$2,500.00	\$15,000.00	\$11,289.39	\$67,736.34	\$21,000.00	\$126,000.00
21	6-INCH X 6-INCH TAPPING SLEEVE AND VALVE W/BOX	EA	6	\$2,200.00	\$13,200.00	\$2,066.98	\$12,401.88	\$2,500.00	\$15,000.00
22	24-INCH X 24-INCH CONNECTION	EA	2	\$8,000.00	\$16,000.00	\$2,051.81	\$4,103.62	\$19,000.00	\$38,000.00
23	2-INCH X 2-INCH CONNECTION	EA	4	\$1,000.00	\$4,000.00	\$3,227.21	\$12,908.84	\$800.00	\$3,200.00
24	EPOXY COATED DUCTILE IRON FITTINGS	LB	35500	\$5.00	\$177,500.00	\$0.01	\$355.00	\$1.00	\$355.00
25	SINGLE METER SETTING, COMPLETE INCL. PRESSURE REDUCER & 4	EA	37	\$1,200.00	\$44,400.00	\$6,517.93	\$241,163.41	\$1,000.00	\$37,000.00
26	DOUBLE METER SETTING, COMPLETE INCL. PRESSURE REDUCER & 4	EA	2	\$1,600.00	\$3,200.00	\$1,540.95	\$3,081.90	\$900.00	\$1,800.00
27	REMOVE EXISTING METER SETTING	EA	53	\$300.00	\$15,900.00	\$1,698.48	\$89,726.40	\$1,000.00	\$53,000.00
28	12-INCH SADDLE, 1-INCH CORPORATION STOP AND TAP	EA	26	\$150.00	\$3,900.00	\$9.55	\$248.30	\$1,000.00	\$26,000.00
29	8-INCH SADDLE, 1-INCH CORPORATION STOP AND TAP	EA	15	\$140.00	\$2,100.00	\$615.27	\$9,229.05	\$950.00	\$14,250.00
30	2-INCH SADDLE, 3/4-INCH CORPORATION STOP AND TAP	EA	2	\$130.00	\$260.00	\$458.41	\$916.82	\$500.00	\$1,000.00
31	24-INCH BORED STEEL CASING	LF	70	\$600.00	\$42,000.00	\$624.42	\$43,709.40	\$350.00	\$24,500.00
32	16-INCH BORED STEEL CASING	LF	400	\$500.00	\$200,000.00	\$158.11	\$63,244.00	\$160.00	\$64,000.00
33	12-INCH BORED STEEL CASING	LF	100	\$300.00	\$30,000.00	\$131.73	\$13,173.00	\$200.00	\$20,000.00
34	12-INCH DIRECT BURY STEEL CASING	LF	60	\$450.00	\$27,000.00	\$87.96	\$5,277.60	\$150.00	\$9,000.00
35	12-INCH DIRECT BURY STEEL CASING	LF	20	\$75.00	\$1,500.00	\$123.15	\$2,463.00	\$120.00	\$2,400.00
36	4-INCH BORED CASING	LF	85	\$65.00	\$5,525.00	\$79.33	\$6,743.05	\$62.00	\$5,270.00
37	4-INCH DIRECT BURY CASING	LF	0	\$30.00	\$0.00	\$11.64	\$0.00	\$10.00	\$0.00
38	2-INCH DIRECT BURY CASING	LF	1000	\$45.00	\$45,000.00	\$15,954.92	\$15,954.92	\$50.00	\$50,000.00
39	2-INCH DIRECT BURY CASING	LF	0	\$20.00	\$0.00	\$0.15	\$0.00	\$10.00	\$0.00
40	2-INCH DIRECT BURY CASING	LF	1860	\$3.00	\$5,580.00	\$328.82	\$611,160.00	\$3.00	\$5,580.00
41	CUT AND CAP EXISTING 24-INCH WATER MAIN	EA	4	\$900.00	\$3,600.00	\$15.04	\$60.16	\$2,000.00	\$8,000.00
42	CUT AND CAP EXISTING 12-INCH WATER MAIN	EA	3	\$500.00	\$1,500.00	\$46.08	\$138.24	\$800.00	\$2,400.00
43	CUT AND CAP EXISTING 8-INCH WATER MAIN	EA	17	\$400.00	\$6,800.00	\$2,631.60	\$44,737.20	\$700.00	\$11,900.00
44	CUT AND CAP EXISTING 4-INCH WATER MAIN	EA	14	\$300.00	\$4,200.00	\$336.92	\$4,716.88	\$600.00	\$8,400.00
45	CUT AND CAP EXISTING 2-INCH WATER MAIN	EA	4	\$250.00	\$1,000.00	\$22.52	\$90.08	\$150.00	\$600.00
46	ADJUST EXISTING WATER VALVE TO FINISHED GRADE	EA	4	\$300.00	\$1,200.00	\$1,020.91	\$4,083.64	\$400.00	\$1,600.00
47	ADJUST EXISTING WATER VALVE TO FINISHED GRADE	EA	34	\$100.00	\$3,400.00	\$0.44	\$14.96	\$100.00	\$3,400.00
48	ABANDON EXISTING WATER VALVE	EA	366	\$42.00	\$15,372.00	\$15,087.65	\$5,522,079.50	\$49.00	\$17,934.00
49	6-INCH PVC SEWER MAIN, SDR-26	LF	2965	\$38.00	\$112,380.00	\$47.28	\$140,162.40	\$26.00	\$77,070.00
50	6-INCH PVC SEWER SERVICE, SCH 40	LF	27	\$22.00	\$594.00	\$3,242.43	\$87,545.01	\$80.00	\$2,160.00
51	4-INCH PVC SEWER SERVICE, SCH 40	LF	1348	\$20.00	\$26,960.00	\$21.13	\$28,483.24	\$35.00	\$47,180.00
52	4 FOOT DIAMETER STANDARD MANHOLE, UP TO 6 FEET DEEP	EA	23	\$2,300.00	\$52,900.00	\$2,501.35	\$57,530.55	\$2,000.00	\$46,000.00
53	EXTRA MANHOLE DEPTH, OVER 6 FEET DEEP	EA	34	\$150.00	\$5,100.00	\$217.03	\$7,383.02	\$150.00	\$5,100.00
54	REMOVE EXISTING MANHOLE	EA	15	\$1,000.00	\$15,000.00	\$405.32	\$6,079.80	\$400.00	\$6,000.00
55	ADJUST EXISTING MANHOLE TO FINISHED GRADE	EA	4	\$400.00	\$1,600.00	\$331.05	\$1,324.20	\$200.00	\$800.00
56	SEWER SERVICE CONNECTION ON 12" PVC	EA	39	\$300.00	\$11,700.00	\$785.02	\$30,615.78	\$600.00	\$23,400.00
57	6-INCH MANHOLE TAP FOR SEWER SERVICE	EA	1	\$500.00	\$500.00	\$695.82	\$695.82	\$600.00	\$600.00
58	4-INCH MANHOLE TAP FOR SEWER SERVICE	EA	5	\$300.00	\$1,500.00	\$1,985.15	\$9,925.75	\$250.00	\$1,250.00
59	PLUG EXISTING SEWER AT MANHOLE WALL	EA	2	\$1,000.00	\$2,000.00	\$971.80	\$1,943.60	\$800.00	\$1,600.00
60	CONNECT 12" OR 8" SEWER TO EXISTING MANHOLE, CORE DRILL 14	EA	2	\$1,500.00	\$3,000.00	\$2,173.57	\$4,347.14	\$75.00	\$150.00
61	STREET REPAIR, 1-PATCH	SY	447	\$150.00	\$66,950.00	\$5.31	\$2,373.07	\$60.00	\$26,820.00
62	ASPHALT SURFACE REPLACEMENT	SY	46	\$45.00	\$2,070.00	\$12.87	\$592.02	\$60.00	\$2,760.00
63	CONCRETE SURFACE REPLACEMENT	SY	220	\$30.00	\$6,600.00	\$43.48	\$9,565.60	\$75.00	\$16,500.00
64	GRAVEL DRIVEWAY REPAIR	TON	50	\$40.00	\$2,000.00	\$0.76	\$38.00	\$12.00	\$600.00
65	COLD MIX ASPHALT TEMPORARY PAVEMENT REPAIR	TON	50	\$90.00	\$4,500.00	\$2,244.50	\$11,222.50	\$500.00	\$25,000.00
66	ROCK EXCAVATION	CY	10	\$35.00	\$350.00	\$2,636.20	\$26,362.00	\$25,000.00	\$250,000.00
67	EROSION CONTROL	LS	1	\$35,000.00	\$35,000.00	\$25,160.81	\$25,160.81	\$25,000.00	\$250,000.00
68	AUDIO/VIDEO RECORDINGS	LS	1	\$1,500.00	\$1,500.00	\$6,079.80	\$6,079.80	\$2,000.00	\$2,000.00
69	SITE PHOTOGRAPHS	LS	1	\$1,500.00	\$1,500.00	\$4,453.24	\$4,453.24	\$2,000.00	\$2,000.00
TOTAL ESTIMATED CONSTRUCTION COSTS				\$1,588,807.00	\$1,575,497.00	\$1,675,153,616.45	\$1,682,997.50	\$1,743,820.00	\$1,811,111.00
					\$13,910.00	(\$1,673,564,809.45)	(\$94,190.50)	(\$155,013.00)	(\$222,304.00)

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT:

Contract Name: GARLAND AVE. WATER AND SEWER IMPROVEMENT PROJECT

Date: _____

SUBMITTED TO:

The City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, Arkansas 72701

SUBMITTED BY:

Company Goodwin & Goodwin - Inc

Name Bryan Goodwin

Address 3503 Free Ferry Rd

Principal Office Bryan Goodwin

Corporation partnership, individual, joint
venture, other _____

Arkansas State General Contractor's License Number

0016960412

EXPERIENCE STATEMENT

1. Bidder has been engaged as a General Contractor in construction for 32 years and has performed work of the nature and magnitude of this Contract for 32 years. Bidder has been in business under its present name for 32 years.
2. Bidder now has the following bonded projects under contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and estimated completion date.) CITY VAN BUREN, Southside Drainage C&I - INS JUNE 15TH 2000
CITY FT SMITH, Sewer & Pump Station 1.1 Mil April 15TH C&I - INS
3. Bidder has completed the following (list minimum of 3) contracts consisting of work similar to that proposed by this Contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect

RAZORBACK Rd CITY Fg WL-13 CITY Fg
WL-9 CITY Fg AU 3 JOBS WITH CITY OF FAY

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

contact, amount of contract, surety, and date of completion and percentage of the cost of the Work performed with Bidder's own forces.)

4. Has Bidder ever failed to complete any project? If so, state when, where, and why.

NO

5. Bidder normally performs the following work with his own forces:

All work

6. Construction experience of key individuals in the organization is as follows
(continued on attached sheets if needed):

Mike Brown

David Garcia

Steve DRAGOUS

Bryan Goodwin

7. In the event the Contract is awarded to Bidder, the required surety Bonds will be furnished by the following surety company and name and address of agent:

CINCINNATI, Insurance Company

P.O. Box 145496

Cincinnati OH 45250-5496

8. Bidder's Workmen's Compensation Experience Modifier Factor is: .92

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

FINANCIAL STATEMENT

Bidder possesses adequate financial resources as indicated by the following:

1. Assets and Liabilities: Attach a financial statement, audited if available, including Bidder's latest balance sheet and income statements showing the following items:
 - a. Current assets (cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses).
\$300,000⁰⁰
 - b. Net fixed assets. Over 2 Mil
 - c. Other assets. Over 1 Mil
 - d. Current liabilities (accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes).
Under \$50,000
 - e. Other liabilities (capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings).
Under \$25,000
 - f. Name of firm preparing financial statement and date thereof:
HANK HANKINS CPA, FT. SMITH, AR

If financial statement is not for identical organization named herein, explain relationship and financial responsibility of the organization furnished.

2. Current Judgments: The following judgements are outstanding against Bidder:

	<u>Judgment Creditors</u>	<u>Where Docketed and Date</u>	<u>Amount</u>
a.	N/A		\$
b.			\$

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

Bidder hereby represents and warrants that all statements set forth herein are true and correct.

Date: 4-11-, 2012

(OFFICIAL SEAL)

Name of Organization:

Goodwin Goodwin Inc

By Bryan Goodwin

Title President

(If Bidder is a partnership, the partnership name shall be signed, followed by the signature of at least one of the partners. If Bidder is a corporation, the corporate name shall be signed, followed by the signature of a duly-authorized officer and with the corporate seal affixed.)

END OF DOCUMENT 00140

DOCUMENT 00400 - BID FORM

Contract Name: Garland Ave. Water and Sewer Improvement Project
Job 040489 (Utilities) STP-9142(22)
Hwy. 112 Spur - North Route 112 Section 1
Washington County

Bid Number:

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder:

Goodwin & Goodwin - Inc
3503 Frazz Ferry Rd
FT SMITH, AR 72903

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.



Brown • Hiller • Clark & Associates

5500 Euper Lane

PO Box 3529

Ft. Smith, AR 72913 (479) 452-4000

www.bhca.com

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we
(Here insert full name and address or legal title of Contractor)

Goodwin & Goodwin, Inc.
3503 Free Ferry Road
Fort Smith, AR 72903

as Principal, hereinafter called the Principal, and
(Here insert full name and address or legal title of Surety)

Cincinnati Insurance Company
P. O. Box 145496
Cincinnati, OH 45250-5496

a corporation duly organized under the laws of the State of Ohio
as Surety, hereinafter called the Surety, are held and firmly bound unto
(Here insert full name and address or legal title of Owner)

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

as Oblige, hereinafter called the Oblige, in the sum of **FIVE PERCENT OF THE TOTAL AMOUNT BID**
Dollars (\$ **5%**), for the payment
of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for **Garland Ave Water & Sewer Improvement Program,**
(Here insert full name, address and description of project)
Job 040489 (Utilities) STP-9142 (22) Hwy 112 Spur, North Route 112, Washington County

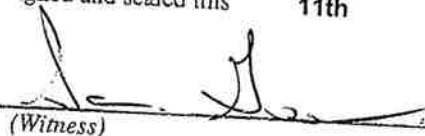
NOW, THEREFORE, if the Oblige shall accept the bid of the Principal and the Principal shall enter into a Contract
with the Oblige in accordance with the terms of such bid, and give such bond or bonds as may be specified in the
bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the
prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal
to enter such Contract and give such bond or bonds, if the Principal shall pay to the Oblige the difference not to exceed
the penalty hereof between the amount specified in said bid and such larger amount for which the Oblige may in good
faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void,
otherwise to remain in full force and effect.

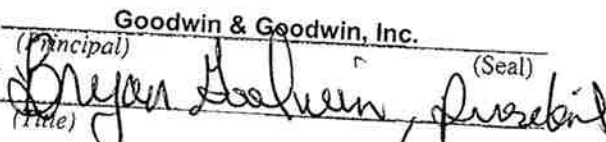
Signed and sealed this

11th

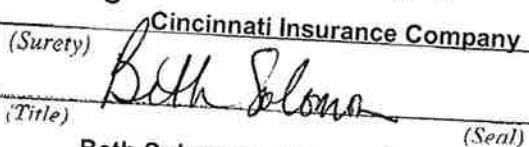
day of April

2012


(Witness)

Goodwin & Goodwin, Inc.
(Principal)  (Seal)
(Title)


(Witness)

Cincinnati Insurance Company
(Surety)  (Seal)
(Title)

Beth Solomon, Attorney-in-Fact

THE CINCINNATI INSURANCE COMPANY

Fairfield, Ohio

D. 3
Bid #12-25 Goodwin & Goodwin
Page 24 of 34

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio, and having its principal office in the City of Fairfield, Ohio, does hereby constitute and appoint

Marty C. Clark; Sam B. Hiller; Larry R. Clark; Scott R. Clark;
Janice A. Butler; Scott Taylor; Beth Solomon and/or Sarah Day

of Fort Smith, Arkansas
and deliver on its behalf as Surety, and as its act and deed, any and all bonds, policies, undertakings, or other like instruments, as follows:
Any such obligations in the United States, up to
Twenty Million and No/100 Dollars (\$20,000,000.00).

This appointment is made under and by authority of the following resolution passed by the Board of Directors of said Company at a meeting held in the principal office of the Company, a quorum being present and voting, on the 6th day of December, 1958, which resolution is still in effect:

"RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 7th day of December, 1973.

"RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

IN WITNESS WHEREOF, THE CINCINNATI INSURANCE COMPANY has caused these presents to be sealed with its corporate seal, duly attested by its Vice President this 10th day of October, 2008.



STATE OF OHIO
COUNTY OF BUTLER

) ss:
)

THE CINCINNATI INSURANCE COMPANY

Thomas H. Kelly
Vice President

On this 10th day of October, 2008, before me came the above-named Vice President of THE CINCINNATI INSURANCE COMPANY, to me personally known to be the officer described herein, and acknowledged that the seal affixed to the preceding instrument is the corporate seal of said Company and the corporate seal and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporation.



Mark J. Huller
MARK J. HULLER, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO

My commission has no expiration date. Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of THE CINCINNATI INSURANCE COMPANY, hereby certify that the above a true and correct copy of the Original Power of Attorney issued by said Company, and do hereby further certify that the said Power of Attorney is still in full force and effect.

GIVEN under my hand and seal of said Company at Fairfield, Ohio.

11th day of April, 2012



Gregory J. Schlemmer
Secretary

DOCUMENT 0400 –BID FORM

Contract Name: Garland Ave. Water and Sewer Improvement Project
Job 040489 (Utilities) STP-9142(22)
Hwy. 112 Spur – North Route 112 Section 1
Washington County

Bid Number:

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder:

Goodwin & Goodwin-The
3503 Free Ferry Rd
FT Smith AR 72903

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

DOCUMENT 00400 – BID FORM (continued)

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
<u>1</u>	<u>4-2-12</u>
<u>2</u>	<u>4-5-12</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.

DOCUMENT 00400 –BID FORM (continued)

- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any

DOCUMENT 00400 –BID FORM (continued)

other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.

- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

ARTICLE 4 - BID PRICE

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

ITEM NO.	DESCRIPTION	UNIT	EST. QTY	UNIT PRICE	TOTAL
1	Trench and Excavation Safety Systems	LS	1	60,000	60,000 ⁰⁰
2	Traffic Control and Maintenance	LS	1	48,000	48,000 ⁻
3	Mobilization (Max 5% of Total Bid)	LS	1	60,000	60,000 ⁰⁰
4	Site Preparation	LS	1	130,000	130,000
5	24-Inch Ductile Iron Pipe, Class 350 with Double Polywrap	LF	485	140 ⁰⁰	67,900 ⁰⁰
6	12-Inch PVC, C-900, Class 200 DR-14 Water Main	LF	2555	62 ⁰⁰	158,410 ⁰⁰
7	8-Inch PVC, C-900, Class 200 DR-14 Water Main	LF	1882	35 ⁰⁰	65,870 ⁻
8	6-Inch PVC, C-900, Class 200 DR-14 Water Main	LF	201	34 ⁰⁰	6,834 ⁻
9	2-Inch PVC, SDR-13.5, Class 315 Water Main	LF	278	18 ⁰⁰	5,004 ⁰⁰
10	1-Inch Polyethylene Class 200 Water Service Tubing	LF	2466	9 ⁰⁰	22,194
11	24-Inch Class 250B Butterfly Valve W/Box	EA	2	8000	16,000
12	12-Inch Class 250B Butterfly Valve W/Box	EA	7	2800	19,600

DOCUMENT 00400 – BID FORM (continued)

ITEM NO.	DESCRIPTION	UNIT	EST. QTY	UNIT PRICE	TOTAL
13	8-Inch Gate Valve W/Box	EA	10	2000 ⁻	20,000 ⁻
14	6-Inch Gate Valve W/Box	EA	1	1,500	1,500 ⁻
15	2-Inch Gate Valve W/Box	EA	5	800	4000 ⁻
16	Three Way Fire Hydrant Assembly W/Valve	EA	11	4500 ⁻	49,500 ⁰⁰
17	Remove Existing Fire Hydrant and Deliver to Owner	EA	7	600	4200 ⁻
18	2-Inch Blowoff Assembly	EA	1	1,500	1,500 ⁻
19	12-Inch x 12-Inch Tapping Sleeve & Valve W/Box	EA	1	6000	6,000 ⁻
20	8-Inch x 8-Inch Tapping Sleeve & Valve W/Box	EA	6	3600	21,600 ⁰⁰
21	6-Inch x 6-Inch Tapping Sleeve & Valve W/Box	EA	6	3200	19,200 ⁰⁰
22	24-Inch x 24-Inch Connection	EA	2	4000	8,000
23	2-Inch x 2-Inch Connection	EA	4	800	3200
24	Epoxy Coated Ductile Iron Fittings	LB	35,500	.1¢	355 ⁰⁰
25	Single Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Service	EA	37	900 ⁻	33,300 ⁰⁰
26	1-Inch Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Service	EA	2	1700	3400 ⁻
27	Double Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Service	EA	8	1200	9600 ⁻
28	Remove Existing Meter Setting	EA	53	200	10,600 ⁰⁰
29	12-Inch Saddle, 1-Inch Corporation Stop and Tap	EA	26	350	9100

DOCUMENT 00400 –BID FORM (continued)

ITEM NO.	DESCRIPTION	UNIT	EST. QTY	UNIT PRICE	TOTAL
30	8-Inch Saddle, 1-Inch Corporation Stop and Tap	EA	15	350	5250 -
31	2-Inch Saddle, 3/4-Inch Corporation Stop and Tap	EA	2	250	500 -
32	24-Inch Bored Steel Casing	LF	70	350 ⁰⁰	24,500 ⁰⁰
33	24-Inch Direct Bury Steel Casing	LF	40	100	4000
34	16-Inch Bored Steel Casing	LF	490	275	134,750
35	16-Inch Direct Bury Steel Casing	LF	190	135 -	25,650 -
36	12-Inch Bored Steel Casing	LF	60	150	9000
37	12-Inch Direct Bury Steel Casing	LF	20	125	2500 -
38	4-Inch Bored Casing	LF	85	65 -	5525 -
39	4-Inch Direct Bury Casing	LF	0	35	Ø
40	2-Inch Bored Casing	LF	1600	35 ⁰⁰	56,000 ⁰⁰
41	2-Inch Direct Bury Casing	LF	0	20 ⁰⁰	Ø
42	Tree Protection Fencing	LF	1860	6.00	11,160 -
43	Cut and Cap Existing 24-Inch Water Main	EA	4	1800	7200 -
44	Cut and Cap Existing 12-Inch Water Main	EA	3	1500	4500
45	Cut and Cap Existing 8-Inch Water Main	EA	17	1200	20,400 -
46	Cut and Cap Existing 6-Inch Water Main	EA	14	900	12,600 -
47	Cut and Cap Existing 2-Inch Water Main	EA	4	400	1600 -
48	Adjust Existing Water Valve to Finished Grade	EA	4	300	1200

DOCUMENT 00400 –BID FORM (continued)

ITEM NO.	DESCRIPTION	UNIT	EST. QTY	UNIT PRICE	TOTAL
49	Abandon Existing Water Valve	LF	34	125	4250
50	12-Inch PVC Sewer Main, SDR-26	LF	366	46 ⁰⁰	16,836 ⁰⁰
51	8-Inch PVC Sewer Main, SDR-26	LF	2995	36 ⁰⁰	107,820 ⁰⁰
52	6-Inch PVC Sewer Main, SDR-26	LF	27	35	945 ⁰⁰
53	4-Inch PVC Sewer Service, SCH 40	LF	1348	18 ⁰⁰	24,264
54	4-Foot Diameter Standard Manhole, Up to 6 Feet Deep	EA	23	3,000	69000 ⁰⁰
55	Extra Manhole Depth, Over 6 Feet Deep	VF	34	200	6800 ⁰⁰
56	Remove Existing Manhole	EA	15	800	12,000 ⁰⁰
57	Adjust Existing Manhole to Finished Grade	EA	4	800	3200
58	Sewer Service Connection on 12" PVC	EA	8	1000	8,000
59	Sewer Service Connection on 8" PVC	EA	39	700 ⁰⁰	27,300 ⁰⁰
60	6-Inch Manhole Tap for Sewer Service	EA	1	1000	1000
61	4-Inch Manhole Tap for Sewer Service	EA	1	1000	1000
62	Plug Existing Sewer at Manhole Wall	EA	5	1000	5000
63	Connect 12-Inch or 8-Inch Sewer to Existing Manhole, Core Drill Manhole Wall	EA	2	1400	2800 ⁰⁰
64	Street Repair, T-Patch	SY	447	70 ⁰⁰	31,290
65	Asphalt Surface Repair	SY	46	65	2990
66	Concrete Surface Repair	SY	220	65	14,300

DOCUMENT 00400 –BID FORM (continued)

ITEM NO.	DESCRIPTION	UNIT	EST. QTY	UNIT PRICE	TOTAL
67	Gravel Driveway Repair	TON	50	25	1250
68	Cold Mix Asphalt Temporary Pavement Repair	TON	50	175	8750
69	Rock Excavation	CY	10	150	1,500
70	Erosion Control	LS	1	45,000	45,000
71	Audio/Video Recordings	LS	1	4000	4,000
72	Site Photographs	LS	1	5000	5,000

TOTAL AMOUNT BID \$ 1,575,497

ARTICLE 5 - CONTRACT TIMES

- 5.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment within the number of calendar days indicated in the Agreement.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

ARTICLE 6 - BID CONTENT

- 6.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security in the form of a certified or bank cashier's check or a Bid Bond and in the amount of 5% of Bid Eighty thousand Dollars (\$ 80,000).
 - B. A tabulation of Subcontractors and other persons and organizations required to be identified in this Bid.

DOCUMENT 00400 – BID FORM (continued)

ARTICLE 7 - COMMUNICATIONS

7.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

Bryan Goodwin
3503 Free Ferry Rd
Ft Smith, AR 72903
Email. PIPEDude08@yahoo.com
Phone No. 479 651-7321
FAX No. 479-783-7555

ARTICLE 8 - TERMINOLOGY

8.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

SUBMITTED on 4 - 11 -, 2012

Arkansas State Contractor License No. 0016960412

If Bidder is:

An Individual

Name (type or printed): _____

By: _____ (SEAL)

(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

DOCUMENT 00400 – BID FORM (continued)

A Partnership

Partnership Name: _____ (SEAL)

By: _____

(Signature of general partner – attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Corporation

Corporation Name: Goodwin & Goodwin Inc (SEAL)

State of Incorporation: ARKANSAS

Type (General Business, Professional, Service, Limited Liability): _____

Service

By: Bryan Goodwin

(Signature – attach evidence of authority to sign)

Name (type or printed): Bryan Goodwin

Title: PRESIDENT

Attest: [Signature] (CORPORATE SEAL)

(Signature of Corporate Secretary)

Business address: 3503 Free Ferry Rd

FT Smith, AR 72403

Phone No.: 479-651-7321 FAX No.: 479-783-7555

END OF DOCUMENT 00400

City of Fayetteville Staff Review Form

D. 4
Street Name Change –
Stadium Drive
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

May 1 2012

City Council Meeting Date
Agenda Items Only

Greg Mitchell

Information Technology

Finance

Submitted By

Division

Department

Action Required:

Approval of a resolution to change the name of S Paris Avenue to S Stadium Drive, and change the name of S Garland Ave (from Martin Luther King Blvd to Virginia Ave/S Clinton Dr) to S Stadium Drive.

\$ 372.98

Cost of this request

\$ 47,020.00

Category / Project Budget

Materials/Supplies

Program Category / Project Name

2100.5315.5212.00

Account Number

\$ 36,750.79

Funds Used to Date

Program / Project Category Name

\$ 10,269.21

Remaining Balance

Street Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director
4/16/12
Date

Previous Ordinance or Resolution #


City Attorney
4/13/12
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director
4-16-2012
Date

Received in City Clerk's Office 4-13-12 10:54 RCVD



Chief of Staff
4-16-12
Date

Received in Mayor's Office



Mayor
4/17/12
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan

Thru: Scott Huddleston

From: Greg Mitchell

Date: 4/13/2012

Subject: Renaming Portions of S Garland Ave to S Stadium Drive, and S Paris Ave to Stadium Drive

DESCRIPTION:

This is a proposal to rename portions of two contiguous streets to S Stadium Drive. This north-south street starts out as S Garland Ave at the northwest corner of the Fayetteville High School campus, runs south between the High School and the University soccer fields, crosses Martin Luther King Blvd and continues south for a couple of blocks as S Paris Ave. This proposal will rename both this section of S Garland Ave and this section of S Paris Ave to S Stadium Drive. (See attached Map)

DISCUSSION:

This street name change was initiated at the request of Steven Beam of Crafton Tull on behalf of University Student Living, LLC., who is developing a new student housing project to be located south of Martin Luther King Blvd at the end of S Paris Ave. The developer desired a street name that had a connection to the University and had proposed several street name options that had been turned down by the 9-1-1 street name committee. When we realized that the University was intending to extend Stadium Drive down through S Garland to the intersection of MLK, it seemed like a good solution to rename Paris Ave to Stadium Drive. This was suggested to the developer and they agreed.

Subsequently, as estimates were requested for sign prices, it was suggested by Brad Anderson in Transportation that it would simplify signage and navigation if we also changed S Garland Ave to S Stadium Drive at the same time. That way the street name would be the same on both sides of MLK which would save money on signage and reduce confusion for motorists.

This street name change will require 10 residences to change their address from S Paris Ave to S Stadium Dr. The owners have been contacted by mail about this proposal. It will also require two addresses to change on S Garland Ave, but they are both University accounts at the soccer field so should not cause a big problem.

You'll note on the "Overview" map that there will still be a portion of the future extended Stadium Drive that is not being renamed at this time – the Virginia Ave section. Staff opinion is that renaming of this portion at this time might unnecessarily encourage traffic on a narrow residential street, and would also require address changes for 23 residential addresses, so it should wait until the new road is built.

I have discussed this with Kevin Santos of the University of Arkansas Planning Department, and they have no objections to our proposal. The packet includes a copy of the "Campus Transportation Plan" that shows the future Stadium Drive.

RECOMMENDATION:

Staff recommends approval of the Resolution.

BUDGET IMPACT:

\$372.98 for street signs

RESOLUTION NO. _____

A RESOLUTION TO CHANGE THE NAME OF A PORTION OF SOUTH GARLAND AVENUE AND ALL OF PARIS AVENUE TO STADIUM DRIVE

WHEREAS, the University of Arkansas is planning to extend Stadium Drive south toward Martin Luther King Boulevard along the current South Garland right-of-way; and

WHEREAS, Paris Avenue is directly across this intersection and should be renamed Stadium Drive.

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 changes the name of that portion of South Garland Avenue from Clinton Drive to Martin Luther King Boulevard as Stadium Drive and Paris Avenue as Stadium Drive all as shown on the map attached as Exhibit A.

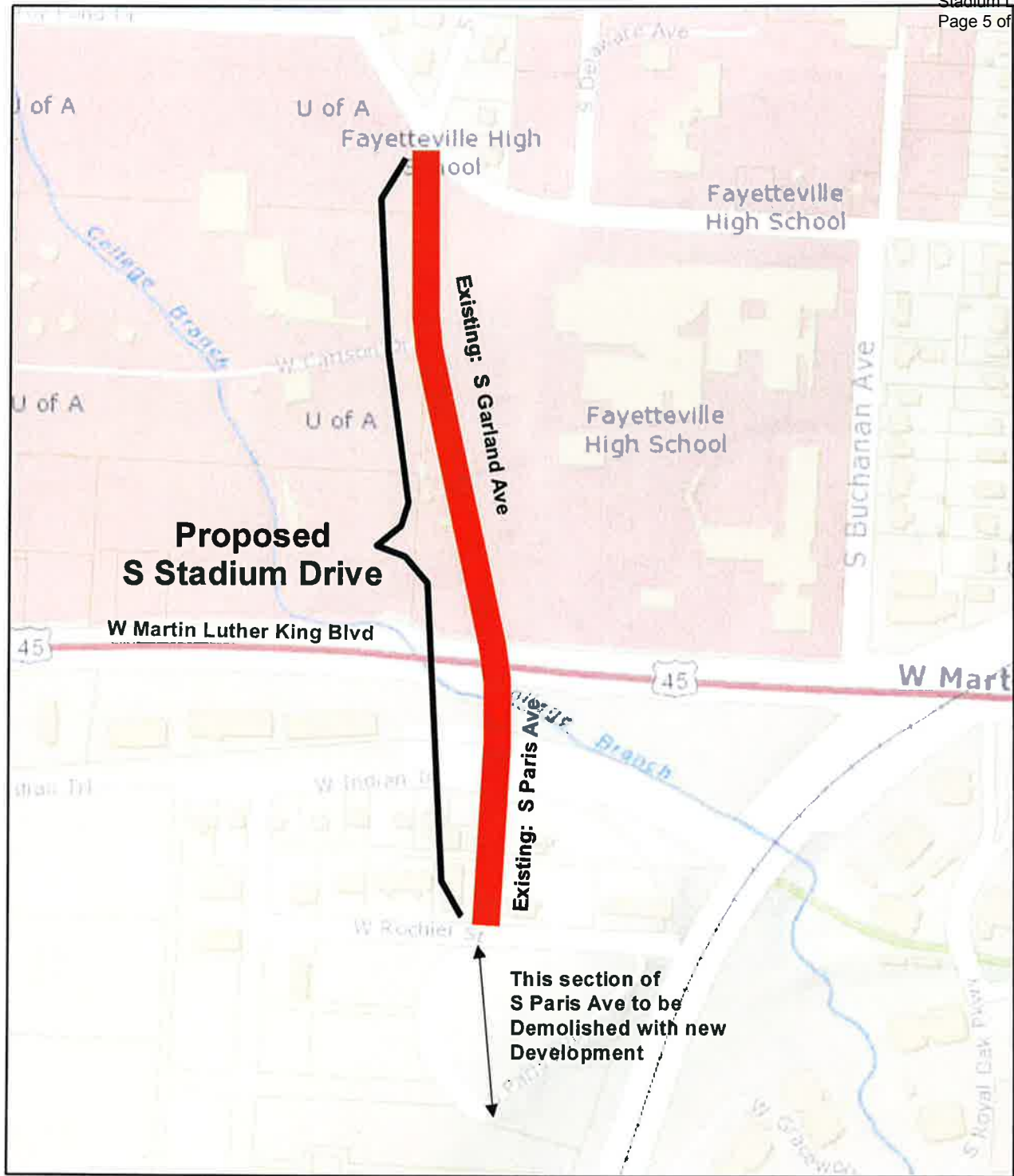
PASSED and APPROVED this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Street Renaming Proposal: S Garland Ave & S Paris Ave renamed to S Stadium Dr



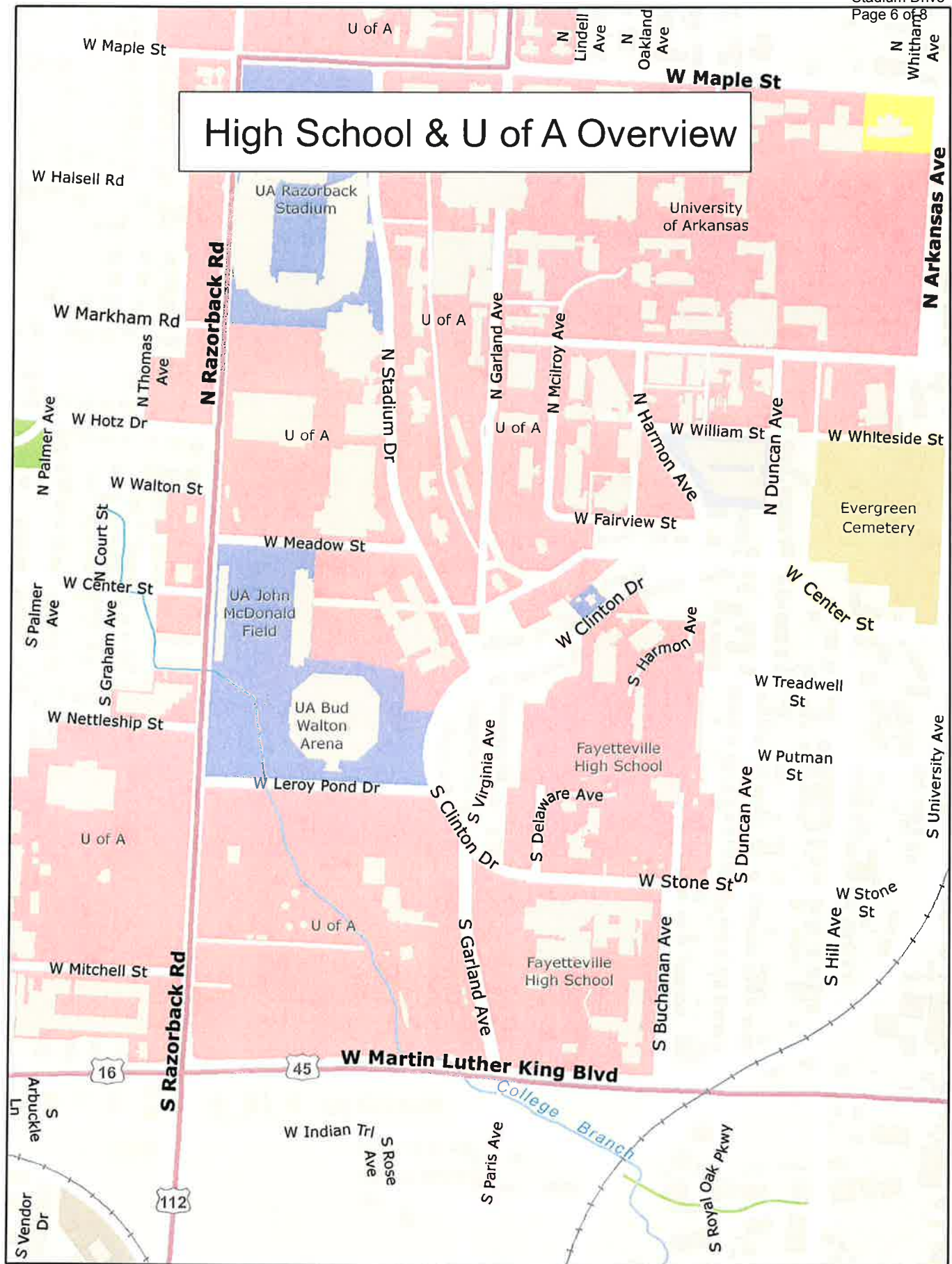
Date: 4/11/2012



400 200 0 400 Feet

A black scale bar with white markings for 400, 200, 0, and 400 feet.

High School & U of A Overview

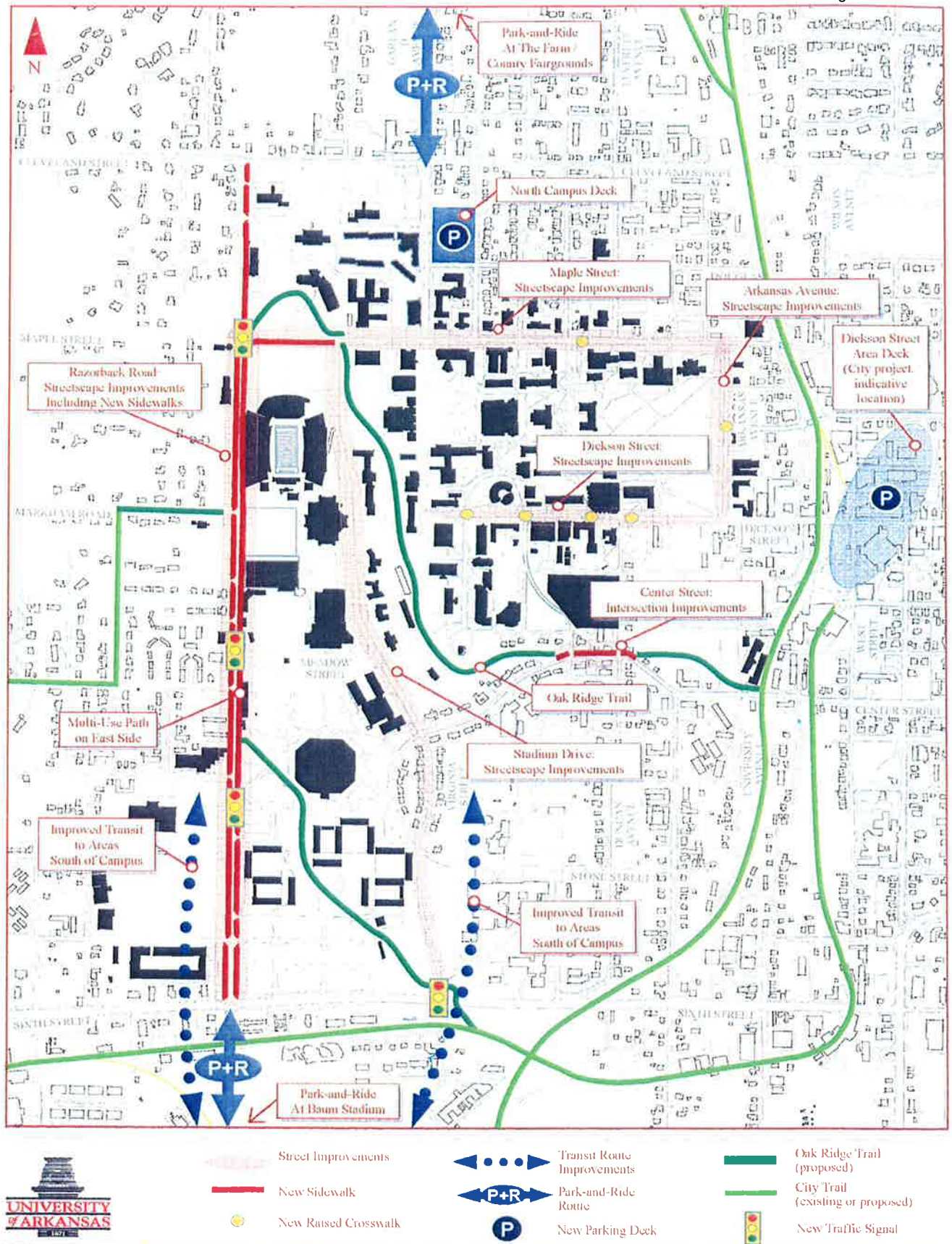


1,600

Feet

CAMPUS TRANSPORTATION PLAN

D. 4
Street Name Change –
Stadium Drive
Page 7 of 8



City of Fayetteville Staff Review Form

D. 5
Street Name Change –
Bulldog Boulevard
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

May 1 2012

City Council Meeting Date
Agenda Items Only

Greg Mitchell

Information Technology

Finance

Submitted By

Division

Department

Action Required:

Approval of a resolution to change the name of a section of S Clinton Dr to W Bulldog Blvd, and change the name of a section of W Stone St to W Bulldog Blvd.

\$ 301.45

Cost of this request

\$ 47,020.00

Category / Project Budget

Materials/Supplies

Program Category / Project Name

2100.5315.5212.00

Account Number

\$ 36,750.79

Funds Used to Date

Program / Project Category Name

\$ 10,269.21

Remaining Balance

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

S. Huddleston
Department Director

4/11/12
Date

Previous Ordinance or Resolution #

K. [Signature]
City Attorney

4/13/12
Date

Original Contract Date:

Original Contract Number:

Paul a. Barber
Finance and Internal Services Director

4-16-2012
Date

Received in City
Clerk's Office

06-13-12 A10:54 RCVD

Don [Signature]
Chief of Staff

4-16-12
Date

Received in
Mayor's Office

ENTERED
4/13/12
PH

Lionel Jordan
Mayor

4/17/12
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan

Thru: Scott Huddleston

From: Greg Mitchell

Date: 4/13/2012

Subject: Renaming Portions of S Clinton Dr and W Stone St to W Bulldog Blvd

DESCRIPTION:

This is a proposal to rename a section of street that runs along the north edge of the Fayetteville High School Campus. This section of street currently has two different names; the western portion which runs from S. Garland Ave to S Delaware Ave is named S Clinton Drive, while the eastern portion from S Delaware Ave to S Buchanan Ave is named W Stone Street. It is proposed that both sections be renamed to W Bulldog Blvd. (See attached Map)

DISCUSSION:

The Fayetteville School District administration desires to rename one of the streets adjacent to the High School campus to Bulldog Blvd. This raises issues of readdressing of citizen's houses, and street name continuity as it relates to 911 access and general ease of navigation. Following is a discussion of these factors for each of the four streets surrounding the High School.

NOT RECOMMENDED:

- **Martin Luther King Blvd** (south side): Not considered as an option.
- **Buchanan Ave** (east side): would have to change 53 residential addresses. 9-1-1 not a problem
- **S Garland Ave** (west side): would have to change 2 non-residential addresses. 9-1-1 not a problem. The issue here is that within 2 or 3 years the University plans to extend Stadium Drive south to the intersection of MLK (see attached U of A Growth Plan). This will include the section of road running along the west side of the High School which is currently named S Garland Ave. The University feels strongly that the entire stretch of road should be named "Stadium Drive" both for improved 9-1-1 access and for general ease of navigation.

RECOMMENDED:

- **Stone St** (north side): We considered changing the name for the full length of the street, but that would require changing 33 residential addresses. As an alternative, we are suggesting we change only the portion of the street adjacent to the High School campus. This will require changing one residential address. Not an ideal solution from a 9-1-1 perspective as Stone Street will change name as one travels along it, but police dispatch believes this should not be much of a problem since the name "Bulldog" is easily associated with the High School, and the other addresses will not change. In the near term the street name will actually change three times – from Clinton to Bulldog to Stone – but when the University improves Stadium Drive it will also demolish the loop of Clinton Drive lying west of Stadium, so that issue will disappear.

RECOMMENDATION:

Staff recommends approval of the Resolution.

BUDGET IMPACT:

\$301.45 for street signs

RESOLUTION NO. _____

**A RESOLUTION TO CHANGE THE NAME OF PORTIONS OF STONE
STREET AND CLINTON DRIVE TO BULLDOG BOULEVARD**

WHEREAS, the Fayetteville School District has requested that the City change the name of a street adjoining its campus to be renamed Bulldog Boulevard.

**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 resolves to change the name of a portion of Stone Street and Clinton Drive to Bulldog Boulevard as shown on the attached map labeled Exhibit A.

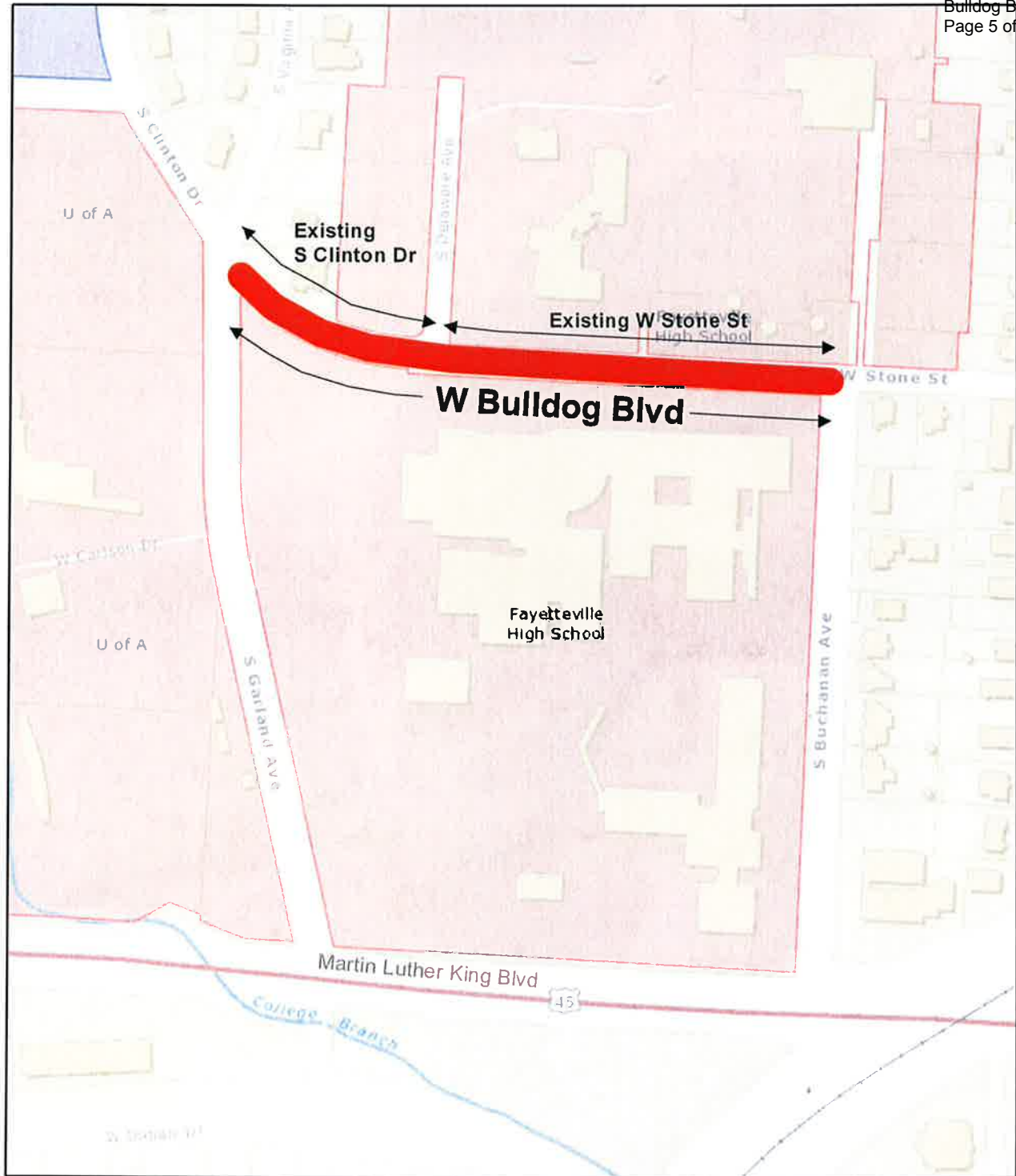
PASSED and **APPROVED** this 1st day of May, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Street Renaming Proposal: W Bulldog Boulevard



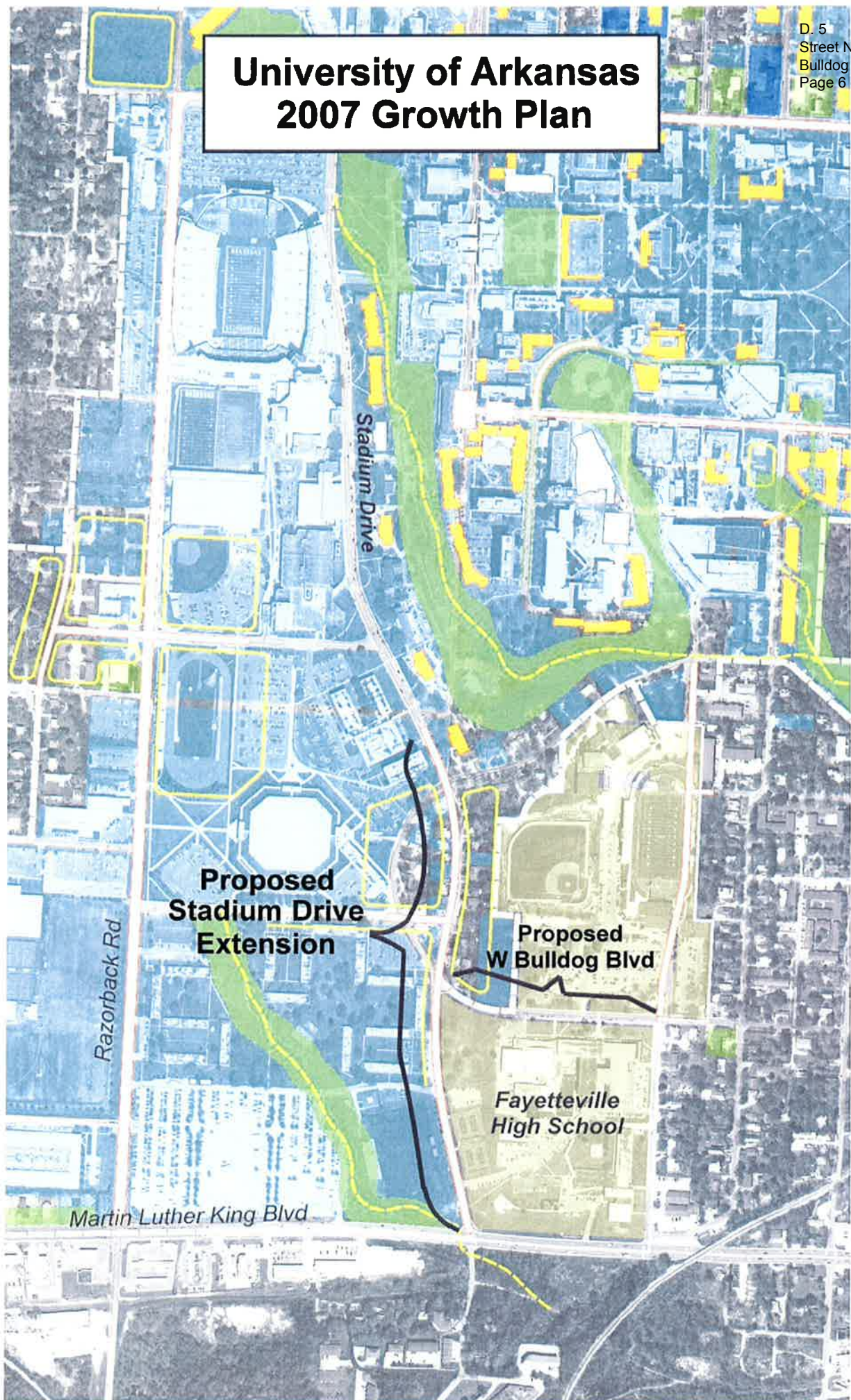
Date: 4/10/2012



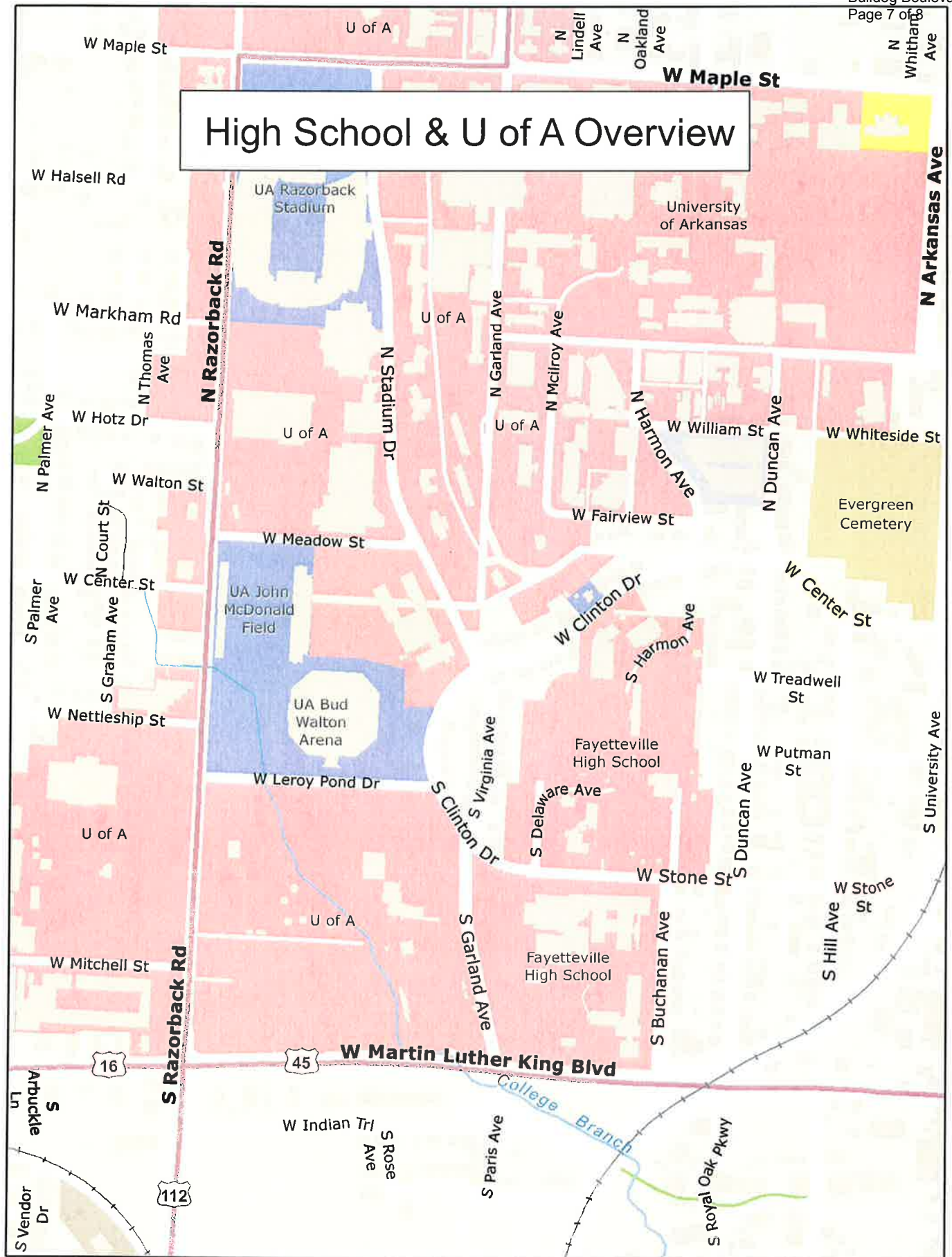
300 150 0 300 Feet

A horizontal scale bar with four segments of equal length, corresponding to the numbers 300, 150, 0, and 300 Feet.

University of Arkansas 2007 Growth Plan



High School & U of A Overview



1,600

Feet

April 24, 2012

Agenda Session

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
May 1, 2012**

A meeting of the Fayetteville City Council will be held on May 1, 2012 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:

- ✓ 1. **Municipal Clerk's Week Proclamation**

City Council Meeting Presentations, Reports and Discussion Items:

- ✓ 1. **1st Quarter Financial Report 2012**

Agenda Additions:

A. Consent:

- ✓ 1. Approval of the April 3, 2012 and April 17, 2012 City Council meeting minutes.
- ✓ 2. **McClelland Consulting Engineers, Inc. Task Order No 8:** A resolution to approve Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service, and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.

3. **David and Susan Druding Settlement Agreement:** A resolution approving a settlement agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.

B. Unfinished Business:

1. **Amend §34.27 Sale of Municipally Owned Real Property:** An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville. *This ordinance was left on the Second Reading at the April 17, 2012 City Council meeting.*

Left on the Second Reading

C. Public Hearing:

1. **Dryve, Inc.:** A resolution to approve the application of Dryve, Inc. for a certificate of public convenience and necessity to operate a limousine service.

D. New Business:

1. **Sourcegas Arkansas Inc.:** A resolution authorizing transfer of a natural gas easement on city property adjacent to Highway 16 to Sourcegas Arkansas Inc. as part of the Highway 16 Improvement Project.
2. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.

Consent

3. **Bid #12-25 Goodwin & Goodwin, Inc:** A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.

4. **Street Name Change – Stadium Drive:** A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.

5. **Street Name Change – Bulldog Boulevard:** A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.

NB: Last Add: Repeal & Replace 178:04 Outdoor Mobile Vendors

E. City Council Agenda Session Presentations:

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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

4/18/12 Pre Agenda Meeting

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
May 1, 2012**

A meeting of the Fayetteville City Council will be held on May 1, 2012 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:

1. **Municipal Clerk's Week Proclamation**

City Council Meeting Presentations, Reports and Discussion Items:

1. **1st Quarter Financial Report 2012**

Agenda Additions:

A. Consent:

- J. Approval of the April 3, 2012 and April 17, 2012 City Council meeting minutes.

- Nb #1
- ② **Sourcegas Arkansas Inc.:** A resolution authorizing transfer of a natural gas easement on city property adjacent to Highway 16 to Sourcegas Arkansas Inc. as part of the Highway 16 Improvement Project.

#2 NB
③

Fayetteville Police Department Policies: A resolution approving Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.

✓ 4. **McClelland Consulting Engineers, Inc. Task Order No 8:** A resolution to approve Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service, and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.

✓ 5. **David and Susan Druding Settlement Agreement:** A resolution approving a settlement agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.

B. Unfinished Business:

✓ 1. **Amend §34.27 Sale of Municipally Owned Real Property:** An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville. *This ordinance was left on the Second Reading at the April 17, 2012 City Council meeting.*

Left on the Second Reading

C. Public Hearing:

✓ 1. **Dryve, Inc.:** A resolution to approve the application of Dryve, Inc. for a certificate of public convenience and necessity to operate a limousine service.

D. New Business:

✓ 1. **Bid #12-25 Goodwin & Goodwin, Inc:** A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.

✓ 2. **Street Name Change – Stadium Drive:** A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.

✓ 3. **Street Name Change – Bulldog Boulevard:** A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.

E. City Council Agenda Session Presentations:

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

Agenda additions. A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda. Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Old business and new business.

Presentations by staff and applicants. Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

Courtesy and respect. All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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